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FEDERAL TAX LAW CASES

Washington, May 31.—President Taft is regarded as the father of the corporation tax idea as represented in this statute. He evolved it during the discussion of tariff legislation and income and inheritance taxes in 1908-1909. As a result, Congress inserted the "Corporation Tax Law" into the Payne, Aldrich tariff act passed by Congress last summer. It became section 35 of that statute.

The law subjected to the tax in a general way every corporation, joint stock company, or association, organized for profit and having a capital stock represented by shares, and every insurance company. The tax was designated as "a special excise tax with respect to the carrying on or doing business" and it was provided that it should be "equivalent to one per centum upon the entire net income over and above \$5,000 received from all sources" during the year. There were to be excluded from the income however, amounts received as dividends upon the stock of other organizations, subjected to the tax. Exempted from the tax were certain organizations, such as labor, agricultural, horticultural and fraternal beneficiary societies.

One paragraph of the law provided for the publicity of the returns required as a basis of fixing the tax.

The tax was to be paid on or before June 30 of each year and the returns for each year were to be made by March 1. It was provided that the tax should be paid for the year ending June 30, 1910, although the law was not passed until August 5, 1909.

Not until shortly before the expiration of the time for the making of the returns was the first move made to test the validity of the tax. This movement to test the great question about corporation law started in the little town of Windsor, Vermont.

There Maxwell Everts, a New York lawyer, son of the late William M. Everts, has a summer home. He had often noticed the keen competition between the two general merchandise stores in the town, the Stone Tracy Company, a corporation, and Dwight Tuxbury & Sons, a partnership concern. He saw what he believed was a discrimination against the corporation if it were compelled to pay the tax and make public its business arrangements, and so accepted the position of counsel for Stella P. Flint, is general guardian of the property for Samuel N. Stone, Jr., a minor, who owned stock in the Stone-Tracy Co. Suit was brought in the federal court by Mr. Everts to enjoin the corporation from making the returns and paying the tax, on the ground that the law was unconstitutional. The corporation filed a demurrer, which was sustained and the bill dismissed. An appeal was taken to the Supreme Court.

The institution of the Flint, Stone, Tracy case was the signal for the bringing of suits in many sections of the United States. All were decided in exactly the same way, and almost invariably appeals were taken to the Supreme Court. The government was allowed to intervene. Fifteen cases, headed by the Flint-Stone Tracy suit, were set for argument on March 14. Besides the Vermont case, those heard were:

Wyckoff Van Derhoef vs. The Coney Island and Brooklyn Railroad Co.
Francis L. Hine vs. Home Life Insurance Company, of New York.
Fred W. Smith vs. The Northern Trust Company of Chicago.

William H. Miner vs. The Corn Exchange National Bank, of Chicago.
Cedar Street Company vs. Park Realty Company, of New York.

Lewis W. Jared vs. The American Multiplex Company, of Cleveland.
Joseph E. Gay vs. The Baltic Mining Company, a Michigan corporation.
Percy H. Brundage vs. Broadway Realty Company, of New York.

Paul Lacroix vs. Motor Taximeter Cab Company of New York.
Arthur Lyman vs. Interborough Rapid Transit Co., of N. Y.
George Wendell Phillips vs. Fifty

Associates, of Boston.
Oscar Mitchell vs. Clark Iron Company, a Minnesota corporation.

Katherine Cary Cook vs. Boston Wharf Company.

Two days were consumed in the argument of the case in the Supreme Court. William D. Guthrie, of New York, counsel for the Home Life Insurance Company, argued that if the court would interpret the law so as not to include in the net income the income derived directly from federal, state, county, or municipal securities and real and personal property not used or employed in business, there would be no question about the constitutionality of the law.

Solicitor General Bowers defended the constitutionality of the law without qualification. He contended that the tax was not a direct tax upon property, real or personal, but on the contrary, was an excise tax, upon "the carrying on or doing business." The tax, he continued, was not a direct tax upon shares of the stockholders in the companies to the business of which the tax attaches or upon the income of such stockholders from their shares. It did not become a direct tax, he added, because the company engaged mainly or even solely, in the business of handling or dealing in real estate. The various objections to the law was taken up in turn by the solicitor.

Mr. Everts opened the argument against the law. He contended that the law invaded the sovereignty of the state of Vermont; that it would deprive the corporation of property without due process of law, and that its publicity feature would take private property for public use without just compensation. Throughout he emphasized the point that the tax was upon franchises of a state and therefore unconstitutional. Former Senator Foraker, of Ohio, argued that it was an income tax.

John G. Johnson, of Philadelphia, made a general attack on the law. Richard V. Lindabury, of New York, and other counsel addressed the court in explanation of features of individual cases.

GRAFTERS GO TO JAIL

Pittsburg, Pa., June 1.—E. H. Jennings, president of the Columbia National Bank, and F. Griffen, cashier of that institution, pleaded no defense to the charges of conspiracy and bribery in connection with the recent municipal corruption exposures, and received their sentences. Jennings was fined \$500 and will serve two months in the Allegheny county jail. Griffen was fined \$500 and will serve four months in jail.

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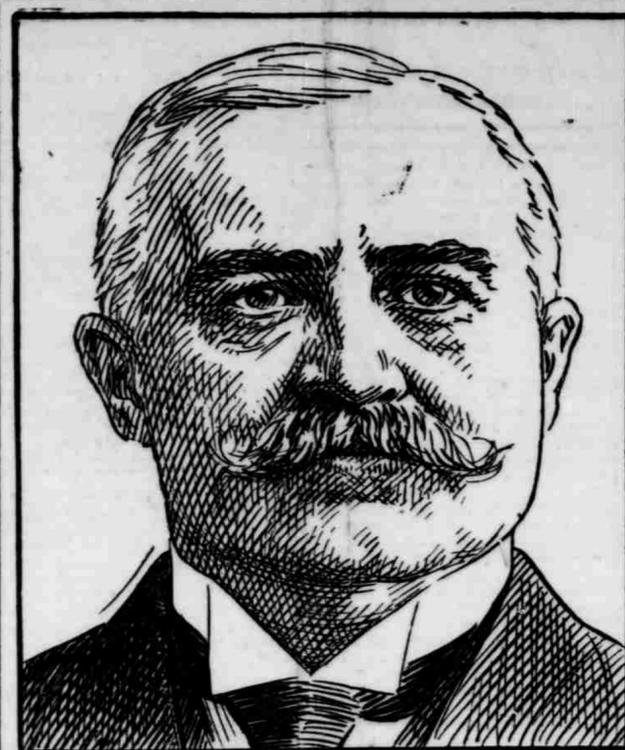
SANTA FE EMPLOYEES GET INCREASE OF PAY.

Topeka, Kan., June 1.—It was announced today that all employees of the Santa Fe railroad receiving less than eighty dollars a month, have been granted an increase of ten per cent. This applies to clerks, machinists, trackmen, section men and others. The advance goes into effect today.

DEMOCRATIC LEADER MUST STAND TRIAL.

Chicago, June 1.—Judge McSweeney today denied the motion to quash the indictment against state representative Lee O'Neil Browne. Browne was indicted on charges that he bribed state representative White to vote for William Lorimer for United States senator. Judge McSweeney's action means that Browne must stand trial on the charges.

St. Louis, Mo., June 1.—Wool lower. Territory and western mediums, 17@24; fine mediums, 17@19; fine, 12@15.



WILLIAM J. MILLS, Governor of New Mexico.

GOVERNOR MILLS MUCH PLEASED WITH ROSWELL.

Santa Fe New Mexican.

Governor Mills who returned last evening from Roswell with Colonel Jose D. Sena, is enthusiastic in expressing his appreciation of the hospitality of Roswell and the kindness of its people. He is also thoroughly impressed with the idea that the New Mexico Military Institute is an institution of which not only the Pecos valley but the entire Territory has reason to be proud. It was one round of entertainment, sightseeing and pleasure from Monday evening, when the governor's party arrived in Roswell until late Wednesday night. The reception on Monday evening brought crowds of people to the National Guard Armory which was crowded to the doors. There was a luncheon, dance and other entertainment on Tuesday, review of the light artillery company at the Country Club, baseball game and visit to the Hagerman farm on Wednesday. In the evening Governor Mills delivered the commencement address at the Military Institute. Governor Mills was the guest of Chief Justice W. H. Pope at Roswell. The only untoward incident was the serious illness of Adjutant General Brookes. On the way to Roswell, however, in the anxiety to make the city early in the evening, the automobiles were speeded and the chief executive not only received a severe shaking up but bumped his forehead against the edge of the seat before him, cutting a gash into his forehead. The return trip yesterday was also attended by ill luck for the automobile broke down twenty miles out of Torrance and the executive reliant on his pedestrian experience started to walk with Colonel Jose D. Sena. They reached the Goldenburg ranch where an automobile was secured which doubled back to get the gubernatorial baggage and then took both him and Colonel Sena to Torrance in good time. Colonel W. A. Fleming Jones, of Las Cruces, another member of the party, however missed his train to El Paso by five minutes and returned by way of Willard and Albuquerque. Although it was a most enjoyable visit and Governor Mills is now a confirmed Pecos Valley booster.

RAILWAYS WIN POINTS

Washington, June 1.—Senator La Follette's amendment to the railroad bill, providing for the ascertainment of the physical valuation of the railroads as a basis for fixing rates was rejected by the senate by a vote of 25 to 30 today.

Mr. Simon's amendment prohibiting the Interstate Commerce Commission from granting a lower charge for the long than for the short haul when made to destroy water competition, was adopted.

Railroad Stock Slumps.

New York, June 1.—Another break in prices characterized today's market as a further effect of yesterday's injunction against freight rate increases by western railroads. Liquidation was very heavy, especially in the stock of the roads affected by the injunction.

The Burton amendment authorizing the Interstate Commerce Commission to fix a minimum rate to be charged by the railroads which compete with the water routes, was adopted.

GOTCH AND GIANT POLE MEET IN CHICAGO TONIGHT

Chicago, June 1.—Frank Gotch and Stanislas Zybasko will battle for the wrestling championship of the world at the Coliseum tonight. Critics predict that the American will have a hard fight to pin the giant Pole's shoulders to the mat twice.

Dick Fleming, of Chicago, has been chosen referee. Zybasko is allowed to have a committee of his countrymen at the ring-side and they will prepare a report of the match for general circulation throughout Europe where Zybasko is better known than in this country.

CONFLICT IN TESTIMONY

The trial of George Musgrave was resumed in district court at nine o'clock this morning with Les Harmon on the stand. Harmon confirmed the testimony of Curg Johnson, who yesterday told of the shooting of George Parker by Musgrave. Harmon's testimony was favorable to Musgrave, being almost as strong in the behalf of the defendant as the testimony of Johnson. One place where Harmon's evidence was not as strong as that of Johnson, was, that Harmon did not see Parker's hand drop to his pistol just before Musgrave shot, as Johnson had told that he had seen it. Harmon did not hear Musgrave say that he had come all the way from Mexico to kill Parker. He did hear him say, he testified, that he hated to kill Parker, but that he had to do it.

Lucius Dills was the second witness this morning. He saw the body of Parker after the shooting and the bullet hole in his head was in the forehead, nearly in the center. J. A. Purviance and Dr. W. T. Joyner substantiated the testimony of Dills, all having seen the body of Parker. Mack Minter went on the stand this morning to impeach the testimony of Sam Butler, who was the first and one of the strongest witnesses for the prosecution. Minter testified that Butler told him that he did not hear Musgrave say that he had come all the way from Mexico to kill Parker. On the stand Saturday afternoon and Monday Butler and Wm. Phillips had testified that, immediately after the shooting Musgrave had said that he came all the way from Mexico to kill Parker. These statements and the story of the shooting as told on the stand by these two eye witnesses are supposed to have been the causes leading up to the action of Judge W. H. Pope in remanding Musgrave to jail during the rest of the trial. Minter's evidence was given to impeach the testimony given on the stand by Butler.

Several witnesses were on the stand in Musgrave's behalf this afternoon. Ed Bryant told of the location of the wounds. Jack Browning, C. L. Ballard, Frank Strickland and Joe Taylor, all of whom knew Parker, testified as to his reputation as a quarrelsome, dangerous man. Taylor also told of warning Musgrave on the morning of the shooting not to go to the roundup, that Parker had said he would whip Musgrave on sight. Strickland also told of the position of Parker's body, indicating that one hand was under the body, near his gun when he went up shortly after the shooting. Wm. T. Arnold told of Parker telling him that Parker wrote Musgrave a letter, telling Musgrave not to come back or he, Parker, would make it hot for him.

ROOSEVELT CRITICISED

London England, June 1.—Mr. Roosevelt's speech at Guildhall yesterday continued today to be the sensation of the country. The editorial comments on his startling utterances concerning British rule in Egypt were influenced, as a rule, by partisanship. The conservative press defends the conclusions drawn by the American statesman, while the liberal papers oppose his deductions with equal seriousness. But outside the questions of fact set forth the newspapers almost without exception challenge the propriety of a foreign guest of the city criticizing the colonial policy of the empire. Of comments of the conservative press, the following are examples:

London Globe—"It was not the time nor the place, nor was the president the person to display his particular form of interest in the business of his hosts."

London Standard—"That he should lay hands on one of the nation's private and particular subjects, seems a social crime not far from sacrilege, but in reading his speech carefully there is found nothing of which to complain."

Of the Liberal papers the Westminster Gazette questions the necessity of and disagrees with the conclusions of the speech. The Star says Mr. Roosevelt should learn that he is not exempt from the customs of civilized nations.

Saritoga, N. Y., June 1.—George Foster Fosbury, the banker, who has been a prominent figure in the councils of the Democratic party, has issued a statement here, declaring that Roosevelt's speech in London yesterday was "a piece of reckless jingoism which should be promptly repudiated by the American people." The statement proposed the holding of mass meetings in New York and other large cities "for the purpose of showing that the people of the United States are not in sympathy with this suggestion of American interference with other people," and "to voice our respect for other governments and our adherents to the principles of Washington's immortal farewell address."

LEMBERG WINS THE DERBY

STAKE OF NEARLY \$33,000.
Epsom Downs, England, June 1.—The Derby stakes of \$32,500 for three year olds, distance of about a mile and a half, was won by Lemberg. Greenback was second and Charles O'Malley third. Fifteen horses started.

TWENTY-FIVE KILLED IN PORTLAND CEMENT PLANT

Ogden, Utah, June 1.—Twenty-five workmen were killed this morning in an explosion in the factory of the Union Portland Cement Works at Devil's Slide, Utah, thirty miles east of Ogden.

The Kansas City Stock Market.
Kansas City, Mo., June 1.—Twenty receipts, 9,000, including 300 southern. Market steady. Native steers, 5.90@8.25; southern steers, 4.50@7.55; southern cows, 3.25@5.75; native cows and heifers, 3.00@7.40; stockers and feeders, 4.00@6.20; bulls, 4.00@6.20; calves, 4.55@7.75; western steers, 5.50@7.70; western cows, 4.25@6.50.
Hog receipts, 6,000. Market weak. Bulk of sales, 9.50@9.55; heavy, 9.45@9.55; packers and butchers, 9.10@9.50; light, 9.30@9.45; pigs, 8.55@9.25.
Sheep receipts, 7,000. Market steady. Muttons, 4.00@5.50; lambs, 7.00@8.75; fed western wethers and yearlings, 4.50@6.00; fed western ewes, 4.00@5.00.

VETERAN "POP" ANSON GOES BROKE IN CHICAGO.

Chicago, June 1.—"Pop" Anson, the veteran base ball player who managed the Chicago Nationals for twenty-two years won six pennants and retired from the league in 1888 with a reputed fortune of \$100,000, is "broke." The last financial straw blew away yesterday when a mortgage on his home was foreclosed in default, the notes aggregating \$580. "But I'm not all in by a long shot," said Anson. "You can't keep a good man down, so just say I'll get along somehow."

INSURGENTS WIN BATTLE

Washington, June 1.—The Nicaraguan government's army under General Lara, which has been in front of Bluefields for several weeks, has been defeated by insurgent troops under General Estrada, and are now in full retreat.

LOCOMOTIVE EXPLODES AND KILLS THREE MEN.

St. Louis, Mo., June 1.—Three men were killed when a railroad locomotive exploded near Collinsville Junction Illinois, on the St. Louis, Troy & Eastern railroad today.

SWATTED THE CROWN PRINCE WITH A CAN OF BEANS.

Berlin, Germany, June.—A can of uncooked beans, hurled by a Russian, named Abraham Eirweiss, struck Crown Prince Frederick William as the latter was returning from the annual joint review of the Berlin and Potsdam garrisons at the Temvelhof field today. Eirweiss had been following the party at a distance. The Crown Prince was about to enter the palace at the time and for a moment it was believed a bomb had been thrown. It is thought Eirweiss is insane. The Crown Prince represented the Emperor at the review as the absence of the Emperor's wrist still bothers him.

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