

File No. 7948 Continued.

CORRESPONDENCE.

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tive enactment had been removed from my official cognizance, nevertheless, it is some satisfaction to know that I had kept strictly within the official proprieties. I think it will be admitted that there is a very substantial distinction between assuming the right to ask for an official opinion (which I did not do) and asking the courtesy of a hearing in connection with an opinion which had been asked for by another department head, who had the necessary legal standing.

While I admit that this privilege was not accorded without considerable persuasion on my part, I am bound to make acknowledgment of the fact that it was granted. How earnestly and conscientiously I endeavored to throw light on the serious problems presented by the Gans Act, Mr. Lauchheimer, I am sure, will attest.

In addition to the constitutional aspects, which I understood I had your permission to discuss, I have shown that the act, by its very terms does not extend to national banks. It applies only to corporate holders whose city stock is taxable for state purposes. In Schley vs. Lee, the Court of Appeals, explicitly holds, following the doctrine of the Supreme Court, that all the personal property and securities of national banks are beyond the reach of taxation by the states. Apart from all other reasons, this one effect of the act necessarily raises the question of the constitutional right of the state to give benefits to ordinary corporations, which are withheld, by the very terms of the act, from a special class of corporate holders, the national banks.

In the paper submitted to Mr. Lauchheimer, I also give facts and figures to show that in its operation the Gans Act does more than to put the parties in statu quo. I have stated a concrete case in which the City would lose, under it, nearly \$10,000 more than it would have lost under the former illegal system of deducting City stock. This is a development which no doubt surprises you, as it should surprise all the other gentlemen who gave their approval to the act (including the members of the legislature) on the assurance that the City would be put in exactly the same position as if deductions were to be made under the old practice.

It has been suggested that the invalidation of the Gans Act would impair the chances of securing popular approval of the loans to be voted on in November. With all due respect, I am firmly convinced