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eaged in the manufacture of galvanized sheet iron and sheet steel. I am receiving telegrams from those people to the effect that this rise in the cost of spelter, which has already occurred, incurred very greatly the cost of galvanizing steel and iron sheets.

The average quantity of zinc used in galvanizing a ton of sheet steel or sheet iron is 325 pounds. This spelter has increased in cost within the last six months, which means an increase of $2 a ton. There is a differential in paragraph 123 of this bill between galvanized and galvanized of two-thirds of a cent a pound. It was no doubt intended that a large share of that two-thirds of a cent would provide for additional labor; but if this duty is imposed the price of zinc will so increase that the actual differential in the tariff will be more than two-thirds of a cent a pound. So I must ask, if any duty is imposed, that the schedule with reference to galvanized iron shall be changed to meet the changed conditions.

Mr. President, the principle of protection does not demand that this duty be imposed. It is not a languishing industry; it is not an industry that requires a penny of duty to make it profitable and increasingly profitable in the years to come.

While its imposition will tend to destroy secondary industries which depend upon this for their raw material, the increase in price will also threaten not only a decrease in the quantity made, but also a board, which is taken from the mines, but the very decadence and almost destruction of the industry itself. I can hardly understand how those who are interested in zinc ore, who have certainly as profitable mining interests as any of the States, which have that which has shown the greatest increase in profits, should be coming here to Congress and asking for this absolutely unnecessary duty which will not only ungrateously hurt themselves, but will be harmful to all the related industries. So I trust, Mr. President, that this paragraph will be stricken out of the bill, and that the law will be left as it is.

Mr. HEYBURN. Mr. President—

The PRESIDING OFFICER. The Chair lays before the Senate a message from the President of the United States, which will be read.

Mr. LODGE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The PRESIDING OFFICER. Seventy-one Senators have answered to their names. A quorum of the Senate is present. The Secretary will read the message from the President of the United States.

The Secretary read as follows:

To the Senate and House of Representatives:

It is the constitutional duty of the President from time to time to recommend to the consideration of Congress such measures as he shall judge necessary and expedient. In my inaugural address, immediately preceding this present extraordinary session, I invited suggestions for a revision of the tariff at this session, and stated the principles upon which I thought the revision should be effected. I referred to the then rapidly increasing deficit and pointed out the necessity and importance of the future of the tariff, and the duty so as to secure an adequate income, and suggested that if it was not possible to do so by import duties, new kinds of taxation must be adopted, and among them I recommended a graduated income tax as an attention to the prevention of the evils which have aroused the public to the necessity of reform were made possible by the use of this very faculty. If now, by a perfectly legitimate and effective system of taxation, we are incidently able to possess the revenue and the knowledge of the real business transactions and the gains and profits of every corporation in the country, we have made a long step toward that supervisory control of corporations which may prevent a further abuse of power.

The decision of the Supreme Court in the income-tax case deprived the National Government of a power which, by reason of previous decisions of the court, it was generally supposed ultimate and inherent power the National Government ought to have. It might be indispensable to the public interest in great crises.

Although I have not considered a constitutional amendment as necessary to the exercise of certain powers considered necessary to an income tax, I am of the opinion that an amendment is the only proper course for its establishment to its full extent. I therefore recommend to the Congress (that both houses, by a two-thirds vote, shall propose an amendment to the Constitution conferring the power to levy an income tax upon the National Government without appropriation among the States in proportion to population.

This course is much preferred to the one proposed of enacting a law once judicially declared to be unconstitutional. For the Congress to assume that the court will reverse itself, and to enact legislation on such an assumption, will not only create an unprecedented example in the annals of the Constitution, but will provide a precedent for the future construction of the Constitution. It is much wiser policy to accept the decision and remedy the defect by amendment in due time and regular course.

It is clear that by the enactment of the proposed law the Congress will not be bringing money into the Treasury to meet the present deficiency, but by putting on the statute book a law already there and new repugnant to the executive powers of the Government their possible duty to invoke litigation. If the court should maintain its former view, no tax would be collected at all. If it should subsequently reverse itself, such taxes would have been collected until after protracted delay.

It is said the difficulty and delay in securing the approval of three-fourths of the States will destroy all chance of getting an amendment. On the contrary, one can speak with certainty upon this point, but I have become convinced that a majority of the people of this country are in favor of revising the National Government with power to levy an income tax, and that they will secure the adoption of the amendment in the States, if proposed to them.

Second, the decision in the Pollock case left power in the National Government to levy an excise tax, which accomplishes the same purpose as a corporation income tax and is free from certain objections urged to the proposed income-tax measure.

I therefore recommend an amendment to the tariff bill imposing upon all corporations and joint stock companies for profit, except national banks (otherwise taxed), savings banks, and building and loan associations, a tax of four per cent. on the net income of such corporations. This is an excise tax upon the privilege of doing business as an artificial entity and of freedom from a general partnership liability enjoyed by those who own stock.

I am informed that a 2 per cent tax of this character would bring into the Treasury of the United States not less than $2,000,000.

The decision of the Supreme Court in the case of Spreckels Sugar Refining Company against McClain (162 U. S., 373) seemed clearly to establish the principle that a tax as this is an excise tax upon privilege and not a direct tax on property, and is within the federal power without apportionment according to the population. The tax on net income is preferable to one proportionate to a percentage of the gross receipts, because it is a tax upon personal advantage. It is based not upon the net income of the income at a time when the corporation is well able to pay and when collection is easy.

Another merit of this tax is the federal supervision which may be exercised in order to enforce the law effective over the annual accounts and business transactions of all corporations. While the faculty of assuming a corporate form has been of the utmost utility in the business world, it is also true that an abuse of the principle of the evils which have aroused the public to the necessity of reform were made possible by the use of this very faculty. If now, by a perfectly legitimate and effective system of taxation, we are incidently able to possess the revenue and the knowledge of the real business transactions and the gains and profits of every corporation in the country, we have made a long step toward that supervisory control of corporations which may prevent a further abuse of power.
Mr. ALDRICH. I move to lay the motion on the table.

THE PRESIDING OFFICER. The PRESIDING OFFICER. The Senator will modify his motion in accordance with your wish, Mr. Aldrich; but whether the question then will be upon agreeing to the motion of the Senator from Rhode Island.

Mr. ALDRICH. I move to lay the motion for instructions upon the table.

Mr. LODGE. To lay the motion for instructions upon the table.

Mr. GORE. Mr. President—

Mr. LODGE. That is not debatable.

Mr. GORE. Under the motion to table I have no right to discuss it, but by unanimous consent—

Mr. LODGE. The motion is to refer to the Committee on Finance. The Senator from Oklahoma proposes to amend it by adding instructions. The motion of the Senator from Rhode Island is to lay the amendment on the table.

Mr. TILLMAN. I think the Senator from Massachusetts is in error there. There is no motion in regard to this message at all, but it is the action of the Chair in having under the ordinary course referred it to the committee without a motion.

Mr. ALDRICH. The Senator, I think, is mistaken in that. The suggestion was made that it be referred to the Committee on Finance.

Mr. TILLMAN. By whom?

Mr. ALDRICH. By the Chair.

Mr. TILLMAN. But the Chair can not make a motion. Mr. ALDRICH. That is in the motion.

Mr. MONEY. I rise to a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. ALDRICH. It goes there under the rule.

Mr. TILLMAN. But there is no motion.

Mr. MONEY. I understood that the Senator from Oklahoma had the floor to make a motion. He had a right to move, and he had a right to say what he pleased upon that subject; and who could take him off the floor by a motion to table? He had the floor. The motion to refer is not privileged. You can not take a Senator off the floor who has it by the recognition of the Chair.

Mr. HEVBURN. He had it by unanimous consent.

Mr. MONEY. Not by unanimous consent, but by the recognition of the Chair. You were on the floor for something else, as you stated yourself, and the Chair ruled you were not in order or did not have the floor because the matter of reference had not been concluded. The Chair then recognized the Senator from Oklahoma, who proceeded in his own right to make a motion to refer with instructions; and he has the right to say what he chooses on that subject, and can not be taken off the floor by some other Senator who wants to make a motion to table.

Mr. ALDRICH. The Senator from Oklahoma had taken his seat, and I was recognized in due course by the presiding officer and made the motion.

Mr. HEVBURN. You did not know that was the fact. I thought the Senator from Oklahoma was standing all the time.

Mr. ALDRICH. Oh, no.

Mr. MONEY (continuing). And waiting an opportunity to continue what he had to say. Of course if he had taken his seat and abandoned the floor, that is another question.

Mr. HEVBURN. I yielded the floor for a purpose that was expressed and limited. I had the floor before the message came into the Senate.

Mr. MONEY. I know you had.

Mr. HEVBURN. I yielded for the purpose of receiving it.

Mr. MONEY. I did not yield for the purpose of considering the question whether it should go to this committee or that committee, and all that has intervened since the reading of the message was not done by waiving on my part, as a matter of courtesy. I was proceeding to speak upon the question under consideration, which is not the message.

Mr. MONEY. The Chair has already ruled, as I understand, all the Senator from Idaho has done is waive upon that part, as a matter of courtesy. I was proceeding to speak upon the question under consideration, which is not the message.

Mr. HEVBURN. The Chair has already ruled, as I understand, all the Senator from Idaho has done is waive upon that part, as a matter of courtesy. I was proceeding to speak upon the question under consideration, which is not the message.

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