

**SENATE, 60TH CONGRESS,
1ST SESSION, NO. 390,
HEARINGS ON THE RELIEF
OF TOBACCO GROWERS**

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SENATE

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BEFORE A SUBCOMMITTEE
ON INTERNAL REVENUE OF
THE COMMITTEE ON WAYS
AND MEANS, HOUSE OF
REPRESENTATIVES, 58TH
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FEBRUARY 4 AND 25, 1904

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RELIEF OF TOBACCO GROWERS.

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Thursday, February 4, 1904.

The Subcommittee on Internal Revenue (No. 3) this day met at 10.30 o'clock a. m., Hon. John Dalzell in the chair.

Members present: The chairman, Messrs. Tawney, Metcalf, and Hill.

The CHAIRMAN. The committee will be in order.

The purpose of the committee meeting this morning is to consider a bill (H. R. 4482) introduced by Mr. Gaines, entitled "A bill for the relief of tobacco growers." (See p. 65.)

We are ready to hear any gentlemen who are prepared to address the committee.

Mr. D. H. SMITH. Mr. Gaines will be here in a few moments, and as he is the author of the bill we would prefer that he should open the statements.

The CHAIRMAN. Very well. We will wait a few minutes for him.

Mr. D. H. SMITH. He does not seem to be around here just at present.

The CHAIRMAN. (After an interval of a few minutes.) Mr. Smith, I think we shall have to insist on proceeding with the hearing. I suppose Mr. Gaines will be here a little later.

Mr. D. H. SMITH. Well, sir, of course this is a bill introduced by Mr. Gaines, of Tennessee, but it perhaps affects the people of southern Kentucky, the section from which I come, as vitally and as extensively as it does the people of any section in the Union. It is a large tobacco-growing territory, and while I do not like to appear in the rôle of leading the fighting for some other gentleman's bill, I am very warmly for this bill, and expect to do all that I can to secure its favorable report and passage.

The CHAIRMAN. Mr. Gaines will, of course, be heard.

Mr. D. H. SMITH. I understand, but I would rather that he should have been here to take charge of the management of the matter before the subcommittee. As he is not here, however, I will introduce the gentlemen who are here from Kentucky to be heard on the measure.

As I understand the proposition, it is simply to permit any person to deal in leaf tobacco free of any tax or license and allow tobacco growers to hand stem or hand twist their own growth free of any tax or license, so that it is not adulterated, and to put it up in hand twist—the gentlemen of the committee have some samples of it here in that form—to strip it, to twist it, as long as it is not adulterated; in other words, to have the privilege and the authority to thus handle it without paying a tax upon it.

Mr. TAWNEY. I am informed that Mr. Gaines was very ill last night. Probably that is the reason that he is not here.

Mr. D. H. SMITH. He was here a few moments ago, but he has stepped out.

Mr. HILL. He was in the committee room just a few moments ago.

Mr. TAWNER. Oh, I did not know that he had been here.

Mr. D. H. SMITH. Yes; he was here a short time ago.

I will not undertake to be heard by the committee this morning myself, but probably I shall ask to be heard before we finish with the subject. There are some gentlemen here from Kentucky who desire to be heard in regard to the matter. Gentlemen, have you arranged among yourselves as to the order in which you shall talk to the committee?

Mr. BARKER. There has been no order agreed upon that I know of. We came expecting Mr. Gaines to conduct the hearing.

Mr. D. H. SMITH. Suppose you present your views now to the committee, Mr. Barker, and tell them what you want.

STATEMENT OF CHARLES E. BARKER, OF KENTUCKY.

Mr. BARKER. I hardly know what to say to you about this. I am a planter, president of the farmers' club at Pembroke, in what is known as the Clarksville tobacco district, and a producer of export tobaccos and tobaccos of different types.

The tobacco that we produce is a dark, rich tobacco, and a few years ago we had a good market there, a good trade, and a good deal of competition. We could put out tobacco on the open market, with an auctioneer to sell it, and we would have 15 or 20 men bidding on it. The conditions have come about now so that we have only one man to make a price on it, and he refuses to go into the market at all.

The CHAIRMAN. You say that you have only one buyer?

Mr. BARKER. Yes, sir.

The CHAIRMAN. How does that come about?

Mr. BARKER. I can not explain that to you.

Mr. JAMES. Is not that due to the fact that the trust has combined and controlled the market on tobacco, and therefore there is just one purchaser?

Mr. BARKER. Yes. The whole region has been cut up into districts like magisterial or constabulary districts, and the agents of each go around the districts and pick out just such as they want, and we have to take what they offer or leave it alone. We formerly put the tobaccos on the open market, where the auctioneer put them up for sale; but these men will not go there.

(Here Mr. Gaines entered committee room.)

Mr. METCALF. What sort of tobacco do you grow?

Mr. BARKER. We grow this dark tobacco, export tobacco I believe it is known as.

Mr. METCALF. Is it smoking or chewing tobacco?

Mr. BARKER. Well, we think down there that it is pretty good for both. [Laughter.]

Mr. GAINES. It is mostly exported, is it not?

Mr. BARKER. Yes, sir. I brought some samples which have been placed on the table before the committee. I can not tell you exactly what it is, but I can show you. [The various samples of tobacco were shown to the members of the committee.]

Mr. D. H. SMITH. That is chewing tobacco [indicating] and that is smoking tobacco [indicating].

Mr. BARKER. The chairman has in his hand now the tobacco in the only shape in which we now are permitted to sell it.

The CHAIRMAN. This tobacco [indicating twist] and this [indicating flat piece] are the products of this other [leaf]? [Indicating.]

Mr. BARKER. Yes, sir; that has been put in order and twisted in that form.

Mr. METCALF. This is a twist, or plug?

Mr. BARKER. Yes, sir; and that that the other gentleman has there is simply crumpled while it is dry. It is all of the same form.

The CHAIRMAN. I want to ask you, are you familiar with this bill (H. R. 4482) which has been introduced by Mr. Gaines?

Mr. BARKER. I do not know that I am, Mr. Chairman.

The CHAIRMAN. It is here, and I wish you would read it and tell me how that bill will cure the evil of which you have just been complaining, the monopoly of the market [handing the bill referred to to Mr. Barker].

Mr. D. H. SMITH. Mr. Chairman, it might be well for Mr. Gaines to explain his bill. These gentlemen are farming people, and practical men—Mr. Barker is a practical tobacco grower, and I suppose, perhaps, he has not seen Mr. Gaines's bill before. Therefore it might be better to have Mr. Gaines explain his bill.

The CHAIRMAN. What the committee wants to get is information. It does not make any difference where it comes from.

Mr. GAINES. There are five bills which have been introduced. (See p. 65.) Is he familiar with any of the other bills?

The CHAIRMAN. They are all there together.

Mr. GAINES. Which one are you familiar with?

Mr. BARKER. I believe I am familiar with the bill that Mr. Stanley introduced.

Mr. GAINES. Then take Mr. Stanley's bill and explain that.

Mr. STANLEY. I would suggest to Mr. Barker that the provisions of this bill of mine simply provide—the rest being merely for trimming purposes—that he shall have the right to sell tobacco in the natural leaf and in the twist, and that subsequent purchasers shall have the right to handle it. That is what you want, I understand.

Mr. BARKER. Yes.

Mr. HILL. That is the twist there [indicating one of the samples of tobacco].

Mr. BARKER. Yes, sir.

STATEMENT OF HON. J. W. GAINES.

Mr. GAINES. If the Chair will permit me, as you have called my bill in question, I will explain it in a few minutes, if desired, not taking your place on the witness stand, Mr. Barker, but merely interrupting you for a few minutes to explain this bill. (See p. 65.)

Now, Mr. Chairman, my bill provides:

That it shall be lawful for any person to buy and sell tobacco unstemmed and in the leaf without license or the payment of any tax of any kind.

That says "any person." Under the present law "any person" can not deal in leaf tobacco free of tax, or license, or limitations. Only the grower can do this, and then he is confined to the tobacco of his own growing. He may stem and twist for his own use. He can not stem or twist to give away or sell. The grower's agent can only "solicit" orders for sale. The agent can not deliver. The grower must in person deliver directly to the purchaser. The grower may employ

a registered dealer as his agent, on commission; but that dealer, acting as such grower's agent, can only sell to three parties—dealers in leaf, manufacturers of tobacco, snuff, and cigars, and exporters. He can not sell to consumers, although the grower can. In other words, under the law the agent can not do what his principal is allowed to do.

Again, if the grower sells his growing crop to another person, that other person can not sell it again to consumers. He must register as a dealer and sell to other dealers in leaf, manufacturers or exporters. Again, if the grower sells to another person for his own consumption, and that other person desires afterwards to sell this leaf, he must register as a dealer, and then must only sell to manufacturers, registered dealers, and exporters. This section, the first section of my bill, will eliminate all these limitations, not only of the grower, but his agent, and the sale of leaf tobacco in its natural condition by any and every person.

The CHAIRMAN. Let me ask you this: The man that sells pays no license?

Mr. GAINES. The grower selling his own growth in the natural leaf pays no tax; he does if he changes the natural leaf for gift or sale.

The CHAIRMAN. Wait a moment. The man that buys it does not pay any tax if he does not change its shape or form.

Mr. GAINES. If a person other than the grower sells to consumers, the tobacco is taxed whether its form is changed or not. If the grower sells his growing crop to another person, that other person to sell that crop to consumers must qualify as a dealer and pay a tax. There is no tax on the grower's own growth if he sells it unchanged in its natural condition. There is no tax whatever on the privilege of export or on the tobacco export, whether manufactured or in the raw condition. What we want is every tax or license or limitation taken off of leaf tobacco and off of any and every person who now deals in it or who may hereafter deal in it, regardless of what his business is, and that the tax be placed upon manufactured tobacco, and that the tobacco grower shall be left to stem and twist and sell his own growth without tax, license, or limitation.

STATEMENT OF HON. A. O. STANLEY, OF KENTUCKY.

Mr. STANLEY. While there is no tax, there is a regulation that I would like to call the Chairman's attention to. I have been discussing the matter with Mr. Yerkes, the Commissioner. There is a regulation on the handling of this tobacco that has practically destroyed its usefulness in the hands of the farmer.

This twist, to make it perfectly plain, is nothing in the world but the leaves as they are taken from the stalk and hung up in the barn to dry, and then put in this form while they are in a condition where they can be handled—that is, they are tough, like bands. Then they take any form that you put them in. They take one leaf and, holding this tobacco in the hand like that [indicating], they wrap that leaf around it to hold it in shape, just as you would bind a sheaf of wheat.

This hand of tobacco in that shape can be sold by the farmer to whomsoever he pleases, if it is a farmer that sells it; but his tenant or his agent can not sell it in the same way. If this same tobacco right here is sold to Mr. Barker there, he is a dealer and he can not sell it except in certain quantities and under certain regulations. I can not purchase this tobacco and take it down South, or East, or West,

and sell it to whomsoever I please in this shape. Under the regulations and by the specific wording of the law, any man is regarded as a manufacturer, even of this tobacco, who handles it in less quantities than a bale or a hogshead, unless it is for export; so that this tobacco in its natural state can not be handled like corn, or wheat, or oats, but must be handled under restrictions of the Government, which I presume were intended to keep tab on the manufacturers.

That has practically destroyed the free exchange of commodities on the part of the men producing them in this case.

STATEMENT OF MR. GAINES—Continued.

Mr. GAINES. Now I will proceed. Mr. Stanley is a practical tobacco grower. I never raised any tobacco, but I have raised everything on the farm except tobacco and brimstone. [Laughter.]

I have given this matter, so far as the low part of it is concerned, a great deal of study and my constituents, as well as people from the States of Pennsylvania and Wisconsin and Tennessee, Kentucky and the Virginias, and North and South Carolina, and some from Connecticut have written many letters to me urging relief. There are about 22 or 23 large tobacco growing States in the country.

I will now get back to my proposition. The first section of my bill reads:

That it shall be lawful for any person to buy and sell tobacco, unstemmed and in the leaf, without license or the payment of any tax of any kind.

If the grower sells his tobacco in the stalk his purchaser, if a consumer, must pay a tax of 6 cents per pound when he sells it. This is the law, says Commissioner Yerkes, as I shall soon read you.

By any person who buys it being taxed when he sells, the committee knows that is an indirect tax on the man who grows it, because if you put a burden on the man who buys you burden the man who creates the product. This burdens the grower and his vendee before the crop gets out of the ground. Think of it!

It prevents the neighbors of the tobacco grower from purchasing it. It bars trade. It destroys the liberty of the grower. In such case both parties are growers—the tobacco is uncut—in the stalk. Again, if any person sells leaf tobacco to a consumer or any person except registered dealers, exporters in packages or manufacturers of tobacco or cigars, such person becomes a manufacturer and must pay 6 cents tax, unless a grower. Your neighbor, if he would buy it, would have to be licensed to deal in it or sell it or give it away. "Dealers" can only sell to such manufacturers or registered dealers—persons registered—for export.

So the whole matter is couched right in this, that the law is so hedged around the grower of tobacco that his liberty—liberty of action—his free agency is destroyed. He must deliver in person. He can not delegate his authority to sell and deliver. The tobacco trust can sell to consumers.

Again, the trust agent walks up to the tobacco grower and offers him a certain amount for his product, and the grower has to take that or nothing. I have letters and statements to the effect that a purchaser went up to a grower, Jones we will call him, and bought one barn of tobacco and paid the grower for it; and Jones had another barn of tobacco just across the road, right in sight, but the purchaser would not go over there to buy it, because he said, "This is as far as my

territory goes. I am not allowed to go across the road." That is the way the business is subdivided into districts, and it is all in the hands of this tobacco trust. This occurred in Cheatham County, Tenn.

So that the great tobacco manufacturers, the great tobacco trust—I do not care whether it is a trust with one head, or a trust with no head, and all tail, or all feet, or what it is—has the farmer right by the throat, and goes up to his tobacco field where he is giving it his attention in the early morning as he must (and the tobacco grower has to nurse tobacco as you would a sick child)—the agent of the tobacco trust goes up to the grower of the tobacco and says, "I will give you so much for your tobacco," and the purchaser has to take it or hang the tobacco up in his barn and wait for a day when he can sell it; and when he thinks that day has come, the agent of the trust is back there and says, "I will pay you so much, and no more." And if the farmer does not sell the tobacco at that, it hangs and hangs until it rots there.

COST TO RAISE TOBACCO.

It costs 6 cents a pound to raise tobacco in Robertson County, Tenn. and this year it sold at $3\frac{1}{2}$ cents on an average. This county (and Kentucky) raise dark export tobacco. These gentlemen are all dark-tobacco growers.

EXPORTED.

Ninety per cent of the tobacco from Robertson County is sent abroad and no revenue comes from it. You can not tax it under the Constitution, excepting a stamp tax, to police it out of the country. (See 92 U. S. R., *Pace v. Burgess*, 372, and 117 U. S., p. 504, reaffirming 92 U. S., upholding this stamp tax in exports as valid police tax.)

Mr. JAMES, of Kentucky. Is it not true that in many instances the tobacco trust has absolutely shut up the factories and refused to purchase at any price?

Mr. GAINES. Yes; these wrongs have appealed to me as an officer and as an individual. It is destroying the liberty of the farmer by circumscribing his right of action. He is no longer a free moral agent. Not at all.

You have gone a step farther—and when I say "you," I mean both the parties in Congress have perpetrated this infamous law on the tobacco growers of the country. What else? Congress has said that hand stemming tobacco and hand twisting by the farmer of his own growth, sitting in his barn on a wet day, makes him a manufacturer—

The CHAIRMAN. Not when he does it just for his own use.

Mr. GAINES. But he can not give or sell it free of tax to anybody. He can not give it to members of his family without paying a tax on it. That is the law, as shown in Mr. Yerkes's letter to me last March, and it is here in my speech which I have before me of December 14, 1903. I will insert his letter in part here:

MR. YERKES'S LETTER.

WASHINGTON, March 12, 1903.

HON. JOHN W. GAINES,
Member of Congress, House of Representatives.

SIR: I have received your letters, dated 7th and 9th instant, respectively, presenting the following questions:

1. You ask, Did the Fifty-sixth or Fifty-seventh Congress relieve tobacco growers of taxes on tobacco raised by them; and if so, under what statute and section thereof?