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BUTLER ON INCOME TAX

Calls Attention to Congress' Indecent Haste in Passing laws for Corporations.

THE PROPOSED POOLING BILL.

Would Build a Trust Compared to Which, Sugar and Oil Trusts are Mere Pigmys.

Proposes a Constitutional Convention.

In the senate last week Senator Butler of North Carolina, offered a joint resolution to submit to the several state legislatures a proposed amendment, to the constitution authorizing congress to levy and collect an income tax. He had offered one of the same kind at the beginning of the session which had been referred to the judiciary committee and there smothered. He asked that the last one might lie on the table to be taken up for consideration by the senate at an early day. He pointed out the difference in the action of the committees when bills or resolutions were introduced in the interest of corporations, and said:

"Only a few weeks ago the same court rendered a decision on the anti-trust law which is a little embarrassing to the great transportation lines of the country. At once a movement was started to have the decision of the court set aside by legislative action—I might say with almost indecent haste.

The power of those great transportation companies was focused on Washington. A half dozen, or at least several bills have already been introduced to nullify the decision. The committee on interstate commerce has been holding constant meetings considering the bills that have been offered to set aside the decision.

We have been expecting daily for a week or two a pooling bill to be reported from the committee on interstate commerce for the consideration of congress at the earliest possible day. In fact, it seemed at one time as if the tariff might have to stand to one side to give this matter, important to the transportation companies, the right of way."

Here Senator Cullom interrupted Mr. Butler with questions concerning the interstate commerce commission, after which Mr. Butler continued:

"I do not intend this morning to discuss the interstate commerce act. I will do that when the pooling bill is reported. I wish now to call attention specially to the difference in the course pursued by Congress when a decision of the court is rendered which affects great corporations and one is rendered that affects 69,000,000 American people by imposing unjust taxation. The committee on the judiciary has had before it this joint resolution ever since the first session of congress after the income tax decision was rendered. No action has been taken on it. If there is any hope of amending the constitution of the United States it would seem that it could be amended so as to remove this most monstrous decision of our highest court. It takes a long time to amend the constitution if the lawmaking power moves speedily. Then why should we wait two years, three years, four years, to give the legislatures of the states a chance to pass upon this question? We cannot take up the matter in Congress until the committees report. We cannot even speak upon the question as before the body until the committees report, unless I do as I have done this morning, offer a joint resolution and ask that it lie on the table, and then be forced to go further and ask the senate to take up and consider so important a matter as a constitutional amendment without ever having a report from the committee.

Mr. President, the proposed amendment to the constitution that I have offered is very plain and simple. It is as follows:

ARTICLE XVI.

The Congress shall have power to lay and collect taxes on all incomes, regardless of the source from which the income is derived or acquired but all income taxes shall be uniform throughout the United States.

There is no doubt about the average American citizen understanding what it means. But I wanted the help of the judiciary committee to frame an amendment that the courts could not misunderstand. If the committee does not see proper to report upon a measure of this kind, then I shall ask the senate, at as early a date as possible, to take up in the Committee of the whole this resolution, to consider it in Committee of the Whole, and to pass upon it.

I want to say further, Mr. President, that in view of the facts which I have stated, I will ask the senate to pass upon this question before a pooling bill ever comes to a vote in this body. I will ask the senate to go on record as to whether it will first give the American people a chance to say whether they want, as a part of their fundamental law, the Congress to have power to lay and collect income taxes, a power which we had 'til the court stabbed the constitution, or whether, first we shall grant to the transportation lines of this country the legal right and power to become a mammoth and despotic trust.

The proposed pooling bill will create if it becomes a law, the most gigantic trust that the world has ever seen; a trust composed of the great transportation lines of the country, which are the throbbing arteries of commerce, the prosperity of every state and section largely depending upon them, every citizen in America affected by their management, directly or indirectly, a trust with twelve billions of capital, (including water) controlling the highways of the nation a trust that might possibly collect more money in the shape of tolls and fares from the American people than all other trusts put together. The sugar trust is an infant compared to a trust of the transportation lines of the country. The Standard Oil trust is a pigmy compared to a trust that would hold the commerce of a nation in its grasp.

This pooling legislation is asked so that the railroads can be relieved of the last vestige of competition. They are asking congress to keep them from competing with each other. They do not compete now except at terminal points, when they fell out. A railroad line runs from here south. Take the Southern railway. On how many points of the Southern railway is there competition? At every small station their power is absolute to charge whatever rates and fares they see fit. It is only where two great trunk lines come together, say at Atlanta that they are subject to competition now. It is to escape competition at even those terminal points, so that there can be no competition anywhere, so that they can have absolute power to raise and fix rates and have no competition, that this pooling legislation is asked.

We have been told in excuse for allowing private corporations to own and operate the transportation lines of the country and run them as private property for private gain that the protection of the public was competition We have had competition rung into our ears every time that anyone's voice has been raised to point to this monopoly of transportation. Everyone who believes that great public functions like these so necessary to the welfare of every citizen, should be operated as a function of the government at cost for the benefit of the public, has so stated, we have been told that competition cured all the evils and prevented all danger.

Now these transportation lines come and ask us to relieve them of all competition. Whenever they reach the point to say to congress and to the country that competition is a thing of the past, that it is detrimental to their business, then they confess that private corporations should no longer be intrusted with the management of the great transportation lines of the country. When there can be no competition, then every excuse for private ownership is gone; the time for public ownership has arrived. Congress must decide whether it is best for the American people to allow the great transportation lines to be manipulated by private corporations and further allow them to form one mammoth syndicate, one gigantic transportation trust, or best for the public to own and control this great transportation system in the interest of all the people.

Now, I am not an advocate of the competetive system, for there can be no competition that will result in justice and equality to the shipper and the general public.

I think it best for all the railroad lines of the country to be operated as one system, provided that system is operated as a public function at cost for the public good. I think the transportation lines should be operated as one united, harmonious and complete system, just as the mail lines are operated in one perfect postal system. But how any sane man who has any regard for the public welfare can want to see such a monopoly, such a trust, in private hands is more than I can understand. Public ownership and not pooling is the remedy. The railroad corporations want a legalized trust for their own profit and power, not for the welfare of the public. This is what they are demanding from the Interstate Commerce committee to avoid the decision of the court, that was a little inconvenient to them. This is the demand that is being pushed with indecent haste.

What is the other proposition that the Committee on Judiciary have not had time to consider since the decision of the court over two years ago? It is a proposition to equalize taxation to some extent; a proposition to allow congress, if the people's representatives see fit, to levy a fair rate of taxation on incomes, on accumulated wealth earning a big profit. Simply a proposition for the wealth of the country to bear its fair share of the taxation necessary to support the government.

If I were the special guardian and spokesman in the Senate of the very people who would pay an income tax, if I were here as a special representative of the small per cent of the people of this country who have enormous incomes, and if I were asked what my advice would be for the better protection of their property and for the better government of the country in which they live, I should tell them that it was to their interest that taxation should be equalized by an income tax. The rich, if they were wise, would not oppose an income tax, but would favor it and cheerfully pay it.

One of the justices in the supreme court in his dissenting opinion on the income tax decision took the same position. The position of those who enjoy the protection of our government, who have amassed large fortunes and who enjoy princely incomes, in using their influence and power to prevent their property from bearing its share of taxation, is shortsighted and unwise for them individually. If they are wise they will lose no further time in putting themselves on a footing with every other American citizen and pay their fair share of taxation.

The men who would pay this income tax contribute freely to political campaigns. They give freely when they are called upon by the leaders of the political parties, I am informed. But when called upon under the law to contribute to bear the burdens of taxation they revolt

THE TRIAL OF BARTLEY.

The Attorney General Weaving an an Intricate Net Around the ExTreasurer.

BATTLE IS HARD FOUGHT.

The Attorneys for the Defense Object to Almost Every Question.

Bartley's Operations in Detail.

The case of the state against Joseph S. Bartley, considering the enormity of the crime, has been quickly brought to trial. The attorneys for the defense have not lost an opportunity to delay the proceedings of the trial. They have had continuances, preliminary hearings motions to quash, adjournments, demurrers pleas in abatement and have resorted to every device known to the law to prevent a trial of the case at this time. Attorney General Smyth for the state has proceeded very carefully and has successfully evaded all of their technical objections and has brought their case to trial in less time than any similar case in the history of the state. He did not commence the case until he had carefully investigated all the evidence available for the state and then proceeded to file charges against the ex-treasurer, which he was prepared to support with the proper evidence.

At the preliminary hearing Bartley refused to make reply to the courts questions as to whether he was guilty or not guilty. The judge as required by law in such cases, entered a plea of not guilty. The selection of a jury occupied about a day and a half. The following were finally chosen: J. V. Shipley, farmer; A. P. Erve, farmer; Chris Steiger, farmer; Hugo Wohlers, farmer; C. A. Roberts, roofer; Fred C. Anthony, wood machinist; Charles Tompsett, carriage maker; Henry A. Homan, liveryman; John A. Finch, missionary; John W. Stiles, carpenter; Benjamin Trumbull, clerk.

The charge against Bartley which will be tried by the above twelve men, is the embezzlement of the $180,000 warrant drawn on the general fund of the state to reimburse the school fund for the amount of school money lost by the failure of the Capital National bank.

As soon as the selection of the jury was completed, the judge called up Josiah S, Wright before him on the charge of attempted jury bribing, Wright plead guilty to having offered one of the jurors $75 for his vote for acquittal. Judge Baker censured him severely and sentenced him to two years in the county jail. The court was ready to proceed with the Bartley trial. Attorney General Smyth made the opening statement for the state. He reviewed briefly the story of Bartley's election and the preliminary proceedings of the trial. He stated that he would show in behalf of the state that on April 10, 1896, a warrant for $180,101·75 had been drawn on the state general fund to be transferred to the sinking fund. The object of the transfer was to cover the amount of the sinking fund lost in the failure of the Capital National bank of Lincoln. The day mentioned the warrant was drawn to Bartley, not as state treasurer, but individually. That Bartley hurriedly had the warrant registered and stamped as not paid because of lack of funds. His haste was caused by the fact that the new law reducing the interest rate on warrants from 7 per cent to 5 per cent was about to go into effect. The state will show, however, that the law was in force at least fifty minutes before the warrant was registered. Bartley then took the warrant to William Wallace of the Omaha National bank and sought his assistance in its disposal. Upon Bartley's request the Omaha National corresponded with the Chemical National bank of New York, and subsequent to April 15, sold the warrant. The money derived was, at Bartley's request, deposited to his personal credit and not to his credit as state treasurer. That within a few weeks Bartley checked out about $140,000 to a bank not a state depository and within six weeks had checked out all the money to banks not depositories. About January 2, 1897, Bartley, in his official capacity, issued a call for the warrant and on that day gave his check as state treasurer on the Omaha National bank on funds belonging to the state on deposit there and the warrant was paid with this money, causing a loss to the state of the amount of the warrant and interest, the whole amounting to $201,000.

Attorney Mahoney made the statement for the defense. He said the law provides that the state shall open the case to the jury, and "may" outline its evidence, and that the defense has the same requirements. He will follow the law and say there were some things named by the attorney general, which at the close of the case may be considered as having been proven, such as Bartley's election. But as to the charge of embezzlement it will have been shown that no embezzlement has been made by Bartley and the state has not lost a cent: and that Bartley is not guilty of the crime charged against him.

The first witness sworn was W. M. Geddes' clerk of the legislature of 1895 to identify a copy of the House Journal of 1895 to be used in proving Bartley's election, and the records of the legislature in making the appropriation to reimburse the school fund. The next witness was Secretary W. F. Porter who produced Bartley's official bond. Eugene Moore was called to identify the signature to the bond. He could not positively swear to the signatures to either the bond or the voucher for the embezzled warrant but "thought" they were all genuine. Benton Maret was next called and swore positive that the signatures were genuine. Auditor Cornell, identified the voucher for the warrant as a part of the records of his office and Treasurer Meserve identified the warrant which had been called and marked paid by Bartley. He produced the records of the treasurer's office to show the transactions in that office.

J. H. Millard, president of the Omaha National bank was next called. He said his bank obtained possession of the warrant in April, 1895. He was asked if he had any recollection of any conversation with Bartley concerning the warrant and said he could not recollect any conversation about it, but he believed the warrant was left with the bank for the purpose of disposing of it and obtaining the cash. He sent a letter to the Chemical National bank of New York enclosing the warrant with it. He produced the letter sent by him and which was read by the county attorney to the jury. The letter is in reply to a telegram sent by the Chemical National to the Omaha National and offers the warrant on a 6 per cent basis at a premium of 1 per cent and the interest at 7 per cent for ten days from April 13 to April 23. The letter also states that the writer, Millard, made a mistake in the amount of the interest, which is 7 per cent instead of 5 per cent; that the writer had authority from Bartley to make the rate on a 6 per cent basis, though he wanted half of 1 per cent more if the Chemical would pay it.

Witness said the warrant was sent to the Chemical National as set out in the letter and the next time witness saw the warrant was in November, 1896, when the warrant was returned by the Chemical National for payment. Witness was present when the warrant was presented to Bartley for payment and Bartley paid the warrant out of funds deposited in the bank by him as state treasurer. The last part of Mr. Millard's answer was stricken out, leaving his answer only that Bartley paid the warrant by check. The state will now have to prove that the check was issued by Bartley as state treasurer and that the check was paid.

The bank officials testified that after the check had been paid they had returned it to Mr. Bartley as is usual in such cases. The attorney-general then called upon Mr. Bartley to produce the check. Bartley's attorneys thought they ought not to produce the check for the reason that by so doing they would be furnishing evidence to convict their client. They did not produce the check, and the state will have to prove its payment by other means, the records of the treasurers office and the records of the bank. The president of the bank was called and testified that the check was signed by Bartley as state treasurer and the amount was $201,884.05. He said that Bartley carried three accounts at the Omaha National, two as state treasurer and one personal account. The two state accounts were of the general fund and the school fund. Mr. Millard said he could not testify as to which one of these accounts it was on which the check was drawn.

The importance of this point was brought out more strongly by the opening statement to the jury, that the money obtained on the warrant was deposited to Bartley's personal account and the money drawn out to pay the warrant was drawn from his account as treasurer.

Mr. Millard was cross-examined as to how he obtained possession of the letter he sent to the Chemical National bank, and said that bank had returned it to the Omaha National at the attorney-general's request.

E. E. Balch, assistant cashier of the Omaha National bank, related that Bartley came into the bank about 5 p. m., one afternoon, date unknown by witness, with the warrant, and he had a conversation with Bartley about the warrant.

"I asked Mr. Bartley," Balch said, "what we would do with the money obtained on the warrant, and he said to open up an account and pass it to his credit."

Bartley had no personal account, at that time, but merely the two accounts as state treasurer.

Subsequently Balch said, "I carried out Bartley's instructions and placed the proceeds of the warrant to his personal credit."

The ledger of the bank was introduced to show that the money realized from the sale of the warrant was deposited to Bartley's personal account and that at the time the money was so deposited Bartley had no personal account at the bank, but did have an account as state treasurer.

William Wallace cashier of the Omaha National testified that the check which was credited to Bartley's personal account was drawn by Bartley on his account as state treasurer, and the words "charge account general fund," appeared on the check and were written by Bartley himself. The check was written on one of the common forms of check used by the bank for its general patrons, and not on the check forms furnished the state treasurer.

The defense elicited from William Wallace and E. E. Balch that the Chemical National bank did not send any money to the Omaha National bank in payment of the purchase price of the warrant; that the Omaha National did not send any money to the Chemical National when the warrant was paid, and that when Bartley drew out the money from his personal account no cash was paid; but that the entire list of transactions were handled simply by an exchange of credits.

The emphasis placed on this point by the defense was explained by a few words dropped by Attorney Mahoney to the effect that the information charges Bartley with the embezzlement of "public money," and that credits are not "money" in the strict and legal sense of the term.

Bookkeeper Adair was called to testify that the withdrawal of the $201,884.05 from the state general fund to pay the warrant reduced the state's funds that amount.

In addition to this it is shown by the books of the state treasurer's office that the general fund has been charged with $210,884.05 for the payment of the warrant payable to the sinking fund, while the same books disclose that the sinking fund has not been credited with the amount of the warrant, $180,101.75.

Another important point in favor of the state is the production of the monthly accounts submitted by Bartley to the state auditor and covering the time from April, 1895 to January 6, 1897. These statements are signed by Bartley himself, and purport to be the statements of the condition of the various state funds. These statements disclose the same facts as the books, with this added strength, that being made by Bartley they are an admission against himself

On Monday afternoon the state completed the introduction of testimony and the defense opened by moving the discharge of the defendant for the reason that the evidence failed to show embezzlement, and if it did show embezzlement it was not embezzlement of "money" but rather of "bank credit," and that Bartley could not be convicted of the embezzlement of "public money" under evidence that only proved the embezzlement of "bank credit" any more than a man who had stolen a horse worth $100.00 could be convicted under an information charging that he had stolen $100.00. The point involved is only technical and amounts to only a mere quibble of words Bartley received the bank credit from the state and converted it it into money for his own use. The state is out the cash and Bartley is the man who took it. Whether he picked up the cash and put it in his pockets himself, or had someone else do it for him is wholly immaterial.

Judge Baker over-ruled the motion of the defense for dismissal, and required them to proceed with the trial. The defense had counted much upon their contention for this point and the decision of the court was a severe blow to them. They have subpoenaed Treasurer Meserve, to produce through him some large blocks of bonds purchased from Saunders and Otoe counties. It is presumed that the defense will try and show that the particular money received from the sale of the general fund warrant was used in the purchase of those bonds, and that the money which Bartly embezzled was not, as charged in the information, the money received from the sale of that warrant but money received from other sources. They will then make technical point that he is "not guilty as charged" though he might be guilty in a different manner from that charged. The court will hardly sustain a motion to dismiss on such flimsy pretense.

Timely Suggestions.

The roots of currants and gooseberries of bearing age should not be disturbed by cultivation or hoeing until after fruiting season. Apply a mulch of coarse manure or straw, thick enough to prevent the growth of the weeds, in and about the hills and rows. Look for the current borer at this time. When the leaves start, affected canes commence to wither and die. Cut out the affected canes below the black center and burn at once. All newly set plants should be thoroughly cultivated, weeds must not be allowed to grow, for they consume valuable plant food and the moisture so necessary to the young plant. Frequent surface cultivation makes the natural food of the plant more available, prevents escape of moisture and holds water in store for summer use. The root is the foundation of the plant, it should be stimulated to early and continuous growth by the best care in the beginning. If plants have failed to grow, set new ones in their place at once; one cannot afford to have missing hills. Blackberry and raspberrry bushes should be trimmed severely, cut back at least one-third or one-half, severely pruning increases the size and quantity of the fruit. Picking, packing and marketing are important factors in growing fruit for profit. The grower should understand that choice berries are always in demand and the market is never overstocked; that it costs just as much to raise poor berries as good ones; that it costs more to pick and pack poor berries; that freight and express charges are just as high on poor berries: hence there is profit only in growing the best for the market. Berry boxes and cases should be made before the season begins. Clean, well-made packages, neatly stenciled on the side with name and residence, soon become your "trade mark;" let it also be a guarantee of good berries, honestly packed. Never allow, stems, leaves, dirt, imperfect or unripe berries in the box. Always have a uniform quality throughout and the boxes well filled. For long shipment pick one every day, and before the fruit is too ripe. Never offer poor berries for sale, and never use a dirty box or a poor case. If it becomes necessary to sell poor berries send to a good commission house, but never place your name on the case. Let markets be as near as possible, and to regular customers. If you would have good markets and good prices always deal honestly with your customers.

ALLEN ON FREE LUMBER

Delivers a Telling Address in Defense of American Home-builders.

THE TAX LEGALIZED LARCENY

A Race of Jackals Before the Finance Ways and Means Committee.

Agricultural Interests not Represented

In the senate when the lumber schedule imposing a tariff of $2.00 per thousand feet upon white pine lumber was reached Senator Allen secured recognition and offered an amendment placing lumber upon the free list. He submitted a few very telling remarks in support of his amendment. He said in part:

"We have left in this country but 33,000,000,000 feet of white pine and according to the rate of annual disappearance of white pine we shall be without that kind of lumber in the United States within the next six or seven years.

Of course the theory of protection proceeds upon the thought that it increases an industry rather than decreases it. Everyone who is convinced of the benefits of a protective tariff, (and I am not now saying that protection in some respects is not proper) bases his argument upon the theory that it increases the home market, increases the industry itself, increases wages, and increases the opportunity of wage earners to earn a livelihood for themselves and their families. That kind of protection, however, which is destructive of an industry, it occurs to me, cannot be sustained by those who are thoroughly convinced of the soundness of the doctrine of protection.

What is the result of the adoption of the schedule imposing a duty of $2.00 a thousand upon white pine? It was shown before the Ways and Means committee of the House of Representatives that a tax of that kind would be prohibitive; that it would turn over the domestic market entirely to the domestic manufacturer, and prohibit the importation of white pine from Canada or from any other source.

The owners and controllers of white pine in the United States are endeavoring through the instrumentality of this schedule to prohibit the importation of white pine from Canada or from any other source. That is the pivotal thought of this paragraph as applied to white pine. I have not yet heard the senator from Michigan explain why there is any necessity for it or what necessity there may be to levy a tax upon white pine. It can not be for the purpose of increasing the industry, for white-pine trees do not reproduce themselves, if I am correctly informed. When a tree is once cut down, it is destroyed for all time, and is not replaced in the course of years by another white pine-tree, but another species of timber grows in its place.

Mr. President, a tax upon white pine that would make importation prohibitive and which would result in raising the price of that article to the consumers of this country would not benefit to exceed a dozen men or a dozen institutions. Why should a tax of $2 a thousand be levied upon every farmer and every home builder in this country who may be compelled or who may desire to use white pine in the construction of his home? The natural effect of it would be that the owners of white pine in Minnesota, Michigan, and Wisconsin would ship their pine to the eastern markets, and the people in Nebraska and the treeless states will be compelled to go to the same cormorants who own the majority of the pines of the south and purchase their lumber there, and by that means the entire pine output of the United States will be placed in the keeping of this syndicate or these few men. The great millions of people who are struggling to establish homes upon the prairies, who have to build schoolhouses and churches and other institutions for their benefit and for the accommodation of their children and themselves, will have a tax of $2 a thousand or more levied upon them to pay tribute to this syndicate or these few men.

Mr. President, when the white pine disappears in this country, if this paragraph shall become a law, do not our friends upon the other side know that these same men will control the white pine forests of Canada, and will not the people of this country be at the absolute mercy of the owner or owners of Canadian pine? Then the cry will go up through the length and breadth of our country that white pine is gone and the tariff must come off of it, and the Canadian and Yankee in secret partnership across the line, owning and controlling the white pine of Canada, will raise the price of it to the American consumer, and he will be at their absolute mercy. Mr. President, there is no escape from this proposition.

I notice one peculiar thing in the tariff hearings, or rather the absence of one thing. In examining these hearings upon wood and the manufactures thereof there is a singular absence of witness representing the agricultural interests of this country. Among all of the competent men representing the agricultural interests, the master of the grange, the presidents of the different alliances, not one of them was invited by the Committee on Ways and Means to give his testimony upon this schedule. Why, sir, it

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