

that the B&O Railroad has already won one case involving the preservation of this exemption on the basis that an attempt by the General Assembly or by the Constitution to impair its prior rights relating to the taxation exemption was a violation of the contract clause of the federal Constitution.

I think that we have at last arrived at the point where we have carried over the intent and meaning and impact of the prior section, that is Article 3, section 48 of the old Constitution, and kept it as much intact as possible, without on the face of the language violating the federal Constitution.

Hopefully, therefore, I would urge the adoption. I am sorry that this has been so involved, but Delegate Chabot did raise the point the other evening as did Delegate Gleason and I think hopefully that this takes care of it.

THE PRESIDENT: Is there any discussion?

Delegate Scanlan.

DELEGATE SCANLAN: Could I ask Delegate Gallagher a question about his amendment to the abominable clause?

THE PRESIDENT: Delegate Gallagher, do you yield?

DELEGATE GALLAGHER: Yes.

THE PRESIDENT: Delegate Scanlan.

DELEGATE SCANLAN: If the State acting under this clause does something that offends Article 1, section 10, impairment obligation contract clause of the federal Constitution it would be unconstitutional. If it does not act unconstitutionally, it would not be constitutional. Why do we have to put this nonsense in here?

THE PRESIDENT: Delegate Gallagher.

DELEGATE GALLAGHER: I appreciate the statement of the obvious. It has never been so patently put, I might say to the delegate.

The answer is this, that we are forewarning the General Assembly and anyone who desires to enter into litigation that we had no intention to act illegally; and furthermore, we do not want this entire section to fall because one part of it may be found to contravene the Constitution of the United States. Therefore we say ahead of time, we will do good and avoid evil, and we would like to pick up all the benefits that flow from following the natural law in this respect.

THE PRESIDENT: Delegate Henderson.

DELEGATE HENDERSON: I was not consulted about this amendment and I take a very dim view of it, I may say. It seems to me that either as Delegate Scanlan has said, that it is a statement of the obvious, or it is an attempt to tie the hands of the legislature in the dealing with this problem insofar as they may be able to deal with it. I again repeat that this section in haec verba was adopted as a compromise in 1892 with the B&O Railroad, and I think it is extremely dangerous to sling in here extraneous matter which seems to me to be completely unnecessary, and may have the effect of changing the whole force and effect of this compromise agreement.

I would urge you to vote against the amendment and leave the thing the way it was before.

THE PRESIDENT: Delegate Pullen, will you wait just a moment?

I think perhaps Delegate Gallagher, out of a sense of delicacy maybe, has refrained from advising you that the suggested language was suggested by the Chair.

The question was raised by Delegate Chabot some days ago. The history concerning this section is indeed very complicated, as many of you have already been told. I do not know that anybody could, from memory today tell you precisely the history of the old dispute.

The Chair was concerned about the point that Delegate Chabot made, which was, although a finely-drawn point, one which perhaps could cause difficulty.

The problem arises not with the difficulty and not with the language of the 1867 Constitution, but with using the language of the 1867 Constitution in the 1968 Constitution. When that language included the word "hereafter", and "hereafter" would seem to refer, if it is included without further language, to after 1968. That obviously cannot be the case, and for that reason the Committee suggested the inclusion of the words "now or hereafter" which raised the question in Delegate Chabot's mind that that might go back too far and he suggested that he use the date in 1891, or thereafter. The Chair suggested that while he could not be sure, he had a very distinct recollection that there was either a settlement act or a settlement arrangement that may be was not embodied in legislation in 1848. There was definitely a settlement act in 1878, and another one in 1890.