

To the Bag

of the arbitration of sportsmen⁸ (in the form of public opinion) in such a case would have been just as certain in New York in the 1800s as it is in Belarus today.

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WHAT IS THE INCOME TAX ON?

To the *Bag*:

I was very much interested to read Erik Jensen's discussion of the role of prepositions in the Constitution (14 GREEN BAG 2D 163 (Winter 2011)), and in particular his argument that a capped tax on income is unconstitutional because it is not a tax "on" incomes, as permitted by the Sixteenth Amendment.

I take it I can stop paying Social Security now?

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ACCESS TO EAGLES

To the *Bag*:

As a former resident of that land "out west," I enjoyed reading Professor Wexler's account of his trip to the National Eagle Repository.⁹ However, the article contains an important legal error. Wexler asserts: "Applying to the Repository is the only way to legally get hold of any part of either eagle in the United States."¹⁰

This is not true. As the Tenth Circuit noted in *United States v. Winslow Friday*, "Native Americans whose needs cannot be satisfied

⁸ *Pierson*, 3 Cai. at 180 (Livingston, J., dissenting) (the case "should have been submitted to the arbitration of sportsmen, without poring over Justinian, Fleta, Bracton, Puffendorf, Locke, Barbeyrac, or Blackstone, all of whom have been cited: they would have had no difficulty in coming to a prompt and correct conclusion").

⁹ Jay Wexler, *Eagle Party*, 14 GREEN BAG 2D 181, 183 (2011).

¹⁰ *Id.* at 182.