

1892

The Bounty Clause of the McKinley Bill

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T H E S I S.

The Bounty Clause of
the Mc Kinley Bill

-by-

Daniel W. Moran,
Cornell University School of Law.

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The Bounty Clause of the Mc Kinley Bill.

(§1)

The History of the Bill and Substance of the Clause under Consideration.

The subject on which we have undertaken to write was introduced in Congress April 16, 1890, by Mr. Mc Kinley of Ohio "to equalize duties on imports and to reduce the revenues of the government", which is commonly called by his name:- The Mc Kinley Bill.

It had long been under consideration in the Committee on Ways and Means. The measure was brought up for discussion on May 7, and it was determined to limit general debate to four days and then allow eight days for consideration, section by section, under the five minute rule. The bill was passed after considerable debate; and the clause of the bill which it is necessary for us to consider reads as follows:- That on and after July first, eighteen hundred and ninety-one, and until July first, nineteen hundred and five, there shall be paid, from any moneys in the Treasury not otherwise appropriated, under the provisions of section three thousand six hundred and eighty-nine of the Revised Statutes, to the producer of sugar testing not less than ninety degrees by the polariscope, from beets, sorghum, or sugar-cane grown within the United States, or from maple sap produced within the United States, a bounty of two cents per pound; and upon such sugar testing less than ninety degrees by the polariscope, and not less than eighty degrees, a bounty of one and three-fourths cents per pound, under such rules and regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe. And for the payment of these bounties the Secretary of the Treasury is authorized to draw warrants on the Treasurer of the United States for such sums as shall be necessary, which sum shall be certified to him by the Commissioner of Internal Revenue, by whom the bounties shall be disbursed, and no bounty shall be allowed or paid to any person licensed as aforesaid in any one year upon any quantity of sugar less than five hundred pounds.

It goes without saying, that there is no nation in the world under any system, where the same reward is given to the labor of men's hands and the work of their brain as in the United States. We have widened the sphere of human endeavour and given to every man a fair chance in the race of life and in the attainment of the highest possibilities of human destiny. Does the citizen of such a nation require something more to goad him on in any honest pursuit? Our national legislature seems to have thought as much when, to sooth the coquetted sugar growers, they proposed to take millions that do not belong to them out of the pockets of the people to lure men to engage in the production of sugar. How many drops of sweat have they poured out over these dollars that they propose to take by the million from the Treasury and throw at the feet of their favorites? Where did it come from? It was extorted from the pockets of the poor laboring people of the country by excessive rates of taxation. But the measure is on our

statute books, and it remains for us to consider its constitutionality.

Subject Matter is Taxation.

(§2)

It is patent that the subject matter of this bill is taxation, and it must stand or fall under the powers or restrictions found in our federal constitution as interpreted and understood by the courts and people of the United States.

The provisions of the constitution of the United States in regard to taxation, and which ought, we think, to be our guide through these few pages, is as follows:

The congress shall have power to lay and collect taxes, duties, imports and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imports and excises shall be uniform throughout the United States. (Article 1, Section 8, U. S. Con.)

A tax is a forced contribution from a citizen to be applied to governmental purposes, the money must be applied to the common good of the inhabitants of the locality over which the power of taxation is exercised in the particular instance. The power of taxation is given by all for the benefit of all; and should be subjected to that government only, which belongs to all, (Mc Cullough vs. Maryland, 4 Wheaton-) and the limitations contained in the United States constitution, impose substantial equality and uniformity in taxation, and compel equal burden of all subjects of immediate competition.

(§3)

Distinction between State and National power of Taxation.

A state has, by virtue of its sovereignty, an inherent right of taxation; and we concede that that power is absolute, except in so far as restricted by the state constitution, and the taking of the property can reasonably be said to come within the definition of a tax.

But such cannot be said of the United States. Its powers to tax must be found in the federal constitution, and the legitimate exercise of this power is no greater than the words granting it fairly import; in short,- the state has all power which follows sovereignty, except as restricted by its constitution or that of the United States; the United States has only such power as is granted by its constitution.

This distinction should be kept sharply in view in considering this or any other constitutional question; and particularly in reading and applying adjudicated cases under each.

Concluding that the national legislature has power to legislate only on the subjects and for the purposes set forth in the constitution of the United States, it is limited to the contents of Article first of section eight, above set forth, as to its taxing power.

What is meant by the words "general welfare" as used in this article of the constitution, is a question of great moment in considering the Bounty Clause of the Mc Kinley Bill. We maintain that the words should be given the meaning which the citizen in the ordinary walks and stations in life would give to it, that is, its common and ordinary meaning. The reason we insist on this interpretation is, not only that it is one of the legal rules of interpretation, but because it is

the language of the people from whom it owes its existence. The convention which framed the constitution was, indeed, elected by the state legislatures. But the instrument when it came from their hands was a mere proposal, without obligation, or pretensions to it. It was reported to the then existing congress with a request that it might be submitted to a convention of delegates, chosen in each state by the people thereof, under the recommendation of its legislature, for their assent and ratification. By the convention, congress and the state legislatures, the instrument was submitted to the people. They acted upon it, and from their act the constitution derives its whole authority. (Mc Cullough vs. Maryland. Sedgwick Con. Law 413.)

Would you or I, or any other American, possessing the American ideas of government, give or intend, by the use of the words "general welfare", a meaning which would be so broad as to include a power assumed by the Bounty Clause of the Mc Kinley Bill? Clearly not, for that provision assumes to impose a tax for the purpose of keeping those already in the business of producing sugar, at their old occupation. Can it be said to be for the general welfare when comparatively few engage in the production? If it is unprofitable for the agriculturists of our country to produce sugar, why not let them engage in some pursuit in which they might find profit, as the greater number of ^{us} have to do. In the course of debate on this clause of the bill in congress, Mr. O'Donnell made the following remark: "For a hundred years we have sought to encourage the cultivation of sugar, and now are confronted with the disappointing fact that the yield is declining". He goes on citing other countries who have given bounties and with an increase of sugar. If we import so much sugar and other countries are producing so much more than us, who have protected sugar by a tariff, why not let it in free and buy our sugar abroad? This would lower the price without paying money as a bounty, without taking money out of peoples pockets to entice a few to engage in an occupation in order to get at this prize, an occupation which has proved to be unsuccessful. If the production has been protected and failed to increase, this is the best proof that there are other products which are more profitable to the farmers of the nation as a whole. (Vol.21 Congressional Record.)

The constitution owes its whole force and authority to its ratification by the people; and they judged it by the meaning apparent on its face according to the general use of the words employed, when they do not appear to have been used in a legal or technical sense. (Sedgwick Con. Law 413) "To provide for general welfare", contains no technical or legal words; and the people in adopting them must have understood and meant by using them, that they would be understood in the only sense which they can convey, to wit: general welfare as distinguished from private welfare. To hold that the objects of the Bounty Clause of the Mc Kinley Bill were for the general or public welfare, would be straining and giving to the words a meaning clearly foreign to that of the people in adopting the constitution, and in violation of the familiar rules of interpretation and construction.

Concluding that this power was not intended to be given

to congress by the people, from the fact that they used the words "general welfare" in their ordinary meaning, we will now consider the legal meaning of those words and words conveying meaning analogous to them, as understood and expounded by high authorities, both state and national.

(§4)

General Welfare and Public Purpose.

I have determined to treat the above terms as meaning about the same thing, for that which is for the general welfare is for a public purpose, and that which is for a public purpose is for the general welfare of the locality or territory which is intended to be benefited by it.

Taxation, in the very meaning of the term, implies the raising of money for public use, and excludes the raising of it for private purposes,- thus the legislature cannot tax A in order to give the money to B; so a tax on agencies of foreign insurance companies doing business in the state, made payable to a private corporation for the relief of disabled firemen, has been held invalid; (39 Pa. St., 73) also, a law authorizing taxation to repay individuals, money paid by them for procuring substitutes for themselves, has in some courts been held unconstitutional for the same reason. It has been generally held that statutes allowing municipalities to aid in the construction of railroads and similar improvements, which by terminating in or running through the municipality will benefit the municipality, are constitutional and valid. But these decisions have been questioned. Even conceding that they are sound, a great distinction exists between the benefits to be derived from a railroad passing through a locality, and the benefit, if any, expected to be derived from the sugar bounties, to the public. The decisions in the several states seem all to have been in favor of the legislature to build railways, at the public expense. They seemed to consider them a species of internal improvement, or intercommunication, which is, in a measure, indispensable to public interests, and public functions; in many ways. The right of the United States to do, or to aid in doing the same for purposes of conveying the mails, the army and its materials, seems now to be almost universally conceded. The dissenting opinions of some of the judges in the cases sustaining the validity of statutes authorizing municipalities to subscribe for railroad stock, would appear to have the advantage of the argument, especially where it has been attempted to impose a burden upon a municipal corporation for the erection of railroads beyond its territorial limits, although incidentally affecting their pecuniary interests, by way of business.

Mr. Burroughs in his work on taxation criticises the soundness of these decisions and says "that a railroad in the hands of a private corporation, is no more operated for a public use than a manufactory, a newspaper establishment, or any other means for carrying on by individuals of a business which while private in its nature, nevertheless supplies a public need", but the weight of authority is all in one direction, and it is now too late to bring the matter into serious debate.

Bonds issued by a municipal corporation, in aid of a man-

ufacturing enterprise owned by private persons, have been held void by the Citizen's Savings Bank vs. City of Topeka, 3Dill, 376.

An act was passed in the state of Kansas "to authorize cities and counties to issue bonds for the purpose of building bridges, aiding railroads, water power, or other works of internal improvement". Section 76 reads as follows: The council shall have power to encourage the establishment of manufactories and such other enterprises as may tend to develop and improve such city; and etc. It was held by Mr. Justice Miller in delivering the opinion of the court, " This power (taxing power) can as readily be employed against one class of individuals and in favor of another, so as to ruin the one class and give unlimited wealth and prosperity to the other, if there is no limitation of the uses for which the power may be exercised. To lay with one hand the power of the government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprise and build up private fortunes, is none the less robbery because it is done under the forms of law and is called taxation. This is not legislation. It is a decree under legislative form. Nor is it taxation. It is undoubtedly the duty of the legislature, which imposes or authorizes municipalities to impose a tax, to see that it is not to be used for the purpose of private interests instead of a public use, and the courts can only be justified in interposing when a violation of this principle is clear and reason for inference⁺ cogent. And in deciding a given case, whether the objects for which the taxes are assessed, fall on the one side or the other of this line, they must be governed mainly by the course and usage of the government, the objects for which taxes have been customarily and by long course of legislation levied, what objects or purposes have been considered necessary to the support and for the proper use of the government, whether state or municipal. Whatever lawfully pertains to this and is sanctioned by time and the acquiescence of the people may well be held to belong to the public use, and proper for the maintenance of good government, though this may not be the only criterion of rightful taxation. But in this case before us, in which the towns are authorized to contribute aid by way of taxation to any class of manufactories, there is no difficulty in holding that this is not such a public purpose as we have been considering". (20 Wallace).

Shortly after the Boston fire of 1872, which destroyed a large part of the city, the governor called the legislature together to relieve the sufferers. The legislature authorized the city to bind itself to the owners of the ground whose buildings had been destroyed, to aid them in rebuilding; and it was held not to be a public purpose. In the opinion of the court in this case it is said, "It is the essential character of the direct object of the expenditure which must determine its validity, as justifying a tax, and not the magnitude of the interests to be affected, nor the degree to which the general advantage of the community, and thus the public welfare, may be ultimately benefited by their promotion". (111 Mass., 463 .)

It seems clear that the resulting advantage, if any, does

+ interference

not give to the means by which it is produced, the character of a public purpose. There are cases in which the power of the government is used to affect private rights of property in favor of individuals or corporations, such as railroads and turnpikes; in whose favor the right of eminent domain is frequently exercised. Private rights are taken and transferred to the private corporation on payment of the compensation to the injured persons; but this is proper as a public purpose, if proper at all, on the grounds that the public receive a direct benefit from the increased facilities for transportation of freight and passengers. The franchises of these corporations are charged with this trust for the performance of the public service, for which they were granted. It is true, that the property, necessary for the establishment and management of these great thoroughfares, is vested in corporations or individuals; but it is in trust for the public. The corporations or individuals have not the general powers over the property incident to the absolute right in the property; they are obliged to use it in a particular manner, and for the accomplishment of a well defined object. (4 Metcalf, 566)

It has been held that a municipality cannot be authorized to lay a tax in aid of a private educational institution. In Maine an act allowing a town to raise money by taxation to loan to individuals on condition of their establishing a manufactory in the town, has been held void.

Perhaps the strongest case against our position is that of the Town of Guilford vs. Supervisors of Chenango County, in which Judge Denio holds that the legislature is the sole judge of what is for the public good. (13 N. Y., 143) It was said in 6 Abb. N. C., 246, "that to hold that one mans property can, by special law, be taken or incumbered in a manner and by proceedings that do not apply to all, is tyranny, and revolting to the theory and sentiments of republican equality. Wherein consists the assured safety and permanence of the constitutional rights of property or liberty? Such an enactment is more like revolution than the administration of just and equal laws, and has no warrant in the law, or in the customs of our fathers." Is not the above language applicable with much force to the Bounty Clause of the Mc Kinley Bill? For here is a plain discrimination between our citizens and different occupations. The case of the Town of Guilford vs. Supervisors of Chenango County seems to be overruled by 64 N. Y., 91; and, as our opinion and views of the power of taxation coincides with those expressed in the opinion of the case, we beg leave to quote, to considerable length, the language therein used, to express such opinion and views. In this case the village of Douglas was authorized by the legislature to take stocks in the Long Eddy Hydraulic and Manufacturing Company, and to issue bonds to raise the money to pay for such stocks, and to levy and collect taxes for the payment of the principal and interest on such bonds. The company was empowered by the legislature to build a dam across the Delaware river. The objects and purposes of said company were not strictly or exclusively of a private nature, but, to some extent, partook of a public character, and were sufficiently broad and extended to include a public use, and the material growth and prosperity of the village would have been largely increased by the accomplishment of the objects of the company,

as it would have added a large taxpaying element thereto, increased the value of the adjacent property, and furnished an extensive manufactory for lumber and other raw materials, and the convenience of public business promoted by the cleaning out of the channel of said river and the construction of docking and piers on the bank of the same, which would have come within the apparent objects and purposes of the company. Judge Folger, in delivering the opinion, said: "Now it is true, that there are opinions given in adjudications upon this general subject, which go to great length in declaring the extent of the legislative power of taxation, and which, if taken in all the scope of the sentiments uttered, seem to permit an extension of it without limit, and deny any judicial power to fix a bound to it, or to question in any case the legislative right to exercise and delegate it. Perhaps the most noted of these in this state, and which may be taken as an example of all, is the case of the Town of Guilford vs. Supervisors of Chenango County. (Cited above.) It is not needed that we now deny that there is no limitation whatever upon the legislative power to tax, considered as to the amount which shall be raised thereby, and the subjects from which it shall be raised, unless a limit is found in express constitutional restrictions. When however, we come to deal with the power of taxation in reference to the purposes for which it is to be exercised, we may not admit so much. It cannot but be conceded that there is an end to it somewhere. Every mind must be able to conceive of some legislative attempt to exercise this great and extensive power, which would fail to find warrant either in our written constitution or in any inherent governmental authority, and which the owner of property subjected to it would have the power to resist. To use the not uncommon illustration, it must be far beyond the reach of real legislative authority to take the property of A and give it to B, when there is no legal, equitable, just or moral obligation to render to B one farthing. But to tax A to raise money to pay over to B, is only a way of taking his property for that purpose. If A may of right resist this, as surely he may, how is he to make resistance effective and peaceable save through the courts, which are set to be his guardian? How may the courts aid and guard him, unless they have the power, upon his complaint, to examine into the legislative act, and to determine whether the extreme boundary of legislative power has been reached and passed? So that the legislature is not sole, supreme and unrestrainable therein, and the courts are not debarred, but may, as a co-ordinate branch of the government, scrutinize and measure the legislative act; always keeping in mind that the legislature is the primary authority which is to inquire what is a proper purpose for the application of money to be raised by taxation. It may be conceded that that is a public purpose, from the attainment of which will flow some benefit or convenience to the public, whether of the whole commonwealth or of a circumscribed community. But the convenience must be direct and immediate from the purpose and not collateral, remote or consequential. The citizen should not be made to depend for it upon the spontaneous actions of others, or to receive it in uncertain degree or manner or roundabout way, or hampered with discriminating distinctions and conditions.

The benefit to the public is remote and consequential". (See also 14 N. Y., 515.) If this decision was of the United States courts, it would, I urge, be final and conclusive of the question under consideration. If the state of facts which existed in 64 N. Y., 91, was not sufficient to sustain a public purpose, surely, the measure we are discussing would fall far short of it. And, we must also remember, as we have suggested in the opening lines of this theses, that the reasoning of this case coming up under a state constitution, which is merely restrictive, must have more force under the national constitution, which enumerates the powers and gives only such as it enumerates and are incident thereto.

There are strong expressions to be found in many cases which would seem to favor the idea that the taxing power is without limit, as far as the control of the courts is concerned; the principal one we have met is *McCullough vs. Maryland*, 4 Wheaton, in which Judge Marshall says: "The only security against the abuse of this power is found in the structure of the government itself. In imposing a tax, the government acts upon its constituents; this is, in general, sufficient security against erroneous and oppressive taxation. The people of the state, therefore, give to their government a right of taxing themselves and their property; and as the exigencies of the government cannot be limited, they prescribe no limit to the exercise of this right, resting confidently on the interest of the legislature and the influence of the constituents over their representatives to guard them against its abuse." It was decided in this case that a bank was a proper and necessary instrumentality to be used in conducting the financial affairs of the federal government, and that the sovereignty of the state did not extend to instrumentalities of the federal government, as, by the compact between the states, that government was to be supreme within the limits of the power vested in it. It is undoubtably true that the exigencies of the government cannot be limited, and as a general rule, the people prescribe no limits to the exercise of this right; we suppose by exigencies is meant the necessity of the government for revenue for the purposes of government; to this there is no limit, and the abuse of this must be corrected by the influence of the constituents on the legislature. But we cannot suppose that this able jurist meant to say that the legislature could impose a tax for a private purpose, and that there was no remedy in such a case but the one named. It seems to us that the true meaning to be attached to the language is, that when taxes are imposed for a proper governmental purpose, the amount, the subjects and mode of imposition are vested in the legislature alone. (*Burroughs on Taxation.*)

Whether the purpose is a public one is a question for the courts. If the legislature can determine whether the use is a public one, then the safe guards in the bill of rights and constitutions of the states and United States for the protection of private property are valueless. The legislature cannot, by declaring the use to be public, when it is within the constitution a private use, authorize the property of one citizen to be taken from him and given to another. If taxation is not for public purposes, it is plunder.

Taxation takes money for a public use; and the tax payer

receives, or is supposed to receive his just compensation in the protection which government affords to his life, liberty and property, and in the increase of the value of his possession, by the use to which the government applies the money raised by the tax. (4 N. Y., 422. 47 N. Y., 613.)

Judge Appleton, in 59 Me., 315, said of an act authorizing a town to refund money voluntarily contributed by an individual in 1864, to aid the town in procuring soldiers to fill its quota, that it was not for a public purpose, that it was a mere gift as a recompense for past generosity. In 1871 the legislature of Maine requested the opinions of the justices of the supreme court of that state on the following question: Has the legislature authority under the constitution to pass laws enabling towns, by gift of money or loan of bonds to assist individuals or corporations to establish or carry on manufacturing of various kinds, within or without the limits of said towns? We quote the following from the answer as given by the judges Appleton, Walton and Danforth: " Individuals and corporations embark in manufactories for the purpose of personal and corporate gain. Their purposes and objects are precisely the same as those of the farmer, the mechanic, or the day laborer. They engage in the selected branch of manufacturing for the purpose and with the hope and expectation, not of loss, but of profit. Now the individual or corporate manufactory will in the outset promise to be, and in the result will be, either a judicious and gainful undertaking, or an unjudicious and losing one. If it be gainful, there seems to be no public purpose to be accomplished by assessing a tax on reluctant citizens and coercing its collection to swell the gains of successful enterprise. If the business be a losing one, it is not readily perceived what public or governmental purpose is attained by those who would have received no share of the profits, to pay for the loss of an unprosperous manufacturer, whether arising from folly, incapacity, or other cause. The tax payer should not be compelled to pay for the loss when he is denied a share of the profits. If the right of confiscating the private property of individuals for the purpose of giving it away to one branch of industry can be conferred upon towns, one does not easily see when or what bound can be imposed or limitation made. The general benefit to the community resulting from every description of well directed labor is of the same character, whatever may be the branch of industry upon which it may be expounded. All useful laborers, no matter what the field of labor, serve the state by increasing the aggregate of its products, its wealth. There is nothing of a public nature any more entitling the manufacturer to public gifts than the sailor, the mechanic, the lumberman, or the farmer. Our government is based on the equality of rights. All honest employments are honorable. We cannot rightfully discriminate among occupations, for a discrimination in favor of one branch of industry is a discrimination adverse to all other branches. The state is equally to protect all, giving no undue advantage or special and exclusive preference to any."

In 49 Ill., 316, a town was authorized to levy a bounty tax, and the town meeting voted to levy the tax, and the money advanced by individuals upon the faith of such vote, was

recognized by the town as a binding debt. The court held that while the legislature cannot authorize a town to lay a tax for the purpose of raising money to be bestowed as a private gratuity, or used for any purpose that cannot reasonably be considered corporate, on the other hand, we must recognize its power to authorize taxation in order to refund money advanced by individuals for the public welfare, in a pressing emergency, upon an understanding for repayment. We heartily concur in the above holding; for would the opening of a road, the laying out of a public square, the purchase of a fire engine, the erection of an alms-house, be as important to the general interests of a community, as was exemption from the necessary but dreaded conscription during the last years of the late war? Doubtless, in all communities, there were tax payers who would not be personally liable to the draft, but who was there, in any community, so isolated as not to be liable to be stricken by it through his kindred or friends, or injured in his pecuniary interests through the complex relations which men bear to one another in society? Can it be truthfully said that the sudden tearing away of whole classes of such men was not an injury to the entire community, and that a tax, by which it could be avoided was essentially different from that provided by the Bounty Clause of the Mc Kinley Bill? Under the system of drafting adopted by the federal government, each city and township was assessed for its respective quota of men. It was determined what amount of military service was due to the government from each municipal community, under the acts of congress to which all owe obedience. The rendition of the service was a burden resting on the entire community, and no more due from one individual member of it than from another. The service being thus due from the entire population of the town, and, as citizens of a common country, due from all the constituents of the population alike. The service was rendered against a town as a corporate community, and as such community it renders the service by the aid of a corporate tax. The tax was levied, not for the benefit of the volunteers, but for that of the community to which it brought relief.

By an act of the legislature of Wisconsin, the town of Jefferson was authorized to raise by tax a sum of money to aid in the erection of buildings for the "Jefferson Liberal Institutes", in said town, in case a majority of the votes cast upon that question at the town meeting, should be in favor of said tax. The electors having decided affirmatively, the town was accordingly assessed. Defendant as town treasurer proceeded to collect the same against the plaintiff. In delivering the opinion, Judge Dixon said: "The benefit for which the taxes were attempted to be assessed and collected, is essentially private; the town is not a stockholder and has no voice in the matter, the tax payers have no privileges not common to all, the trustees may exclude all the citizens of the town from the institution. We feel no doubt in saying that the act is unconstitutional. It strikes us at first blush that this is not the levy and collection of money for public purposes. It is but a most frivolous pretext for giving to a corporation money exacted from the tax payers, which a just and honorable man would hesitate to receive. Nor will the location at Jefferson of the institution, and the inci-

dental benefits which may thereby arise to the people of the town, sustain the tax. This is not the kind of public interest and benefit which will authorize a resort to the power of taxation. Such benefits accrue to the people of all communities from the exercise in their midst of any useful trade and employment, and the argument pursued to its logical result would prove that taxation might be made use of for the purpose of building up and sustaining every such trade or employment, though carried on by private persons for private ends, or the purpose of mere individual gain and emolument. Such a power would be obviously incompatible with the genius and institution of a free people; and the practice of all liberal governments is against it. If we turn to the cases where taxation has been sustained as in pursuance of the power, we shall find in every one of them that there was some direct advantage accruing to the public from the outlay." (Curtis vs. Whipple, 24 Wisconsin.)

(§ 5)

Conclusion.

Bill Unconstitutional as to the Bounty Clause.

We submit to the reader the logic and justice of the reasoning in the cases cited as upholding the position we have taken; and, following such reasoning and sense of justice, we hold that the conclusion is irresistible, the the Bounty Clause of the McKinley Bill is not a tax for a public purpose, or for the general welfare of the people; hence, is not within the power of the national legislature. The clause also makes a distinction between the large and small producer of sugar, which shows that equality or the increase of the product, was not in the minds of the legislators. The power not existing in congress, the clause is absolutely void and of no effect.

Any public benefit which the bill might produce would not be direct, but too remote and consequential and not within the law. The maxim "Causa proxima non remota spectatur", or a principle analogous to such maxim, would apply, and such benefits, the law does not recognize as being a public purpose because the same benefits are derived from every honorable and useful occupation.

Daniel W. Morau

