

TEST CASE ARGUED ON TAX PUBLICITY

**Government Denies Bostonian's
Contention of Violation
of the Constitution.**

DECLARES PROPERTY INTACT

And Holds Privacy Right Is Personal—Court Notes Procedure Against Newspaper.

Special to The New York Times.

WASHINGTON, Nov. 24.—Arguments on a test income tax publicity case were heard today by Justice Adolph A. Hoehling in Equity Court and taken under advisement.

The plaintiff is Gorham Hubbard of Boston, Mass., who seeks to restrain the Secretary of the Treasury and the Commissioner of Internal Revenue from publishing the figures representing the amount of tax he paid in 1924. The petition is based on the ground that such publication is against the Fourth and Fifth Amendments to the Constitution, which denounce unlawful search and seizure and relieve a citizen of having to furnish evidence against himself.

Assistant District Attorney Vernon E. West, on behalf of the defendant officials, contended that the 1920 Revenue law, which included the publicity provision, is contrary to neither the Fourth nor Fifth Amendments. Counsel for the Government argued that the right of privacy, if it exists, is only a personal one and that none of Mr. Hubbard's property rights were involved.

Mr. West cited the attempt of a widow to restrain a manufacturer from using her deceased husband's name and picture on a cigar label and the failure of the attempt because she had no property right involved. He also cited the attempt of a man to restrain an enemy from having him watched by detectives, which also failed, counsel said, because no property right was involved.

Justice Hoehling took judicial notice of the fact that the Department of Justice had caused a Baltimore newspaper to be indicted for publishing income tax payments of individuals and almost at the same time had announced that Collectors of Internal Revenue had a lawful right to comply with the publicity provisions of the 1924 Revenue law.

"Before we get into this question very far," the Court said, "I want to know which horn of the dilemma to seize. We are confronted with an unusual situation with the indictment against the Baltimore paper and the announcement of the Department that the Collectors have a right to publish the returns. I cannot see where the Department is right in both instances."