

Calendar No. 217.

63D CONGRESS, }
2d Session. }

SENATE.

} REPORT
No. 262.

MONEYS ILLEGALLY COLLECTED IN DISTRICT OF UTAH.

FEBRUARY 18, 1914.—Ordered to be printed.

Mr. SMOOT, from the Committee on Finance, submitted the following

REPORT.

[To accompany S. 1213.]

The Committee on Finance, to whom was referred the bill (S. 1213) to provide for the refunding of certain moneys illegally assessed and collected in the district of Utah, after careful consideration, report the same back to the Senate with the recommendation that it do pass.

This bill is a provision for the refunding of revenue taxes illegally assessed against and collected from the Zion's Cooperative Mercantile Institution, of Bountiful, Utah, and the Logan Branch of Zion's Cooperative Mercantile Institution, of Logan, Utah, in the amounts of \$123.30 and \$4,852.42, respectively.

The tax consisted of a levy of 10 per cent upon notes used as circulation, and was assessed by the Commissioner of Internal Revenue and collected by the collector of internal revenue for the Utah district in the year 1879. The assessments were in fact not made on notes subject to the tax of 10 per cent under the statute, but upon orders to deliver merchandise at retail, and were illegal, as subsequently decided by the Supreme Court of the United States in the case of *O. J. Hollister, collector, v. Zion's Cooperative Mercantile Institution* (111 U. S., 62). These taxes, illegally assessed and collected, have never been refunded in the instances mentioned in the pending bill.

Further facts regarding these claims are set forth in the following communication from the Secretary of the Treasury, dated December 16, 1911:

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, December 16, 1911

THE CHAIRMAN COMMITTEE ON FINANCE,
United States Senate.

SIR: In reply to your letter of the 12th instant, inclosing copy of a bill (S. 412) to provide for the refunding of certain moneys illegally assessed and collected in the district of Utah, by appropriating to Zion's Cooperative Mercantile Institution \$123.30, and to the Logan Branch of Zion's Cooperative Mercantile Institution \$4,852.42 as amounts collected in 1879 as tax on notes used for circulation by said companies, the

tax subsequently having been held illegal by the Supreme Court of the United States, and asking that your committee be supplied with an opinion regarding the merits of the bill, I have the honor to advise you that a similar bill (S. 9970) was introduced in the last Congress, referred to this department, and a full report made thereon.

It appears from the records in the office of the Commissioner of Internal Revenue that in March, 1879, an assessment was made against Zion's Cooperative Mercantile Institution, of Bountiful, Utah, on account of notes used for circulation for the three months ended August 31, 1877, amounting to \$123.30. On the same list also appears an assessment against the Logan Branch of Zion's Cooperative Mercantile Institution, based upon the same subject matter, for the sum of \$4,852.42, both of which assessments were paid on August 20, 1879.

By virtue of an act approved February 28, 1901, there were refunded to other corporations or associations in the State of Utah certain taxes collected upon notes circulated under apparently the same conditions. It appears from an examination of the records in the commissioner's office that the amounts sought to be recovered by the pending bill were not included in the terms of said act and have not been otherwise refunded, and therefore that claims for said sums are equally meritorious with those included in said refunding act.

Respectfully,

FRANKLIN MACVEAGH, *Secretary.*