RAILROAD TAX SUITS.

Origin, Object and Results of This Famous Litigation.

Most Important of the Kind That Ever Engaged the Courts.

The Democratic Law Fully Vindicated. Valuable Work of Attorney General Smith — An Adverse Opinion Would Have Bankrupted the State—Full and Succinct History of These Great Suits and Analysis of the Law They Were Intended to Nullify.

Prior to the passage of the tax law, approved March 6, 1891, the subject of taxation in this state was practically misunderstood. Those who paid taxes under the old system did so upon valuations fixed by themselves, without the slightest legal restraint or desire to fix a value upon their property representing either a fair or true cash value. Every person had been educated to the belief that it was right to force valuations down, because it was generally understood that the policy of taxation in this state rested upon the principle that to force a low valuation of property was to escape, in a measure, the payment of taxes necessary to support the government. This principle was manifested most clearly in valuations fixed upon all classes of corporate property. The owners of this property, being able to present their contentions more fully before the taxing boards than the owners of other property, always got the advantage of the situation by representing a condition which caused the authorities to place the lowest possible valuation upon their property, and this fact was known to all the taxpayers of the state, and, to counteract its evil consequences, the owners of real estate and other small possessions entered into the spirit of the times and fully competed with the owners of corporate property to the end that values should be made as low as possible, and in this competitive struggle for low values the land owner and the possessor of homes and small holdings were necessarily the sufferers from such a system. They could not, and did not, compete in this matter with those who held large property interests and controlled the corporate wealth of the state. Therefore in a short time the concentrated wealth of the state received the largest benefit from this system of pressing down the values of the taxable property, and the owners of other property were necessarily made to bear the largest share of the public burden. This was the condition of things when the legislature of 1891 met to consider ways and means to raise a sufficient revenue to carry on the affairs of the state government, to pay the interest on the public debt and to gradually reduce the principal.

The principle of taxation, that justice and equality can only be maintained by placing a fair cash value upon all property, had been lost sight of, and those most fortunate in the scramble to avoid taxation bore the least share of the public burden while, as in all such cases, those who were most numerous and farthest removed from the taxing authorities were made to bear the greatest, as well as an unequal, share of the public burden. Prior to 1891 there was no such thing as equality in assessment of taxes in this state. The constitutional provision which provides for a uniform and equal rate of assessment and taxation had been lost sight of or totally disregarded by those who may have misunderstood it.

Another principle under this system of taxation, which had been forgotten or disregarded, was that an increased and equal valuation of all property does not necessarily increase the amount of taxes to be paid by the citizen, for the reason that where all property is placed upon the tax duplicate at its true cash value all citizens will pay equally, according to the property which they own, and the higher the valuation the lower the rate of taxation; so it is a fundamental truth that the proper way to reduce the taxes, which the citizens must bear as a reward for good government, is to place upon the tax duplicate all the property of the state and attach to it a value according to the cash basis, which alone can equalize the burden of taxation. But this was not the rule prior to 1891, and the principle of equality having been destroyed by a violation of the constitutional rule of taxation, the burden of government fell most heavily upon that class of property which never can escape the eye of the tax assessor, the homes and farms and tangible personal property of the people, while railroads and banks and great corporate interests, the value of which is most difficult to understand, bore but a slight portion of the public burden in comparison to what the people necessarily had to pay by reason of this misapplication of the equity rule in taxation.

In 1890 the property of this state was valued so unequally that it scarcely produced a revenue sufficient to pay the ordinary expenses of state government, and did not produce sufficient revenue to carry on the public institutions of the state and pay the interest on the public debt, necessarily requiring each year a temporary loan, at a high rate of interest, to meet these public expenditures. And it was this condition, which was known and severely felt throughout the state, that prompted certain persons to demand of the legislature of 1891 that the entire tax laws of the state be revised, and to cause a re-valuation for the purpose of taxation of all property, real, personal and corporate, to be made in the year 1891. The revisions of the tax laws of that year did not essentially differ in principle from the laws that have always been in force in this state. In fact, they had the same machinery for valuing railroad property and equalizing the value of real estate and to value small holdings and personal property of the citizens prior to 1891 as is incorporated in the tax laws of that year. But the laws concerning the valuation of all property for the purposes of taxation in this state had not been faithfully and honestly executed. The principle of valuing property according to its true cash value and placing all property upon the tax duplicate had not been adhered to, but had been abandoned, and the question was sharply presented to the people of the state as to whether the government of Indiana should be supported by means of a uniform and equal rate of assessment and taxation, or by going into the market every year and borrowing money to support the government, and thereby going into debt and increasing the state debt each year.

The lesson taught by the passage of the tax law of 1891 was the lesson of constitutional taxation based upon a uniform and equal rate of assessment. As soon as the law was passed its execution assumed a partisan phase. One political party of the state, at least, denounced the law as infamous and retarded its execution and enforcement in every way possible; and so fierce were the assaults made upon this system of taxation by the Republican party that even the friends of the law despaired of its execution and, at times, were almost willing to abandon the effort of constitutional taxation in this state. While it was not a new law, yet it was a new enactment, and being a new enactment, its enemies urged against it all the objections that might have been made against an original and new law. It became necessary, to carry out the provisions of the law of 1891, that nearly every section of it should be defended and construed by some one. This defense began early in the spring of 1891 and was vigorously prosecuted by the attorney general until all the values for that year had been fixed and placed upon the tax duplicate. The contest which was waged during that year against the tax system by the corporate interests of this and other states having property in this state was the fiercest and most unrelenting that has been witnessed since the organization of the state government. From the tax boards, who fixed the values upon the property of the rich and wealthy, appeals were taken to the courts for the purpose of having the salient features of the law declared unconstitutional. It was alleged in the courts that this law violated nearly all of the provisions in the constitution of Indiana, and that it violated the most essential provisions of the constitution of the United States; that it denied due process of law to the corporations; denied the equal protection of the laws to them; that it was an invasion of the constitutional provision that the states shall not regulate or place a burden upon interstate commerce. It was alleged by these corporations, who sought to break down this system, that the valuations fixed upon their property were so high that, in themselves, they constituted a fraudulent administration of the law and, for this reason, they asked that the power of the court be exerted in their behalf.

It will be remembered now, and a history of transaction has been written, that the valuations of all property in this state, including railroad property and other corporations, was the result of the labors of the attorney general, who gave such construction to this system of taxation that, when the values were increased upon real estate by the local authorities, it became absolutely certain and necessary that the values of corporate property under the jurisdiction of the state board should be increased by that body. There was no escaping the proposition that prior to the passage of the law, real estate had borne the heaviest share of the public burden, and although it was not valued at its true cash value, still it was valued proportionately higher than corporate property within the state, and that since the local assessors valued real estate at a sum deemed to be its true cash value, thereby increasing the value over 16 per cent over the value of former years, that the authority charged with the duty of valuing railroad property must increase the value of that property in such equal proportions as to bring it up to the level of a statutory cash value. The action of placing a value upon property for the purpose of taxation is merely an executive or administrative function which, if honestly performed, must proceed in the line of construction given to the general system, so that one class of property shall bear the same relation to the public burden as any other class of property shall bear.

Prior to 1891 railroad property in this state had been valued in the aggregate at $69,000,000. It was admitted by the railroads themselves that this valuation represented only three-fifths of the true cash value of such property, and to bring it up to the true cash value it would require a large increase to be placed upon all railroad property. This increase was the result of the general contest which was waged in behalf of the law by the attorney general of the state, who fought the corporations on the basis of equal and just taxation at every inch, and contested with them every step from the passage of the law to the values fixed by the assessing boards. And with this contest the values on the property of railroads were increased from $69,000,000 to $191,000,000. This increase represents the difference between the true cash value of the property as fixed by the board under the construction given to the law by the attorney general and the values which they themselves fixed upon their property. The per cent of increase of 1891 over 1890 was 130, and it was this increase that drove these corporations into the courts, where the attorney general appeared and fought them from the circuit court through the supreme court of Indiana and to and through the supreme court of the United States, in one of the most bitterly contested lawsuits that has ever been brought or concluded in this country, and the success which crowned the efforts of the attorney general in these lawsuits is written in the history of this state. The amount involved, directly and indirectly, in the litigation which resulted in the supreme court of the United States holding the law to be constitutional and refusing to interfere with the assessment of the taxes against these corporations is, at first blush, fabulous. No such consideration was ever involved in any tax litigation in this country. The law was assailed because it was unconstitutional, and if the courts had held that it was unconstitutional all the taxes assessed under it would have been null and void, and where any of them had been paid the state would have been obliged to refund them to the corporations. The amount involved in this litigation on the day the supreme court of the United States decided the cases in favor of the state was $7,101,827. Of this amount at least $3,000,000 had been paid under protest, and since the decision of the case by the supreme court of the United States there has been paid into the county treasuries throughout the state at least $4,000,000, the direct and necessary result of the victory won by the attorney general of Indiana over the corporations of this state. No such victory was ever before won for a state in the matter of taxation. The contest which resulted in bringing these taxes into the public treasury of the various counties of this state was directed, planned and executed by the attorney general and by no one else. He commenced with the beginning of the controversy and first laid open to the people of this state the doctrine of constitutional taxation in the great bank controversy, which originated in the superior court of Marion county, wherein the best lawyers of the state appeared for the purpose of getting a decision not so much affecting the banks, but a decision that would break down these laws and destroy their force in the matter of railroad and corporate taxation. This contest was carried on by the attorney general, not for any good result that might come in the so-called bank litigation, but for the purpose of asserting the constitutional power of taxation and maintaining it, so that when the threatened suits, which were afterwards brought, should be commenced, that this policy of battle should be continued all along the line as against them. And it is not forgotten that the fight made in the superior court and afterwards in the supreme court in the bank cases resulted in the establishment of the same constitutional doctrine as was afterwards asserted and settled by the supreme court of the United States.

These contests on the part of the attorney general in asserting the true doctrine of constitutional taxation has set at rest forever the objections raised against the law involved in these litigations, and the amount of taxes which the settlement of these questions will produce to the people of the state of Indiana in the future cannot be well or accurately calculated. They are like Tennyson's Brook. They will flow on forever, and if the public servants selected to administer this law in the future will adhere to the doctrine as asserted by the attorney general, and execute the duties of their trust with fidelity to the people, it will not be 10 years until this system of taxation will produce sufficient money not only to carry on affairs of the state, but to pay the interest on the state debt and to wipe out the principal. And it is to be hoped that the lesson taught by this great contest will never fall upon deaf ears, nor be forgotten by the taxpayers of Indiana, and it is the prayer of all good people that neither time nor jealousies, the egotism of some or the vanity of others, will ever deprive the real author of this blessing to our state of the merits due him for his labor and fidelity in standing by the cause of all people in behalf of just, uniform and equal taxation, to the end that every citizen of high or low degree, of much or little property, will be required to pay his just share of the public burden and feel that when the taxpaying time comes that he has not been called upon to contribute more to the maintenance of good government than his neighbors have been required to do.

PULLMAN IN INDIANA.

The Great Magnate Now Has to Pay For His Privileges.

The public generally will learn with surprise, if not disgust, that the valuable franchises of the Pullman Palace Car company in Indiana were enjoyed for years without the payment to the state of a single dollar for the privilege. His cars were run on every railroad in the state, enjoying the protection of the laws and making enormous sums of money for the owner, and yet there was no statute requiring any return for this. What was made was clear profit, and if other states have been equally generous there need be little wonder that this corporation found little difficulty in accumulating a fortune. Exemption from taxation is of itself equal to a good per cent on investment, as everything is receipts and no expenditure, and the making of fortunes is greatly simplified. Not only Pullman, however, but the telegraph companies and the express companies were equally fortunate in this respect. The only taxes they paid was on their office furniture and other appurtenances of this kind, which amounted to little or nothing. But for using the territory of the state for their lines and other privileges of indispensable value to such corporations these companies, like Pullman, went scottfree of taxation.

During the last session of the legislature Attorney General Smith drafted a bill to remedy this omission and to add the favored companies to the list of state taxables. The bill was drastic in its provisions and supplied a long felt want, but it was by no means allowed smooth sailing through the legislature. On the contrary, it met with most determined and angry opposition. A robust and well paid lobby was on hand to fight it at every stage. The Western Union and the express companies, as well as the redoubtable Pullman, were on hand "by attorney" to see that the bill was scotched if not killed. It was a formidable array of lawyers, professional lobbyists and interested parties that confronted Mr. Smith, but the plucky attorney general succeeded in defeating the "army of occupation" and finally got the bill passed. It was not, however, until the very last day of the session and after the hardest kind of a fight that the new statute became a certainty. As a result of its provisions the state of Indiana has been made richer this year by $100,000, and this off of property which was never before a subject of taxation. It was not without a struggle, however, that the tax was collected, even after the law was passed. The companies refused to pay, showed fight and the attorney general was compelled to enter suit against them. It is in the nature of corporations that if allowed to enjoy special privileges for a term of years they eventually come to consider them vested rights. Abuses of this kind become entrenched and it is always difficult—sometimes impossible—for the state to dislodge the possessors with all the machinery of the law at its back. The new law above described makes a valuable supplement to the general tax law of the state, and for both the Democratic party deserves full credit. It has done invaluable work in the last few years in teaching various corporations that the state has some rights which they will be compelled to respect.

CONTROLLER'S REPORT

Increase In the Volume of Business Since 1891 Shown.

LETTERCARRIERS' BACK PAY.

Claims Being Paid by the Treasury Department In Accordance With a Court of Claims Decision—Opposed to the Removal of Geronimo and His Band. Other News of the Capital.

WASHINGTON, Sept. 11.—The annual report of the controller of currency was made public yesterday. It is a record of the work of the controller's office and shows that the total number of accounts, claims and cases settled during the fiscal year ended June 30 last was 33,165, involving $280,602,002. By comparing the work of this office for the past three fiscal years the increase of business since 1891 in round numbers is $104,000,000, with an increase in the last fiscal year of $74,000,000.

WILL HE EXCEED THE LIMIT?

Congressman Holman Entering Upon His Sixteenth Campaign.

WASHINGTON, Sept. 11,—It is a tradition that death or the turn of political fortune fixes 30 years as the limit of service in the national house of representatives. Longlived and successful statesmen have tried in vain to break that record. No one has yet exceeded 15 terms of service as a representative. The late William D. Kelley, better known as "Pigiron Kelley," was "the father of the house" for several terms, but just as he was about to enter upon the 16th term he suddenly failed in health and died.

The mantle of the longest continuous service fell upon Charles O'Neil of Philadelphia. At the beginning of the present congress Judge Holman congratulated Mr. O'Neil that he was likely to achieve the distinction of passing the limit. Mr. O'Neil shook his head, and reminded the venerable Indianian of the tradition. In three months O'Neil was dead. And now it has come Judge Holman's turn to experience what there is in the unwritten law. He is just entering the campaign for his 16th term. He is 72 years old, and as rugged as the Hoosier Democracy.

But the reports from his district are that the Great Objector has the fight of his life on his hands. He has begun by declining a challenge to joint debate from the Populist candidate, a farmer named Gregg, and the reason he assigns is a curious one. Holman and Gregg live on adjoining farms, separated only by a small creek. The congressman says he is for free silver at 16 to 1, just as Gregg is. He says he knows all of Gregg's views; that he holds the same, and that, really, the only thing between them is that small creek. What is the use of a joint debate under such circumstances, he asks.

OPPOSED TO REMOVAL.

Ex-Governor Zulick Wants Geronimo's Band Kept Out of Arizona.

WASHINGTON, Sept. 11.—Ex-Governor Zulick of Arizona has written a letter to the president vigorously opposing the removal of Chief Geronimo and his Apaches from Mount Vernon barracks in Alabama, where they are now confined, to their former reservation in Arizona. In an interview on the subject he said: "In behalf of the people of Arizona I have felt it my duty to earnestly protest against their return. It was during my administration as governor that they were removed to Fort Pickens, Fla., by direction of President Cleveland. This band of Chirichua Apache Indians are without doubt the most cruel savages ever born on this continent."

Getting Their Money.

WASHINGTON, Sept. 11.—The claims of the lettercarriers for back pay, for which judgments were rendered by the court of claims and for which appropriations were made in the last deficiency bill, are being paid at the treasury department. The vast majority of these claims, however, are still pending before the court of claims, but it is expected that when the court meets again, Oct. 22, judgments in those pending will be quickly rendered, based on the decisions in former cases.

Italy, Spain and Japan Affected.

WASHINGTON, Sept. 11.—The new tariff act contained a provision that the rate of duty under the McKinley act should be imposed on lead ore, lead dross or silver ore containing lead when imported from countries imposing an export duty thereon. The treasury department in a circular states that Italy and Spain are the only countries affected. Japan, however, is also affected by a subsequent proviso relating to the duty on pig lead.

Treasury Cash Balance.

WASHINGTON, Sept. 11.—Cash balance in the treasury $127,830,816, of which $56,029,705 is gold.

NOVEL BLACKLIST.

Omaha Railroad Men Much Alarmed Over a Peculiar Mark.

OMAHA, Sept. 11. — Omaha railroad men are much alarmed over the discovery of what they regard as a novel blacklist being worked by all western lines. Since the strike all men seeking employment are required to bring a clearance from their last company. The men claim that all companies are using a sheet of paper on which to write these recommendations that have the figure of a crane worked in it, and while the writing may indicate that the bearer is all right the position of the animal on the paper, which is invisible except to a close observer, really determines the applicant's standing. In this manner by a secret code of signals the railroads, the men say, can write them a favorable letter and by using paper with the figure of the crane indicating dissatisfaction, prevent their securing work. The men are very much alarmed.

Weather.

Indiana and Ohio—Fair; cooler.