now serving in this office under an appointment which expires March 20, 1938.)

Sterling Hutcheson to be United States attorney for the eastern district of Virginia. (Mr. Hutcheson is now serving in this office under an appointment which expired January 19, 1938.)

Joseph H. Chitwood to be United States attorney for the western district of Virginia. (Mr. Chitwood is now serving in this office under an appointment which expired January 19, 1938.)

UNITED STATES MARSHALS

Robert L. Ailworth to be United States marshal for the eastern district of Virginia. (Mr. Ailworth is now serving in this office under an appointment which expired January 19, 1938.)

John White Stuart to be United States marshal for the western district of Virginia. (Mr. Stuart is now serving in this office under an appointment which expired January 19, 1938.)

GOVERNOR OF HAWAII

Joseph B. Poindexter, of Hawaii, to be Governor of the Territory of Hawaii. (Reappointment.)

COLLECTOR OF CUSTOMS

Harry T. Foley, of Yonkers, N. Y., to be surveyor of customs in customs collection district No. 10, with headquarters at New York, N. Y. (Reappointment.)

REGISTERS OF THE LAND OFFICE

Patrick J. Kechane, of Arizona, to be register of the land office at Phoenix, Ariz. (Reappointment.)

William F. Jackson, of Oregon, to be register of the land office at The Dalles, Oreg. (Reappointment.)

PUBLIC HEALTH SERVICE

Dr. Randall B. Haas to be assistant surgeon in the United States Public Health Service, to take effect from date of oath.

COAST GUARD OF THE UNITED STATES

TO BE CAPTAIN (ENGINEERING)

Commander (Engineering) George W. Cairnes from March 1, 1938.

TO BE COMMANDER

Lt. Com. Louis W. Perkins from March 1, 1938.

TO BE LIEUTENANT COMMANDERS

Lt. Morris C. Jones from March 1, 1938.

Lt. Miles H. Imlay from March 1, 1938.

TO BE CONSTRUCTOR WITH THE RANK OF LIEUTENANT COMMANDER

Constructor Edward M. Kent from March 3, 1938.

PROMOTIONS IN THE REGULAR ARMY

TO BE COLONELS

Lt. Col. Fredrick Clifford Rogers, Infantry, from March 1, 1938.

Lt. Col. Robert Clifton Garrett, Coast Artillery Corps, from March 1, 1938.

Lt. Col. Burton Ebenezer Bowen, Infantry, from March 1, 1938.

Lt. Col. Robert Ross Welshmer, Infantry, from March 2, 1938.

Lt. Col. Otto Harry Schrader, Coast Artillery Corps, from March 2, 1938.

TO BE LIEUTENANT COLONELS

Maj. William M. Cravens, Coast Artillery Corps, from March 1, 1938.

Maj. Frederick Joseph de Rohan, Infantry, from March 1, 1938.

Maj. Frederick Schoenfeld, Quartermaster Corps, from March 1, 1938.

Maj. Arthur Paul Thayer, Cavalry, from March 1, 1938.

Maj. John Boone Martin, Coast Artillery Corps, from March 1, 1938.

Maj. Paul Joseph McDonnell, Infantry, from March 2, 1938.

Maj. Eustis Leland Poland, Infantry, from March 2, 1938.

TO BE MAJORS

Capt. Howard Foster Clark, Corps of Engineers, from March 1, 1938.

Capt. Howard Clay Brenizer, Field Artillery, from March 1, 1938.

Capt. Morris Handley Forbes, Finance Department, from March 1, 1938.

Capt. Dorsey Jay Rutherford, Coast Artillery Corps, from March 1, 1938.

Capt. Reynold Ferdinand Melin, Ordnance Department, from March 1, 1938.

Capt. Carl Henry Starrett, Infantry, from March 1, 1938.

Capt. Arthur Richardson Baird, Ordnance Department, from March 1, 1938.

Capt. John Virgil Lowe, Chemical Warfare Service, from March 1, 1938.

Capt. Robert Grier St. James, Infantry, from March 2, 1938.

Capt. William Reuben Hazelrigg, Infantry, from March 2, 1938.

PROMOTIONS IN THE NAVY

Commander Jesse B. Oldendorf to be a captain in the Navy, to rank from the 1st day of March 1938.

Lt. Comdr. Walter S. Macaulay to be a commander in the Navy, to rank from the 1st day of February 1938.

The following-named lieutenants to be lieutenant commanders in the Navy, to rank from the date stated opposite their names:

John A. Hollowell, Jr., December 1, 1937.

Edward R. Gardner, Jr., February 1, 1938.

Lt. (Jr. gr.) William McC. Drane to be a lieutenant in the Navy, to rank from the 4th day of November 1937.

Medical Director Perceval S. Rossiter to be a medical director in the Navy with the rank of real admiral, to rank from the 1st day of November 1934.

Assistant Paymaster Albert P. Kohlhas, Jr., to be a passed assistant paymaster in the Navy with the rank of lieutenant, to rank from the 4th day of November 1937.

The following-named machinists to be chief machinists in the Navy, to rank with but after ensign, from the date stated opposite their names:

Fred W. Boettcher, November 2, 1937.
Martin L. Lince, November 2, 1937.
Menard Steltenkamp, November 2, 1937.
Charles Henc, November 2, 1937.
Edwin W. Streeter, November 2, 1937.
Julious H. Ford, November 2, 1937.
Miles A. Coslet, November 2, 1937.
Ernest A. Koehler, January 6, 1938.

HOUSE OF REPRESENTATIVES

MONDAY, MARCH 7, 1938

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Thou, O Lord, shalt endure forever and the heavens are the works of Thy hands. We pray that the beauty of the Lord may rest upon us; yea, the work of our hands establish Thou it. Forgive our infirmities of temper, help us to renounce all selfishness, and embrace benevolence; lift us to brighter hopes and clearer visions. Blessed Master, Thou who gavest Thy life for all, guide us along the way that we stumble not and confirm us in all goodness. In all doubts and uncertainties bless us with the grace to ask Thee what wouldst Thou have us do that we may live and work for the elevation of the people. In the bright testimonies of the power of truth and wisdom may we awaken aspiration, enthusiasm, and encouragement in all the ranks of our fellow citizens. As we are on the threshhold of a new week we

pray that it may bring rich blessings of good health and strength to our President, our Speaker, and the entire Congress. In the name of our Savior. Amen.

The Journal of the proceedings of Friday, March 4, 1938, was read and approved.

EXTENSION OF REMARKS

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein a radio speech I delivered last night and to also include an editorial from a paper in my district concerning a proposal I made.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. RICH. Mr. Speaker, reserving the right to object, may I call the attention of the majority leader to the fact that this is a request to include a newspaper editorial? I wonder whether the Members on that side are going to permit these editorials to go into the RECORD?

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ROBERTSON. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include in the Appendix of the RECORD an address by my colleague from Texas [Mr. KLEBERG].

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. RANDOLPH. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein a radio address delivered by me.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

INDEPENDENT OFFICES APPROPRIATIONS—1939

Mr. WOODRUM submitted a conference report and statement on the bill (H. R. 8837) making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices for the fiscal year ending June 30, 1939, and for other purposes.

EXTENSION OF REMARKS

Mr. REED of New York. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein an editorial in reference to one of my colleagues.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. FISH. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein my views in opposition to the May universal draft bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. NELSON. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. NELSON. Mr. Speaker, 5 years ago Franklin D. Roosevelt became President of the United States. Having this thought in mind, I have taken time to glance through some of the papers, especially those dealing with markets and finance, of March 4, 1933. In so doing, I have made some comparisons with the present.

In the New York Times of 5 years ago, I note this heading, Big Decline in Deposits—$823,733,000 Drop for 21 Banks Here Since February 11 Shows Strain on Institutions. Here is another, which appears under an Akron, Ohio, date line. Rubber Plants Cut Week—Goodyear and Master Tire Cos. Go on 2-Day Schedule. Compare the story given in these captions with that told in headlines which appear in the same New York Times this week. I refer to such as these. Beech-Nut Packing Gains—$2,741,203 Profit for 1937 Equal to $6.24 on Share. American Metal Increases Income—Net of $4,345,186 Last Year Compares With Profit of $1,726,053 in 1936. $9,765,126 Earned by Crane Co.—Consolidated Income is Equal to $3.63 a Common Share, Against $2.04 in 1936. $8,100,521 Cleared by Corn Products. Coca-Cola Earned $24,681,616 in 1937—Profit After All Charges Compared With $20,398,078 in Previous Year. Bethlehem Steel Reports 1937 Gains—Net Income of $31,819,596 or $7.64 a Common Share Against $2.09 in 1936. A. T. & T. Dividends Covered Last Year—$182,342,866 Earned in 1937, or $9.76 a Share.

To those who have heard only stories of oppression and depression from the big corporations, the fact that many have profited immensely will doubtless come as a great surprise. Clearly, 1937 was a good year as compared with the terrible times which marked much of the previous administration.

Let us look at conditions on the farm, where we have some most interesting figures. On the day, 5 years ago, when Mr. Roosevelt became President, corn at the central markets was selling at 23 cents per bushel, oats at 16 cents, and wheat at 49 cents, compared with 59 cents for corn, 30 cents for oats, and 93 cents for wheat now.

Five years ago beef steers were quoted at $3.25 to $6.50 per hundredweight; hogs, pick of good to choice, 160 to 230 pounds, $3.70 top, with pigs, 85 to 140 pounds, $2.50 to $3.15 per hundredweight. On Friday, in Chicago, the fifth anniversary of the Roosevelt inauguration, hogs reached $9.60 per hundredweight, steers sold at $8.60, with weighty veals up to $11 per hundredweight.

Five years ago No. 1 butterfat on the St. Louis market was quoted at 13 to 14 cents. Today in my home town, Columbia, Mo., the price is 28 cents. Five years ago extra creamery butter was quoted in New York at 16 to 17 cents. Now, at my home, it is selling at from 34 to 38 cents.

Five years ago good farm mules, 15.2 to 16 hands, were quoted at $85 to $125. Today the price is double, with extra choice pairs of mules selling up to $500 or better.

Again referring to newspaper headlines, it is good to note this, Farm Exports up 208 Percent for January 1938, as Compared With January 1937.

So, Mr. Speaker, the best answer to the loud lamentations and complaints so frequently heard at this time is to be found in actual facts and figures. Of course, these do not take into consideration all the advancements and gains made, such as the safety of banks, more people in better homes, the building of roads and schools, rural electrification, the betterment that has come to almost 2,000,000 boys through the C. C. C. camps, an enlarged and continuing farm program, help to the aged and disabled, provision for the unemployed, and a greater sense of security, with added confidence and happiness for millions.

Truly, much has been accomplished. Naturally, some mistakes were made in an effort to meet the universal demand that something be done to prevent conditions becoming still worse. These mistakes can be corrected and further progress made in the right direction if those who today have only criticism will show a willingness to cooperate as they did when they were crying out to be saved.

We need again the spirit expressed by the St. Louis Globe-Democrat, of March 5, 1933, the closing words of an editorial on President Roosevelt being—

We must trust him, and we must help him.

[Applause.]

Mr. JENKINS of Ohio. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

THE LATE FRANK MURPHY

Mr. JENKINS of Ohio. Mr. Speaker, I take this time to bring to you the sad news of the passing of one of our distinguished friends and former Congressmen, Mr. Frank Mur-

phy. Many of you knew Mr. Murphy and those of you who came in contact with him appreciated his many fine and manly qualities. He was a noble gentleman. Mr. Murphy served in this House for 14 years. He was a member of the Committee on Appropriations and his service was conspicuous.

He passed away last night in a hospital in Washington and funeral services will be held Tuesday evening at 7 o'clock at the Zurhorst Funeral Parlors at 301 East Capitol Street. May I ask you to remember the time, tomorrow evening at 7 o'clock.

After services in Washington Mr. Murphy's body will be taken to Steubenville, Ohio, and he will be buried in that city on Thursday afternoon at 2 o'clock.

PERMISSION TO ADDRESS THE HOUSE

Mr. SNELL. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

INVESTIGATION OF TENNESSEE VALLEY AUTHORITY

Mr. SNELL. Mr. Speaker, in view of the further amazing statement made by Chairman Arthur E. Morgan, of the Tennessee Valley Authority, as appears in the newspapers this morning, in which that gentleman definitely charges dishonesty in conduct of the business affairs of the Tennessee Valley Authority, also in consideration of the statement issued from the White House last week by other members of the Authority, in view of the high character of Mr. Morgan as testified by the President of the United States when he appointed Mr. Morgan to his present position, and in view of the demands from every part of the country and, further, taking into consideration the President's belief in Chairman Morgan, I do not believe the majority of the House can overlook at this time the request for a full, thorough, complete, and searching investigation of the Tennessee Valley Authority.

[Here the gavel fell.]

EXTENSION OF REMARKS

Mr. CROWE. Mr. Speaker, on Friday I asked unanimous consent to extend my own remarks in the RECORD and include therein certain editorials concerning the congressional committee which went to Hawaii last October. I am informed there will be an additional charge of $135 for inserting these editorials in the RECORD. I now renew my request that these editorials may be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. FISH. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. FISH. Mr. Speaker, I think it only right that some member of the minority should answer the gentleman from Missouri [Mr. NELSON] because he has to do more than give those figures about prices in 1933 if he is going to show us on this side that the New Deal administration has brought prosperity to the farmers.

In reply to the statement of the gentleman from Missouri, may I say that in the year 1926 wheat was selling at $1.50, corn at 90 cents, and cotton at 17 cents, and those prices were in real dollars. Furthermore, during the entire 10 years the Republicans were in power, from 1921 to 1930, the price of cotton averaged 17½ cents. Today cotton is selling at approximately 9 cents, after 5 years of the New Deal. You cannot blame that on the Republican Party or on the tariff. [Applause.]

[Here the gavel fell.]

REVENUE BILL OF 1938

Mr. DOUGHTON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 9682) to provide revenue, equalize taxation, and for other purposes; and pending that, I ask unanimous consent that the time allowed for general debate may be extended 1 hour, one-half to be controlled by the gentleman from Massachusetts [Mr. TREADWAY] and one-half by myself.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 9682, the revenue bill of 1938, with Mr. WOODRUM in the chair.

The Clerk read the title of the bill.

Mr. TREADWAY. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, the fifth anniversary of the New Deal has come and gone. This administration entered into power with great hopes and expectations, but today, after 5 years, it is floundering around and practically broken down and all but collapsed. It is stalled; and it has no policies and no plans to get us back on the road to recovery, prosperity, and employment. We are in the midst of a government of confusion, bewilderment, reprisal, and propaganda without any financial policy except to squander money and increase the national debt until it is almost forty-eight billions. The tax bill that has been presented to us is a makeshift. It is a snare and a delusion. It does not balance the Budget and does not attempt to balance the Budget. It makes no reference whatever to tax-exempt securities, although in its report the committee prides itself on the fact it does away with tax avoidances. The greatest single loophole is the continued issuance of tax-exempt securities by which the rich avoid paying their taxes. The tax bill which we are considering continues the same old policy of excessive taxes, of destructive taxes, and of punitive taxes that has destroyed business confidence in this country, prolonged the depression, and retarded recovery.

This bill will not help in the present juncture of affairs to restore confidence, expand business, and put our wage earners to work.

The President says the old ship of state will continue on its same course, without change of policy. This is the worst news that has come out of the White House for a very long time. If there is no change of policy it means that for the next 3 years we will continue to have increasing unemployment, a worse business depression, and a lessening of business activity.

It is true that in this bill the undivided-profits tax is modified, but the principle remains. The committee merely scotched the undivided-profits tax. Why was it not eliminated if it is wrong? Everybody knows that it has been harmful and that this tax has made it impossible for business concerns to expand or to plow money back into business activity and to put labor to work, and that is the most important issue before us. Why did the members of the committee keep this principle in the bill if the principle is wrong and harmful? Why, to save the face of the President.

Two years ago the President recommended this particular form of taxation as the way out, but instead it has destroyed confidence and sadly reduced business activity; yet now the committee refuses to take this undivided-profits tax out of the bill because it does not want to humiliate the President or hurt his pride. What do the millions of unemployed think about this? What do they care about the pride or the face-saving of the President? They want jobs, and the only way they will get jobs is by the administration's giving business a square deal and letting business expand and employ labor. Everyone is beginning to understand that the

repeated attacks and abuse of business had destroyed confidence and brought on the Roosevelt depression with 12,000,000 unemployed and 4,000,000 on part time. Furthermore, in the very limited time I have I want to point out that there is nothing in this bill that will pay for the proposed $1,000,000,000 Navy expansion program. Who will pay for the $1,110,000,000 in addition to the $550,000,000 carried in the regular appropriation bill which we have recently passed, the biggest peacetime Navy appropriation in all history? Now we are called upon to pass another Navy bill providing for the expenditure of $1,110,000,000. There is no provision in this tax bill for funds for this huge expenditure. Who will pay for it? Why, the people of this country will pay for that $1,110,000,000, particularly the income-tax payers whose incomes average from $2,500 to $50,000, and this includes every Member of the House. You cannot get any more taxes out of the ultrarich. They have been soaked and sweated already. They have been squeezed dry. You cannot possibly get an additional dollar of taxes from those with incomes over $100,000; yet this bill contains those excessive taxes that have driven the rich into buying tax-exempt securities and caused them to take their money out of business. This tax bill retains these excessive taxes up to 79 percent and prevents the expansion of business, because, of course, big money is not available when you need it to develop and stimulate business and employ labor.

This committee absolutely ignores the principle of diminishing tax returns, a principle that has been proved time and time again, and then it asks, "Why is not this a good bill?" The committee takes pride in the bill before us, although it ignores every single sound principle of taxation. In the last analysis this bill does not even pretend to raise enough money to carry on the running expenditures of the Government, but as a tax bill it continues most of the economic fallacies that have all but wrecked business activity.

In the final few minutes I probably have remaining, I want to call the attention of the Republican Members, as well as the entire House, to the testimony of Mr. Bernard M. Baruch, an intimate of the White House, a friend of the President, a lifelong Democrat, a big contributor to the Democratic Party, a successful businessman, and an outstanding student of finance and economics. He testified for 2 days before a Senate committee recently and stated that if the present administration continues these unsound policies it will mean the ruin of business in America. He spent 2 days showing the folly of the economic and financial fallacies of the New Deal, and yet we proceed here in utter disregard of such warnings and refuse to extend any help to business. Here are a few of Mr. Baruch's statements: "If the New Deal remains what it has recently appeared to be, there is no hope for reemployment and substantial recovery," and "I say it with regret but I would be less than candid if I failed to express my opinion that unemployment is now traceable more directly to Government policy than to anything business could or should do and if those policies are not changed, neither business nor Government can ever solve this most terrible of all problems." I make this single prediction: If we do not do something in this Congress by way of legislation to restore confidence and encourage business by doing away with these punitive, destructive, and excessive taxes, more millions will be unemployed, the business of the country will come to a halt and we will have a far worse financial and economic disaster than we had back in 1929.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield for a brief question.

Mr. RICH. If the undistributed-profits tax was not good for banks and insurance companies, how could anyone conceive that it would be good for any business enterprise?

Mr. FISH. The undistributed-profits tax never was any good for any type of business or any kind of enterprise. It was one of those magic wand-waving proposals imposed upon Congress by the President himself. It was a kind of magic flute that when played revenue was to gush forth and fill the Treasury of the United States and, like all unsound and visionary reforms, it was a total failure and did nothing but destroy confidence and bring disaster to American business and unemployment throughout the Nation. [Applause.]

Mr. DOUGHTON. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. COCHRAN].

Mr. COCHRAN. Mr. Chairman, the House has just listened to the gentleman from New York [Mr. FISH] tell us how the Democratic administration has ruined business by the enactment of various laws, among them the Revenue Act of 1936. There was never a time when a revenue or tariff bill was pending that Congress was not told business would be destroyed, sometimes when the Republicans were enacting prohibitive tariff measures, such as the Smoot-Hawley law, and at other times when the Democrats were undoing the work of the Republicans. When the security and exchange bill was pending in this House a young gentleman, one of the leading businessmen of St. Louis, my home city, came here and told me the law would put his corporation out of business. The same argument was advanced by him when the existing revenue law was passed, including the undistributed-profits tax and the capital-gains tax. This gentleman, Mr. Edgar M. Queeny, has not written me for a year or more and therefore I do not know what argument he advances in regard to this bill, but I do know the great corporation of which he is at the head is still in business and, more than that, it has from year to year since Mr. Roosevelt became President increased its annual earnings. Seemingly with a great deal of pride Mr. Queeny has just made a public announcement of the activities of the Monsanto Chemical Co. He has a right to be proud of the record of achievement because it shows a decided increase in earnings over the previous year.

Probably the outstanding critic of the Roosevelt administration in St. Louis, the contributions of this gentleman to the Republican National Committee running into five figures, only last week Mr. Queeny called a meeting of businessmen in St. Louis and passed out cards urging them to pledge financial support to the Republican National and State Committees. Can his opposition to Mr. Roosevelt and his administration be due to the destruction of his business, which he said would certainly follow if the security and exchange bill and the revenue bill of 1936 became a law? No; this cannot be the cause, as the earnings of the corporation continue to advance from year to year.

Now, let us see how Mr. Queeny's prediction came true. I hold in my hand an article published in the St. Louis Star-Times of March 5 in which Mr. Queeny proudly recites the advances made by the Monsanto Chemical Co. As I read this article I want you to remember that it comes from the man who said the Democrats would ruin him, would put him out of business. The article follows:

MONSANTO'S 1937 BUSINESS MAKES ALL-TIME RECORD—SALES AND EARNINGS AT NEW HIGH, PRESIDENT EDGAR QUEENY REPORTS

Edgar Monsanto Queeny, president of the Monsanto Chemical Co., in his report to stockholders of the company for the year ended December 31, 1937, pointed out today that sales and earnings of the company established all-time records.

The report shows net sales were $33,202,356, as compared with $28,848,438 in the previous year, or an increase of 15 percent.

Net income before deductions for minority interests and dividends on the company's preferred stock was $5,162,511. After these deductions net income applicable to the common stock was $4,898,309, equivalent to $4.40 a share on the 1,114,388 shares outstanding at the year end. This compares with net income of $4,468,704, or $4.01 a share in the previous year.

TAXES MINIMIZED

Income and undistributed profits taxes were minimized by the establishment of losses occasioned by the sale in November of undeveloped power sites acquired with the assets of the Swann Corporation in 1935, and the results of the fourth quarter of 1937 were benefited therefore by the reversal of unneeded tax liabilities set up in the first two periods of 1937. Provisions for these losses had been made in the accounts of previous years.

In June 1937, to provide funds for continued plant expansion and working capital, the company sold 50,000 shares of $4.50 cumulative preferred stock, which were offered to the public at $101.50 a share. This issue is series A of the 275,000 shares of preferred stock authorized by shareholders at the last annual meeting. The net proceeds to the company after legal, underwriting, and other expenses approximated $4,925,000.

BALANCE SHEETS MERGED

The balance sheet as of December 31, 1937, consolidates those of Monsanto Chemical Co. and its subsidiaries, Monsanto Chemicals, Ltd., Merrimac Chemical Transportation Co., and New England Alcohol Co.

Merrimac Chemical Co. and Monsanto Holdings, Ltd., wholly owned subsidiaries, were liquidated in 1937 and their net assets transferred to the parent company.

During 1937, as in 1936, four quarterly dividends of 50 cents and a special dividend of $1 a share were paid on the common stock. A pro rata dividend of $1.64 a share was paid on December 1, 1937, on the preferred stock and a semiannual dividend of $2.25 a share was declared and is payable on June 1, 1938. Monsanto Chemicals, Ltd., the British associated company, paid regular dividends on its preference shares. All dividends totaled $3,618,018.

Consolidated assets increased by $7,794,679 to $52,741,919. The book value of each share of common stock outstanding increased to $27.17 from $25.82.

A few moments ago I referred to Moody's Manual of Investments for 1937. That even gives a better picture of how the Democrats have ruined this corporation. In 1932, under a Republican President, the Monsanto Co.'s comparative consolidated balance sheet shows current assets of $6,393,261 and current liabilities of $1,117,590, working capital $5,275,671, while in 1936, after 3 years of Democratic rule, 1936, is the last record available in the manual, the current assets were $16,144,675, liabilities $3,743,137, working capital $12,402,538.

A few years ago this corporation opened a branch in England, increased its operations from year to year, and is now operating on a large scale. Of course, they are required to pay taxes to the British Government. I am told by a distinguished member of the Ways and Means Committee the tax on corporations to which this organization is subject in Great Britain is 30 percent. Assume for the moment that this revenue bill carried the British rates. If it did, an army of businessmen would storm Washington that would make Coxey's army look like a joke. I like to see American business expand, but I dislike to see corporations where the owners, through the protection of this Government, made fortunes, go abroad and open branches manufacturing commodities formerly produced by American labor. Even with a tax such as exists in Great Britain this branch is making money because the report in Moody's so indicates.

Mr. Chairman, I say to the gentleman from New York as well as to the House that here is a clear indication as shown by the record that does not justify the gentleman's argument that our revenue law has ruined business. [Applause.]

Mr. DOUGHTON. Mr. Chairman, I yield 20 minutes to the gentleman from Ohio [Mr. LAMNECK].

Mr. LAMNECK. Mr. Chairman, I have listened with a great deal of interest to the debate on this bill in the past 2 days, and one thing that I regret to note is that both sides of the aisle in their speeches indicate that the question is a partisan question. I hope that every Member of this House, no matter whether he be Democrat or Republican, will look at this thing from the standpoint of the interest of the country and not as a Republican or a Democrat, because if we do not do that I fear that our decision might not be made along the right lines. I never was more sincere in my life than I am at this minute trying to pass the right kind of a tax bill before we adjourn.

The preliminary part of my remarks I shall devote to some of the things that the gentleman from Kentucky [Mr. FRED M. VINSON] said. He was the chairman of the subcommittee.

His remarks were chiefly directed to title I–B, retaining the undistributed-profits tax on closely held corporations.

Mr. VINSON'S arguments was directed almost entirely to a defense of title I–B, retaining the undistributed-profits surtax on closely held corporations.

In general, the most significant point about his address was an omission. At no time during his remarks did he mention section 102, or cite the ineffectiveness of this provision as the necessity for title I–B. This is particularly noteworthy, since the alleged break-down of section 102 was the only reason advanced by the subcommittee for recommending such a penalty tax. Mr. VINSON'S failure to make this point would seem to be an admission that there is no real case to support it. If so, the supposed necessity for the enactment of such a provision vanishes.

The major arguments made by Mr. VINSON for title I–B were as follows (p. 2779):

We stand upon the philosophy of taxing according to ability to pay. We divide corporations into three groups.

The inference that title I–B corporations are taxed more heavily than other corporations because they are better able to pay is wholly without foundation. On the contrary, it is difficult to conceive of a tax with less relation to ability to pay. Practically all of the huge corporations, with annual net incomes in excess of a million dollars, are widely held. Under the bill, they will pay a maximum tax of only 20 percent, while smaller I–B corporations will be subject to a tax up to 31.2 percent—56 percent greater.

Moreover, the I–B tax, like its predecessor, the undistributed-profits tax, is levied according to inability to pay. The corporations which can distribute will distribute and avoid the tax. The corporations which cannot distribute will be taxed. And the greater the need to retain earnings the higher the tax. Mr. VINSON said further (p. 2781):

The statement was made that if you have a corporation widely held that makes $300,000 and a corporation making $300,000 closely held, it is not fair to place a higher tax on the $300,000 net income that is closely held. If you have the same dividend policy in a closely held group as in a widely held group, you would not have any trouble about it.

This statement is incorrect. Of course, if each distributes more than 60 percent of net income, there is no tax differential, because neither is an I–B corporation. But if both follow a policy of distributing less than 60 percent annually, there is a severe discrimination against the closely held company. Assuming that the closely held and widely held companies each have a net income of $300,000 or more, the effective rate of tax on the closely held company will be greater than its widely held competitor by the following percentages:

Disadvantage—Effective rate of tax

Percent of net income distributed:	*Percent*
0	56.0
10	47.2
20	38.6
30	28.6
40	18.6
50	8.2

The gentleman from Kentucky [Mr. FRED M. VINSON] went on further to say (p. 2781):

In a $300,000 net-income corporation widely held the stockholders put pressure upon the directors of that corporation to declare dividends. Why? Because they have their money invested in that corporation and they feel they are entitled to a return upon that money if the corporation is making the money. Of course, they are right in that position, and your widely held corporation distributes; and that money pays a corporate tax before it is distributed and then it goes into the hands of the shareholders and pays both normal tax and surtax, and consequently the Government gets the corporation tax and the normal and surtax from individuals. When you come to the closely held corporation, a nondistributor, you get the corporate tax. What we are trying to do here without any punishment is to get substantially the same number of revenue dollars from the same amount of net income, whether it is earned by the widely held corporation or by the closely held corporation.

No such generalization is justified by the facts. A corporation coming squarely within the definition of an I–B corporation in the bill may have a hundred or a thousand minority stockholders exerting pressure on the management to distribute. Conversely, a widely held company may be controlled by a few individuals owning as little as 10 percent of the stock, who can prevent the declaration of dividends if it is to their advantage to do so. The distribution of the stock does not afford a reliable guide to corporations withholding dividends to avoid surtaxes.

It is probably true that closely held corporations, as a class, distribute a smaller percentage of their income than widely held corporations. There is a good, practical reason for this policy, however, which has no relation to the avoidance of surtaxes. The widely held corporation can usually raise adequate funds for capital purposes by issuing new stock or bonds. The closely held corporation, on the other

hand, does not have access to the capital markets and can obtain funds needed in the business only out of earnings. Quoting further, Mr. FRED M. VINSON said (p. 2782):

There will only be from 300 to 600 corporations that will fall within the I–B category according to the best judgment of the experts in the Treasury of the United States.

There are several criticisms of this estimate.

In the first place, it indicates only that the application of the title is very limited, which in itself means nothing. There is no evidence at all that these 300 to 600 corporations are the ones which should be taxed at heavier rates than the general class of corporations. If the Treasury's informal estimate still stands, that only 1 out of 10 corporations in the I–B classification are actually avoiding taxes, it would appear that only 30 to 60 are proper objects of the I–B tax. It is more than likely that the rest of them—and perhaps all of them—are in the group only because they are so unfortunately situated that they cannot distribute enough to escape it.

I wonder if that is true, and if we are directing this tax to only 30 to 60 corporations, and, if so, I wonder at whom we are directing the tax. Is it the newspapers who might not agree with our policy? Is it Henry Ford, or is it some large corporation closely held? Who is it? I have inquired fro mnumerous people to furnish us a list of those that might be affected by this tax, and I have never been able to get it. I contend this also, that if tax on closely held corporations is carried, it ought to apply to a man whether he makes $5,000 or $10,000, or $50,000, or $500,000, or $1,000,000, or any other amount. If this bill is right, and a tax against closely held corporations is carried, it should apply, regardless of what the profit is, and the reason it does not apply—and I say this in all conviction—is because somebody somewhere is after some corporation or a group of corporations, I do not know who, and as far as I am concerned, I shall never vote for a tax that discriminates against any corporation. I go further and say that if there was only one corporation in this I–B tax, I would be against it, because I am opposed to the principle of discrimination in tax.

Mr. FITZPATRICK. Mr. Chairman, will the gentleman yield?

Mr. LAMNECK. I do not yield now, because I have not time enough to yield.

The estimate also ignores the fact that a great many more corporations—probably in the thousands—would be taxed under title I–B if they did not distribute more than 60 percent of their income. Instead of determining dividend policies according to sound and prudent business considerations, the management of these corporations will hereafter have to take into account the harsh punitive provisions of title I–B.

Mr. VINSON laid great emphasis on the fact that none of the witnesses appearing before the committee to attack title I–B actually would pay a tax under the title. With only one or two exceptions, however, the companies represented by these witnesses were potentially subject to the tax. The only reason for their exclusion was that last year, or for the 2 or 3 preceding years, they had distributed more than 60 percent of their income. If circumstances this year, or in any future year, should prevent them from continuing their liberal dividend policies, they would automatically become liable for the penalty tax. This, despite the fact that their past dividend policies indicate clearly that none of them is a tax-avoiding corporation.

I want now to call attention to a typical illustration of what this tax does. Suppose a corporation made a million dollars. Under this bill, that corporation would have to pay a tax of $200,000 and that would leave $800,000 to distribute. If they stayed under this bill, they would pay $312,000, and if they did what Mr. VINSON and some members of this committee said they ought to do, that is, distribute this profit to themselves, do you know how much that tax would be? It would be $697,000. Where is there a man that would be so dumb as to distribute to himself a dividend that would require him to pay $697,000, or 69.7 percent of his earnings, when he could get along with 31.2 percent? I do not know where you can find a man that crazy. I do not think you could. Mr. VINSON further said (p. 2781):

For the 10 years next preceding 1936 the average distribution was 75 percent.

And on page 2783:

At $100,000, 20.8 percent takes them out of the I–B tax; $150,000 net-income corporations, 41.7 percent in dividends takes them out; $200,000, 51.1 percent in dividends takes them out; and $250,000 and above, 57.6 percent takes them out.

And so forth. It may be conceded that these statistics are correct—that title I–B does not apply to the average corporation, nor to the corporation with $100,000 earnings distributing 20 percent or more. Again, however, these figures indicate only that the penalty tax has a limited application. It is small consolation to the corporation actually taxed to know that it is not an average corporation, or that most of its competitors can escape by distributing only 20 percent of their income. The corporation affected by this provision, without justification, is the one which is closely held, operated for legitimate business purposes and not for tax avoidance, and yet cannot distribute current earnings.

Mr. VINSON laid great stress on the cushions provided.

The fact that it is essential to make so many exceptions to title I–B before it will work at all indicates clearly that the principle itself is unsound. While these exemptions and credits represent a clear improvement over the present undistributed-profits tax, they do not, by any means, cover all the possible or probable hardships. To cite a few examples: What has been done for the corporation whose earnings are not in the form of cash, but in inventories, accounts receivable, or other items which cannot be distributed? Or the corporation with heavy capital losses, which cannot be deducted in computing net income subject to tax? Or the corporation with a contract preventing the declaration of dividends? He said also (p. 2783):

I have referred to the fact this I–B tax does not go to the extent it is claimed it does. If you paid the entire difference, 11.2 percent more tax, you would be paying then only 1.2 percent more tax than the corporations in England pay today. The corporate tax rate in England is 30 percent.

The important fact about the rate of tax under title I–B is that it applies only to a special group of corporations. Although it is somewhat lower than the present undistributed-profits tax, all corporations are equally affected by that tax, while the I–B tax singles out a particular type of operating company in competition with companies taxed at lower rates. This criticism also holds good in a comparison with the British tax. It should also be noted that the shareholders of a British corporation, upon receiving dividends, are allowed a credit for taxes paid by the corporation. Also he said (p. 2783):

We provide for a consent dividend. If the company does not want to pay out dividends but wants to keep the money for corporate purposes, the shareholders can agree they will take up the tax on their dividends in their income tax. * * * I do not see why five or six people, possibly of the same family or closely connected, could not agree to take up the tax if they need the money in the corporate business.

The practical value of this credit is very doubtful. The complexity of the provision, which requires more than six pages of the bill to set forth, and the number of limitations prescribed make the extent to which it can be used uncertain. It appears, however, that a corporation which has so few stockholders that it can obtain such consents has no necessity for them, since it could accomplish the same result by paying dividends in cash and inducing its stockholders to reinvest the money. [Applause.]

I want you to go back with me 2 years ago. Those of you who were here at that time will remember that I opposed the surplus-profits tax with all the might I had. I think experience has shown that that tax was no good. If that were not a true statement, why are we revising the tax bill now? Why a new bill if the old bill was right? The reason is that there is not a single businessman in the United States who is

for the 1936 bill; there is not a newspaper of any prominence that is for this bill. I will say that Congress is not for it, if the Members expressed their honest convictions. I will go even further and say on my own responsibility that I do not believe that the members of the Ways and Means Committee are for that provision of this bill. I will go further and say that I know they would not have been for I–B had they been permitted to express their honest convictions.

If we must have a new bill, and if the undistributed-profits tax is no good, I ask why do we not repeal it? [Applause.]

I will go further and ask that if we repeal the undivided-profits tax why do we put in a new provision picking out certain corporations that we want to penalize?

I have a letter here from one of my constituents, the Jeffrey Manufacturing Co., of Columbus, Ohio, a mining-machinery company that employs 2,000 men. Outside of the railroads they employ more men than any other industry in my district. What do they say?—

As you know, the enactment of the proposed punitive tax on closely held corporations would be a serious blow to the Jeffrey Manufacturing Co. Such legislation would seriously handicap and tend to destroy the many proprietary companies operated by their owners, which throughout our history have been looked upon as a sound safeguard of our industry.

I have three or four other letters that I would like to read, but I do not have time.

[Here the gavel fell.]

Mr. TREADWAY. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. CROWTHER].

Mr. CROWTHER. Mr. Chairman, I ask unanimous consent to extend my remarks, and to include therein a table and an article regarding the taxation of salaries.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CROWTHER. Mr. Chairman, at this time I desire to pay a very deserved tribute to the chairman of the subcommittee, the gentleman from Kentucky [Mr. FRED M. VINSON], with whom it has been my pleasure to serve on subcommittees during the past 5 years under this administration. The former member, the gentleman from Washington, who is now on the Board of Tax Appeals, Mr. Hill, was our chairman for a considerable period of time. He was succeeded by the gentleman from Kentucky [Mr. FRED M. VINSON]. Our associations have always been in the highest degree pleasant and agreeable, and for him I have the highest regard and affection. He is about to graduate from the House of Representatives to occupy a very high position in the judiciary, which I am sure he will grace with dignity and with great ability. [Applause.] I am sure we all wish him a very great measure of success.

I may say in passing that the seven members of the subcommittee during the past 5 years have put in nearly a year and a half of extra time on subcommittee work, meeting after the House adjourned and meeting sometimes 2 months before the House convened for the session. So the task of revising this tax bill was not a new job for us, because we had been engaged in similar activities on three previous occasions. We started the revision on the 4th of November. The next day, the 5th, I remember, I earnestly urged the committee to do two things, repeal the undistributed-profits tax and greatly modify the capital-gains tax by going back to the rates of the 1924 law.

I urged that we do that during the special session of Congress. I stated that those seemed to be the two outstanding features of the law toward which criticism was aimed, not only by the press but by individual corporations and citizens of the country in general. I said:

I am quite free to admit that a very large portion of it is propaganda but I think we ought to attack this problem now, get rid of it, bring our bill into the special session, secure its passage, and then devote our time to general tax revision and have that bill considered in the regular session.

I could not prevail upon my colleagues in the committee to do that. They were afraid, or, they rather objected—I will not say they were afraid, because they are a courageous lot—to being what they termed "stampeded" into doing anything of such importance without time and consideration having been given to the subject.

I wanted also to repeal the undistributed-profits tax, and starting from scratch find out from our statisticians and our experts just what it would take in the shape of a normal corporation tax to supply the necessary revenue. This I think would have simplified matters tremendously.

I also made another suggestion. In raising the normal corporation income I thought we should avoid all the complications that ensue under the present law and that we should raise it by a slight graduated tax on the gross income of corporations, doing away with deductions, subtractions, and all the multiplicity of combinations that are entered on every tax return in order to arrive at the final tax. Of course, taxing gross income is open to argument and criticism. It may be characterized as a capital levy, but this charge cannot be leveled at my proposition until we get rid of the capital-gains tax, which in many instances is also a capital levy.

This tax on gross income would be easy to collect, it would be easy of determination, and it would provide the necessary revenues. I do not believe in a flat tax. I believe it should be a graduated tax, starting at perhaps one-eighth of 1 percent in the case of small corporations and going up as high as 2 or 3 percent on large corporations. This would give us a wide field. Taking the year 1929, and considering gross income, it would have provided a revenue of $1,600,000,000. Our normal corporation tax receipts at that time were about one billion point two. It would have given us sufficient money. Of course, in bad times the amount of tax money collected would shrink, but that occurs under the present law, and for the same reason.

When we were considering the 1936 act I found the administration was determined to have this undistributed tax in the bill. I urged very strongly that when a corporation could make a showing to the collector of internal revenue that they had used a hundred thousand dollars, assuming there was a $200,000 undistributed net, for the purpose of plant extension, the buying of new plant machinery and putting 150 new men to work, if they could make a satisfactory showing to the collector of internal revenue, that amount of money would be exempted from taxation under the undistributed-profits tax provisions. I said, "If you do not want to do that, give them a preferential rate," but the committee did not like that proposition. Finally someone asked me what I considered a preferential rate. I said that I had not thought the thing through, but it seemed to me if we gave them a rate of 5 percent, and they would have to pay this amount on any money they borrowed to make improvements, that would be about right. At that time we calculated to tax them 42 percent. The capital stock, normal corporation, and excess-profits taxes were repealed in the House bill. Forty-two percent looked like a pretty heavy tax. It looked almost like confiscation. There is no question but what these were being considered as pressure rates.

We had many representatives of corporations, it is fair to say, who came before the committee and stated they would rather have been working in the last year under the House bill than the bill as it came from the conference between the House and Senate. This made me more insistent than ever that we raise our money by a flat corporation tax, find out what rate was necessary to raise it, rather than have these various types of penalty taxes injected into our system.

I am disturbed, and I think the country is disturbed from north to south and east to west, over the growing tendency that appears to be developing under this administration of using the taxing power for the purpose of penalization and punishment rather than for the purpose of raising revenue. [Applause.]

I think it is a radical departure from sound tax policy, and it necessarily retards the development of confidence so essential to business recovery. It brings to mind that old axiomatic saying that "the power to tax is the power to destroy." I think this is evidenced by the flood of communications that have been received by the Members of the House.

I had just one objective in view in allowing this exemption for money put into plant extension or for the purchase of new equipment. I had in mind the relief of the unemployed, and unemployment in 1936 was still staring us in the face as it is now. I said, "Why not make that an objective? Why not make it an objective to industry to employ men and relieve them from taxation on plant expansion, money used for the purchase of machinery equipment, and so forth, which gives them the opportunity to employ more men?" I had in mind that we should work along with corporations and with industry in a spirit of cooperation. We cannot be at sword's point continually and make any reasonable headway in the country so far as business recuperation is concerned.

The capital-gains tax has been considerably modified in this bill. That is the second contentious point, but, to my mind, it has not gone far enough. I think if we went back to the 1924 rate of 12½ percent with a liberal allowance for losses it would be better, because while you enjoy gains you suffer losses. There are being charges made that those involved are stockbrokers, gamblers, and speculators, but still there are many legitimate transactions which deserve the attention of our committee in the preparation of this section.

The lowering of the capital-gains tax would result in a more rapid turn-over of money in this country. We have just as much money as we have ever had. I am not one of those who believe in printing money. There are about six or seven men in the House now who know all about money. Every one of them has a scheme that will cure all the troubles of the world, but I do not believe that can be done as easily as they predict. We have as much money per capita as we ever had, but its velocity has slowed up. I have known two or three men who are supposed to have made money in the slow rise of the stock market. When I asked them if they had really made any money they said, "Yes." I said, "On paper? Have you sold anything?" "No; we have not sold it." "Well, don't tell me you made any money until you have sold it. Show me some concrete evidence." They said, "We won't sell it and pay this tax we have to pay now."

Hundreds of millions of dollars during the last few years have been held almost in hiding because people will not sell and take their profits and pay the tax they are compelled to pay under existing law. A change has been made now that affords some considerable relief, changing the 10-year period for long-term holdings to a 5-year period. In my estimation we have not gone anywhere near far enough.

Then there is the I–B tax, about which so much has been said, the special penalty tax on the closely held or family corporations. I do not believe this tax needs very much discussion, because it must appeal to the average man as being absolutely unfair. In my opinion this tax is absolutely indefensible. It has no place in a tax bill written by the Congress of the United States. It is an admission of one or two things. It is either a candid admission that we as a Congress, following through the work of the committee, do not know how to write section 102, which provides penalties that this I–B section is designed to inflict, or it means that the Treasury Department in its prosecutions, and the courts, are utterly unable to translate the intent of Congress in construing section 102. This I–B provision is a frank admission of one or the other of those failures.

I do not believe there is anything more to be said about that tax. I do not care to make the implication that it was aimed at some few corporations, but if it was aimed at anybody they intended to use an old squirrel rifle and found instead they had used one of those blunderbuss shotguns that spread the shot over a considerable territory. That they have hit more than they knew existed is evidenced by the fact that considerable fault is being found all over the country with this tax. They inflict a particular hardship upon family corporations where the business has been handed down from generation to generation. Some of these institutions have been the very bulwark of America in the spirit in which they have been carried on from father to son. I believe it is a poor plan to penalize such corporations. Of course, some modification has been made in that section, too. The amount of income has been raised, and the amount which the corporations distribute may in some cases relieve them from the penalty of the tax, but still, as a matter of policy, this tax absolutely does not belong in the bill.

Mr. DOUGHTON. Mr. Chairman, I yield 2 minutes to the gentleman from New York.

Mr. TREADWAY. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York.

Mr. CROWTHER. Mr. Chairman, I am going to ask that these figures be placed in the RECORD. They are very interesting. This is an article by a New York accountant. We heard so much criticism in the press a short time ago regarding the munificent salaries that were paid to men in high places in this country that it seems to me these figures should be given some publicity. It appears to me the payment of these salaries results in the Federal Government and the State governments getting nearly all the money. In fact, it becomes necessary for an industrial corporation to pay these large salaries because of the Federal and State taxes, in order to get to the men finally what the corporation really believes they are worth.

For instance, Alfred P. Sloan, president of General Motors, received a salary of $561,311. This sounds like a pretty big salary, and a demagogue would go out on the hustings and talk about "this bird up here who gets half a million or more dollars a year, while you have to live on a loaf of bread and a can of beans"; but he does not tell the fellow out on the hustings that all Mr. Sloan can keep of that salary is $155,896. He pays in Federal taxes $395,000 and in State taxes $55,881. He retains only 27 percent. So it runs down the line.

Mae West, who lately was mixed up in a little one-act radio skit entitled "Adam and Eve and the Wily Serpent," which met with some criticism, had an income of $323,333, but Mae could keep only $112,123 of this amount because she paid in Federal taxes $179,000 and in State income tax $33,000.

Eugene O. Grace, president of Bethlehem Steel, received $180,000 and retained $79,706, or 44.3 percent. He paid 55.7 percent in taxes.

I believe it is only fair that as long as criticisms were leveled at these high salaries there should appear in the RECORD at least a few examples so the general public may have some knowledge of how small a portion of these salaries is retained and how much the Federal and the State Governments get with the long arm of the tax gatherer. [Applause.]

[Here the gavel fell.]

The statement and figures referred to follow:

THE SALARIES NOBODY GETS—OFFICIAL FIGURES CONCEALED HEAVY TAX DEDUCTIONS

(By M. L. Seidman, C. P. A.)

The personal income tax is usually pointed to as the best example of a tax that cannot be passed on to the consumer. One seldom thinks of it as a tax on business. However, when we come to the personal income tax on large salaries paid by industry, there is at least a good deal of doubt as to whether in the last analysis the tax is not really paid by industry itself and not by the individual.

We know that compensation for personal services varies with the talents and capabilities of the individual. All men may be born free and equal, but they do not permanently remain that way. Great executive ability is possessed by but few men and inborn latent ability plays its important part in the market value of a man's services. As a result, if we take the field of government, for instance, there is the clerk whose maximum earning power is, say, $1,500 a year, while the President of the United States receives $75,000 a year, plus reimbursements and privileges worth substantially more than the salary itself.

The same, of course, is true of business. There is the $1,500-a-year clerk, the $10,000-a-year junior executive, and the $100,000-a-year chief executive. To industry the services of some men are, in direct proportion, worth more than that of other men. That same direct proportion, however, is not carried through when it comes to taxing the earnings of these men. The exact opposite is in fact true. For the chief executive who is worth to a business, say, 10 times that of the $10,000 assistant, pays under our income tax laws not 10 times, but 36 times as much in income taxes. And if we assume that it is the net salary, not the gross, that is the basis of comparison between the senior and the junior executive, then in order to net $100,000 the senior executive must pay, not 10 times, but 130 times the tax of the $10,000 man.

To illustrate the point, let us assume that A receives a salary of $11,000 a year, which, after paying his Federal and State income

taxes of approximately $1,000, leaves him with $10,000 net. Assume B's services are worth 10 times that of A, or $110,000. If B were to pay 10 times the tax of A, or $10,000, he would have left $100,000, which is exactly 10 times what A has left. But our progressive surtax rates work out in such a way that in order for B to have left 10 times as much as A, he must receive a salary not of $110,000 but of $230,000, for the tax (including a 10-percent State tax) on $230,000 is about $130,000, leaving B with $100,000 net.

The extra $120,000 goes to the Government. It is paid to B by industry as so much more salary. Actually, it is B's disproportionate income tax over that of A that industry is paying. The Government might just as well have said to industry that if it wants to employ B at a salary which would net him 10 times A's salary, industry must pay the Government a $120,000 tax for that privilege.

Do we ever think of these large salaries from that point of view? The 1936 list of corporation salaries was published the other day. Some spectacular figures were blazoned forth to the country. Nowhere, however, was there indicated how much of these amounts, in reality, represents payment to the Government itself. Below is a partial list of some of these salaries, ranging from the $561,311 paid to Mr. Sloan, of the General Motors Corporation, to the $50,000 paid to Mr. Whiteside, of Dun & Bradstreet. In order to see clearly just how much the recipient does not retain of what he is advertised to have received, the amount of so-called compensation has been split up in each of these cases between the estimated Federal and State income taxes and the net amount retained by the recipient.

As a matter of fact, the tax collector's share is probably much larger than this list shows. For in arriving at the amount of the tax, the salary was in each case considered as the only income of the individual, hence, subject to a tax beginning with a 4-percent rate and ranging upward in the scale of surtaxes. The State's share of the tax has been figured in all cases at an average of 10 percent, which is probably about correct as an average for the list as a whole, though they range from zero in a few States to 15 percent in California.

It is undoubtedly true in all of these cases that the salaries received by these men did not represent their only income. This would mean that the tax rates on these salaries instead of starting at 4 percent, did so at a much higher rate, if they be considered as coming on top of such other income. Take the case of Mr. Sloan, for instance. It is known that during the year 1936 he owned some 25,000 shares of General Motors common stock, which in that year paid a dividend of $4.50 a share. Say that he received at least $100,000 in dividends that year. The lowest combined State and Federal tax rate on his salary on top of the dividend income would be 65 percent and the tax on the salary would be nearer to $460,000, leaving him about $100,000 out of the total salary of $561,000. If the man with the $50,000 salary also had $100,000 net income from other sources, his salary would be taxed at some 70 percent, so that out of his $50,000 salary, he would retain $15,000 and pass along the remaining $35,000 to the tax collector.

These, then, being the facts, would it not seem, in all fairness, that if the truth is to be told with regard to published salaries, the amount kept by the Government in each case should also be published? At least, then, people would understand that by far the greater portion of these salaries is in fact not retained by the named recipients at all, but by the Government itself.

Some 1936 published salaries and estimated income taxes

Salary received	Retained		Name and occupation	Income tax [1]			
	Amount	Percent		Federal	State [2]	Total	Percent
$561,311	$155,966	27.8	Alfred P. Sloan, Jr., president, General Motors.	$349,464	$55,881	$405,345	72.2
459,878	138,885	30.2	William S. Knudsen, vice president, General Motors.	275,256	45,737	320,993	69.8
370,214	122,099	33.0	Gary Cooper, motion pictures.	211,344	36,771	248,115	67.0
362,500	120,556	33.3	Ronald Colman, motion pictures	205,944	36,000	241,944	66.7
350,833	118,223	33.7	Claudette Colbert, motion pictures	197,777	34,833	232,610	66.3
323,333	112,723	34.9	Mae West, motion pictures	178,527	32,083	210,610	65.1
303,423	108,741	35.8	William A. Fisher, vice president, General Motors	164,590	30,092	194,682	64.2
284,384	104,571	36.8	Warner Baxter, motion pictures	151,625	28,188	179,813	63.2
269,333	101,260	37.6	Marlene Dietrich, motion pictures	141,390	26,683	168,073	62.4
260,000	99,206	38.2	Arthur Brisbane, writer (deceased)	135,044	25,750	160,794	61.8
249,500	96,836	38.8	Ruth Chatterton, motion pictures	127,964	24,700	152,664	61.2
238,744	94,255	39.5	Rudy Vallee, radio	120,865	23,624	144,489	60.5
216,443	88,902	41.1	C. W. Dayo, president, F. W. Woolworth	106,146	21,394	127,540	58.9

[1] On basis of $2,500 exemption. [2] Average of 10 percent assumed.

Some 1936 published salaries and estimated income taxes—Con.

Salary received	Retained		Name and occupation	Income tax			
	Amount	Percent		Federal	State	Total	Percent
$180,000	$79,706	44.3	Eugene G. Grace, president, Bethlehem Steel	$82,544	$17,750	$100,294	55.7
166,862	76,291	45.7	Myron C. Taylor, chairman, United States Steel	74,135	16,436	90,571	54.3
163,509	75,419	46.1	P. E. Martin, vice president, Ford Motors	71,990	16,100	88,090	53.9
157,000	73,726	47.0	Samuel J. Briskin, R. K. O. Studios	67,824	15,450	83,274	53.0
150,000	71,856	47.9	Charles M. Schwab, chairman, Bethlehem Steel	63,394	14,750	78,144	52.1
137,564	68,374	49.7	Edsel B. Ford, president, Ford Motor Co	55,684	13,506	69,190	50.3
130,000	66,256	51.0	Walter F. Wanger, president, Wanger Productions	50,994	12,750	63,744	49.0
126,100	65,164	51.7	Jackson E. Reynolds, president, First National Bank, New York	48,576	12,360	60,936	48.3
120,161	63,501	52.8	Jasper E. Crane, vice president, du Pont de Nemours	44,894	11,766	56,660	47.2
115,000	62,056	54.0	David O. Selznick, Selznick-International Pictures	41,694	11,250	52,944	46.0
108,333	60,190	55.6	R. W. Woodruff, president, Coca-Cola Co	37,560	10,583	48,143	44.4
100,160	57,831	57.7	S. L. Avery, president, Montgomery Ward	32,563	9,766	42,329	42.3
95,424	56,363	59.1	B. J. Craig, superintendent. Ford Motor Corporation	29,769	9,292	39,061	40.9
90,000	54,581	60.6	John E. Zimmerman, president, United Gas	26,669	8,750	35,419	39.4
83,333	52,248	62.7	Floyd B. Odlum, Atlas Corporation	23,002	8,083	31,085	37.3
78,000	50,201	64.4	F. H. Brownell, chairman, American Smelting & Refining	20,249	7,550	27,799	35.6
71,250	47,359	66.5	L. J. Rosenwald, chairman, Sears, Roebuck	17,016	6,875	23,891	33.5
63,463	43,687	68.8	Edgar M. Swasey, vice president, American Weekly	13,679	6,096	19,775	31.2
58,330	41,603	70.4	Mary Lewis, vice president, Best & Co	11,684	5,583	17,267	29.6
55,000	39,231	71.3	Charles E. Mitchell, chairman, Blyth & Co	10,519	5,250	15,769	28.7
50,000	36,381	72.8	A. D. Whiteside, president, Dun and Bradstreet	8,869	4,750	13,619	27.2

Mr. TREADWAY. Mr. Chairman, I yield 10 minutes to the gentleman from Kentucky [Mr. ROBSION].

Mr. ROBSION of Kentucky. Mr. Chairman, ladies, and gentlemen, I own no stock in, neither am I an attorney of, any corporation or other business that might be affected by this tax bill. I do not have any personal interest. I am deeply interested, however, in the thousands of unemployed mine workers, railroad workers, farmers, and other workers, small and large business concerns, and the general welfare of all the people of my district as well as the Nation. I join with labor, farm, industrial, financial, commercial, and other groups, the entire press of the Nation, the Republican Party, and many leaders of the Democratic Party in and out of Congress in demanding relief from excessive taxes. They have pointed out that these excessive taxes are largely responsible for the closed factories, mills, shops, and mines and the general break-down in business of this country. They, as well as myself, are disappointed in this tax bill. Neither the President nor any of his friends in the House contend that there will be any reduction in the taxes taken from business in this bill. In fact, it is stated by the proponents there will be no decrease. We have every reason to believe there will be an increase.

The bill before us merely reduces the taxes for some business concerns and puts a greater amount on other business

concerns. It "robs Peter to pay Paul." It retains the undivided surplus-profits tax that has been condemned as an unsound and dangerous taxing policy by Democrats as well as Republicans and by economists and tax experts generally throughout this country.

When this undivided profits tax bill was passed in 1936, we were told by the New Dealers it would bring us out of the depression. The Republicans and many Democrats opposed it and insisted it would increase our financial and economic difficulties. Subsequent events have proved beyond question how wrong the New Dealers were and how right the Republicans were in their respective contentions.

Disregarding the bitter experience, the administration retains the same principle in the tax bill before us. This bill also increases the tax on closely, locally owned and managed corporations and reduces the taxes on many large holding companies. If there is any corporation or business concern that should not be penalized, it is the business that is locally owned and managed and in most cases built up from the bottom by honest, industrious, capable men in using the undivided surplus profits for enlargement of the plant and business, and thereby increasing employment for workers in their respective communities and localities.

This administration is running true to form in bringing in this tax bill. It has passed a new tax bill each and every Congress during the 5 years it has been in power, increasing old taxes or levying new taxes, or both. This administration still holds to the indefensible and foolish policy that we can tax and squander ourselves into prosperity.

THE NEW DEAL'S FIFTH ANNIVERSARY

Last Friday, March 4, was the fifth anniversary of the New Deal. On the first, second, third, and fourth anniversaries of that "most marvelous event," the beginning of the "Roosevelt dynasty," our New Deal friends in the House and Senate exhausted their vocabularies of powerful descriptive adjectives and superlatives in telling us and the Nation of the wonderful policies and the almost supernatural results of these policies. They were unable to find words to describe adequately and fittingly their great leader, Mr. Roosevelt, and their devotion to him and his army of "brain trusters." They spoke of it on those occasions as the greatest epoch in the world's history. They intimated it was the beginning of the millennium—the answer to the prayers and hopes of countless millions throughout the centuries, leading us to believe that our calendar would be changed and instead of reckoning time from A. D. 1, we would reckon it from F. D. R. 1, March 4, 1933!

On March 3 and March 4 we had general debate on this new tax bill. Under the rules of general debate, this afforded splendid opportunity to our New Deal friends to again open the floodgates of oratory as they did in former years and pay high tribute to the President and his New Deal policies; but our New Deal friends were as silent as a tomb in a deserted churchyard. It remained for the Republicans first to remind the House and the country that that was the fifth anniversary of the never-to-be-forgotten day. [Applause.]

Mr. KNUTSON. Mr. Chairman, will the gentleman yield?

Mr. ROBSION of Kentucky. I do not have the time and cannot yield.

Mr. BUCK. Mr. Chairman, will the gentleman yield?

Mr. ROBSION of Kentucky. I cannot yield now.

Mr. BUCK. I thought Balaam's ass spoke.

Mr. ROBSION of Kentucky. Holy Writ says after Balaam had beaten the ass three times and the Lord had opened his mouth, then he complained to Balaam for whipping him. My friend from California who interrupts me, a good New Dealer, was speechless. He nor other New Dealers did not take the floor last Friday, as he may have done at other times, to boast of the wonderful New Deal until a Republican near the close of the day reminded our New Deal friends that was their fifth anniversary.

Mr. BUCK. I think the gentleman from Kentucky, if he will look——

Mr. ROBSION of Kentucky. Look at the RECORD.

Mr. BUCK. That is just what I want the gentleman to do.

Mr. ROBSION of Kentucky. It is before you and all of us. The RECORD on March 4 shows that my good friend [Mr. BUCK] from California made a speech in favor of this tax bill, including title I–B, but I find nowhere the gentleman even mentioned March 4 or commended in any way the New Deal or the President. It was after the gentleman from California spoke that our Republican colleague, Mr. EATON, from New Jersey, for the first time called attention to the fact that it was the fifth anniversary of the New Deal.

Were the direful results, the result of the New Deal planning? The President said in the campaign of 1936, "We planned it that way and do not let anybody tell you different." Is this dark picture the "more abundant life" spoken of by the President? [Applause.]

WORST PANIC IN THIS COUNTRY'S HISTORY

Our New Deal friends have been silenced with the logic of cold facts. They are now confronted with conditions and not theories. They see the beautiful theories of the "brain trusters" exploded; they see a decline of nearly 60 percent in the automobile industry, a decline of more than 26 percent in freight loadings; they see steel production reaching a new low—29.3 percent of normal production. They see farm commodity prices go down and down from 35 to 60 percent below a year ago. They see a shrinkage in the last year of more than $30,000,000,000 in stocks, bonds, and other securities. They likewise see a shrinkage in the surplus funds of business concerns of more than $7,000,000,000 in the last 5 years. They see 12,000,000 to 16,000,000 idle workers, an all-time high record in this country.

They see the national debt now approaching $38,000,000,000 not counting nearly $5,000,000,000 of bonds issued by Federal agencies, the proceeds of which have been spent by this administration, and the interest and principal of which have been guaranteed by the Federal Government. They see the Federal revenues collected for the fiscal year ending June 30, 1933—$1,855,174,208—increased to $3,800,000,000 for the fiscal year ending June 30, 1935, an increase of over 100 percent in 2 years; and they see the Federal revenues collected jump to nearly $5,800,000,000 for the fiscal year ending June 30, 1937, an increase of more than 200 percent annually over the fiscal year ending June 30, 1933.

They see our Nation confronted with the worst panic in its history. They see that practically all the leading nations of the world that were in a like depression as our country have recovered, with the exception of those engaged in war, and there is very little unemployment in those countries. They also see these nations did not adopt the policies of the New Deal.

Our New Deal friends see in the future increased taxes, deficits, and national debt. They see our Nation threatened with bankruptcy; they see confidence destroyed, class hatred stirred up, strikes and discord multiplied throughout the country; they see the self-reliance, morale, and confidence of the American people broken down.

They see this result after having created the most excessive and burdensome taxes and engaged in the greatest spending program this country has ever known, with the greatest powers ever granted any administration in peacetime.

Therefore, there was no celebration or paeans of praise sung for the New Deal policies or the President on their fifth anniversary. The New Dealers as well as the country were in mourning.

I want you, my hearers, as well as the country, to know that I feel quite as sorrowful as any New Dealer on account of these conditions. They can bring to me no pleasure, because the miners, railroad workers, farmers, the people generally, and business, both large and small, in my district must suffer, and are suffering, as the people throughout the Nation are suffering. The Republican Party and many Democrats and every other patriotic American, while oppos-

ing these unsound and un-American policies which have wrought wreck and ruin in our country, have desired, and still desire, that our country be restored to peace, plenty, and prosperity. We are anxious to cooperate with the present administration on policies that will put our factories, mills, mines, and shops to humming once again, and provide employment for these unemployed millions of our citizens.

THE PRESIDENT QUOTES SCRIPTURE

The President on his fifth anniversary in the White House, March 4, 1938, instead of being able to give a word of comfort to the unemployed and harassed industry, agriculture, and commerce, referred the newspapermen at his press conference to the fifteenth Psalm. In that Psalm we find these words:

He that sitteth not by himself but is lowly in his own eyes.

Does the President undertake to class himself among the meek and the lowly? Knowing as we do his boundless ambition for power and more power, his desire to control through his proposed reorganization bill nearly 900,000 officers and workers of the United States Government, the control of the courts, his impatience with our Constitution, and his regimenting agriculture, labor, industry, and commerce, we are inclined to think that the fifteenth Psalm has no application to the President.

This Psalm also recites, as quoted by the President, but evidently not taken from the King James version:

He that sweareth unto his neighbor and disappointeth him not.

May I also respectfully call to the attention of the President the words found in Ecclesiastes 5: 5:

Better is it that thou shouldst not vow than that thou shouldst vow and not pay.

I trust it will not be considered out of place, inasmuch as the President himself has referred to Holy Scripture, to call attention to what he promised his neighbors and the vows that he made to the American people, and I propose to show that because he did disappoint his neighbor in keeping his promise and because he did not pay his vow, the country finds itself in this panic.

THE PRESIDENT BREAKS VOWS AND DISAPPOINTS NEIGHBOR

I am one of those old-fashioned persons who still believe that the solemn pledges of a party platform and candidates seeking high office should not be made simply to get in but the basis on which to render service after they get in, and I also in my old-fashioned way believe that this Nation cannot, any more than an individual, tax and squander itself into prosperity, and neither can a nation nor an individual continue to spend each year more than it or he takes in and escape the poorhouse or bankruptcy.

Did President Roosevelt and the Democrat Party ever entertain such old-fashioned views? They did until the "brain trusters" and crackpots took possession of the President and the Democrat Party after March 4, 1933.

They try to make us believe now that the rich pay the taxes and that excessive taxes promote prosperity. What did President Roosevelt think of the taxes under the Hoover administration, and who did he say pays the taxes? We quote from his speech delivered at Pittsburgh, Pa., October 19, 1932:

Taxes are paid in the sweat of every man who labors. If excessive, they are reflected in idle factories, tax-sold farms, and hence in hordes of the hungry tramping the streets and looking for jobs in vain. Our workers may never see a tax bill, but they pay in deduction of wages, increased cost of what they buy, or in broad cessation of employment.

You will observe that the President, complaining of the high taxes under the Hoover administration in 1932, yet has increased in less than 5 years the Federal revenues collected by this Government at least 200 percent over those collected for the fiscal year beginning July 1, 1932, and ending June 30, 1933. Yet he said:

Taxes are paid in the sweat of every man who labors. * * * Our workers may never see a tax bill, but they pay in deduction of wages, increased cost of what they buy, or in broad cessation of employment.

Furthermore, confirming that the workingman and the common people pay the greater part of the taxes, in a letter to Mr. Roy Howard, September 7, 1935, he said:

What is known as consumers' taxes, namely, the invisible taxes paid by the consumers in every walk of life, today fall relatively much more heavily upon the poor man than on the rich man. In 1929 consumers' taxes represented only 30 percent of the national revenue. Today—September 7, 1935—they are more than 60 percent of the national revenue.

In other words, the great body of consumers, largely made up of workers, farmers, and the common people, from 1929 to 1935 have had their taxes increased 100 percent. Furthermore, the consumers' taxes in 1929 represented only 30 percent of the national revenue, and on September 7, 1935, these consumers' taxes represented 60 percent of the national revenue, according to the statement of the President. This means a great deal, because the Federal revenues had increased tremendously.

Under the taxing and squandering policies of the national administration for the last 5 years, States, counties, cities, towns, and villages have been encouraged to follow the same policy of increase of old taxes and the addition of new taxes so that today the miners, the railroad workers, the shop and mill workers, the farmers, and the common people generally pay on an average approximately 30 percent of their income for taxes. They are working nearly one-third of the time for the tax collector.

Now, what did the President say was the result of these excessive taxes, referring again to his Pittsburgh speech:

If taxes are excessive they are reflected in idle factories, tax-sold farms, and hence in hordes of hungry tramping the streets looking for jobs in vain. Our workers may never see a tax bill, but they pay in deduction of wages, increased cost of what they buy, or in broad cessation of employment.

The President, in his speech at Pittsburgh on October 19, 1932, not only used the words of a statesman, but his words were prophetic. He has increased Federal revenues, as I have pointed out, more than 200 percent annually. The result is a panic, idle factories, tax-sold farms, 12,000,000 to 16,000,000 hungry needy workers tramping the streets and looking for jobs in vain, a deduction of wages, and a broad cessation of employment. In other words, President Roosevelt told the American people bluntly in 1932 that excessive taxes would bring about a panic. It has arrived.

THE PRESIDENT MADE ANOTHER VOW AND PAID IT NOT

The President made the American people another solemn vow in his speech at Sioux City, Iowa, on September 29, 1932. He was concerned about the high taxes under the Hoover administration when he said:

I shall use this position of high responsibility (the Presidency) to discuss up and down the country at all seasons and at all times the duty of reducing taxes. This I pledge you, and nothing I have said in the campaign transcends in importance this covenant with the taxpayers of this country.

He knew, as had been said by the Supreme Court and tax experts and economists, that "the power to tax is the power to destroy." Yes, he made a pledge and a vow to his neighbors and the people of this Nation:

He that sweareth to his neighbor and disappointeth him not (Psalm 15). Better is it that thou shouldst not vow than that thou shouldst vow and not pay (Ecclesiastes 5:5).

Did President Roosevelt disappoint his neighbors? Did he pay his vows? Who ever heard of President Roosevelt, since March 4, 1933, going up and down the land or anywhere at all seasons or any season urging "the duty of reducing taxes"?

The reduction of the burden of taxes for the welfare of the workers as well as the country must have been important, because he said:

This I pledge you, and nothing I have said in the campaign transcends in importance this covenant with the taxpayers of the country.

What has the President done about his pledge and his vows? He has brought in and forced through a new tax bill every Congress since he has been in power increasing taxes. He now insists that taxes must not be reduced. He

urges us to pass the bill before us which provides for no decrease, but will increase taxes if any business remains to tax.

ANOTHER VOW—STOP DEFICITS AND BORROWING

President Roosevelt said in his acceptance speech on July 2, 1932:

I propose to you, my friends, that Government be made solvent; that the example be set by the President of the United States.

Again the President, on July 3, 1932, in a public address at Albany, N. Y., said:

Any government, like any family, can for a year spend a little more than it earns. But you and I know that a continuation of that habit means the poorhouse. * * * Let us have the courage to stop borrowing to meet continuing deficits. Stop the deficits. Let us have equal courage to reverse the policies of the Republican leadership. * * * Our party says clearly that Government income must meet prospective expenditures.

President Roosevelt in those speeches was criticizing the Hoover administration. Under President Hoover, from March 4, 1929, to March 4, 1933, which covered approximately 3½ years of depression, there was a deficit of $3,592,000,000. During those 4 years the Hoover administration took in $17,345,000,000 and spent for the regular expense of the Government, for relief and recovery, $20,937,000,000. I have pointed out the tremendous increase in taxes under President Roosevelt. He has spent in 5 years, in round numbers, not including the five billion of bonds issued by Federal agencies, the principal and interest of which have been guaranteed by the Federal Government, $40,000,000,000. The present administration has an actual deficit of $18,500,000,000, not counting the $5,000,000,000 worth of bonds issued by Federal agencies. In other words, the Roosevelt administration has spent about $23,000,000,000 more than it has taken in.

President Roosevelt in his Pittsburgh and other speeches declared that the Hoover taxes were excessive, and they meant "idle factories, tax-sold farms, and hordes of hungry tramping the streets and looking for jobs in vain." He said on July 3, 1932, in criticizing the Hoover administration expenditures and deficits of less than $4,000,000,000 in 4 years:

Any government, like any family, can for a year spend a little more than it earns. But you and I know that a continuation of that habit means the poorhouse. * * * Let us have the courage to stop borrowing to meet continuing deficits. Stop the deficits. Let us have equal courage to reverse the policies of the Republican leadership. * * * Our party says clearly that Government income must meet prospective expenditures.

What must be said of Mr. Roosevelt's deficits of over eighteen billion and an increase of the national debt of approximately that sum, not counting the five billions of bonds? If our Nation under Hoover was headed for the poorhouse, where are we headed under President Roosevelt?

The record for the past 5 years is a dark and dismal one. What about the future? I have before me the official daily statement issued by the United States Treasury of date March 4, 1938. The national debt of March 4, 1938, is $37,744,464,127.40. The national debt on March 4, 1937, was $34,694,283,744.90. The President has been talking about balancing the Budget for the fiscal year 1937–38. This shows a deficit for the last year of approximately $3,050,000,000.

Is the administration cutting down on expenses? It certainly is not. It has already demanded of Congress over one billion for national defense, and recently the President made an additional demand for the Navy, and the Naval Committee has reported favorably that bill carrying an additional sum of about $1,120,000,000. That will mean that in the next fiscal year, this Nation, unless they put on the brakes, will expend approximately $10,000,000,000, and it has been pointed out by some distinguished Democratic Senators on the radio and elsewhere that there will be a deficit for the coming fiscal year, ending June 30, 1939, somewhere between $3,000,000,000 and $5,000,000,000. Therefore, it can be said, as I said in a speech on the floor of the House on February 16, that this administration will continue to increase taxes, deficits, and the national debt. They will continue to discourage, embarrass, and strangle business enterprises, and while it is a dark picture, we must face the facts of continued unemployment, depression, doles, and all those distressing conditions that go with the present New Deal policies.

REPUBLICAN TAX POLICY

Our distinguished friend and loyal administration supporter, Mr. MCCORMACK, of Massachusetts, in his speech against the I–B on undistributed surplus-profits tax in this bill, stated that there might be an increase of Federal revenues if the rates on business concerns were reduced and thereby encourage business. He referred to the tax policies of this Government in 1921–26. The tax policy of this Government from 1921–26 were just the opposite to the tax policy of the present administration. The Republican Party came into power on March 4, 1921. It found business paralyzed. There were, according to the statement of William Green, president of the American Federation of Labor, issued on March 3, 1921, 5,000,000 workers out of employment. This was the all-time high record up to that time of the number of workers out of employment in this country. We also found all the high and burdensome World War taxes still in force. The Republican President and Congress, of which I was a Member at that time, blamed the depression on the high taxes. One of the first acts of the Republican Congress was to pass an act greatly reducing taxes, cutting out many taxes, and removing the taxes on a great army of small-income taxpayers. This measure worked as if by magic. It encouraged agriculture, industry, and commerce. The mines, mills, factories, and shops again became bee hives of activity. Unemployment disappeared. Prosperity was restored and the amount of revenues flowing into the Treasury increased.

The last 10 years, Republican Congresses passed five great tax-reduction bills which were promptly signed by Republican Presidents. President Wilson left a national debt of nearly $26,000,000,000. The expenses of the Government were paid and the national debt was reduced nearly $10,000,000,000. The farmers were receiving $1.50 a bushel for wheat, 90 cents a bushel for corn, and for many years cotton averaged 17½ cents a pound. Our exports greatly exceeded our imports. The farmers had an annual income of approximately $12,000,000,000—the greatest in peacetime of any period in our history—and the national income was the highest in this country in peacetime. It approached $80,000,000,000 or more, and these dollars were worth 100 cents. There were no cut-outs, no doles. no complaint about unemployment; there was no talk of starvation. [Applause.]

The Democrats got control of the House on March 4, 1931, and really had control of the Senate, and there was some increase in taxes. No doubt President Roosevelt, when he made his speech at Pittsburgh, Pa., on October 19, 1932, had studied this wonderful record under Republican administrations of reduced taxes, increased business, and employment. It was during this period of time that the consumers' taxes were only 30 percent of the total revenues of the Government. Labor, farm, financial, commercial, and other groups, as well as the press of the country and the Republican Party are still familiar with that splendid record. They are all now urging that we get back to that splendid policy and encourage agriculture, industry, and commerce, and again provide good jobs and good wages to the American workers. Five years of heavy taxes and squandering have proven beyond doubt that this desirable objective cannot be obtained under the present New Deal policies.

THE REPUBLICAN PARTY FAVORS ADEQUATE RELIEF

When any effort is made to reduce taxes or expense of the Government, some new dealer arises in his place and says that he is opposed to the people starving. There has been much skullduggery and many crimes committed in the name of the hungry and needy people of this Nation.

The New Deal policies have created more unemployment, more distress, and more starvation than any other administration in the history of this country. The Republican Party

favors as strongly as any party or individual adequate care of the needy people of this Nation. The needy people must not be made the goat for these high taxes and increase of the national debt. This Government this year will spend more than $9,000,000,000 for ordinary and necessary expense of government, including national defense. We have appropriated $1,750,000,000 for relief this year. The ordinary expenses of government should not exceed $3,500,000,000. It can be seen at once that the Federal revenues collected would pay for this relief and all necessary running expense of this Government and there would be a substantial surplus left of several hundred million dollars. This would mean a great deal of encouragement to business and the investing public if taxes could be reduced by this sum. It has been clearly shown that not over 60 cents of every dollar of relief money goes to the needy. The other 40 cents out of every dollar goes to the great army of officeholders to pay them high salaries and mounting expenses. I agree with the distinguished chairman, Mr. WOODRUM, of Virginia, when he declares that the relief appropriation could be greatly reduced if we cut out chiseling and let the relief money go to the needy. The administration of relief in this country presents a sordid record of the use of public money in partiality, favoritism, and politics. If we should adopt sane policies, millions of unemployed would be given good jobs at good wages, and the relief rolls would be reduced and finally disappear.

NO RELIEF IN SIGHT

We have pointed out that it would only cost about $5,000,000,000 to carry on the ordinary expense of the Government and carry relief. What about expending from nine to ten billion annually? Where is this money going?

We spent approximately $2,000,000,000 to take productive land out of production and to destroy our crops and livestock. We spent about one billion on irrigation and reclamation projects bringing millions of acres of unproductive land into production. We have spent billions of dollars of the taxpayers' money in promoting hundreds of private enterprises, in making everything from a toothpick to a steam engine in competition with private business, and forcing private business through taxation and other methods to sustain its competitor, the Government.

The Government says to the average businessman, "I'm your competitor. If you make anything, I will take it away from you in taxes. If you lose, you must pay the losses yourself. If I lose as your competitor, I will take the money out of the Treasury."

We must bear in mind all the time that the forty to fifty million workers in this country must depend upon agriculture, industry, and commerce for jobs. The Government cannot provide the jobs. Is it not reasonable and sensible for the Government to encourage those who provide the jobs if this administration is really desirous of recovery instead of changing our form of government? The policies are forcing the people to invest their money in tax-exempt bonds and tax-exempt securities instead of investing it in productive enterprises furnishing employment to our people.

What amazes me is that we hear a lot of speeches from the administration's side about taxes and more taxes, but not a word about reducing taxes and not a word about reducing the expenditures of the Government.

We cannot come out of this depression with this kind of policy. We must cut down expenses; we must cut out these excessive taxes; we must relieve this great horde of hungry citizens tramping and looking for employment in vain; we must start our factories, mills, shops, and mines again. Let business go to work in this country, providing real jobs and real wages, and thereby restore prosperity and happiness to the American people. [Applause.]

Mr. DOUGHTON. Mr. Chairman, I yield 15 minutes to the gentleman from Ohio [Mr. HARLAN].

Mr. HARLAN. Mr. Chairman, it seems to me that in discussing this tax bill, we couid do well to keep it out of Biblical times, although that, of course, is always interesting.

Mr. BUCK. Mr. Chairman, will the gentleman yield?

Mr. HARLAN. Yes.

Mr. BUCK. The gentleman from Kentucky, in quoting certain extracts from the fifteenth Psalm, forgot the third verse:

He that backbiteth not with his tongue, nor doeth evil to his neighbor, nor taketh up a reproach against his neighbor.

Mr. HARLAN. I do not know much about the fifteenth Psalm, but I have a very definite recollection from childhood of having heard that the Lord caused Balaam's ass to speak. In comparison to the efforts of a modern Congressman, that, of course, constituted silence, but the gentleman's figure of speech is a little vague, even so.

I got the impression from the Biblical expressions by the gentleman from Kentucky [Mr. ROBSION] that he probably knew as much about that as he did about the 16,000,000 that are unemployed at the present time, but that is entirely aside from the issue. I wish to discuss this bill in general.

Mr. SHAFER of Michigan. Mr. Chairman, will the gentleman yield?

Mr. HARLAN. I am sorry, but I cannot yield.

There are some reasons why I think we could well do without this section I–B, although the bill with section I–B in it is so highly desirable that I think the bill should be adopted in any event. The discussion of the gentleman from Kentucky [Mr. FRED M. VINSON], of the gentleman from North Carolina [Mr. DOUGHTON], and the gentleman from California [Mr. BUCK], and other members of the committee who have explained the manner in which this bill works, certainly ought to be convincing to the country that this wave of propaganda which has gone about that we are out knifing for some one particular individual because we do not like his politics, or that we are punishing some group of corporations, is nothing but a lot of bunk. The clause in this bill that is most subject to criticism is I–B, but under that section any corporation, regardless of its net income, that is closely held, which distributes 57 percent of its income, is immune from any extra undistributed-profits tax at all; and if its net income is less than $250,000, let us say $100,000, and it distributes 25 percent of its income, it is immune, it is free; and if it is as low as $75,000, it is altogether immune.

Mr. DOUGHTON. Mr. Chairman, will the gentleman yield?

Mr. HARLAN. Yes.

Mr. DOUGHTON. I call the gentleman's attention to the consent-dividends clause. These corporations could get entirely out of this by adopting the consent dividend.

Mr. HARLAN. Certainly. Even in the larger corporations, where the corporation does not want to distribute 57 percent of the profits, by the consent-dividend provision, the profits can be retained free of penalty tax and can be turned into personal income of the shareholders, and these men can pay their taxes honestly just as shareholders in broadly held corporations have to do. There is nothing unfair about the treatment of the closed corporation, but there has been a wave of confusion and criticism disseminated over this country, mostly for political purposes. Some agitation, however, has been created by these all-wise, all-seeing, all-knowing, so-called financial services that send out sheets every week as to what is going to happen next month. They have to keep their clients disturbed and agitated and are compelled to give the impression of transcendental wisdom, otherwise they would lose their subscription list. All of that has had the effect of disturbing this country and giving false notions about the bill.

Nevertheless, there are three reasons why I think we would be well to do without section I–B in this bill. First, it is not necessary; second, it is of questionable constitutionality; and, third, it is unwise politically.

I do not believe it is necessary. We have a section in the code, section 102 of this bill, section 104 of the code, which provides that if any corporation loosely held or closely held retains revenue that exceeds the reasonable needs of the business, the Government can come in and collect from 25 to 35 percent of that. The Government has had a couple of failures in efforts to enforce that section. In the De Mille case the Government failed on a point of procedure. The

National Grocery Co. case is now pending before the Supreme Court, and I feel absolutely confident that the Supreme Court is going to correct that error of the court of appeals.

Mr. BUCK. Mr. Chairman, will the gentleman yield?

Mr. HARLAN. Yes.

Mr. BUCK. What does the gentleman think of the decision of the third circuit court in the National Grocery case?

Mr. HARLAN. I think it is crazy.

Mr. BUCK. If it is crazy, and I agree with the gentleman, is it not the duty of Congress to adopt some kind of a yardstick by which we can measure this thing?

Mr. HARLAN. We could do that, Mr. Chairman, by inserting in paragraph B, after the phrase "reasonable needs of business," these words, "for current operating expenses, plus contractual obligations."

The paragraph would then read as follows:

> The fact that the earnings or profits (of any corporation) are permitted to accumulate beyond the reasonable needs of the business for current operating expenses, plus contractual obligations, shall be prima facie evidence of a purpose to avoid surtax upon shareholders.

It is because of the fact that the phrase "reasonable needs of business" was too indefinitely defined that the Government lost both the De Mille case and the National Grocery case. In both cases these defendants set up projected plans for expansion which were wholly independent of contract and highly speculative. If this phrase had been properly defined the Government would have won both these cases.

My second reason is that section I–B is of questionable constitutionality. I am going to assume that this tax is a legitimate tax. If the tax provided for in section I–B should be construed by the Court as a penalty to control the distribution of income after it is earned, then, of course, we would have no tax question at all. We would be entirely outside the sixteenth amendment, and the whole thing would fall.

Nevertheless, I am going to assume that a penalty for not distributing profits can be accepted as a tax, which is questionable. If it is a tax, then if we look at the Butler case we find this law:

> The power of taxation, which is expressly granted, may, of course, be adopted as a means to carry into operation another power also expressly granted. But resort to the taxing power to effectuate an end which is not legitimate, not within the scope of the Constitution, is obviously inadmissible.

This principle of Federal taxation is also referred to in the Carter against Carter Coal Company case and also in *United States* v. *Constantine* (296 U. S. 287). I am perfectly aware that the things that were constitutional a short time ago are no longer so, and vice versa. I am also aware that it is very dangerous to prophesy as to whether the Supreme Court will amend the Constitution or not. But, assuming that stare decisis is still the queen of the legal forum, I shall assume that the case of United States against Butler is still the law until it is reversed.

Now, suppose Henry Ford—let us talk about him—does not want to distribute 57 percent of his income. He has enough money, as do a lot of others, to fight this case before the courts. He will come in and say that this is a penalty on him, that we are making a distinction between closely held corporations and broadly held corporations; that these are State corporations and the Federal Government has no jurisdiction to control the number of stockholders in a corporation; it has no jurisdiction to control the number of incorporators. This is not a matter of commerce among the States; it is not a Federal question; and this distinction between closely held and broadly held corporations is unreasonable.

Mr. DISNEY. Mr. Chairman, will the gentleman yield?

Mr. HARLAN. I hope the gentleman will let me finish my argument. I do not want to get into an argument of the question of constitutionality here; the discussion is too long and involved for this debate. We are not in a court, and when you talk about the Constitution we must first know whether you mean the Constitution A. R. or P. R., ante-Roosevelt or post-Roosevelt, the inelastic strait jacket of Taney, White, and McReynolds or the living, expanding Constitution of Marshall, Holmes, and Stone.

Mr. DISNEY. Mr. Chairman, will the gentleman now yield?

Mr. HARLAN. I yield.

Mr. DISNEY. The gentleman, being a lawyer, understands, does he not, that we can classify taxpayers?

Mr. HARLAN. I do.

Mr. DISNEY. But we cannot discriminate between the individuals of a class. The gentleman does not mean to say that because I–B may carry a higher rate of taxation than the others, that that is a penalty?

Mr. HARLAN. The question that will be before the courts in a case attacking the constitutionality of I–B will be whether it is a reasonable or unreasonable classification. Certainly for purposes of taxation you cannot classify human beings as to whether they have gray hair or black hair; that would be meaningless and unreasonable.

We may divide individuals as to their incomes and corporations as to their incomes and levy a different rate of taxation according to the division, but we cannot, in my opinion, classify corporations, which are citizens of the respective States, depending upon the number of their stockholders, for the reason that the determination of the number of stockholders is entirely a matter of State control. It has nothing to do with commerce between the States or any other power vested in the Federal Government.

We could very well cause paragraph I–B to apply to all corporations, both closely held and loosely held. In other words, we could compel all corporations with net incomes of $250,000 to distribute 57 percent of their income. We could grade that down until when the net income of all corporations, close and loose, should reach $75,000 there would be no extra tax for retained net income. But when you arbitrarily confine this tax, it has many of the characteristics of a penalty and lacks many of the characteristics of a tax, and you are on very dangerous and thin ice constitutionally.

I have heard it said that section I–A, which divides closely held holding companies from broadly held holding companies, is a precedent for a classification for closely held operating companies and broadly held operating companies. This precedent is far from clear. A closely held holding company is nothing but the creation of a trust in which the individual owning the stock in the holding company in his own trustee. Furthermore this trust is instantly and easily revocable, and there is very little purpose in a personal holding company except to avoid either estate or income taxes.

A closely held operating company, however, bears no distinction from a broadly held operating company except in the number of stockholders.

Mr. DISNEY. Mr. Chairman, will the gentleman yield for another question?

Mr. HARLAN. I cannot yield for another question; I am very sorry. The question that will come before the court will be, "Can the Federal Government step into the States and say how many stockholders there shall be in a corporation?" because that is the purpose of the penalty provision, and that I say is dangerous ground.

Section I–B is not needed. The objects there sought can be reached by an amendment of section 102. Section I–B is of questionable constitutionality; but, third and last—and I am talking to the Members of the Democratic side of the House—it is a very, very dumb, unwise political policy. For $30,000,000 or possibly $45,000,000 we are giving all of the flannel-mouthed agitators in the United States something with which to go out on the hustings and confuse the people. They will declaim that we are entering upon a plan of soaking the rich, or something of that kind; that we picked out the Ford Motor Co. Every Ford agency, every concern that sells anything to the Ford Co. will be imbued with the idea that the Democratic administration is after Ford. We all know that it is not true; but why, with this questionable constitutionality, with the possibility

of accomplishing the same thing by other means—why put this in here and give our enemies one more chance to say that we are just retaining enough of the undistributed-profits penalty to save our faces?

You heard that statement made on this floor this morning. A more ridiculous statement has never been made, but it is something they can talk about. We have real issues on which we must go before the people at the next election. We also have this fake issue in which $30,000,000 of revenue may be involved. We simply cannot afford to make the sacrifice, with only $30,000,000 involved and the prospect of securing the same amount by other means.

In conclusion, may I compliment the committee for what it has done. Section I–B is a marvelous piece of work. The more you figure with it the more respect you have for it. The committee has framed this section in a way that it will not work an injustice against anybody, but, for my part, because I do not think it is necessary, I do not think the amount involved is worth the commotion, I question its constitutionality and primarily it is rotten politics, I am going to vote to strike out section I-B when the opportunity affords itself. [Applause.]

[Here the gavel fell.]

Mr. DOUGHTON. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BUCK].

Mr. BUCK. Mr. Chairman, I merely want to correct the RECORD for the benefit of my friend from Kentucky in reference to his quotation from Ecclesiastes.

I think the preacher, Solomon, years ago foresaw our trouble, because he said:

> There is a sore evil which I have seen under the sun; namely, riches kept for the owners thereof to their hurt (Ecclesiastes 5:13).

If the gentleman will accept that addition to the quotation that he made from Ecclesiastes, I am satisfied.

Mr. JENKINS of Ohio. Will the gentleman yield?

Mr. BUCK. I yield to the gentleman from Ohio.

Mr. JENKINS of Ohio. Is that the only citation from the Bible that the gentleman can give to uphold the present administration?

Mr. BUCK. I cited something from the Psalms a little while ago, and if the gentleman cares to give me enough time from his side, I will read the entire Scriptures for his edification.

[Here the gavel fell.]

Mr. TREADWAY. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. SNELL].

Mr. SNELL. Mr. Chairman, I desire to address myself very briefly at this time to subsection C, section 702, found on page 305 of the bill. It is that part of the bill which removes the excise tax carried in the revenue bill of 1932 on Norway pine, northern white pine, and western white spruce grown in Manitoba, Saskatchewan, or Alberta.

In the beginning may I say I am a firm believer in the protective tariff system. There may be some schedules that should be remedied; but if there are, let us take those schedules and correct the defects, but in no way destroy the principle. I have always been in favor of protection for any article grown or manufactured in my part of the country which needed protection from the cheap-labor competition of foreign countries. I am also for protection for any article manufactured or grown in any other part of the United States that needs protection.

In order to get the situation brought about by this amendment clearly before the House, let us look at the history of this tax. In the tariff bill of 1930 there was a tax of $1 per thousand placed on this character of lumber. In the revenue bill of 1932 there was an additional excise tax of $3 provided, or a total tariff of $4 per thousand. This was the law until January 1, 1936, at which time the reciprocal-tariff agreement reduced the tariff 50 percent and the excise tax 50 percent. This change left us with a tax of $2 as against the original $4, which was the tariff on that grade of lumber prior to that time.

This bill proposes to wipe out the excise tax of $1.50 which still remains after the reciprocal-trade agreement.

Mr. Chairman, this tariff and excise tax must have been placed in the law for one of two reasons: either to carry out the principle of protection to this industry or to raise money for the Government. If there is anything in the condition of the country at the present time which indicates we need less protection or less money to carry on the affairs of the Government, that is one thing; but, in my judgment, nothing has been shown thus far which should encourage us to remove this excise tax.

How did this matter come before the House originally? A bill was introduced, H. R. 7518, at the request of the Shevlin, Carpenter, Clark Co., of Minneapolis. A subcommittee of the Ways and Means Committee held hearings on the bill. The evidence showed that this company, which was directly interested in the repeal of the excise tax, formerly manufactured lumber in this country, and it is in fact one of our large lumber manufacturers at the present time. Its timberlands in northern Minnesota, which formerly contained the special kinds of woods designated in this bill, were exhausted. They bought timberland over in Canada and for this reason wanted to be relieved of the excise tax, even though they manufactured their lumber under the more favorable low Canadian costs.

The testimony taken before the Ways and Means Committee at that time showed that this company imported 40 percent of all this kind of lumber brought into this country. As a matter of fact, the only object of that bill was to relieve one of the largest importers of lumber into this country from paying the $1.50-a-thousand excise tax, while the small, individual manufacturers would not be relieved. There are a great many of these smaller concerns scattered throughout Pennsylvania, New York, and the New England States. They employ, all told, 50,000 men. These manufacturers have to manufacture lumber under our laws. They have to pay the social-security tax, the workmen's compensation tax, and all the other taxes that a manufacturer of lumber in Canada is relieved from paying. Therefore, it is a pretty hard proposition for our people to compete directly, under these circumstances, with Canadian manufacturers of lumber.

All this bill does is relieve this large importing company, and the testimony of its own representatives is that it imports 40 percent of this lumber that comes into this country, but you still make the small manufacturer in the United States compete with this low-cost Canadian lumber. If there is any reason for changing these excise taxes, why did not the Committee on Ways and Means eliminate all the excise taxes that were adopted at the same time the lumber excise taxes were imposed? Why did you not eliminate them on oil, coal, and copper the same as you have on lumber?

Mr. FULLER. Mr. Chairman, will the gentleman yield?

Mr. SNELL. Yes; I yield to the gentleman for a question.

Mr. FULLER. The committee understood from the explanation by a Member on the gentleman's side, the gentleman from Minnesota [Mr. KNUTSON], who offered this amendment, that only a small percentage of that lumber came into this country and there was hardly any competition.

Mr. SNELL. I may say this lumber comes in direct competition with lumber produced in the northeastern part of the United States. The testimony before the Tariff Commission so proves, and specially does it come in direct competition with lumber manufactured in New York, Pennsylvania, and New England. This was also the testimony before the gentleman's own committee.

Mr. BUCK. Mr. Chairman, will the gentleman yield?

Mr. SNELL. Yes; I yield briefly to the gentleman.

Mr. BUCK. The president of the National Lumbermen's Association has assured the Committee on Ways and Means verbally, and, I believe, all of us individually in writing, that these particular classifications do not come in competition with lumber produced in the United States, and that a specific class of this lumber is no longer produced in the United States.

Mr. SNELL. I am not in agreement with him, and the statistics do not bear out his statements. The report of the Tariff Commission shows the average value of that lumber imported in 1935, the last year on which full reports are available, was $23.99 per thousand. This shows it is exactly the same quality of lumber as that manufactured by the small sawmills in the northeastern part of the United States. Very little of the high-priced lumber comes into this country, as is proved by these statistics showing the value of the imports per thousand.

Mr. CASE of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. SNELL. I yield to the gentleman from South Dakota.

Mr. CASE of South Dakota. I may add that the producers of lumber in the Harney and Black Hills National Forests have wired me that this lumber comes in direct competition with them.

Mr. SNELL. Furthermore, why should you discriminate against these two or three classes of lumber? You have never done that in any other of your bills. You repealed the tax on chewing gum. It would have been just as sensible if you had said, "William Wrigley is the largest manufacturer of chewing gum. We will exempt the tax he pays, but the smaller manufacturers must pay their tax." It would have been just as sensible to have done that, notwithstanding the fact the gentleman shakes his head, as to do what you have done in this bill. It would have been just as sensible to have exempted Spalding from the tax on sporting goods and said the others must pay the tax. There is no other place in repealing these excise taxes where you have discriminated against a certain kind in a general class. In this bill there is a definite discrimination, and it is shown by the testimony brought out before the subcommittee last year. As evidence that the subcommittee was not in favor of this action, it did not report the bill favorably, and not a word of evidence has come before your committee since that time to change your opinion; in fact, it was not even discussed in the committee.

[Here the gavel fell.]

Mr. TREADWAY. Mr. Chairman, I yield 3 additional minutes to the gentleman from New York.

Mr. BUCK. May I read to the gentleman, in order to clear the record?

Mr. SNELL. I have read that entire testimony myself. I have it right here.

Mr. BUCK. No; not that.

Mr. SNELL. If the gentleman will give me more time, he may read it.

Mr. BUCK. The gentleman states we have never made any discrimination? Let me read this:

Lumber, rough, or planed or dressed on one or more sides, except flooring made of maple.

Mr. SNELL. But those exceptions were taken care of in another part of the bill. But you never have taken two or three items out of a general class to favor some corporation or locality. The gentleman's own committee, which held the hearing, did not report favorably the prior bill, but in this bill, without a single word being said about it, without the matter ever having been considered and at the last minute this exception is made.

Mr. FULLER. We thought we were doing you a favor when we did it.

Mr. SNELL. You did not think you were doing us a favor; you thought you were putting somebody in the hole.

Mr. FULLER. Oh, we did not think anything like that.

Mr. SNELL. As a matter of fact, there is not a single man on the Republican side who had anything to do with the policies or in connection with making the rates in this bill, and the gentleman knows it.

Mr. FULLER. Except on that particular provision, and it was a gentleman from the Republican side who made the motion.

Mr. SNELL. You did it simply because you thought you would put us in a hole. However, that does not make any difference. I am a general protectionist. I believe in protection for every part of the country. I have never yet heard any man give a reasonable excuse for making this exception on these three classes of lumber.

Mr. DOUGHTON. Mr. Chairman, will the gentleman yield?

Mr. SNELL. I yield to the gentleman from North Carolina.

Mr. DOUGHTON. The gentleman suggested we were putting a colleague in the hole. May I say this provision was not mentioned, it would not have been thought of, and it would not have been before the committee if it had not been for that gentleman; and I may say further I did not vote for it.

Mr. SNELL. The Democratic majority of this House is primarily and entirely responsible for the rates in this bill.

Mr. DOUGHTON. We do not deny that.

Mr. SNELL. We have had nothing whatever to do with them.

Mr. DOUGHTON. No.

Mr. SNELL. If you saw fit to join with somebody on our side when he offered an amendment, that is all right, but the responsibility is on the gentleman's side. No reason has yet been given on the floor of this House in regard to why these three classes of lumber should be excepted.

Mr. DOUGHTON. If the gentleman will yield further, I did not vote for it.

Mr. SNELL. I do not know who voted for it, but it is in the bill. In honest fairness to every other part of the country, I believe when the appropriate time is reached in the consideration of this bill this provision ought to come out, and I propose to make a motion to strike it out.

Mr. BUCK. Mr. Chairman, will the gentleman yield further?

Mr. SNELL. I yield.

Mr. BUCK. Does the gentleman believe that his colleague, the gentleman from Minnesota [Mr. KNUTSON], was trying to carry out the theory on the tariff of Col. Frank Knox?

Mr. SNELL. I do not know what my colleague from Minnesota was attempting to do. I have always understood that my colleague from Minnesota is a very ardent supporter of the protective tariff system.

[Here the gavel fell.]

Mr. TREADWAY. Mr. Chairman, I yield 7 minutes to the gentleman from Pennsylvania [Mr. RICH].

Mr. RICH. Mr. Chairman, taxation is a subject that affects all the people. Taxation without representation is tyranny, and representation without taxation is just as bad.

Taxes affect the farmer, they affect the laborer, and, in fact, they affect every individual in our country.

When the undistributed-profits tax was brought before this House 2 years ago, I then stated on the floor that it was the most ridiculous, asinine tax that was ever presented to the American people, and I reiterate the statement at this time. It is destructive taxation with the purpose to destroy. It is suicide taxation. It is insane taxation.

In the first place, I realize that taxes are required to run the Federal Government, but I wish to say to the Members of the House here and now that we need less expenditure of Government funds more than we need additional burdens of taxation if we want the people of this country to be able to secure jobs; if we want business and agriculture to go forward. A majority of the members of the Ways and Means Committee, I feel confident, if they were asked to vote their own convictions on this undistributed-profits tax, would vote it down. I have talked with members of the committee who do not want this tax, and they support it because the President wants it to punish; not for revenue. Oh, such principles in business; yes, even in politics. I cannot conceive of such punishment, such willful destruction.

What do we want to do? Do we want to kill business? When they enacted this undistributed-profits tax 2 years ago, why did they eliminate banks, and why did they eliminate insurance companies from the application of the tax? They said they did not want to affect the solidity of the banks

and insurance companies. They wanted them to continue in operation.

If we have any sense at all, we should realize that if this tax is detrimental to insurance companies and banks it will cripple other business the same as it would cripple insurance companies and banks. Why, in the name of heaven, do we want to cripple other business? Why do we want to cripple a manufacturing establishment that wants to give jobs to our people? The most important question you men have confronting you at the present time is the giving of jobs to individuals. Yet you would kill the goose that lays the golden eggs.

We ought to be pleased that we have a few families in this country that are trying to give honest, legitimate work to the people of the country and to keep their communities alive. Good, sound, close corporations are needed in this country. The very best companies in this country have been the ones that have been brought forth by the efforts of the individual. I was never associated in my life with a stock-selling scheme, and I do not want to be. Yet now you want to encourage us to do this and I shall not be a party to it. We are condemning the large corporations for selling watered stock, and yet we are penalizing and trying to drive out of business the small individual manufacturing concern or the businessman who is interested in his own people and in trying to make a success of the business of this country. We say to such a man, "Because you are a small individual you cannot protect yourself in times of depression. You have to pay your money out in the form of dividends. You must be taxed from 7 percent to 27 percent of your earnings unless you pay them out to your stockholders."

If a corporation earned 10, 12, or 14 percent, it usually paid its stockholders 5 or 6 percent dividends. It put the balance of the earned money into surplus or into improvement of its equipment or its buildings, and because it does this you now propose to charge it from 7 to 27 percent, although it is simply trying to keep its business in good shape. I never knew of anything more idiotic, and I say "idiotic" because I mean just that. We may not be fools, but we do the things fools would do.

You do not encourage them to retain 5 or 10 percent of that surplus to carry them over times of depression for the purpose of meeting their pay roll or for the purpose of paying their preferred-stock dividends. During this depression, as well as the one before this, this has been one of the finest things that any manufacturing establishment has done, to pay dividends during a depression, with this bill that cannot happen again. This is the kind of stock that people want to have in their possession, and yet because they are proposing to follow this course, you bring in this undistributed-profits tax and say, "We do not want you to do this. We do not want you to try to create a surplus to carry you over times of depression. We will cripple you so you cannot run your business and employ labor. We want to penalize you so you cannot exist." If we get another depression you will be the cause of wrecking many business concerns. Are you going to do it?

Just imagine the situation with respect to a majority of the corporations in this country, and I am speaking of the small, legitimate corporations that want to continue in existence. Imagine them being in a position where they have no surplus whatever. If they have not any surplus to meet a depressed condition, they cannot continue with their business, and you wreck them.

This entire tax bill, if it is permitted to retain that feature, ought to be wrecked. You ought to kill it here in the House of Representatives. [Applause.]

We need to encourage business. Stop your ruthless spending. Help the country, the laborer, the farmer, the businessman, or corporation. Now you have your income tax; your capital-stock tax; your franchise tax; local road, county, and school tax; Federal electrical energy tax; social-security tax; borough and city tax; excess-profits tax; now the worst and most destructive tax, the undistributed-profits tax. Let us kill the last one; it is destructive—not for revenue but for suicide of business.

Mr. TREADWAY. Mr. Chairman, I yield now to the gentleman from Illinois [Mr. MASON].

Mr. MASON. Mr. Chairman, in the short time allotted to me I shall present to this House a bird's-eye view of this forest of taxes that is before us, a forest that we have lost sight of because our minds have been focused upon some of the individual trees that make up the forest. I want, if possible, to bring the entire forest back into a proper perspective.

Mr. Chairman, H. R. 9682 is a very comprehensive and a somewhat complicated tax measure. Its provisions are about as difficult to grasp as the provisions of the farm bill that we passed a week or two ago. This bill itself contains 72,000 words. Its intricacies are confusing. Its labyrinth of words and technical phrases are very difficult to follow.

This tax bill is so comprehensive that it affects indirectly every taxpayer in the United States. Its direct effect is to modify and change four different and distinct types of Federal taxes, namely, income taxes, the capital gains and losses tax, estate and gift taxes, and various excise taxes. Besides modifying these four different types of Federal taxes, the bill seeks to make many administrative changes in the present tax laws, seeking to improve the administration of the same, to close known loopholes, and to remove some of the inequity of the present law. And all this is to be done with two compelling purposes in mind—

First, it must be a "face saving" instrument.

Second, it must yield about the same revenue as the present law. In truth, Mr. Chairman, this proposed tax bill is a real "hoop-skirt bill," one that covers everything but touches nothing.

I notice in the majority report of the Ways and Means Committee, page 3, the statement is made:

> The committee has been convinced that a substantial number of cases of hardship have arisen under the Revenue Act of 1936.

This statement is based upon the testimony of witnesses. The report also indicates that the committee was forced to take cognizance of the fact that five separate and distinct types of complaints were registered with the committee concerning the adverse effect upon business of the undistributer-profits tax. I quote from the report, pages 3 and 4:

> (1) The surtax discourages, in many cases, legitimate business expansion, and, therefore, has an adverse effect on employment.
> (2) It puts a penalty on corporations which find it necessary to use current earnings in the payment of debts.
> (3) It burdens the small and weak corporations more than the large and financially strong corporations.
> (4) It is unfair to corporations with impaired capital, which under State law cannot legally declare dividends.
> (5) The relief provisions applying to corporations having contracts not to pay dividends or requiring the use of current earnings for the payment of debts are so restrictive as to provide relief only in rare cases, although many other cases equally meritorious receive no relief.

In spite of being convinced that a substantial number of hardship cases had arisen under this unsound tax, and in spite of unanimous testimony from the 114 witnesses that testified before the committee as to these five very serious indictments against the fundamental principle of the undistributed-profits tax, the committee saw fit to bring in a report which summarized their conclusions as follows. I quote:

> (a) In many cases the hardships seem to have been exaggerated.
> (b) The undistributed-profits tax is sound and should be retained.
> (c) However * * * it should be substantially modified.
> (d) The committee is of the opinion that, in order to protect the revenue, it is necessary to impose a special undistributed-profits tax on closely held corporations.

These four quotations, found on page 4 of the report, summarize the conclusions of the majority of the committee and indicate clearly the attitude of mind of the majority members. The quotation, "in many cases the hardships seem to have been greatly exaggerated" suggests that in the

opinion of the majority members of the committee the testimony of the 114 witnesses was not to be accepted at its face value, but must be discounted. And this in the face of an earlier statement that—

> This committee has been convinced that a substantial number of hardship cases had arisen under the Revenue Act of 1936.

The conclusion that "hardships had been exaggerated" and the earlier admission "that the committee had been convinced" do not seem to go together. The next two quotations, (b) and (c), taken together, do not make sense, because the one states the tax is sound and should be retained, and the other says it should be substantially modified. These two quotations constitute the "face saving" conclusions. In effect they say, "The principle of the tax is good, but the effect of the tax is bad. Let us therefore hang onto the good principle, but modify the bad effect."

The fourth conclusion, quotation (d), is simply an excuse for imposing a special punitive tax upon closely held corporations. The only justification offered in the report for the imposition of this special tax was "to protect the revenue," which, in plain words, means, we must have the money. However, a different argument was advanced on the floor by the sponsors of this special punitive tax. It was that closely held corporations did not distribute profits, while widely held corporations did distribute profits; therefore, in order to make them equal before the tax law we must impose this special tax. I wonder if this is an invented theory or a demonstrated fact.

I wonder if evidence can be advanced to prove this theory that one kind invariably distributes profits and the other kind does not. If an unbiased survey were made, I believe it would be found that the percentage of closely held corporations paying out profits in the shape of dividends would equal the percentage of widely held corporations paying out profits in the shape of dividends. The crux of this whole problem it seems to me is not whether a certain closely held corporation, 2 out of 3 years, or even 3 out of 3 years, paid out large enough dividends to remove itself from the penalty of this special tax. The crux of this problem is that this same closely held corporation may find it necessary on the fourth year, or the fifth year, for the sake of self-preservation, to retain a large share if not all of its profits, and thereby become liable to the payment of this penalty. This tax penalizes and discourages good business practices, and for that very reason it is unsound and should be entirely repealed.

At this point I cannot refrain from pointing out some of the sugar-coating that has been carefully and purposely spread over this bitter tax pill that the House is expected to swallow. The sugar coating consists of the following, which, of course, we all favor:

First. Repeal of seven insignificant nuisance taxes, namely, the taxes upon toilet articles, furs, phonograph records, sporting goods, cameras, chewing gum, and matches.

Second. Easing of the tax burden upon small corporations.

Third. An allowance made for operating losses in the preceding year.

The majority members of the Ways and Means Committee, in their signed report, make the same extravagant claims for this bill that they made for the 1936 tax bill, namely:

> It will improve our existing revenue system; it will remove inequities; it will equalize the tax burden and it will stimulate business activities.

On the other hand, the minority members of the Ways and Means Committee, in their signed report, make the same dire prophecies concerning the effects of this bill upon business activities as they made in connection with the 1936 tax bill. In view of the bitter experience during the past 2 years of the effects of the 1936 tax bill upon business in general, which group upon the Ways and Means Committee came closer to being right 2 years ago? In the light of that experience, which report do you think is the safer one to follow today—the rosy report of the majority members or the rather gloomy report of the minority members?

In the light of all the testimony and evidence taken in connection with the complicated tax mess in which the Nation finds itself today, I do not believe there is one Member of this House that will say, "The tax bill now before us is a sound tax bill." Most of us, if we are honest and fair, must say that it is some little improvement upon the present iniquitous law. I believe, after reading the testimony, it is safe to say that 114 witnesses that appeared before the committee were against the principle of the undistributed-profits tax, and only one witness was for it. I concede, however, that the testimony shows that under very skillful questioning—yes, exceedingly able questioning—practically all the witnesses admitted there would be a little relief for them under the proposed bill. Those admissions prove beyond the shadow of a doubt the effectiveness of the cross-questioning that was employed at the hearing. Those admissions, however, do not prove that the bill is sound. They do not prove that the bill will cure our present business troubles. They do not prove that the businessmen will be all smiles when the bill passes. Those admissions should give little solace to the members of the majority that really want the Nation to be extricated from the slough of despond in which it finds itself today. Those admissions, although rather gleefully stressed by the sponsors of this bill, taken in connection with the condition today of small business and big business, of good business and bad business, indicate to me that our wilderness wanderings are not over yet; that we are still far from the Promised Land, and that our Moses does not occupy the White House at present.

Mr. TREADWAY. Mr. Chairman, I yield now to the gentleman from Maine [Mr. OLIVER].

Mr. OLIVER. Mr. Chairman, subsection C of section 704 should be stricken from this bill in the name of fairness, justice, and equity to all the sections and citizens of this great Nation.

The language contained in this subsection repeals the existing excise tax of $1.50 per thousand on imported lumber of the northern white pine, Norway pine, and western white spruce species grown in Manitoba, Saskatchewan, or Alberta. It is my understanding that this somewhat insignificant item appears in this 319-page bill as the result of activity coming at the fifty-ninth minute of the eleventh hour of the months-long consideration of this measure. It, furthermore, is my opinion that the most ardent proponent of this language is one lumber concern in Minnesota. Certainly this great body does not mean to legislate on the recommendation of one business concern of this Nation.

It is contended that the repeal of this $1.50 excise tax will only apply, as a practical proposition, to virgin growth of pine. Because our forests have been denuded of their first-growth timber, the Members of this House are expected to believe that this repeal of protection for our own producers and laborers will not disastrously affect large numbers of United States citizens. This is not the true situation. The lumber interests and woods labor of the entire New England area of our country, including New York and Pennsylvania, will feel the chilling effects of the Canadian competition made possible by this tax repeal.

If this repeal of duty only applied to virgin pine, none of us would complain, because we do not produce the upper grades, which sell for a price from $80 to $120 per thousand. In any event, the prevailing tax of $1.50 per thousand does not adversely affect the sale and delivery of $120 per thousand lumber, anyway. We would have no objection to this repeal if this action did not really affect our people much more vitally.

As a matter of record, in 1936, some ninety-two million of Canadian pine, valued at approximately $2,500,000, was imported into this country. This averaged about $26 per thousand, and thus became direct competition with the cut and sale of second-growth and lower grades of pine by our own people.

In the New England, New York, and Pennsylvania region in 1935, there were produced some 250,000,000 board-feet of northern white and Norway pine. This represents about 35 percent of the total domestic production. In the same year, some 99,000,000 board-feet of pine were imported, and of this total, more than 82,000,000 board-feet was the northern white or Norway species. Thus, we find that of total imports of pine, 93 percent was of these two species. These importations represent 33 percent of the northeastern production and 22 percent of the total domestic production. These are extremely high ratios. As a comparison, we may note that imports of west coast fir during 1935 were only 1.3 percent of domestic production.

The gentlemen from the northwestern States will be interested to take cognizance of this threatened further lowering of the bars on pine lumber importations from Canada, because their States have a stake in this question amounting to some 4,000,000,000 feet of red or Norway pine.

Here are some evidences of the kind of Canadian competition that we will force our owners and workers to meet if we enact this subsection:

Pine stumpage in—	*Per M feet*
Canada	$2–$2.50
Maine	6.27
Massachusetts	4.20
New Hampshire	4.27
Vermont	6.13
Rhode Island	6.00
New York	6.40
Pennsylvania	7.42
Connecticut	4.74

With reference to the stake of labor in this matter, I call attention to the wage schedule of Canada and the New England States:

Sawmill wages in Canada, 17 to 25 cents per hour.

Sawmill wages in New England States, 30 to 35 cents per hour.

In closing, I beg your indulgence while I repeat that the repeal of this $1.50 excise tax on pine lumber is unfair to American lumber owners and producers, it is detrimental to American labor, and it is rank discrimination against the northeastern area of our country. Furthermore, coming in here in this bill, like a flea on a great wolf hound, after a subcommittee of the Ways and Means Committee in 1937 refused to report similar language in a separate bill, it should be defeated in the best interests of all those effected. I urge that subsection 704 be stricken from this bill. [Applause.]

Mr. TREADWAY. Mr. Chairman, I yield 10 minutes to the gentleman from Michigan [Mr. DONDERO].

Mr. DONDERO. Mr. Chairman, the present revenue law brought in a new feature of taxation in the United States, in the form of the undistributed-profits tax. The present bill, H. R. 9682, before us seeks to modify it and to eliminate the application of that law to corporations making $25,000 net profit or less. That amount of exemption will apply to 90 percent of the corporations if enacted into law, but that 90 percent does only about 10 percent of the Nation's business, and employs laboring men in almost the same proportion, while the remaining 10 percent of the corporations of the country, which do 90 percent of the Nation's business, will still be subject to the tax. Just how the undistributed-profits tax has penalized and burdened business in this Nation is best exemplified by what it has done to one corporation in my district. In a little town of about 25,000 people exists a small corporation and employs about 40 people. In 1936 that corporation made a profit. It used that profit to pay capital obligations. When the end of the year came they had no money on hand to pay the dividends or the Federal tax on its profit if it did not distribute its profit. It either had to declare a dividend or else pay it out in undistributed-profits taxes, and the corporation chose to borrow the money to pay the dividend. It borrowed 85 percent of the amount it paid out. This year the corporation again made a profit, and used the profit that it earned to reduce its capital obligation, in order to keep a roof over its head, so to speak, in other words, to pay on its mortgage or land contract, or be set out in the street. But it had no money left after it had made this payment with which to pay dividends, or with which to pay taxes to the Federal Government.

Therefore it devised a plan to meet the emergency in which it found itself, issued what is known as a debenture warrant, and sent these certificates or warrants out to the stockholders instead of a check in order to continue in business, because it could no longer borrow upon its security, having borrowed 85 percent of the dividends in 1936. These debenture warrants are nothing more than I O U's. That is what has happened to one company, and what has happened to this little corporation probably has happened to thousands of corporations in the United States. I hold in my hand the warrant or certificate that the company issued in place of the money it should have paid but could not pay. The proof of the damage done by this tax is in the evidence that can be submitted, and this is an example of the damage done by the undistributed-profits-tax principle.

If the ever-normal-granary philosophy of which we have been hearing considerable is correct, to lay up a surplus of food for lean years, then the undistributed-profits-tax philosophy must be wrong, because that takes away the surplus with which labor could be employed during lean years. If one is right, the other must be wrong. More than a century ago the Supreme Court of the United States very appropriately warned the Nation that the power to tax also included the power to destroy, and this form of taxation bears out the correctness of that warning. For that reason I cannot go along with this bill as long as that principle of taxation remains in this proposed piece of legislation.

The question of the tax against closely held corporations may not mean much to many Members of this House, but when it applies to a corporation domiciled in your own State, representing one of the great industries of the Nation, and when that corporation is resident almost within your district and you have many thousands of men working in that factory, living in your district, who are your constituents, it means a lot more to a Member of this House when he rises to speak on the subject of the tax against closely held corporations, such as the Ford Motor Co.

Whether it is intended to do so or not, this bill is leveled directly at the Ford Motor Co., a closely held corporation. The sooner this country understands that Henry Ford is not building automobiles because he needs bread the sooner a great industry in this Nation will be on its way to further expansion and a better day for the laboring men, at least in the State of Michigan, and throughout the entire Nation, because he employs directly and indirectly a million and a quarter people in this Nation. The sooner we understand that the sooner Henry Ford may have on his pay roll 87,000 men again, the number of men employed in normal times, instead of having only 20,000 on the pay roll as at present. I do not know what there is about a closely held corporation that should make it the object of special burdens in the form of taxation. If it is right to exempt the small corporation from this form of taxation it is right to exempt the large corporations.

Henry Ford—while I do not condone everything perhaps that is done in his factory—has led the world in the payment of high wages to the laboring man, beginning more than 20 years ago. The particular section relating to closely held corporations ought to be eliminated from this proposed legislation.

I have received a great many letters, nearly 100, from different corporations in my State on this bill. I have yet to receive the first one asking me to support the principle of the undistributed-profits tax. I can say to my good friend, the gentleman from Oregon, who sits before me, that these letters come from little business as well as from big business. Little business, to a large extent, is dependent upon big business, and the Ford Motor Co. is dependent on little business because that corporation in itself is dependent upon

nearly 7,000 other small corporations for materials and supplies. Little-business men are all affected by this undistributed-profits tax. Many of them will be eliminated. I am gratified to know that a provision has been put in the bill to exempt corporations that make $25,000 or less.

Mr. PIERCE. Mr. Chairman, will the gentleman yield?

Mr. DONDERO. I yield.

Mr. PIERCE. Does not the gentleman remember that men who are affected by the bill only indirectly do not write to us? It is the man who has to pay something who writes to us. We do not, of course, receive letters from a large number of people who have benefited by taxing those that have the incomes.

Mr. DONDERO. The answer to that question is that the letters come from people who have to meet the pay roll. They are the ones who are asked to furnish employment to labor in this country. They are the ones who have to provide the business of the country; not the man who works in the factory, in the corporation, although even that man is dependent upon the condition of business existing in the little plants. If they do not have business, the workingman does not have a job.

Mr. PIERCE. Mr. Chairman, will the gentleman yield for one further question?

Mr. DONDERO. I yield.

Mr. PIERCE. Has not the time arrived in America when these men with these mighty fortunes must know that they hold them in trust for all the people? We have moved on from the day constantly talked about by you people on the left to another age.

Mr. DONDERO. Let me answer that by saying that if Henry Ford had piled his millions up in currency, what the gentleman is saying would be absolutely right; but his great wealth does not exist in that form, it exists in the form of factories, plants, machinery, and branches not only in this country but all over this world. He has furnished employment for 1,250,000 people. Had this law been in effect 30 years ago, when Henry Ford started, he would be still employing 75 people on an obscure street in the city of Detroit, for he would not have had the capital or incentive to expand his business.

Mr. HOFFMAN. Mr. Chairman, will the gentleman yield?

Mr. DONDERO. I yield.

Mr. HOFFMAN. Has not the gentleman from Oregon forgotten the parable about the buried talent?

Mr. DONDERO. I shall have to leave Biblical matters to better authority.

[Here the gavel fell.]

Mr. TREADWAY. Mr. Chairman, I yield such time as he may desire to the gentleman from Ohio [Mr. WHITE].

Mr. WHITE of Ohio. Mr. Chairman, the undistributed-profits tax is a breeder of unemployment. This tax places a Government penalty of $380,000 on a firm that wants to spend a million dollars on a program of plant replacement or expansion. It means that the project is not undertaken in 90 cases out of a hundred. By this penalty, the Government makes the cost prohibitive. As a consequence, the jobs that would be required to make the replacement or expansion, and the jobs that would be necessary to produce the materials required for the project, are forfeited on the altar of Government short-sightedness.

Multiply this individual example by thousands of similar cases, among little and big concerns from coast to coast, and you can get some idea of what this foolhardy penalty has meant in terms of jobs in nearly every community throughout the country. It is a tax on employment. Hundreds of millions of dollars' worth of jobs are chained to the fence post of Government-enforced inactivity by this brainless "brain trust" brainstorm.

Stop and realize what this tax has done for another angle in the present depression. Last fall you saw the bottom fall out of buying. Trade volume catapulted downward. The plunge in trade volume immediately brought an equally severe plunge in employment. Why was that? There was no proper cushion of reserves. Because this self-same undistributed-profits tax has been a chunk of stone around the neck of every man and woman whose continued employment during time of business decline depends upon the reserve resources of the concerns for which they work. By placing a penalty upon efforts to restore reserves that were exhausted by the 1929 depression, this tax has poked great holes in the umbrella of the laboring man who must depend upon these reserves to give him some protection in rainy-business weather. When the present rainy-business weather came along the protection of the umbrella was frightfully inadequate because of Government sharpshooting and immediate unemployment was the result. As fast as the plunge came it became translated into joblessness in the flicker of an eyelash.

I have a letter from one small company that used 72 percent of its capital and surplus from 1931 to 1934. They started 1935 with an impairment of $16,700. Their profit for the year just then ending was $8,825.51, before deducting Federal taxes. They sorely needed new machinery and tools. They owed money at the banks and wanted to keep their credit good. And yet they could not buy new machinery, they could not reduce their indebtedness by any fair standard of reason, and they could not add this modest sum to their reserves for a rainy day—because the total income tax would have been $4,122.56 and the tax on undistributed-profits $2,370.61; a total tax of 33 percent on the year's meager profits, despite a capital impairment of $8,177.63 that would not even permit them to legally declare a dividend. When the orders fall off for a concern forced into these circumstances by the Government, you can see that unemployment follows almost instantly.

By penalizing thousands of small companies against debt retirement to the extent that they cannot even afford to pay the money they owe and should pay to preserve their credit, the Government is breeding not only unemployment from this additional angle, but also promoting insecurity and unhealthy, unsound business practice. On this basis the crash of 1929 would have produced twice as many bankruptcies and twice as much unemployment. It creates an economic situation that is pregnant with ultimate disaster.

This third basket provision of the pending bill strikes a special blow at family-owned business enterprises that have been the main livelihood and backbone of countless smaller communities. It promotes monopoly and injures independent business.

The undistributed-profits tax promotes unemployment, destroys the reserves that carry through periods of economic stress, and is a barrier to proper and most desirable debt retirement. I have hundreds of specific examples to prove that its burdens fall heaviest on the employees and owners of small concerns.

When will Congress recognize these facts and take matters into their own hands? I will bet dollars to doughnuts that the majority of the Members of this House know that what I say is true. If they would only follow their own good judgment, the undistributed-profits tax would be repealed here and now. Instead, outside influences are permitted to prevail.

This tax is not the only Government fallacy responsible for current unemployment and business conditions, but it is obvious that it is depriving thousands and thousands of people of the jobs they could otherwise obtain or hold.

When will Congress put the plight of the poor devil who has no job—likewise the plight of the fellow who has one, but is in danger of losing it—ahead of face-saving political devices? The present undistributed-profits tax is a tax on employment. It keeps men and women out of work. For their sake it should be repealed.

Mr. TREADWAY. Mr. Chairman, I yield such time as he may desire to the gentleman from Michigan [Mr. SHAFER].

Mr. SHAFER of Michigan. Mr. Chairman, whatever else may be said about the bill now under discussion, it misses by a wide margin meeting the demands of business and industry of my district.

The administration recognizes, as we all recognize, that the great trouble at the present time is with what President Roosevelt has called small business. Monopolies and trusts are only a part of the economic structure of this country, and, after all is said and done, the small businesses, community industries, are the backbone of our economic structure.

In line with this view and in an effort to intelligently approach the problems which face us I mailed to the businessmen of my district a questionnaire, in which I asked them to tell me frankly what they believed should be done and what they believed should be undone, or not done, if we are to get out of this depression.

It is recognized by most Members of the Congress and, I think, by the leaders in business generally that fear, uncertainty, and hesitation are very largely responsible for the slowing up of the Nation's business at this time.

Now, in the final analysis, and so far as the practical results are concerned, it makes no difference whether these fears, this uncertainty, and hesitation are founded on well-based facts or whether they are the result of a misunderstanding and misconstruction of administration policies and world conditions or whether they have no more actual basis than the fears of a child in the dark, the fact remains that the practical results of these fears, of this hesitancy and uncertainty is a depression.

One of two things must be done: either those things that small business fears, which the Congress fears, which labor fears, which agriculture fears, which industry fears, must be so clarified as to eliminate those fears, or, whatever in the governmental policy is actually operating to generate and sustain those fears must be eliminated from the picture.

Among other reasons assigned by more than 80 percent of the businessmen of my district who responded to my questionnaire were the following:

General hostility on the part of government against all business.

Lack of faith in the present Congress to do anything that will help business.

Fear of the effect of the enactment of the proposed wage-hour bill, despite the fact that the average wage in the district is far above that proposed in the act.

Labor upheavals, which have disrupted the normal flow of business and the resultant reduction in buying power of the workers.

Relief program, which has created a class unwilling to help itself, but content to live on public doles.

The principal objections voiced to the undistributed-profits and capital-gains taxes were that their operation makes it impossible for business to see its way clear to speculatively produce inventories against future sales. The cash payment of dividends is also opposed for the reason that it often compels corporations to borrow money to meet these obligations to the stockholders.

Some of the employers replying to the questionnaire wrote that these laws were put on the statute books under the "soak the rich" stimulus, and that their result has been to cripple corporations which are attempting to build up a surplus against a period of depression.

A large percentage of employers declared that Congress could best assist them in restoring employment by repealing the excess-profits tax and adjourning. Nearly all urged that Congress refuse to consider further legislation to regiment and control industry. Practically all replies agreed on one point, that business has been placed in a strait jacket.

In view of this response by the businessmen of my district, there is nothing for me to do but to vote against this bill. It does not meet the requirements of the businessmen of my district. I am being guided by the best advice I can secure from my constituency. This advice does not come as the result of a convention, but from businessmen who have sat down calmly and carefully answered to the best of their ability, and in the light of their experiences, the questions which I asked.

I am convinced that if other Members of this Congress would do as I have done, if they would send out a questionnaire designed to bring back the answers from the small-business men of the United States, they would get about the same response I have gotten and in the same ratio.

President Roosevelt in his last press conference warned that the country must not confuse methods with policy. My conviction, in the light of information I have received from my business people, is that it makes no difference whether it is a policy that produces fear, uncertainty, and hesitation in business, or whether it is methods which produce those same fears, the practical effect is the same and that effect is depression and unemployment.

Here, Mr. Chairman, is no special plea of officials of some monopoly or trust. Here are the sober, earnest, carefully thought out answers of the rank and file small-business men of America, as represented by a cross section of the businessmen of my district, in which we are told that these specific things are the basis of our trouble.

If we are going to eliminate the conditions underlying this depression, we are going to have to do it by an intelligent cooperation with the small-business men and industry of this country.

My businessmen have told me what they are afraid of. They have told me what has made them uncertain. They have told me what has caused them to hesitate. Among other things, as I have noted, is the very policy of taxation which we are considering here today.

I can do no less as an honest representative of my district, being thus advised, than to vote against this bill because it does not meet the ojections of my businessmen. It does not eliminate their fears. It does not remove their uncertainty and it will not cure their hesitancy to proceed on sound, long-term business plans.

Mr. TREADWAY. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. BACON].

Mr. BACON. Mr. Chairman, I think it is safe to say that every economist who has studied the undistributed-surplus tax is opposed to it, with the possible exception of those who are employed by the Treasury and former Professor Tugwell who used to be connected with this administration. Mr. Tugwell in his book, Industrial Discipline, advocates the tax on undistributed surpluses in order to prevent the expansion of business. His thesis is that the Government itself should finance and lend money to all industries, that it should not come from the savings of the people.

It is interesting to know what other countries have done in connection with the undistributed-surplus tax. The only country in the world that has it at the present time is Norway. In Norway it became so oppressive on business that they have had to lower it to the figure of 8.8 percent. Sweden tried this tax for some time, and because it was so ruinous to business and caused unemployment, Sweden repealed it. It is interesting also to contemplate that thrifty little country of Holland. In Holland where they are shrewd and wise, and are governed by common sense they have done just the reverse. They have an income tax of 9.05 on corporate earnings except those earnings that are not paid out in dividends. They encourage thrift amongst the corporations. The same is true in France, Belgium, and Denmark. In every one of these countries there is a premium on corporate saving as against dividend disbursements.

England went into this whole matter very exhaustively through a royal commission in 1919, 18 years ago, and they came to the definite conclusion that an undistributed tax on corporation surpluses would be detrimental to the normal expansion of business. England has no such tax. It does not even have a tax equivalent to our section 102.

The Brookings Institute and the Twentieth Century Fund, two great independent organizations devoted to economic research, have gone into the economic effect of this tax most exhaustively. The Brookings report says, for instance:

The conclusion reached is unequivocally that the tax should be repealed.

The Twentieth Century Fund comes to this conclusion:

The committee recommends the repeal of the undistributed-profits tax as it now stands.

The Brookings Institute examined 1,560 small- and middle-sized corporations in making an exhaustive economic research of this problem. It has as the result of examining these businesses recommended that this undistributed-profits tax be repealed.

It seems to me, Mr. Chairman, that the solution to this problem is repeal of the undistributed corporation surplus tax and the strengthening of section 102 of the act so that it can really be enforced. Of course, section 102 deals directly with the private corporation, the family corporation, or whatever you may be pleased to call it, that is designed solely for the avoidance of the payment of taxes. That is the situation we want to remedy, and we all agree it is the problem that should be reached. The solution is the strengthening of section 102 and not the punishment of corporations throughout the country that may want to build up a reserve or surplus in order to spend that surplus in the expansion of business, the making of improvements, or the building of new plants.

I have in mind a middle-size corporation in the State of Pennsylvania that wished to spend $1,500,000 to build a new plant. It went to the bank and the bank said, "We will lend you this $1,500,000 at 4 percent." This company, however, had to build up a surplus in order to pay back the bank, and on this surplus it had to pay over 22 percent to the Federal Government. Therefore, the money would have cost this concern over 26 percent.

[Here the gavel fell.]

Mr. TREADWAY. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. BACON. Mr. Chairman, if this corporation had been able to build this new unit, it would have given permanent employment to 650 men in addition to the employment it would have given by spending $1,500,000 for the construction of a new plant. It could not afford to borrow money at the equivalent of 26 percent, so it did not build the new unit. It did not borrow the money from the bank which the bank was willing to lend. Six hundred and fifty men were deprived of permanent employment as a result of this tax, and so the unemployment problem was thereby aggravated.

Mr. Chairman, I think we should consider the effect of this tax on the unemployment situation. If it is repealed, I believe that legitimate business will use its surplus to expand and build new units, and thereby give employment to the unemployed. I do not think we should overlook the effect of this tax on the unemployment situation. [Applause.]

Mr. Chairman, on last Saturday Mr. Walter Lippmann, in a very timely study of the undistributed corporation surplus tax, called attention to a study recently made by Professor Colm and Professor Lehmann, two German economists who are at the moment in exile in this country. The title of their study is "Economic Consequences of the Recent American Tax Policy." These men are noted economists and their work, as Mr. Lippmann points out, is scientific, disinterested, and free from partisanship. They conclusively prove in their analysis that the combined effect of high income taxes and the undistributed corporation surplus tax throttles new enterprise and prevents the expansion of business, and that these factors, of course, prevent new employment opportunities.

It is well known that the high income taxes are not designed to raise revenue but have been imposed for the declared purpose of redistributing wealth. As Mr. Lippmann points out, the best proof that these taxes laid upon high incomes have not produced great sums of money is the fact that at the present moment the largest revenues are coming from the sales taxes on consumption, levied on the masses of the people, and from social-security taxes levied upon the pay rolls of workmen.

I do not propose here to discuss the wisdom of taxes on high incomes for the purpose of bringing about a redistribution of wealth. I do, however, want to point out that in the past the savings of the well-to-do have been the source of most of what Mr. Lippmann calls adventurous capital. The savings of the people of moderate circumstances generally goes into conservative investment, such as savings banks, life-insurance companies, or institutions which invest their funds only in the safest kind of securities. Therefore, so far as the creation of so-called adventurous capital is concerned, it comes mostly from the savings of the well-to-do, and it is this adventurous capital that to a marked extent translates itself into new enterprises. Of course, it must be realized that all new enterprises are to some degree speculative. The well-to-do no longer invest in new ventures which of necessity must be speculative in character because if they lose their money they get no relief on their other taxes, and if they make a profit the Government takes the largest part of that profit away from them. It is therefore not worth their while to take the risk.

The other source of new enterprise, and particularly the expansion of old enterprise, comes from corporation savings. In other words, it comes from plowing back the profits of a business concern in new developments and new expansion. It was only in this way that the automobile industry was developed. Had the undistributed-profits tax been in effect during the last 25 years, the Eastman Kodak Co. would not have existed today as it had developed from the plowing back of its profits into new inventions and new developments in the kodak business which, in turn, have afforded employment to thousands upon thousands of people in Rochester, N. Y. Thus, the two principal sources of new capital—that is, the savings of the well-to-do and the saving of corporations—are both shut off in this bill. In concluding my remarks I wish to read from Mr. Lippmann's articles on this point:

This explains, as nothing else explains, the paradox that we have large sums of money available for investment and that there is almost no investment in the expansion of private industry. This country has lots of capital. But it belongs either to the middle class, which cannot take risks, or to the rich, who can no longer make any money by taking risks. Therefore, this capital is not available for new private enterprise. It is available only for bidding up the prices of old established properties or for Government financing.

The net conclusion we are driven to is that if, for broad social and national reasons, we wish to continue to tax the rich out of existence, then we cannot afford also to prevent corporations from holding back profits and using them to finance industrial expansion. We can probably afford the present income-tax structure or the undistributed-profits tax. But we cannot afford both if we wish to see capital invested in private enterprise in order to create new jobs and services.

If both kinds of taxation are to be retained, we shall be driven inevitably toward some kind of Government financing of private enterprise supplemented by much greater investment in public works than we have yet considered. For if we cut off the private supply of adventurous capital by income and undistributed-profits taxes, then unless we are to have stagnation and growing unemployment, we shall have to provide a public supply of adventurous capital.

And so, unless the tax laws can be amended so as to encourage adventurous private investment, we shall come inescapably to a time when the Government itself will be the principal banker and the principal entrepreneur.

We are today faced with ever-increasing unemployment. This tax on undistributed corporation surpluses has been blamed by little-, middle-size-, and big-business men throughout the country as one of the major reasons and causes for the depression and ever-increasing unemployment. Whether this is true or not, it has become a symbol of the present depression. Its repeal would create a favorable psychological reaction that would go a long way in putting us back on the road to prosperity. The failure to repeal it will have a bad psychological effect and will be construed by little-, middle-size-, and big-business men as evidence that this administration does not want to hold out a helping hand to business recovery. Business will never be able to take up the unemployment slack as long as this tax remains on the statute books. Its removal will encourage business to seek new opportunities to expand which will result in thousands upon thousands of new employment opportunities in the private field.

It has been claimed by the Democratic members of the House Ways and Means Committee that if this tax is repealed it will mean a loss in revenue of between two hundred and two hundred and fifty millions of dollars. I do not for one minute believe that this is true. On the contrary, I believe that the resulting expansion in business from the repeal of this tax will more than make up this amount of money in the increased sum that will be derived by the Treasury from the regular corporation income tax. But more important, the repeal of this tax may well result in putting 700,000 men to work. Let me remind the committee that only recently we appropriated $250,000,000 which the W. P. A. estimated would put 700,000 men to work in the course of the year at W. P. A. jobs. Would it not be better to forego an income of two hundred to two hundred and fifty million dollars if by so doing we could put 700,000 men to work at real wages rather than to appropriate $250,000,000 to take care of 700,000 men at W. P. A. wages? It seems the Democratic members of the Ways and Means Committee have entirely overlooked the effect of the repeal of this tax with relation to the unemployment situation.

Mr. TREADWAY. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. WOODRUFF].

Mr. WOODRUFF. Mr. Chairman, President Roosevelt on Friday, March 4, commenting on the fifth anniversary of his becoming Chief Executive, said:

> The significant thing after 5 years is that the old ship of state is still on the same course.

I find myself wondering just what Mr. Roosevelt means, because he has a habit of using words in unusual connections and with unusual meanings.

He says:

> The significant thing after 5 years is that the old ship of state is still on the same course.

Does Mr. Roosevelt mean that, after 5 years of the New Deal policies, it is significant that we are still a constitutional democracy?

Or does he mean that after 5 years of New Deal policies it is significant that we are still on the same course of depression—which we are? Just what does he mean?

On the same day he uttered that statement he took it upon himself to defend the so-called penalty provisions of the bill, imposing special taxes on closely held and family owned corporations, now under consideration.

> Some of these closely held corporations—

He said—

> showed at the end of the year no profits, or were just in the black, according to their books.

At the same time he called attention to the fact that it was possible for these officials to pay themselves "very large salaries which were not known to the public," the implication being, of course, that because of the situation something must necessarily be both reprehensible and dangerous.

Now, Mr. Chairman, every member of the Ways and Means Committee knows that the principle back of the provision of the bill to which the President referred, the thing responsible for its being in the bill, was a professed desire to force earnings of these closely held corporations out of their treasuries and into the pockets of the owners, in order that they be prevented from evading a proper tax on their actual incomes.

The hypothetical case cited by the President disclosed the exact conditions the majority members of the committee profess to see brought about. Certainly the profits had reached the pockets of the owners, and what difference does it make whether they reached this destination through the medium of dividends or that of salaries? The fact remains that they were within reach of the personal income tax law—the declared objective of those who proposed this iniquitous penalty tax originally and those who are now attempting to force it through this House.

The President must quickly have decided his selection of an illustration was an unfortunate one, because he immediately added that—

> These closely held corporations, paying high salaries to their officials who own the corporations, may say that they cannot afford to improve working conditions and to pay better wages, when actually they were making large amounts of money.

Again his shot fell short of the mark, as he would have realized had he not forgotten for the moment the power of collective bargaining in vogue today, the power of the strike, and the compelling effectiveness of a rising scale of wages in a competitive labor market. In these days these three things combine to bring into line those penurious and unwilling employers who may be overly reluctant to pay their employees wages representing a fair share of the wealth they produce.

In further discussing closely held corporations and the salaries paid to their officials, Mr. Roosevelt expressed a wholly new philosophical concept, if it could be called that, and certainly a new economic concept, if it could be called that, when he said that "competing businesses have a right to know what these closely held corporations are making."

Is it possible that here at last we have from the President his explanation for depressions? Carrying the President's concept to its ultimate analysis, not only would competing businesses have the right to know how much these closely held corporations are making but they would also have the right to know the methods by which they make it, their trade secrets, and any other item of information pertinent to what has always been regarded as private business and its methods of operation.

Can it be that Mr. Roosevelt has uncovered as the cause of the depressions the fact that our businessmen have not been frank with each other? Is it possible that all of this unemployment has resulted, that all this fear in business has come about because the American businessmen have had secrets from one another?

Plainly that is what is implied by Mr. Roosevelt's statement.

It seems clear from any normal construction of his words that what Mr. Roosevelt wants is for businessmen to know exactly how much competing businesses pay their hired help from presidents down to office boys; what their trade secrets are; who their customers are; how much each customer is buying; at what price he is getting his goods; how much it costs to produce the goods; how much it costs to market them; and, of course, what the net profits are.

Manifestly, such a condition as this might be Utopian from a standpoint of frankness and childlike trust; but if this is to be the goal of the New Deal in the next 3 years, assuredly readjustments will have to take place in the business structure of the United States never before contemplated by the wildest visionary seeking to bring about a transcendental state of idealism in a capitalistic system.

Again I quote the President:

> The significant thing after 5 years is that the old ship of state is still on the same course.

Yes, Mr. Chairman, the ship of state, unfortunately, is still on the same course. That course has been as clearly charted as it is possible to chart the course of a ship which, after wandering aimlessly hither and yon around the economic seas for 5 long years, finds itself exactly at the point from which it started. Apparently the old ship, with timbers weakened, its hull covered with barnacles, the old hulk loaded to the gunwales with ever-increasing burdens, its sails tattered and torn, its rigging weakened by the many economic gales to which it has been subjected during the past 5 years, is holding to that course. The President's pronouncement that "competing businesses have a right to know what these closely held companies are making" clearly indicates that.

If anything further were needed to destroy in the minds of American businessmen the hope that persecution of all business under this administration would cease, it was that

statement of the President's, together with the three provisions in this bill to which we of the minority so vigorously object.

Mr. Chairman, for more than 3 years we Republicans have been warning that the ship of state has been aimlessly wandering on the economic sea, and because of it the New Deal was delaying the return of prosperity, that it was producing an unsettled condition of business, and that it was fostering fear, doubt, and hesitation that would prolong rather than ameliorate the depression.

During those last 3 years we have been asserting that we could not have an America economically half slave to a political autocracy and half free under the traditional competitive system. We have time and again warned that we must either make a final choice between keeping our profits system or of abandoning the profits system for the adoption of a system based upon complete Federal control, regulation, and enforcement.

When we Republicans have said these things and have uttered these warnings, we have been condemned by the new dealers and by those who believed in the declared purposes of the New Deal planned economy as being reactionary, blindly partisan, prejudiced, biased, and unfair.

On Monday, February 28, before a Senate committee investigating the unemployment situation, the following declarations, among others, were made:

To activate our economy we can rely on the profits system and the hope of gain, or we can try the new European ideas of state regulation and the fear of punishment. We can try either, but we can't try both at the same time. The hope of gain demands more freedom from political domination than is consistent with any fear of punishment.

If it became clear tomorrow that America has definitely chosen her traditional profits system, forces would be released that would rapidly hasten recovery and reemployment. * * *

We have never approached our tax problem from the question, "How can we get the greatest possible encouragement to production and business activity?" We have approached it recently with what seems like a precisely reverse purpose. And yet in increased business and production alone lies the solution of our unemployment problem, as well as of our Budget problems. * * *

One of our principal problems is technological unemployment and the woeful lag of activity in the capital-goods industries. That is where our greatest pool of unemployment resides. That there has been a vast replacement of men by machines is beyond argument. The only possible offset to that is the creation of new industries and the expansion of old ones.

The combined influence of high and unreasonable capital gains and unwise undistributed taxes has almost stopped the development of new enterprises. Financing of new developments is a very risky business. It usually takes a long time and a period of consecutive losses before there are any profits. Under the capital-gains tax, the Government, in effect, is saying: "If you lose, you lose it all. If you succeed, we take most of it." Nobody wants to take such risks.

Another way to build a new industry is by plowing back its profits. Under the undistributed-profits tax that way is also almost completely closed.

The third and last way is to build by borrowing, but that avenue is also barred if the borrowing must be paid from profits.

Considering all three effects together, these taxes close all three approaches toward a solution of technological unemployment, which I think is our greatest unemployment problem. Our prime necessity right now—the development of new industries—is slowed tremendously by these twin taxes. I think we should exempt small industries and new industries during development and also exempt all expenditures of any corporation for expansion of capital facilities or development of new products or for payment of debt incurred for the same.

The regular income-tax structure should also be given a thorough overhauling to discover its maximum revenue-producing efficiency under the law of diminishing returns.

In our great need for revenue the tax laws should be designed for increasing employment and revenue and not for revenge, punishment, hatred, regulation, or advancement of any social theory. It is my belief that if they were scientifically revised for the two purposes I mentioned—maximum revenue and maximum recovery—we could make a very great advance.

There is another field that merits most careful study. I refer to death duties. Before I go further, let me say I am not for their repeal. It is a great deflationary influence. I am not interested in preserving any unearned wealth to a younger generation, my own or others. But I do think our process of suddenly breaking up enterprises and turning them into instant cash, regardless of conditions, should be studied to find a way to prevent the tremendous retardation it imposes on recovery.

Revision of Federal and State tax structures for maximum business activity and at the same time maximum revenue on the law of diminishing returns requires study. It is a matter of public concern of pretty nearly first magnitude. If there is such a thing as science in government this is where it should be applied. The Treasury is no place for the theories of political messiahs.

I repeat with the greatest earnestness that I believe that unemployment can be solved only by a proper readjustment of Federal policy and the tax structure for maximum business turn-over and activity, both nationally and internationally. In this way you will get the greatest Government receipts, the greatest amount of employment, and the greatest sum of money to be used for relief and necessary social work.

As long as employment lags we must spend for relief, but Government expenditure isn't the way to cure unemployment. There is only one way to do that—full private expenditure for consumption and investment in the normal proportions as between capital and consumers' goods.

It is the combination of millions of cautions that holds back the spending and development which could be 10 times more for reemployment than any Government action or all the spending for relief in any year of this depression.

Of course, all this depends on national policy. If it remains what recently it has appeared to be, there is no hope of reemployment and substantial recovery If it could be changed along the lines I have tried to indicate, I believe that we would have a rapid and immediate rise in all economic indexes.

I have recently heard some public men reproach business for the alleged failure to step forward and employ the millions of jobless, and intimate that if business doesn't, government will. In addition to being illogical and unfair, that raises hopes that can never be realized and expresses a promise to unfortunates that never can be fulfilled.

I say it with regret, but I would be less than candid if I failed to express my opinion that unemployment is now traceable more directly to government policy than to anything that business could or should do, and that if these policies are not changed, neither business nor government can ever solve this most terrible of all our problems.

If the gentleman who so testified had been a Republican, these statements just quoted would have been discounted, of course, as the expression of criticism arising from a partisan bias. The gentleman, however, was not a Republican. He was Bernard M. Baruch, world noted financier, former adviser of Woodrow Wilson, former head of the War Industries Board, intimate and loyal personal friend and adviser to President Franklin D. Roosevelt, frequent house guest at the White House, and one of the chief financial contributors to Mr. Roosevelt's campaign funds.

Mr. Baruch's testimony comes not only as a striking confirmation of the warnings and the criticisms against New Deal policies made by Republicans over the last 3 years, but it comes as a kindly, well-intentioned, courageous, and constructive criticism of President Roosevelt and his New Deal policies, which, Mr. Baruch said very truly, was expressed by him with great regret.

Up to this time neither the President nor any of his spokesmen have had any comment to make on Mr. Baruch's testimony. They have no adequate answer.

Furthermore, in his testimony this friend and supporter of President Roosevelt took exactly the position that we Republicans have from time to time expressed—namely, that insofar as there are any monopolistic practices, involving price fixing or other actions detrimental to industry, labor, or the consumers, the administration should have long since proceeded to prosecute such monopolies and to stop such practices under existing law, which, as Mr. Baruch declared, "is ample for the purpose."

How are we to explain the fact that Bernard Baruch, Raymond Moley, Louis Douglas, Gen. Hugh Johnson, Senator Burton K. Wheeler, Governor Lehman, and many other former close, personal friends and loyal supporters of Mr. Roosevelt, and men noted for their honesty, their patriotism, and their liberal views, have found it necessary to break with Mr. Roosevelt and his fundamental policies? These men cannot be called "princes of privilege," "economic royalists," or "aristocratic anarchists." They cannot be labeled "Republican die-hards" or "partisan critics blinded by political selfishness."

Here is a situation which deserves the most serious and continuous consideration of the Congress and of the American people. Mr. Roosevelt has had 5 years in which to demonstrate his policies. The present national debt, the present condition of business, the 13,000,000 of our people unemployed—depression—is the answer to those 5 years of the

New Deal policy of wandering hither and yon over economic seas. Either all of Mr. Roosevelt's critics—including his former intimate friends and supporters—are wrong and Mr. Roosevelt is right, or else the critics must be right and Mr. Roosevelt wrong. I leave it to the Members of the House to determine which.

Mr. Chairman, in conclusion I wish to say that I hope the Members of this House will, in voting on this bill and its controversial features, be governed by their convictions and not by the insistence of some high authority. [Applause.]

Mr. Chairman, I yield back the balance of my time.

Mr. TREADWAY. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. MICHENER].

Mr. MICHENER. Mr. Chairman, the Michigan minority representative on the committee, Mr. WOODRUFF, has made what really is the closing argument as far as the minority is concerned. I was momentarily absent from the floor or I should have preceded him. He has made a splendid address, in which I concur 100 percent.

I do want to say something in reference to the chairman of the subcommittee, the gentleman from Kentucky [Mr. FRED M. VINSON]. I have served with the gentleman a long time. We all have confidence in him. I am happy to know he is to go to the bench and be a member of the judiciary, where FRED VINSON can be FRED VINSON. Last autumn I went so far as to say to the gentleman from Kentucky, after this subcommittee had been appointed, that if Mr. VINSON were permitted to write this tax bill without outside interference I would feel perfectly safe in going to Michigan with the knowledge that a good job would be done. I am sorry that the gentleman from Kentucky and the majority members of the committee have not been permitted to write the tax bill they would write and bring before the House if they were given a free hand.

Mr. FRED M. VINSON. Mr. Chairman, will the gentleman yield?

Mr. MICHENER. Certainly, I yield to my distinguished friend, the gentleman from Kentucky.

Mr. FRED M. VINSON. Will the gentleman point out any witness who would say the gentleman from Kentucky or any other member of the committee was coerced into agreeing to any provision in this bill?

Mr. MICHENER. No. My regard for the gentleman from Kentucky is so high I do not believe he could be coerced to do anything he thought was absolutely wrong. I do feel, however, that under certain circumstances—such circumstances as existed in this case, for instance—he might yield to powerful persuasion on a question of administration policy, whereas if he were not urged he might act otherwise.

Mr. HOFFMAN rose.

Mr. MICHENER. I venture to say my friend, the gentleman from Michigan [Mr. HOFFMAN], the Will Rogers of the House, who always has some witty remark to make, is going to assume the gentleman from Kentucky might be seduced.

Mr. HOFFMAN. The gentleman is correct.

Mr. MICHENER. I do not believe he could be seduced, because I have profound confidence in his virtue. He would not yield to what he knew was morally wrong.

Mr. Chairman, the committee report advises us that the purpose of this bill is "to improve our existing revenue system, to remove inequities, to equalize the tax burden, and to stimulate business activities." In short, this is presumed to be a rewrite of existing internal-revenue laws. No change is proposed in the rates on normal tax and surtax on individuals. It is estimated that the bill will raise the stupendous sum of $5,300,000,000; that is, this law when placed on the statute books will take from the taxpayers of this country $5,300,000,000 annually to be spent by the Federal Government. Now, if there are 130,000,000 people in the country, that means $40.77 for each man, woman, and child in the country and, parenthetically, let me call your attention to the fact that every dollar taken from the taxpayer in taxes deprives the taxpayer from spending that dollar for necessities, to say nothing of luxuries. It reduces the purchasing power of the people to the amount of the tax collected.

Now, there is no use inveighing against the collection of taxes because the obligations of the Government must be met and the only way this can be done is through the Federal power of taxation. The tax is but the effect, while the spending is the cause. If taxes are to be reduced, spending must be reduced.

Two of our great committees in the House have been overworked during the last 5 years. First, there is the Committee on Appropriations, which must give consideration to and report on all appropriations. This is the spending committee. Second, there is the Committee on Ways and Means, which is charged with formulating laws to raise the revenue and provide the money appropriated by the Committee on Appropriations. The members on these two committees have been in Congress for a long time. They are seasoned Representatives and understand the relationship of spending to taxes and, in my judgment, if these committees were permitted to function without administration interference, the country would be a lot better off. Credit must be given to the Committee on Appropriations because of its attempt to reduce appropriations to the minimum, and seldom does the President send a spending budget to Congress but that the committee and the House make reductions.

Mr. TREADWAY. Mr. Chairman, will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Massachusetts.

Mr. TREADWAY. Would it not be advisable to have the Committee on Ways and Means follow that procedure and reduce the tax bill as the Committee on Appropriations reduces the estimate of the Budget?

Mr. MICHENER. No, I do not agree with the gentleman. I believe the Committee on Ways and Means is charged with the duty of raising the revenue Congress authorizes to be spent. It is an unpleasant and a difficult task, but it is the effect of the spending. The committee that brings out the bill that levies the tax, the Committee on Ways and Means, is not the committee that authorizes the spending, which is the Committee on Appropriations and the House. Neither the House nor the Committee on Appropriations would authorize this extravagant spending if an insistent spending administration at the other end of the Avenue did not insist on it.

Mr. TREADWAY. The gentleman now touches on the very point I had in mind, that the Committee on Ways and Means to a very large extent has followed the suggestions that come from the other end of the Avenue.

Mr. MICHENER. Yes.

Mr. TREADWAY. This committee must raise tremendous sums by taxation in order to meet the extravagant expenditures of the administration.

Mr. MICHENER. Yes. A tax is just the effect of a cause, and the cause is the spending.

The Committee on Ways and Means might be said to be in extremus so far as its task is concerned. All the usual reservoirs from which taxes are drawn have been exhausted. Unusual, untried, inequitable, unwarranted, and fantastic proposals are now being resorted to in an effort to meet the demands of the administration. Some members of the present Committee on Ways and Means served during the period from 1920 to 1930, and they got in the habit of writing bills to reduce taxes, the committee actually reporting bills reducing taxes five times during that period.

In the early days of the New Deal we were told that there would be no necessity for additional taxes but that so great would be the volume of business existing revenue laws would suffice. However, in due season the truth became apparent. We were advised that the first New Deal tax bill was for the sole purpose of plugging up loopholes to prevent tax avoidance. Here was a source that was to pay for the new spending. Ere long it was necessary to raise more money, and in due time another bill was named a "soak the rich" bill. This met with public approval, because where class prejudice is encouraged it is always popular to "soak the rich." Most drastic laws were enacted and surely the rich were soaked.

But killing the goose that lays the golden egg does not provide for the revenue on which to run the Government. The last soak-the-rich bill was passed in 1936, and this bill would not be before us today were it not for the fact that the 1936 New Deal tax law has wrought almost irreparable injury to the economic structure of the country, and the inequities and inconsistencies of that law are the real factors compelling the revision now before us. Of course, our New Deal friends do not like to admit this.

This bill contains 319 pages, is extremely technical, in fact so much so that it is impossible to discuss these technicalities in the limited time allowed for general debate. Then again, one must be a tax expert in order to even read the bill intelligently. In some particulars this bill is an improvement over existing law, and, that being true, at first blush one feels that duty requires that the bill be supported. However, a closer scrutiny has clearly convinced me that the bad in the bill far outweighs the good, and that, being opposed as I am to certain principles embodied in the bill, if these objectionable features are not removed, then I must vote against the bill.

I do not believe that the American people have ever been so wrought up over a tax bill as they are over this one. The features of the bill being most discussed in the press, from the rostrum, over the radio, on the farm, in the store, the shop, and factory are:

(a) The undistributed profits tax clause.

(b) The proposed penalty tax on closely held or family corporations.

(c) The capital-gains tax.

(a) The undistributed-profits tax was an innovation embodied in the 1936 New Deal tax law. Every prophecy made by those of us who opposed the law at the time has come true. There is no demand in the country for the retention of this law, while there is a demand from all sources for its absolute repeal. It cannot be said that these demands come solely from the corporations and business interests, for witness the resolution of the American Federation of Labor in convention assembled demanding the absolute repeal of this iniquitous hindrance to business recovery.

I charge that this law prevents the accumulation of adequate rainy-day reserves; that while it undoubtedly is not the sole cause of the Roosevelt depression, yet it was a large factor in bringing about this condition. It has reduced employment and prevented reemployment of labor. As between the small corporations and the large corporations, it discriminates in favor of the larger corporation, and especially so if that organization is a great monopoly. It strikes at the fundamentals of sound business principles and not only encourages but demands improvidence and places a penalty on any corporation attempting to provide security for a less prosperous day to come.

It will drive capital out of productive enterprise into tax-free securities, for why should the man with money invest it under such conditions when he can buy tax-free securities, secure a greater yield on his money, and have no worry about the management of a wealth-producing corporation? Specific instances have occurred, I believe, in the district of every Member here. For my part, I have had numerous complaints, and here is a typical illustration: During the depression in 1933–34 a small corporation in my district, employing between 300 and 400 men, exhausted its reserve, found no sale for its products, but, having faith in the future, arranged to borrow money at the bank to keep men employed, even though the manufactured goods had to be placed in the warehouse. This was a medium-sized town with three banks, and the banks, cooperating with this small corporation, loaned money to carry on. The contract between the banks and the corporation provided that the money borrowed should be repaid according to the terms of the agreement and that the debt should be reduced to a given point before any dividends were paid on the stock. The company lost money during the years 1932–36 but had a good year in 1937. According to its contract, the profits were to be applied on the indebtedness; but, in the meantime, the Congress placed this undistributed-profits tax, so that when the corporation had $100 to pay on its indebtedness at the bank it had to send practically $40 out of the hundred to Washington as an undistributed-profits tax. If the corporation had distributed this money to its stockholders and not paid its debts, then this tax would not have applied. Can there be any justification for or common sense in such a law? This example may be multiplied many times in every State in the Union.

The majority members of the committee urging the enactment of this bill insist that it is less drastic and will give more leeway to the honest corporation so far as profit distribution is concerned than does the present law. This is true, but the principle of the undistributed-profits tax is still there, and if this principle is accepted as a part of our fundamental law, and if the present spending of the administration continues, there is no doubt but that the necessities of the Treasury will be so great that these exemptions will be repealed when the occasion demands.

(b) Under this proposed tax on closely held or family corporations another new principle is brought into our revenue system. The provision is punitive entirely, is discriminatory, and undoubtedly aims at certain closely held corporations, even though there is nothing in the hearings to indicate just which ones they are. If this is an attempt to put the Ford Motor Co. out of business, why not say so? If it is intended to do away with small community corporations, why not say so? We all understand, however, that the effect of this law would be to impose an additional tax upon operating corporations in which stock ownership is held by a few individuals or by members of a family. It is intended to cover such corporations in which more than 50 percent in value of outstanding stock is owned directly or indirectly by or for one individual, and runs up to corporations in which 75 percent or more in value is owned by or for 10 or less individuals.

Again, may I use a practical illustration by quoting from a letter received from one of the leading industries in a city of more than 50,000 population. I quote:

> We would doubtless come under the proposed close-corporation feature of the tax law now under consideration. I built this business up from nothing in 27 years by producing good goods, servicing them properly, treating everyone fairly, and giving value received to everyone. It remained my personal business until 4 years ago when I incorporated it in order to give executives an interest in the business. Today it is owned more than 50 percent by myself and the total number of our stockholders is seven. We are a real influence for good in this community, giving steadier employment to our employees than any other organization of any size. Our company, as you can see, was not organized with any thought of evading or saving taxes but a natural evolution of many years of steady work. Is it meant to penalize such organizations? There are several business organizations in this city which would be affected the same way. The provision might force many a merger of two or more companies, although that would, I believe, be impracticable for us.

What this proposed tax will do to this community, as described by the above employer, will happen in thousands of communities throughout the country. The only excuse given for this proposal is that it will prevent tax evasion. The minority report and this debate have clearly demonstrated the fact that section 102 of the present revenue law is designed to meet just this situation. That law is already on the books, can be enforced, and can accomplish everything to be accomplished under this new proposal, with the exception of putting the corporations affected out of business. I charge that this provision of the bill will militate against the independent dealer and in favor of the large chain stores, where the stock is extensively held. It will affect newspapers, department stores, local manufacturers, and local institutions to a great extent. It is against the interests of the small-business man and will do particular injury to the independent concern that has been having difficulty in keeping its head above the economic waters because of competition with the chain stores. Again, it will cause many mergers. The small concern in your home town will find it impossible to compete longer with the great combine. In short, the small corporation will be taken over and the men on the pay rolls in the

smaller communities will find themselves without jobs. It will accentuate the tendency toward the great industrial centers and will do much to ring the death knell to the small-town, home-grown industries. Again, it cannot be said that this tax is being opposed only by the closely held corporations, for the American Federation of Labor at its recent convention in Miami, Fla., resolved that this tax was injurious to American labor and objected to its enactment. I have been making a serious effort to find someone who at heart is for this new innovation, and my investigation has led me to conclude that it gets its inspiration from the administration and can be called strictly an administration policy.

I had a letter the other day from a constituent who advised me that he had $100,000 invested in American Telephone & Telegraph stock; that a short time ago a small factory in his home town, owned by one family, found itself in financial difficulty when one of the members of the family died. That member's stock had to be sold. The man who wrote me invested $100,000 in the home industry to save the home factory, to employ home people.

He asks me why he should be discriminated against in that investment as compared with his investment in the great American Telephone & Telegraph Co., with its more than 600,000 stockholders. There is no answer. It just is not right and cannot be justified. I hope that the administration is not attempting to penalize newspapers or other manufacturing institutions, economic royalists, or any others who have had the hardihood to assert their independence and express their views as free American citizens. The argument made by the chairman of the Ways and Means Committee to the effect that but a few corporations will come under the operation of this tax because of the exemptions provided is not persuasive. Adopt the principle and the exemptions will be easily removed.

(c) The present law providing for the capital-gains tax kills its own effectiveness, tends to retard business transactions of all types throughout the country, lessens revenue collections, and has been most disappointing in every way. There is no justification for its continuance, and I join with those who advocate a return to the 12½-percent limit on capital gains which was in effect from 1921 to 1934. That is an equitable tax, while the present law has reached the diminishing return point.

If the purpose of this bill is "to stimulate business activities," surely that objective cannot be reached by prescribing new formulas for strangling business. Fear and suspicion can only be removed by removing the cause for the condition. An outright repeal of the undistributed-profits tax, a return to the former law affecting capital gains, and a defeat of the proposed tax on closely held corporations will be impelling incentives for business to go forward. Business is not going ahead until it can see ahead, and we cannot blame it. The passage of this bill, as I am advocating, will not in itself return the country to prosperity. It will, however, be a stabilizing factor of far-reaching effect.

The passage of the bill as advocated by the administration will be nothing more nor less than another red light on the highway to recovery. These redlights are becoming discouraging to business, little and big. The only redeeming feature about the bill as it is drawn is that it again reemphasizes the vindictive policy of the administration against the philosophy of saving rather than spending, against frugality rather than profligacy. Outside of administration circles it is generally conceded that the obstacles placed in the way of all business venture by recent laws are not only the contributing but the dominating factor in bringing about our second depression.

If a Republican makes these statements, then there are those among the new dealers who immediately shout "partisan politics." In these circumstances, I will be pardoned in quoting Mr. Bernard Baruch, an outstanding Democrat, a personal friend of the President, and one who has gone along with the New Deal until his interest in his country apparently makes it impossible for him to proceed farther up this blind alley. Appearing before the Senate Committee on Unemployment the other day, Mr. Baruch said:

> I say it with regret, but I would be less than candid if I failed to express my opinion that unemployment is now traceable more directly to Government policy than to anything business could or should do.

The day is gone when we must consider the New Deal in prospect. After 5 years of promises, trial, propaganda, ballyhoo, and failure, we are confronted with the stern reality of the morning after. A Nation exploited by impracticable theorists, a Nation bled white by unbearable and discriminatory taxes appeals to this Congress, its representatives, for relief. We must not disappoint. [Applause.]

Mr. TREADWAY. Mr. Chairman, I yield back the balance of my time.

Mr. DOUGHTON. Mr. Chairman, I yield the remainder of my time to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I feel sure that I voice the true sentiment and feeling of every Member of this body on both sides of the aisle when I join with those who have preceded me in paying a very deserved tribute to our distinguished colleague and friend the gentleman from Kentucky [Mr. FRED M. VINSON] who has served as chairman of the subcommittee drafting the pending bill.

I am sure we all recognize that he is one of the ablest Members who has served in this body [applause], a man devoted to the public service and one who has made a record here that deserves the highest praise and commendation of the people of this country. We all give him a full measure of our respect, confidence, and affection, and realize with deep regret that the services rendered by him on this measure will mark the end of his membership in this body. He will soon enter upon a service on the judiciary of this country. He is one of the most accomplished legislators who has served in this body. [Applause.]

I could not refrain from giving an expression of my personal feeling because he and I have served side by side, have sat next to each other as members of the tax subcommittee of the Ways and Means Committee from the time that subcommittee was first created on down to now. I perhaps may be in a position, even to a greater extent than many others, to give evidence to you of the genuine value of the service he has rendered this House and the country in these very difficult matters challenging our thought and attention.

Mr. Chairman, we accept with appreciation the complimentary remarks made by the distinguished gentleman from Michigan and others who have praised the work of the Ways and Means Committee and the subcommittee that has worked tirelessly on the pending bill for several months. We know, of course, it is never a pleasant task to have to levy taxes. We know that the more pleasant duty is to bring in appropriation bills appropriating money, but somebody has to discharge the unpleasant duty of raising the revenue necessary to sustain this Government of ours. When comparatively a handful of men have the responsibility resting upon them of raising practically every dollar of revenue the Federal Government is to receive, I assure you it is not only a great responsibility but it is a very difficult task, indeed. The Ways and Means Committee is charged with the responsibility of discharging this duty. It is interesting for us to remind ourselves of the fact that when the Government was first formed, and the First Congress assembled, there was one committee, the Ways and Means Committee of the House. We know that from that time on down to now many other important committees have come into existence and have their proper function as standing committees of this House.

We have listened to much discussion about the question of taxes and revenue for the Federal Government. Much of this discussion has been directed to the 1936 Revenue Act. We might remind ourselves of the fact that the 1936 act was made necessary by reason of two incidents that occurred. One was the passage of the legislation paying the adjusted-service certificates held by the World War veterans, for which the President was not responsible. The other was the action

of the Supreme Court of the United States in invalidating the Agricultural Adjustment Act and the processing taxes provided under that measure. These two items amounted to about $620,000,000. So in March of 1936 the President of the United States sent to the Congress a special message requesting the enactment of legislation to provide this much additional revenue.

There has been some discussion here as to who originated the idea of the undistributed-profits tax. Some gentlemen have stated that it was the result of views entertained by Mr. Oliphant, general counsel of the Treasury Department, or by Mr. Tugwell, Under Secretary of Agriculture, and there has been some speculation along that line as to who was responsible for advancing the idea that we should have an undistributed-profits tax.

As I took occasion to say a few days ago in endeavoring to reply briefly to some gentleman who had made that remark, as one who was on the Ways and Means Committee at the time, who heard every witness who testified, I can assure you that so far as I know Mr. Tugwell never had anything to do with it and knew nothing about it.

At that time we did not have an Under Secretary of the Treasury, and Mr. Helvering, the Commissioner of Internal Revenue, was the representative of the Treasury Department who worked with the Ways and Means Committee during the consideration of that bill. It was only when the chairman of the committee called for Mr. Oliphant, the general counsel, that he appeared and made a statement before the committee. It was rather interesting to observe when members of the minority side of the Ways and Means Committee undertook to cross-examine him, he took exceedingly fine care of himself, so far as the questions they asked him were concerned. They soon backed off entirely from any criticism. I remember very well one gentleman asking him why it was necessary to penalize the corporations of this country by an undistributed-profits tax. He said, in substance, "I don't insist, I don't even make the charge or the statement that it is necessary to penalize anybody, but I do not believe corporations are entitled to a subsidy out of the Treasury of the United States." That is the situation we have presented.

Of course, the fact is that the undistributed-profits tax was the result of a message from the President of the United States, and I ask your indulgence briefly to quote a few extracts from that message, because I believe it points out clearly the reasons for the enactment of an undistributed-profits tax from the standpoint of fairness and honesty in dealing with the people of this country in the matter of levying taxes. In this message of March 3, 1936, the President had this to say:

> Extended study of methods of improving present taxes on income from business warrants the consideration of changes to provide a fairer distribution of the tax load among all the beneficial owners of business profits, whether derived from unincorporated enterprise or from incorporated businesses, and whether distributed to the real owners as earned or withheld from them. The existing difference between corporate taxes and those imposed on owners of unincorporated business renders incorporation of small business difficult or impossible. The accumulation of surplus incorporations controlled by taxpayers with large incomes is encouraged by the present freedom of undistributed corporate income from surtaxes. Since stockholders are the beneficial owners of both distributed and undistributed corporate income the aim, as a matter of fundamental equity, should be to seek equality of tax burdens on all corporate income, whether distributed or withheld from the beneficial owners. As the law now stands our corporate taxes dip too deeply into the shares of corporate earnings going to stockholders who need the disbursement of dividends, while the shares of stockholders who can afford to leave earnings undistributed escape current surtaxes altogether. This method of evading existing surtaxes constitutes a problem as old as the income-tax law itself. Repeated attempts by the Congress to prevent this form of evasion have not been successful. The evil has been a growing one. It has now reached disturbing proportions from the standpoint of the inequality it represents and of its serious effect on the Federal revenue. Thus the Treasury estimates that during the calendar year 1936 over four and a half billion dollars of corporate income will be withheld from stockholders. If this undistributed income were distributed, it would be added to the income of stockholders and there taxed as is other personal income, but as matters now stand, it will be withheld from the stockholders by those in control of these corporations. In 1 year alone the Government will be deprived of revenues amounting to over $1,300,000,000.

That was the statement of the President of the United States to the Congress. As a result of that message the Ways and Means Committee drafted the 1936 revenue bill. The charge has been made here, and it has been included in publicity throughout the country, that the undistributed-profits tax is a penalty on business, that it is a penalty placed upon corporations. As I view it, just the reverse is the true situation. It is simply an attempt to make the Federal tax law such that it will be fair and equitable to all the people of this country. I think there are many reasons that could be given that would show the soundness of the undistributed-profits tax, but I shall invite your attention briefly to only two of these reasons. One is there can be no doubt that it has helped many people of the country. Many people have received dividends from corporations that had not been receiving them before. Just for a moment let us think what that means to the people. Here is a man who invests his money in the stock of a corporation. In a year's time that money invested by him earns so much. There is so much earning in that corporation that belongs to him as a stockholder, but the board of directors meets and says, in effect, "Well, now, your money has earned, say, 10 or 12 percent, but we have decided we are just going to give you 5 or 6 percent in a dividend, half of what your money has earned, and keep the balance in the corporation."

They do not say to him: Your money has earned so much, here is a check for your share of the earnings, we are going to pay it out to you in the form of a dividend, but we want to repair our capital structure, we want to increase our reserves, we want to build up our surplus; therefore, we would like for you to take some additional stock. They do not say that to him. As a general rule they withhold his money. This allowed a man once in a while to have a chance to see his own money that he placed in these corporations.

The main thing, of course, is the matter of revenue, and that is the thing we have considered, that is the thing that led to the enactment in 1936 of the Revenue Act of that year. Just as an illustration let us take the case of one of the wealthiest men ever produced in the history of this country, a man who built up a large fortune. He saw fit, as he had a right under the law, to operate generally through closely held family controlled corporations. He went along all through the years and paid about 15 percent corporation tax; whereas, if that money had been declared out to him he would have been forced up in the high-surtax brackets as an individual taxpayer. As I say he went along all through the years paying this normal corporation tax of about 15 percent, not allowing the money to be declared out to him in dividends, thereby saving himself large surtaxes that he would have paid as an individual taxpayer. He built up a large fortune, then left his fortune to a charitable trust and the Government did not even get the inheritance and gift taxes from it.

The important thing for us to bear in mind is that it takes so much money to support this Government of ours. If a man of that type is escaping the payment of his fair share of taxes for the support of this Government it is a matter of common sense that the other people have to make up that difference.

I insist that this is not fair. It is not fair for the Representatives of the American people in Congress to allow a situation of that kind to exist, where people can receive direct benefits and advantages under our tax laws. I believe that a greater degree of equality and fairness should be provided in the tax laws that will make the tax burden rest equally and evenly over all the people of this country, giving recognition to that sound principle of taxation according to ability to pay. That was one of the reasons prompting the enactment of the revenue law of 1936. As has been pointed out in the course of this debate, the bill that passed the House on that occasion was a real undistributed-profits-tax bill. The Ways and Means Committee took the message of the President of the United States and drafted the measure within the scope of that message. We provided for the ab-

solute repeal of the normal corporation tax. We provided for the repeal of the capital-stock tax and the excess-profits tax and left the bill as it passed the House as a pure undistributed-profits tax. I believed then and I believe now that it was a sound principle of taxation. We have never had an opportunity for it to be tried. For my part, I would sometime like to see that type of tax given a trial.

After this undistributed-profits-tax bill, which had repealed the normal corporation tax, the capital-stock tax, and the excess-profits tax, passed the House, it went to the Senate. There these three taxes that we repealed were restored to the bill. They put back the capital-stock tax, the excess-profits tax, and the normal corporation tax, and then imposed a very modified undistributed-profits tax on top of it. The facts are that the three taxes that were repealed under the House bill, the normal corporation tax, the capital-stock tax, and the excess-profits tax yield eight times as much revenue as the undistributed-profits tax portion of the existing law.

These three taxes yield $1,200,000,000 annually. The undistributed-profits tax yields $150,000,000. We hear the charge made, however, that because there is a modified undistributed-profits tax in existing law that that is responsible for the business recession, that that is responsible for all the trouble that business is experiencing in this country today. This does not impress me as being worthy of our serious consideration when we realize that the tax burden on corporations of this country is eight times as much through these other sources of taxation as it is from the undistributed-profits tax.

In addition to the repeal of these three taxes to which I have referred, certain very definite relief provisions were provided in the House bill to take care of corporations with impaired capital, to take care of corporations with a deficit, to take care of corporations that were laboring under some provision of State law that prevented their declaring dividends. This series of cushions or relief provisions were taken out of the bill in the other body. As we know, that was a campaign year, that was a Presidential year. After the bill finally passed the Senate it went to conference and some of our minority colleagues had to go to their party convention before we were able to complete the work in the conference. The majority party convention was coming on and a concurrent resolution of adjournment had already passed. In the very nature of things your conferees were unable to work out as satisfactory a measure as they would like to have worked out.

It was the best we could get under conditions as they then existed. The result was that we had the enactment of the 1936 revenue bill. Under the House bill, I may say in passing, all corporations in this country with $10,000 or less net income could retain 42 percent of their net income and not pay one dollar more in taxes than they had paid under law existing before that time. All corporations above $10,000 net income could retain 30 percent of all their net income and not pay one dollar more in taxes than they had paid before. In 1935, 67 percent of all the corporations of this country had less than $10,000 net income, and 88 percent of all the corporations of the country had $25,000 or less net income.

The existing law, as well as the pending bill, does not in any way disturb the deductions that a corporation may take. A corporation is given the most liberal treatment in this country of any country in all the world in the matter of deduction from their gross income to bring them down to the net income on which they are taxed. Many items that are allowed as deductions in this country are not allowed in other countries. Let us take the matter of depreciation alone. It would be interesting to study that one item a little and see the enormous amounts that are allowed the taxpayers in this country for depreciation that they would not get in any other country of the world. In England, before you are allowed a deduction for depreciation you have to replace with a new machine or with a new item, whatever it is. We allow most liberal treatment in the matter of deductions for depreciation.

I recall while the subcommittee was working on this bill a very reliable gentleman came to see me one day to talk about corporation taxes. He said, "My company made about two and a half million dollars net income last year. We were allowed $800,000 depreciation and we cannot use but $200,000 of it." Two hundred thousand was all he could use and he had been allowed $800,000. He had $600,000 absolutely tax-free. He could build an addition to his plant. He could increase his surplus or do anything he wanted. He could pay debts or do anything else he wanted to with $600,000 that was absolutely tax-free. That gives some idea of the liberal treatment which we in this country accord corporations so far as deductions are concerned. Of course salaries, wages, cost of goods, and all of the various items are taken as deductions. We have a $77,000,000,000 gross income reduced to $5,000,000,000 for tax purposes. The fact is our business institutions receive the most liberal treatment so far as the payment of Federal taxes are concerned in this country of any country in the world. Right today Great Britain levies a tax of 30 percent on corporations. It has a 25-percent normal corporation tax and an extra 5-percent armaments tax, which totals 30 percent that the corporations in England have to pay.

The bill now before the House for consideration is a real tax-relief bill. I do not recall at the moment that there is a single maximum rate in this bill but what is lower than that provided under existing law. As has been explained to you, most of the criticism has been leveled at the corporation tax that we levy. There has been more discussion on that phase of it and I shall only ask your indulgence for a little while to further dwell upon that, because it has been fully and adequately explained to you.

We divide corporations into three groups, which is nothing new. We have had classification of corporations before. We have had classification of individual income in this country, and certainly Congress has the right to make reasonable and proper classifications. We divided the corporate tax into three groups. First, on corporations with $25,000 or less net income we levy a normal corporation tax of 12½ percent on the first $5,000, 14 percent on the next $15,000, and 16 percent on the remaining $5,000, or an effective rate of 14.1 percent on corporations with $25,000 and less net income and exempt them completely from the undistributed-profits tax. Of course, bear in mind that does not disturb any of the other advantages that corporations have under existing law so far as deductions and allowances are concerned.

For corporations with $25,000 and above net income we retain the undistributed-profits tax, but in a very modified form. We levy a top rate of 20 percent and allow them a credit for dividends distributed to their stockholders at the rate of two-fifths or four-tenths of 1 percent in tax for each 10 percent that they distribute in dividends. The result is if they distribute half of their net income they get a rate of 18 percent. If they distribute all of their net income, they are brought down to 16 percent. That is what has been commonly described and explained to you as the 20–16 plan.

The third group is the one about which we have heard so much, the so-called title I–B, closely held family controlled corporation group. First, let us remind ourselves that there will be a comparatively small number of these corporations in the country because of the definition provided here. The first test is that of ownership. One person, including members of his immediate family, must own 50 percent or more of the stock of the corporation. Two people must own as much as 53 percent, and that is increased gradually until 10 or less people must own 75 percent of the stock of the corporation. It does not stop there.

We also have a provision that they must have voting control. In other words, they must control the dividend policy of the corporation in order to have that corporation come within this definition.

Some reference has been made to the number of people that might be involved. This ownership test applies in such

a way that these people must have voting control. They must control the dividend policy of this type of corporation before they come within the definition.

It is further provided that corporations with less than $75,000 net income are taken out of the provisions of title I–B. We should bear in mind that a net income of $75,000 means the corporation is a million-dollar corporation, and in most instances it is considerably above the million-dollar corporation class. They are not these weak, struggling institutions to which reference has been made and for which so much sympathy has been expressed. These are large, powerful institutions in this country of ours. In the very nature of things, if they have an income of more than $75,000 after all these deductions are allowed, all the allowances for salaries, cost of goods, wages, depreciation, depletion, and all the other deductible items, it means they are larger than million-dollar institutions.

It is provided that $60,000 or 30 percent of their net income or debts, as defined in the bill, whichever is the largest, shall be used in determining whether they come under title I–B. A great deal has been said about a corporation not being able to pay its debts. A provision to cover this has been included here. My distinguished colleague, the gentleman from Ohio, had a great deal to say this afternoon about a corporation not being able to pay its debts. He completely overlooked the fact that he sat on the committee when we definitely voted to include in the bill a provision that being liable for debts would bring a corporation out of title I–B.

It is estimated by the best authority we could secure that only about 300 to 600 corporations in this entire country would come under the provisions of title I–B. Let us again remind ourselves of the type of business institution this is. It is the type of institution that is closely held by people of the same family or very closely connected. This type of corporation has a large net income. The owners of the corporation pile up the money in reserves and hold it as part of the assets of the corporation, whereas if they had to vote this money out to the stockholders the stockholders would be forced into the higher individual surtax brackets. This is the situation we face, and this is the condition your committee was trying to meet. All the provision does is try to equalize this burden among the people of the country. I cannot see how anybody can insist it is fair or right for a few people to get together and conduct their business in corporate form, holding their net income in the corporation and continuing to pile it up there and paying a flat corporation tax rate on that income, when if the income were distributed to them as individuals they would be forced up into the higher brackets and have to pay the taxes the rest of the people have to pay.

After all, it is only a matter of equality, equity, and fairness among the people of the country. Each of you can rest assured of the fact there is not a single title I–B corporation in this country that will pay to this Government a tax which compares to the amount you have to pay on your salaries as Members of the House of Representatives; and yet all this interest is manifested in this group of people. I am not charging anybody with anything improper, because it is a provision of law, and people pay taxes according to the provisions of the law. They pay what they have to pay under the law. It is a matter of common experience with all of us that we pay only the amount of taxes the law requires us to pay. If the tax laws of our Government are such that this group of citizens may operate their business in such a way they get a decided tax advantage over their fellow citizens who do business as individuals or as partnerships, my position is that it is our duty as the Representatives of the whole American people to try to equalize this situation and see that our Federal taxes are levied with the degree of equity the people of this country have a right to expect. [Applause.]

Before passing from this immediate question I should like to mention that loss sustained on obsolete machinery is allowed in full to corporations. As it now stands corporations receive only a limited benefit under the capital gains and losses tax for machinery that becomes obsolete in their trade or business. For instance, an illustration was given a few days ago of a factory or plant that has a machine for which $100 was paid, and a depreciation allowance of 10 percent a year is charged off for 10 years. At the end of 5 years, however, the machine has become obsolete because another machine has taken its place. Heretofore they had to sell the machine for whatever they could get for it as scrap iron or junk, $1 or $5, and take up their loss as a capital loss. Then they had to have a capital gain against which they could apply this loss. Now we provide that the corporation gets the entire $50 value lost by obsolescence on such a machine. All corporations get the benefit of this provision, and it is a great benefit not only to title I–B corporations but to all other corporations as far as machinery-obsolescence accounts are concerned.

Mr. BUCK. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from California.

Mr. BUCK. All depreciable assets are excluded from the definition of capital assets in regard to all corporations.

Mr. COOPER. The gentleman is correct

I wish to mention another point or two in regard to the title I–B tax, because it is apparent this provision is troubling Members more than any other one item. I do not believe anybody can offer any valid criticism against the other provisions of the bill. Certainly nobody can criticize the very liberal treatment we give corporations with $25,000 or less net income. Just stop in passing to remind yourselves how nearly that comes to covering all the corporations in your district. Stop for a moment and reason a little bit for yourselves. We are speaking of a corporation which has a net income of $25,000 after all these allowances have been made. How many corporations do you have in your districts whose net income will run above that figure?

In addition, I may mention the very beneficial treatment given corporations with a net income above $25,000, the so-called 20–16 plan. Under this plan a corporation may make any amount of money it can above $25,000 and pay a maximum tax of 20 percent. It may keep all the rest of what it earns and do whatever it pleases with it, expand its plant, increase its operations, build new plants, or do whatever it wants to do with all that money.

When we had a 15-percent normal corporation tax, a corporation after paying the tax only had 85 percent of its net income to use for whatever purpose it desired. Under this plan, by paying a maximum rate of 20 percent, it has 80 percent of its net income, after payment of tax, with which it may do as it pleases.

There are many other relief provisions in the pending bill. I do not see how anybody could justify a vote against any of these provisions because they accord fair and equitable treatment to the business institutions of this country.

Mr. LUTHER A. JOHNSON. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from Texas.

Mr. LUTHER A. JOHNSON. I have inquiries from two corporations in my district, about which I spoke to the gentleman, with reference to the capital-stock tax. The criticism of existing law is that if they made a mistake in reporting their capital stock it could not be corrected, and it was suggested that a change should be made whereby if they made a mistake of this kind it could be corrected. Has any change been made in the bill in this respect?

Mr. COOPER. Mr. Chairman, I recall that the distinguished gentleman from Texas spoke to me several times, and doubtless to other members of the committee, about these matters in which his constituents are very much interested, and I will say that in this, as in all other legislative matters, the gentleman from Texas has shown a great degree of interest in looking after the welfare of his people.

With respect to the question as to capital stock valuation, if the gentleman will look to the bottom of page 6 of the committee report he will find that the committee has taken care of that situation. The bill provides that corporations be given the right to declare new capital-stock value as of

June 30, 1939, with the right to a new declaration every third year thereafter. This is a considerable advantage to many corporations.

Mr. LUTHER A. JOHNSON. I thank the gentleman.

The other question was with respect to guessing in advance about the earnings, and if they made a mistake in their guess, they should be given more time.

Mr. COOPER. I recall the gentleman spoke to me about that, and if I understand the situation as it exists with reference to this corporation writing to the gentleman, they will be taken care of. My understanding is they think they may come under the provision of a closely held corporation, and assuming this is true, the bill provides that they have 2½ months after the close of the taxable year, assuming they are doing business on a calendar-year basis, within which to declare out not to exceed 10 percent additional of the dividends that they declared out during the previous year.

Now, with reference to the average distribution of dividends throughout the years of the past. Under the 1936 act the corporations of this country actually declared 81.2 percent in dividends. I realize the charge may be made that they were under pressure of the 1936 undistributed-profits tax, therefore they had to declare out this 81.2 percent in dividends.

Well, let us analyze the situation and see what the facts are, and, after all, I think when we get down to the real facts in these matters much of the troubles disappear, much of the difficulties are exaggerated. I have had so many men come to me and say, "Oh, the undistributed-profits tax has absolutely ruined me." I would say, "Let us sit down with a pencil and a piece of paper and see what this undistributed-profits tax has really done to you. Let us take the amount of your net income, first figure what your normal tax was before there was any undistributed-profits tax, and then figure what it is under existing law." I say to you, frankly, that 9 out of 10 of them I have figured it out with had a tax burden under the 1936 act less than what it would have been under the law before the 1936 act was passed. Now, because they still have this normal corporation tax to pay, they still have the capital-stock tax and the excess-profits tax, which is eight times as much as the undistributed-profits tax, they have charged all of their troubles to this one item.

For 10 years before there was any undistributed-profits tax in this country, from 1926 to 1936, taking good years and bad years, and I believe that is a fairly representative period, because we had many good years as well as some bad years, and this was before there was any undistributed-profits tax, the corporations of this country declared out 76 percent in dividends.

If they follow the policy that was voluntarily followed by them before there was any undistributed-profits tax, there will certainly not be any undue hardship on any of them. I want to give you a few figures that I think should be helpful in considering the proposed title I–B tax. Let us suppose that a corporation makes a net income of $100,000. Bear in mind that is not a small institution, when after all deductions, they wind up with $100,000 of net income, that is a sizeable institution, above the million-dollar mark. If this corporation makes a net income of $100,000 and declares out as much as $21,000, or 21 percent, to the people who own the corporation, just divide up that much money among themselves, they come out from under title I–B. Certainly, you could not expect them to divide up much less than 21 percent of the money among themselves, unless by declaring those dividends to themselves they would be forced up into the high-surtax brackets, and have to pay a higher tax to this Government. As stated, with a net income of $100,000, if the corporation distributes as much as 20.8 percent, it is taken out of the provisions of title I–B. If it has an income of $150,000 and distributes as much as 41.7 percent, it comes from out of title I–B; if it has an income of $200,000 and distributes as much as 51.1 percent, it comes from under the provisions of title I–B. If a corporation has an income of $250,000 net, and above that amount, if it declares out and distributes as much as 57.6 percent, it comes out of the provisions of title I–B. Of course, the reasons for all corporations with income above $250,000 not coming under I–B, if they distribute as much as 57.6 percent, is because the $60,000 specific credit is greater than the 30 percent.

As explained to the gentleman from Texas [Mr. LUTHER A. JOHNSON] a few moments ago, title I–A, the personal holding-company corporations, and title I–B, closely held family controlled corporations, are given an additional 2½ months after the close of the taxable year within which to declare out additional dividends, if they find they have not guessed right, if they have not declared out quite enough.

Suppose a title I–B corporation, with a net income of $1,000,000, is equally owned by two shareholders. If the corporation retains all of its net income, the tax would be $312,000 on the corporation. If this had been a partnership and these two men had done business as a partnership, the tax paid by the partners would aggregate $608,276. In other words, the partnership tax is almost twice as much as the corporation tax on that type.

Mr. McCORMACK. Will the gentleman name any copartnership in the United States that has a million-dollar income without being compelled to go into the corporate structure?

Mr. COOPER. I do not know that I can name one at the moment but there may be some; but I do believe that the Federal tax law ought not to create a situation where one type of business has a 50-percent advantage over another type of business doing the same business. Why should the Federal tax law say to a free American citizen, "You have to do business in a corporate form in this country, or else you will suffer a penalty of taxes to the Federal Government"?

Why should not a man have the right to do business as an individual or as a copartnership if he wants to? He is a free American citizen and ought to have the right to do business in that form if he wishes. Yet under the Federal tax law which Congress has enacted, and that will stand unless it is remedied by some effort to equalize it, they have to do business in the corporate form. I maintain that it is not fair, it is not right for us to say, through the strong arm of the taxing power of the Government, that a man in this country is compelled to do business in the corporate form or suffer a penalty.

The whole purpose of the undistributed-profits tax, the whole purpose of the so-called title I–B tax, is to equalize the burden of taxation upon all the people of the country so that the burden will rest equally and fairly as nearly as possible.

Just one word in closing. I have been unable to cover many things I would like to cover, but my time has about expired. We have been hearing a great deal about the necessity of relief to business. This bill provides relief, real relief. We have this practical situation. We have existing law under the 1936 act that will continue unless we pass this bill and give this relief. [Applause.]

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

All time for general debate has expired.

Permit the Chair to state for the information of the Committee that under the unanimous-consent agreement heretofore entered into in the House the bill will be read for amendment by titles. The Clerk, therefore, will read to line 20, on page 263, before any amendments may be offered. When the Clerk has reached line 20, page 263, amendments may be offered to any portion of title I and will be considered under the 5-minute rule of the House.

Mr. CELLER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CELLER. Does that mean that we cannot offer any amendment until page 263 is reached?

The CHAIRMAN. That is correct.

Mr. CELLER. But we may offer amendments after each title is read?

The CHAIRMAN. The bill will be read by titles. Title I runs down to line 20 on page 263. When that point is reached amendments to title I will be in order.

The Clerk read as follows:

Be it enacted, etc., That this act, divided into titles and sections according to the following table of contents, may be cited as the "Revenue Act of 1938."

Mr. DOUGHTON (interrupting the reading of the bill). Mr. Chairman, I ask unanimous consent that the reading of title I may be dispensed with.

Mr. McFARLANE. Mr. Chairman, reserving the right to object, and I shall not, I just want to know if the bill will be printed in the RECORD, and whether this request is made just to save the time of reading the bill?

Mr. DOUGHTON. I think it should be. The gentleman is correct.

Mr. McFARLANE. I agree with the gentleman from North Carolina.

Mr. TREADWAY. Reserving the right to object, Mr. Chairman, I would like it definitely understood that in waiving the reading of title I we are not waiving any right to offer amendments.

The CHAIRMAN. That is correct.

Mr. TREADWAY. If we give our consent to considering the title as read in this manner, we may still offer amendments to any part of title I?

The CHAIRMAN. That is the situation.

Mr. TREADWAY. I have no objection.

Mr. CELLER. Reserving the right to object, Mr. Chairman, does that mean that we can offer amendments to any portion of the bill between page 1 and page 263?

The CHAIRMAN. That is correct.

Mr. McFARLANE. Further reserving the right to object, Mr. Chairman, many of us did not have an opportunity to speak during general debate. Will liberal time be allowed under the 5-minute rule, and general debate not be cut off until we have all had an opportunity to be heard?

Mr. DOUGHTON. It is the desire and intention of the committee to allow ample debate under the 5-minute rule.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Title I is as follows:

TABLE OF CONTENTS

TITLE I—INCOME TAX

SUBTITLE A—INTRODUCTORY PROVISIONS

SUBTITLE B—GENERAL PROVISIONS

Part I—Rates of tax

Part II—Computation of net income

Part III—Credits against tax

Part IV—Accounting periods and methods of accounting

Part V—Returns and payment of tax

Part VI—Miscellaneous provisions

SUBTITLE C—SUPPLEMENTAL PROVISIONS

Supplement A—Rates of tax

Supplement B—Computation of net income

Supplement C—Credits against tax

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Supplement E—Estates and trusts

Supplement F—Partnerships

Supplement G—Insurance companies

Supplement H—Nonresident Alien Individuals

TITLE I—INCOME TAX

SUBTITLE A—INTRODUCTORY PROVISIONS

SECTION 1. Application of title.

The provisions of this title shall apply only to taxable years beginning after December 31, 1937. Income, war-profits, and excess-profits taxes for taxable years beginning prior to January 1, 1938, shall not be affected by the provisions of this title but shall remain subject to the applicable provisions of prior revenue acts, except as such provisions are modified by title V of this act or by legislation enacted subsequent to this act.

SEC. 2. Cross references.

The cross references in this title to other portions of the title, where the word "see" is used, are made only for convenience, and shall be given no legal effect.

SEC. 3. Classification of provisions.

The provisions of this title are herein classified and designated as—

Subtitle A—Introductory provisions,
Subtitle B—General provisions, divided into Parts and sections,
Subtitle C—Supplemental provisions, divided into Supplements and sections.

SEC. 4. Special classes of taxpayers.

The application of the General Provisions and of Supplements A to D, inclusive, to each of the following special classes of taxpayers, shall be subject to the exceptions and additional provisions found in the Supplement applicable to such class, as follows:

(a) Estates and trusts and the beneficiaries thereof,—Supplement E.
(b) Members of partnerships,—Supplement F.
(c) Insurance companies,—Supplement G.
(d) Nonresident alien individuals,—Supplement H.
(e) Foreign corporations,—Supplement I.
(f) Individual citizens of any possession of the United States who are not otherwise citizens of the United States and who are not residents of the United States,—Supplement J.
(g) Individual citizens of the United States or domestic corporations, satisfying the conditions of section 251 by reason of deriving a large portion of their gross income from sources within a possession of the United States,—Supplement J.
(h) China Trade Act corporations,—Supplement K.
(i) Foreign personal holding companies and their shareholders,—Supplement P.
(j) Mutual investment companies,—Supplement Q.

SUBTITLE B—GENERAL PROVISIONS

PART I—RATES OF TAX

SEC. 11. Normal tax on individuals.

There shall be levied, collected, and paid for each taxable year upon the net income of every individual a normal tax of 4 percent of the amount of the net income in excess of the credits against net income provided in section 25.

SEC. 12. Surtax on individuals.

(a) DEFINITION OF "SURTAX NET INCOME".—As used in this section the term "surtax net income" means the amount of the net income in excess of the credits against net income provided in section 25 (b).

(b) Rates of surtax: There shall be levied, collected, and paid for each taxable year upon the surtax net income of every individual a surtax as follows:

Upon a surtax net income of $4,000 there shall be no surtax; upon surtax net incomes in excess of $4,000 and not in excess of $6,000, 4 percent of such excess.

$80 upon surtax net incomes of $6,000; and upon surtax net incomes in excess of $6,000 and not in excess of $8,000, 5 percent in addition of such excess.

$180 upon surtax net incomes of $8,000; and upon surtax net incomes in excess of $8,000 and not in excess of $10,000, 6 percent in addition of such excess.

$300 upon surtax net incomes of $10,000; and upon surtax net incomes in excess of $10,000 and not in excess of $12,000, 7 percent in addition of such excess.

$440 upon surtax net incomes of $12,000; and upon surtax net incomes in excess of $12,000 and not in excess of $14,000, 8 percent in addition of such excess.

$600 upon surtax net incomes of $14,000; and upon surtax net incomes in excess of $14,000 and not in excess of $16,000, 9 percent in addition of such excess.

$780 upon surtax net incomes of $16,000; and upon surtax net incomes in excess of $16,000 and not in excess of $18,000, 11 percent in addition of such excess.

$1,000 upon surtax net incomes of $18,000; and upon surtax net incomes in excess of $18,000 and not in excess of $20,000, 13 percent in addition of such excess.

$1,260 upon surtax net incomes of $20,000; and upon surtax net incomes in excess of $20,000 and not in excess of $22,000, 15 percent in addition of such excess.

$1,560 upon surtax net incomes of $22,000; and upon surtax net incomes in excess of $22,000 and not in excess of $26,000, 17 percent in addition of such excess.

$2,240 upon surtax net incomes of $26,000; and upon surtax net incomes in excess of $26,000 and not in excess of $32,000, 19 percent in addition of such excess.

$3,380 upon surtax net incomes of $32,000; and upon surtax net incomes in excess of $32,000 and not in excess of $38,000, 21 percent in addition of such excess.

$4,640 upon surtax net incomes of $38,000; and upon surtax net incomes in excess of $38,000 and not in excess of $44,000, 24 percent in addition of such excess.

$6,080 upon surtax net incomes of $44,000; and upon surtax net incomes in excess of $44,000 and not in excess of $50,000, 27 percent in addition of such excess.

$7,700 upon surtax net incomes of $50,000; and upon surtax net incomes in excess of $50,000 and not in excess of $56,000, 31 percent in addition of such excess.

$9,560 upon surtax net incomes of $56,000; and upon surtax net incomes in excess of $56,000 and not in excess of $62,000, 35 percent in addition of such excess.

$11,660 upon surtax net incomes of $62,000; and upon surtax net incomes in excess of $62,000 and not in excess of $68,000, 39 percent in addition of such excess.

$14,000 upon surtax net incomes of $68,000; and upon surtax net incomes in excess of $68,000 and not in excess of $74,000, 43 percent in addition of such excess.

$16,580 upon surtax net incomes of $74,000; and upon surtax net incomes in excess of $74,000 and not in excess of $80,000, 47 percent in addition of such excess.

$19,400 upon surtax net incomes of $80,000; and upon surtax net incomes in excess of $80,000 and not in excess of $90,000, 51 percent in addition of such excess.

$24,500 upon surtax net incomes of $90,000; and upon surtax net incomes in excess of $90,000 and not in excess of $100,000, 55 percent in addition of such excess.

$30,000 upon surtax net incomes of $100,000; and upon surtax net incomes in excess of $100,000 and not in excess of $150,000, 58 percent in addition of such excess.

$59,000 upon surtax net incomes of $150,000; and upon surtax net incomes in excess of $150,000 and not in excess of $200,000, 60 percent in addition of such excess.

$89,000 upon surtax net incomes of $200,000; and upon surtax net incomes in excess of $200,000 and not in excess of $250,000, 62 percent in addition of such excess.

$120,000 upon surtax net incomes of $250,000; and upon surtax net incomes in excess of $250,000 and not in excess of $300,000, 64 percent in addition of such excess.

$152,000 upon surtax net incomes of $300,000; and upon surtax net incomes in excess of $300,000 and not in excess of $400,000, 66 percent in addition of such excess.

$218,000 upon surtax net incomes of $400,000; and upon surtax net incomes in excess of $400,000 and not in excess of $500,000, 68 percent in addition of such excess.

$286,000 upon surtax net incomes of $500,000; and upon surtax net incomes in excess of $500,000 and not in excess of $750,000, 70 percent in addition of such excess.

$461,000 upon surtax net incomes of $750,000; and upon surtax net incomes in excess of $750,000 and not in excess of $1,000,000, 72 percent in addition of such excess.

$641,000 upon surtax net incomes of $1,000,000; and upon surtax net incomes in excess of $1,000,000 and not in excess of $2,000,000, 73 percent in addition of such excess.

$1,371,000 upon surtax net incomes of $2,000,000; and upon surtax net incomes in excess of $2,000,000 and not in excess of $5,000,000, 74 percent in addition of such excess.

$3,591,000 upon surtax net incomes of $5,000,000; and upon surtax net incomes in excess of $5,000,000, 75 percent in addition of such excess.

(c) Tax in case of capital gains: For rate and computation of alternative tax in lieu of normal tax and surtax in the case of a capital gain from the sale or exchange of capital assets held for more than 1 year, see section 117 (c).

(d) Sale of oil or gas properties: For limitation of surtax attributable to the sale of oil or gas properties, see section 105.

(e) Tax on personal holding companies: For surtax on personal holding companies, see title I–A.

(f) Tax on other closely held companies: For surtax on closely held corporations not personal holding companies, see title I–B.

(g) Avoidance of surtaxes by incorporation: For surtax on corporations which accumulate surplus to avoid surtax on shareholders, see section 102.

SEC. 13. Tax on corporations in general.

(a) Adjusted net income: For the purposes of this title the term "adjusted net income" means the net income minus the credit provided in section 26 (a), relating to interest on certain obligations of the United States and Government corporations.

(b) Imposition of tax: There shall be levied, collected, and paid for each taxable year upon the net income of every corporation (except a corporation subject to the tax imposed by sec. 14, sec. 231 (a), Supplement G, or Supplement Q) a tax computed under subsection (c) of this section or a tax computed under subsection (d) of this section, whichever tax is the lesser.

(c) General rule: The tax computed under this subsection shall be as follows:

(1) A tentative tax shall first be computed equal to 20 percent of the adjusted net income.

(2) The tax shall be the tentative tax reduced by the sum of—

(A) 16 percent of the credit for dividends received provided in section 26 (b); and

(B) 4 percent of the dividends-paid credit provided in section 27, but not to exceed 4 percent of the adjusted net income.

(d) Alternative tax (corporations with net income slightly more than $25,000): The tax computed under this subsection shall be as follows:

(1) The net income shall be divided into two divisions, the first division consisting of $25,000, and the second division consisting of the remainder of the net income.

(2) To the first division shall be allocated, until an aggregate of $25,000 has been so allocated: First, the portion of the gross income consisting of interest allowed as a credit by section 26 (a) (relating to interest on certain obligations of the United States and Government corporations); second, the portion of the gross income consisting of dividends received of the class with respect to which a credit is allowed by section 26 (b); and third, an amount equal to the excess, if any, of $25,000 over the amounts already allocated to the first division.

(3) To the second division shall be allocated, until there has been so allocated an aggregate equal to the excess of the net income over $25,000: First, the portion of the gross income consisting of interest allowed as a credit by section 26 (a), which is not already allocated to the first division; second, the portion of the gross income consisting of dividends received of the class with respect to which a credit is allowed by section 26 (b), which is not already allocated to the first division; and third, an amount equal to the excess, if any, of the net income over the sum of $25,000 plus the amounts already allocated to the second division.

(4) The tax shall be equal to the sum of the following:

(A) A tax on the $25,000 allocated to the first division, computed under section 14 (b), on the basis of the allocation made to the first division and as if the amount so allocated constituted the entire net income of the corporation.

(B) 12 percent of the dividends received allocated as such to the second division.

(C) 32 percent of the remainder of the amount allocated to the second division, except interest allowed as a credit under section 26 (a).

(e) Corporations in bankruptcy and receivership: If a domestic corporation is for any portion of the taxable year in bankruptcy under the laws of the United States, or insolvent and in receivership in any court of the United States or of any State, Territory, or the District of Columbia, then, when the tax is computed under subsection (c), the tentative tax shall be reduced by 4 percent of the adjusted net income, instead of by 4 percent of the dividends paid credit.

(f) Joint-stock land banks: In the case of a joint-stock land bank organized under the Federal Farm Loan Act, as amended, when the tax is computed under subsection (c), the tentative tax shall be reduced by 4 percent of the adjusted net income, instead of by 4 percent of the dividends-paid credit.

(g) Rental housing corporations: In the case of a corporation which at the close of the taxable year is regulated or restricted by the Federal Housing Administrator under section 207 (b) (2) of the National Housing Act, as amended, when the tax is computed under subsection (c), the tentative tax shall be reduced by 4 percent of the adjusted net income, instead of by 4 percent of the dividends-paid credit; but only if such Administrator certifies to the Commissioner the fact that such regulation or restriction existed at the close of the taxable year. It shall be the duty of such Administrator promptly to make such certification to the Commissioner after the close of the taxable year of each corporation which is so regulated or restricted by him.

(h) Exempt corporations: For corporations exempt from taxation under this title, see section 101.

(i) Tax on personal holding companies: For surtax on personal holding companies, see title I–A.

(j) Tax on other closely held companies: For surtax on closely held corporations not personal holding companies, see the I–B.

(k) Improper accumulation of surplus: For surtax on corporations which accumulate surplus to avoid surtax on shareholders, see section 102.

SEC. 14. Tax on special classes of corporations.

(a) Special class net income: For the purposes of this title the term "special class net income" means the adjusted net income minus the credit for dividends received provided in section 26 (b).

(b) There shall be levied, collected, and paid for each taxable year upon the special class net income of the following corporations (in lieu of the tax imposed by section 13) the tax hereinafter in this section specified.

(c) Corporations with net incomes of not more than $25,000: If the net income of the corporation is not more than $25,000, and if the corporation does not come within one of the classes specified in subsection (d), (e), (f), or (g) of this section, the tax shall be as follows:

Upon special class net incomes not in excess of $5,000, 12½ percent.

$625 upon special class net incomes of $5,000, and upon special class net incomes in excess of $5,000 and not in excess of $20,000, 14 percent in addition of such excess.

$2,725 upon special class net incomes of $20,000, and upon special class net incomes in excess of $20,000, 16 percent in addition of such excess.

(d) Special classes of corporations: In the case of the following corporations the tax shall be an amount equal to 16 percent of the special class net income, regardless of the amount thereof:

(1) Banks, as defined in section 104.

(2) Corporations organized under the China Trade Act, 1922.

(3) Corporations which, by reason of deriving a large portion of their gross income from sources within a possession of the United States, are entitled to the benefits of section 251.

(e) Foreign corporations:

(1) In the case of a foreign corporation engaged in trade or business within the United States or having an office or place of business therein, the tax shall be an amount equal to 20 percent of the special class net income, regardless of the amount thereof.

(2) In the case of a foreign corporation not engaged in trade or business within the United States and not having an office or place of business therein, the tax shall be as provided in section 231 (a).

(f) Insurance companies: In the case of insurance companies, the tax shall be as provided in Supplement G.

(g) Mutual investment companies: In the case of mutual investment companies, as defined in Supplement Q, the tax shall be as provided in such supplement.

(h) Exempt corporations: For corporations exempt from taxation under this title, see section 101.

(i) Tax on personal holding companies: For surtax on personal holding companies, see title I–A.

(j) Tax on other closely held companies: For surtax on closely held corporations not personal holding companies, see title I–B.

(k) Improper accumulation of surplus: For surtax on corporations which accumulate surplus to avoid surtax on shareholders, see section 102.

PART II—COMPUTATION OF NET INCOME

SEC. 21. Net income.

"Net income" means the gross income computed under section 22, less the deductions allowed by section 23. For definition of "adjusted net income," see section 13 (a); for definition of "special class net income," see section 14 (a).

SEC. 22. Gross income.

(a) General definition: "Gross income" includes gains, profits, and income derived from salaries, wages, or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever. In the case of Presidents of the United States and judges of courts of the United States taking office after June 6, 1932, the compensation received as such shall be included in gross income; and all Acts fixing the compensation of such Presidents and judges are hereby amended accordingly.

(b) Exclusions from gross income: The following items shall not be included in gross income and shall be exempt from taxation under this title:

(1) Life insurance: Amounts received under a life insurance contract paid by reason of the death of the insured, whether in a single sum or otherwise (but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income);

(2) Annuities, etc.: Amounts received (other than amounts paid by reason of the death of the insured and interest payments on such amounts and other than amounts received as annuities) under a life insurance or endowment contract, but if such amounts (when added to amounts received before the taxable year under such contract) exceed the aggregate premiums or consideration paid (whether or not paid during the taxable year) then the excess shall be included in gross income. Amounts received as an annuity under an annuity or endowment contract shall be included in gross income; except that there shall be excluded from gross income the excess of the amount received in the taxable year over an amount equal to 3 percent of the aggregate premiums or consideration paid for such annuity (whether or not paid during such year), until the aggregate amount excluded from gross income under this title or prior income-tax laws in respect of such annuity equals the aggregate premiums or consideration paid for such annuity. In the case of a transfer for a valuable consideration, by assignment or otherwise, of a life insurance, endowment, or annuity contract, or any interest therein, only the actual value of such consideration and the amount of the premiums and other sums subsequently paid by the transferee shall be exempt from taxation under paragraph (1) or this paragraph;

(3) Gifts, bequests, and devises: The value of property acquired by gift, bequest, devise, or inheritance (but the income from such property shall be included in gross income);

(4) Tax-free interest: Interest upon (A) the obligations of a State, Territory, or any political subdivision thereof, or the District of Columbia; or (B) obligations of a corporation organized under act of Congress, if such corporation is an instrumentality of the United States; or (C) the obligations of the United States or its possessions. Every person owning any of the obligations enumerated in clause (A), (B), or (C) shall, in the return required by this title, submit a statement showing the number and amount of such obligations owned by him and the income received therefrom, in such form and with such information as the Commissioner may require. In the case of obligations of the United States issued after September 1, 1917 (other than postal-savings certificates of deposit) and in the case of obligations of a corporation organized under act of Congress, the interest shall be exempt only if and to the extent provided in the respective acts authorizing the issue thereof as amended and supplemented, and shall be excluded from gross income only if and to the extent it is wholly exempt from the taxes imposed by this title;

(5) Compensation for injuries or sickness: Amounts received, through accident or health insurance or under workmen's-compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness;

(6) Ministers: The rental value of a dwelling house and appurtenances thereof furnished to a minister of the gospel as part of his compensation;

(7) Income exempt under treaty: Income of any kind, to the extent required by any treaty obligation of the United States;

(8) Miscellaneous items: The following items, to the extent provided in section 116:

Earned income from sources without the United States;

Salaries of certain Territorial employees;

The income of foreign governments;

Income of States, municipalities, and other political subdivisions;

Receipts of shipowners', mutual protection and indemnity associations;

Dividends from China Trade Act corporations;

Compensation of employees of foreign governments.

(c) Inventories: Whenever in the opinion of the Commissioner the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the Commissioner, with the approval of the Secretary, may prescribe as conforming as nearly as may be to the best accounting practice in the trade or business and as most clearly reflecting the income.

(d) Distributions by corporations: Distributions by corporations shall be taxable to the shareholders as provided in section 115.

(e) Determination of gain or loss: In the case of a sale or other disposition of property, the gain or loss shall be computed as provided in section 111.

(f) Gross income from sources within and without United States: For computation of gross income from sources within and without the United States, see section 119.

(g) Foreign personal holding companies: For provisions relating to gross income of foreign personal holding companies and of their shareholders, see section 334.

(h) Consent dividends: For inclusion in gross income of amounts specified in shareholders' consent, see section 28.

SEC. 23. Deductions from Gross Income.

In computing net income there shall be allowed as deductions:

(a) Expenses.—

(1) In general: All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

(2) Corporate charitable contributions: No deduction shall be allowable under paragraph (1) to a corporation for any contribution or gift which would be allowable as a deduction under subsection (q) were it not for the 5-percent limitation therein

contained and for the requirement therein that payment must be made within the taxable year.

(b) Interest: All interest paid or accrued within the taxable year on indebtedness, except on indebtedness incurred or continued to purchase or carry obligations (other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer) the interest upon which is wholly exempt from the taxes imposed by this title.

(c) Taxes generally: Taxes paid or accrued within the taxable year, except—

(1) Federal income, war-profits, and excess-profits taxes (other than the excess-profits tax imposed by section 106 of the Revenue Act of 1935 or by section 602 of this act);

(2) income, war-profits, and excess-profits taxes imposed by the authority of any foreign country or possession of the United States; but this deduction shall be allowed in the case of a taxpayer who does not signify in his return his desire to have to any extent the benefits of section 131 (relating to credit for taxes of foreign countries and possessions of the United States);

(3) estate, inheritance, legacy, succession, and gift taxes; and

(4) taxes assessed against local benefits of a kind tending to increase the value of the property assessed; but this paragraph shall not exclude the allowance as a deduction of so much of such taxes as is properly allocable to maintenance or interest charges.

(d) Taxes of shareholder paid by corporation: The deduction for taxes allowed by subsection (c) shall be allowed to a corporation in the case of taxes imposed upon a shareholder of the corporation upon his interest as shareholder which are paid by the corporation without reimbursement from the shareholder, but in such cases no deduction shall be allowed the shareholder for the amount of such taxes.

(e) Losses by individuals: In the case of an individual, losses sustained during the taxable year and not compensated for by insurance or otherwise—

(1) if incurred in trade or business; or

(2) if incurred in any transaction entered into for profit, though not connected with the trade or business; or

(3) of property not connected with the trade or business, if the loss arises from fires, storms, shipwreck, or other casualty, or from theft. No loss shall be allowed as a deduction under this paragraph if at the time of the filing of the return such loss has been claimed as a deduction for estate tax purposes in the estate tax return.

(f) Losses by corporations: In the case of a corporation, losses sustained during the taxable year and not compensated for by insurance or otherwise.

(g) Capital losses:

(1) Limitation: Losses from sales or exchanges of capital assets shall be allowed only to the extent provided in section 117 (d).

(2) Securities becoming worthless: If any securities (as defined in paragraph (3) of this subsection) become worthless during the taxable year and are capital assets, the loss resulting therefrom shall, for the purposes of this title, be considered as a loss from the sale or exchange, on the first day, of such taxable year, of capital assets.

(3) Definition of securities: As used in this subsection the term "securities" means (A) shares of stock in a corporation, and (B) rights to subscribe for or to receive such shares.

(h) Wagering losses: Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

(i) Basis for determining loss: The basis for determining the amount of deduction for losses sustained, to be allowed under subsection (e) or (f), and for bad debts, to be allowed under subsection (k), shall be the adjusted basis provided in section 113 (b) for determining the loss from the sale or other disposition of property.

(j) Loss on wash sales of stock or securities: For disallowance of loss deduction in the case of sales of stock or securities where within 30 days before or after the date of the sale the taxpayer has acquired substantially identical property, see section 118.

(k) Bad debts.—

(1) General rule: Debts (other than those evidenced by a security as defined in paragraph (3) of this subsection which is a capital asset) ascertained to be worthless and charged off within the taxable year (or, in the discretion of the Commissioner, a reasonable addition to a reserve for bad debts, other than those so evidenced); and when satisfied that a debt (other than one so evidenced) is recoverable only in part, the Commissioner may allow such debt, in an amount not in excess of the part charged off within the taxable year, as a deduction.

(2) Securities becoming worthless: If any securities (as defined in paragraph (3) of this subsection) are ascertained to be worthless and charged off within the taxable year and are capital assets, the loss resulting therefrom shall, for the purposes of this title, be considered as a loss from the sale or exchange, on the first day of such taxable year, of capital assets.

(3) Definition of securities: As used in this subsection the term "securities" means bonds, debentures, notes, or certificates, or other evidences of indebtedness, issued by any corporation (including those issued by a government or political subdivision thereof), with interest coupons or in registered form.

(l) Depreciation: A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee, in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each.

(m) Depletion: In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the Commissioner, with the approval of the Secretary. In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon such revised estimate. In the case of leases the deductions shall be equitably apportioned between the lessor and lessee. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each. (For percentage depletion allowable under this subsection, see sec. 114 (b), (3) and (4).)

(n) Basis for depreciation and depletion: The basis upon which depletion, exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be as provided in section 114.

(o) Charitable and other contributions: In the case of an individual, contributions or gifts payment of which is made within the taxable year to or for the use of:

(1) the United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, for exclusively public purposes;

(2) a domestic corporation, or domestic trust, or domestic community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation;

(3) the special fund for vocational rehabilitation authorized by section 12 of the World War Veterans' Act, 1924;

(4) posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual; or

(5) a domestic fraternal society, order, or association, operating under the lodge system, but only if such contributions or gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals;

to an amount which in all the above cases combined does not exceed 15 percent of the taxpayer's net income as computed without the benefit of this subsection. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner with the approval of the Secretary. In the case of a contribution or gift made in property other than money, the amount of such contribution or gift, for the purposes of this subsection, shall be equal to the adjusted basis of the property in the hands of the taxpayer or its fair market value, whichever is the lower. (For unlimited deduction if contributions and gifts exceed 90 percent of the net income, see sec. 120.)

(p) Pension trusts:

(1) General rule: An employer establishing or maintaining a pension trust to provide for the payment of reasonable pensions to his employees shall be allowed as a deduction (in addition to the contributions to such trust during the taxable year to cover the pension liability accruing during the year, allowed as a deduction under subsection (a) of this section) a reasonable amount transferred or paid into such trust during the taxable year in excess of such contributions, but only if such amount (1) has not theretofore been allowable as a deduction, and (2) is apportioned in equal parts over a period of 10 consecutive years, beginning with the year in which the transfer or payment is made.

(2) Deductions under prior income tax acts: Any deduction allowable under section 23 (q) of the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of 1934, or under section 23 (p) of the Revenue Act of 1936, which under such section was apportioned to any taxable year beginning after December 31, 1937, shall be allowed as a deduction in the years to which so apportioned to the extent allowable under such section if it had remained in force with respect to such year.

(3) Exemption of trusts under section 165: The provisions of paragraphs (1) and (2) of this subsection shall be subject to the qualification that the deduction under either paragraph shall be allowable only with respect to a taxable year (whether the year of the transfer or payment or a subsequent year) of the employer ending within or with a taxable year of the trust with respect to which the trust is exempt from tax under section 165.

(q) Charitable and other contributions by corporations: In the case of a corporation, contributions or gifts payment of which is made within the taxable year to or for the use of a domestic corporation, or domestic trust, or domestic community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or the prevention of cruelty to children (but in the case of contributions or gifts to a trust, chest, fund, or foundation, only if such contributions or gifts are to be used within the United States exclusively for each purposes), no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation; to an amount which does not exceed 5 per centum of the taxpayer's net income as computed without the benefit of this subsection. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner, with the approval of the Secretary. In the case of a contribution or gift made in property other than money, the amount of such contribution or gift, for the purposes of this subsection, shall be equal to the adjusted basis of the property in the hands of the taxpayer or its fair market value, whichever is the lower.

(r) For deduction of dividends paid by certain banking corporations, see section 121.

SEC. 24. Items not deductible.

(a) General rule: In computing net income no deduction shall in any case be allowed in respect of—

(1) Personal, living, or family expenses;

(2) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate;

(3) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made;

(4) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy; or

(5) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income other than interest (whether or not any amount of income of that class or classes is received or accrued) wholly exempt from the taxes imposed by this title.

(b) Losses from sales or exchanges of property.—

(1) Losses disallowed: In computing net income no deduction shall in any case be allowed in respect of losses from sales or exchanges of property, directly or indirectly:

(A) Between members of a family, as defined in paragraph (2) (D);

(B) Except in the case of distributions in liquidation, between an individual and a corporation more than 50 per centum in value of the outstanding stock of which is owned, directly or indirectly, by or for such individual;

(C) Except in the case of distributions in liquidation, between two corporations more than 50 per centum in value of the outstanding stock of each of which is owned, directly or indirectly, by or for the same individual, if either one of such corporations, with respect to the taxable year of the corporation preceding the date of the sale or exchange was, under the law applicable to such taxable year, a personal holding company or a foreign personal holding company;

(D) Between a grantor and a fiduciary of any trust;

(E) Between the fiduciary of a trust and the fiduciary of another trust, if the same person is a grantor with respect to each trust; or

(F) Between a fiduciary of a trust and a beneficiary of such trust.

(2) Stock ownership, family, and partnership rule: For the purposes of determining, in applying paragraph (1), the ownership of stock:

(A) Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust, shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries;

(B) An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family;

(C) An individual owning (otherwise than by the application of subparagraph (B)) any stock in a corporation shall be considered as owning the stock owned, directly or indirectly, by or for his partner;

(D) The family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants; and

(E) Constructive ownership as actual ownership: Stock constructively owned by a person by reason of the application of subparagraph (A) shall, for the purpose of applying subparagraph (A), (B), or (C), be treated as actually owned by such person, but stock constructively owned by an individual by reason of the application of subparagraph (B) or (C) shall not be treated as owned by him for the purpose of again applying either of such subparagraphs in order to make another the constructive owner of such stock.

(c) Unpaid expenses and interest: In computing net income no deduction shall be allowed under section 23 (a), relating to expenses incurred, or under section 23 (b), relating to interest accrued—

(1) If such expenses or interest are not paid within the taxable year or within 2½ months after the close thereof; and

(2) If, by reason of the method of accounting of the person to whom the payment is to be made, the amount thereof is not, unless paid, includible in the gross income of such person for the taxable year in which or with which the taxable year of the taxpayer ends; and

(3) If, at the close of the taxable year of the taxpayer or at any time within 2½ months thereafter, both the taxpayer and the person to whom the payment is to be made are persons between whom losses would be disallowed under section 24 (b).

(d) Holders of life or terminable interest: Amounts paid under the laws of any State, Territory, District of Columbia, possession of the United States, or foreign country as income to the holder of a life or terminable interest acquired by gift, bequest, or inheritance shall not be reduced or diminished by any deduction for shrinkage (by whatever name called) in the value of such interest due to the lapse of time, nor by any deduction allowed by this act (except the deductions provided for in subsections (l) and (m) of section 23) for the purpose of computing the net income of an estate or trust but not allowed under the laws of such State, Territory, District of Columbia, possession of the United States, or foreign country for the purpose of computing the income to which such holder is entitled.

(e) Tax withheld on tax-free covenant bonds: For nondeductibility of tax withheld on tax-free covenant bonds, see section 143 (a) (3).

SEC. 25. Credits of individual against net income.

(a) Credits for normal tax only: There shall be allowed for the purpose of the normal tax, but not for the surtax, the following credits against the net income:

(1) Interest on United States obligations: The amount received as interest upon obligations of the United States which is included in gross income under section 22.

(2) Interest on obligations of instrumentalities of the United States: The amount received as interest on obligations of a corporation organized under act of Congress, if (A) such corporation is an instrumentality of the United States; and (B) such interest is included in gross income under section 22; and (C) under the act authorizing the issue thereof, as amended and supplemented, such interest is exempt from normal tax.

(3) Earned income credit: 10 percent of the amount of the earned net income, but not in excess of 10 percent of the amount of the net income.

(4) Earned income definitions: For the purposes of this section—

(A) "Earned income" means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered, but does not include any amount not included in gross income, nor that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered. In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income producing factors, a reasonable allowance as compensation for the personal services actually rendered by the taxpayer, not in excess of 20 percent of his share of the net profits of such trade or business, shall be considered as earned income.

(B) "Earned income deductions" means such deductions as are allowed by section 23 for the purpose of computing net income, and are properly allocable to or chargeable against earned income.

(C) "Earned net income" means the excess of the amount of the earned income over the sum of the earned income deductions. If the taxpayer's net income is not more than $3,000, his entire net income shall be considered to be earned net income, and if his net income is more than $3,000, his earned net income shall not be considered to be less than $3,000. In no case shall the earned net income be considered to be more than $14,000.

(b) Credits for both normal tax and surtax: There shall be allowed for the purposes of the normal tax and the surtax the following credits against net income:

(1) Personal exemption: In the case of a single person or a married person not living with husband or wife, a personal exemption of $1,000; or in case of the head of a family or a married person living with husband or wife, a personal exemption of $2,500. A husband and wife living together shall receive but one personal exemption. The amount of such personal exemption shall be $2,500. If such husband and wife make separate returns, the personal exemption may be taken by either or divided between them.

(2) Credit for dependents: $400 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer if such dependent person is under 18 years of age or is incapable of self-support because mentally or physically defective.

(3) Change of status: If the status of the taxpayer, insofar as it affects the personal exemption or credit for dependents, changes during the taxable year, the personal exemption and credit shall be apportioned, under rules and regulations prescribed by the Commissioner with the approval of the Secretary, in accordance with the number of months before and after such change. For the purpose of such apportionment a fractional part of a month shall be disregarded unless it amounts to more than half a month in which case it shall be considered as a month.

SEC. 26. Credits of corporations.

In the case of a corporation the following credits shall be allowed to the extent provided in the various sections imposing tax—

(a) Interest on obligations of the United States and its instrumentalities: The amount received as interest upon obligations of the United States or of corporations organized under act of Congress which is allowed to an individual as a credit for purposes of normal tax by section 25 (a) (1) or (2).

(d) Dividends received: 85 percent of the amount received as dividends from a domestic corporation which is subject to taxation under this title, but not in excess of 85 percent of the adjusted net income. The credit allowed by this subsection shall not be allowed in respect of dividends received from a corporation organized under the China Trade Act, 1922, or from a corporation which under section 251 is taxable only on its gross income from sources within the United States by reason of its receiving a large percentage of its gross income from sources within a possession of the United States.

(c) Net operating loss of preceding year.—

(1) Amount of credit: The amount of the net operating loss (as defined in paragraph (2)) of the corporation for the preceding taxable year, but not in excess of the adjusted net income for the taxable year.

(2) Definition: As used in this title, the term "net operating loss" means the excess of the deductions allowed by this title over the gross income, with the following exceptions and limitations—

(A) The deduction for depletion shall not exceed the amount which would be allowable if computed without reference to discovery value or to percentage depletion under section 114 (b) (2), (3), or (4);

(B) There shall be included in computing gross income the amount of interest received which is wholly exempt from the taxes imposed by this title, decreased by the amount of interest paid or accrued which is not allowed as a deduction by section 23 (b), relating to interest on indebtedness incurred or continued to purchase or carry certain tax-exempt obligations.

(d) Bank affiliates: In the case of a holding-company affiliate (as defined in section 2 of the Banking Act of 1933), the amount of the earnings or profits which the Board of Governors of the Federal Reserve System certifies to the Commissioner has been devoted by such affiliate during the taxable year to the acquisition of readily marketable assets other than bank stock in compliance with section 5144 of the Revised Statutes. The aggregate of the credits allowable under this subsection for all taxable years shall not exceed the amount required to be devoted under such section 5144 to such purposes, and the amount of the credit for any taxable year shall not exceed the adjusted net income for such year.

SEC. 27. Corporation dividends paid credit.

(a) Definition in general: As used in this title with respect to any taxable year the term "dividends paid credit" means the sum of:

(1) The basic surtax credit for such year, computed as provided in subsection (b); and

(2) The dividend carry-over to such year, computed as provided in subsection (c).

(b) Basic surtax credit: As used in this title the term "basic surtax credit" means the sum of:

(1) The dividends paid during the taxable year, increased by the consent dividends credit provided in section 28, and reduced by the amount of the credit provided in section 26 (a), relating to interest on certain obligations of the United States and Government corporations;

(2) The net operating loss for the preceding taxable year, in the amount provided in section 26 (c) (1);

(3) The bank affiliate credit provided in section 26 (d).

The aggregate of the amounts under paragraphs (2) and (3) shall not exceed the adjusted net income for the taxable year.

(c) Dividend carry-over: There shall be computed with respect to each taxable year of a corporation a dividend carry-over to such year from the 2 preceding taxable years, which shall consist of the sum of—

(1) The amount of the basic surtax credit for the second preceding taxable year, reduced by the adjusted net income for such year, and further reduced by the amount, if any, by which the adjusted net income for the first preceding taxable year exceeds the sum of—

(A) The basic surtax credit for such year; and

(B) The excess, if any, of the basic surtax credit for the third preceding taxable year (if not beginning before January 1, 1936) over the adjusted net income for such year; and

(2) The amount, if any, by which the basic surtax credit for the first preceding taxable year exceeds the adjusted net income for such year.

In the case of a preceding taxable year, referred to in this subsection, which begins in 1936 or 1937, the adjusted net income shall be the adjusted net income as defined in section 14 of the Revenue Act of 1936, and the basic surtax credit shall be only the dividends paid credit computed under the Revenue Act of 1936 without the benefit of the dividend carry-over provided in section 27 (b) of such act.

(d) Dividends in kind: If a dividend is paid in property other than money (including stock of the corporation if held by the corporation as in investment) the amount with respect thereto which shall be used in computing the basic surtax credit shall be the adjusted basis of the property in the hands of the corporation at the time of the payment, or the fair market value of the property at the time of the payment, whichever is the lower.

(e) Dividends in obligations of the corporation: If a dividend is paid in obligations of the corporation, the amount with respect thereto which shall be used in computing the basic surtax credit shall be the face value of the obligations, or their fair market value at the time of the payment, whichever is the lower. If the fair market value is lower than the face value, then when the obligation is redeemed by the corporation, the excess of the amount for which redeemed over the fair market value at the time of the dividend payment (to the extent not allowable as a deduction in computing net income for any taxable year) shall be treated as a dividend paid in the taxable year in which the redemption occurs.

(f) Taxable stock dividends: In case of a stock dividend or stock right which is a taxable dividend in the hands of shareholders under section 115 (f), the amount with respect thereto which shall be used in computing the basic surtax credit shall be the fair market value of the stock or the stock right at the time of the payment.

(g) Distributions in liquidation: In the case of amounts distributed in liquidation the part of such distribution which is properly chargeable to the earnings or profits accumulated after February 28, 1913, shall, for the purposes of computing the basic surtax credit under this section, be treated as a taxable dividend paid.

(h) Preferential dividends: The amount of any distribution (although each portion thereof is received by a shareholder as a taxable dividend), not made in connection with a consent distribution (as defined in sec. 28 (a) (4)), shall not be considered as dividends paid for the purpose of computing the basic surtax credit, unless such distribution is pro rata, with no preference to any share of stock as compared with other shares of the same class, and with no preference to one class of stock as compared with another class except to the extent that the former is entitled (without reference to waivers of their rights by shareholders) to such preference. For a distribution made in connection with a consent distribution, see section 28.

(i) Nontaxable distributions: If any part of a distribution (including stock dividends and stock rights) is not a taxable dividend in the hands of such of the shareholders as are subject to taxation under this title for the period in which the distribution is made, such part shall not be included in computing the basic surtax credit.

SEC. 28. Consent dividends credit.

(a) Definitions: As used in this section—

(1) Consent stock: The term "consent stock" means the class or classes of stock entitled, after the payment of preferred dividends (as defined in paragraph (2)), to a share in the distribution (other than in complete or partial liquidation) within the taxable year of all the remaining earnings or profits, which share constitutes the same proportion of such distribution regardless of the amount of such distribution.

(2) Preferred dividends: The term "preferred dividends" means a distribution (other than in complete or partial liquidation), limited in amount, which must be made on any class of stock before a further distribution (other than in complete or partial liquidation) of earnings or profits may be made within the taxable year.

(3) Consent dividends day: The term "consent dividends day" means the last day of the taxable year of the corporation, unless during the last month of such year there have occurred one or more days on which was payable a partial distribution (as defined in paragraph (5)), in which case it means the last of such days.

(4) Consent distribution: The term "consent distribution" means the distribution which would have been made if on the consent dividends day (as defined in paragraph (3)) there had actually been distributed in cash and received by each shareholder making a consent filed by the corporation under subsection (d), the specific amount stated in such consent.

(5) Partial distribution: The term "partial distribution" means such part of an actual distribution, payable during the last month of the taxable year of the corporation, as constitutes a distribution on the whole or any part of the consent stock (as defined in paragraph (1)), which part of the distribution, if considered by itself and not in connection with a consent distribution (as defined in paragraph (4)), would be a preferential distribution, as defined in paragraph (6).

(6) Preferential distribution: The term "preferential distribution" means a distribution which is not pro rata, or which is with preference to any share of stock as compared with other shares of the same class, or to any class of consent stock as compared with any other class of consent stock.

(b) Corporations not entitled to credit: A corporation shall not be entitled to a consent dividends credit with respect to any taxable year—

(1) Unless, at the close of such year, all preferred dividends (for the taxable year and, if cumulative, for prior taxable years) have been paid; or

(2) If, at any time during such year, the corporation has taken any steps in, or in pursuance of a plan of, complete or partial liquidation of all or any part of the consent stock.

(c) Allowance of credit: There shall be allowed to the corporation, as a part of its basic surtax credit for the taxable year, a consent dividends credit equal to such portion of the total sum agreed to be included in the gross income of shareholders by

their consents filed under subsection (d) as it would have been entitled to include in computing its basic surtax credit if actual distribution of an amount equal to such total sum had been made in cash and each shareholder making such a consent had received, on the consent dividends day, the amount specified in the consent.

(d) Shareholders' consents: The corporation shall not be entitled to a consent dividends credit with respect to any taxable year—

(1) Unless it files with its return for such year (in accordance with regulations prescribed by the Commissioner with the approval of the Secretary) signed consents made under oath by persons who were shareholders, on the last day of the taxable year of the corporation, of any class of consent stock; and

(2) Unless in each such consent the shareholder agrees that he will include as a taxable dividend, in his return for the taxable year in which or with which the taxable year of the corporation ends, a specific amount; and

(3) Unless the consents filed are made by such of the shareholders and the amount specified in each consent is such, that the consent distribution would not have been a preferential distribution—

(A) If there was no partial distribution during the last month of the taxable year of the corporation, or

(B) If there was such a partial distribution, then when considered in connection with such partial distribution; and

(4) Unless in each consent made by a shareholder who is taxable with respect to a dividend only if received from sources within the United States, such shareholder agrees that the specific amount stated in the consent shall be considered as a dividend received by him from sources within the United States; and

(5) Unless each consent filed is accompanied by cash, a money order, or a certified check, in an amount equal to the amount that would be required by section 143 (b) or 144 to be deducted and withheld by the corporation if the amount specified in the consent had been, on the last day of the taxable year of the corporation, paid to the shareholder in cash as a dividend. The amount accompanying the consent shall be credited against the tax imposed by section 211 (a) or 231 (a) upon the shareholder.

(e) Consent distribution as part of entire distribution: If during the last month of the taxable year with respect to which shareholders' consents are filed by the corporation under subsection (d) there is made a partial distribution, then, for the purposes of this title, such partial distribution and the consent distribution shall be considered as having been made in connection with each other and each shall be considered together with the other as one entire distribution.

(f) Taxability of amounts specified in consents: The total amount specified in a consent filed under subsection (d) shall be included as a taxable dividend in the gross income of the shareholder making such consent, and, if the shareholder is taxable with respect to a dividend only if received from sources within the United States, shall be included in the computation of his tax as a dividend received from sources within the United States; regardless of—

(1) Whether he actually so includes it in his return; and

(2) Whether the distribution by the corporation of an amount equal to the total sum included in all the consents filed, had actual distribution been made, would have been in whole or in part a taxable dividend; and

(3) Whether the corporation is entitled to any consent dividends credit by reason of the filing of such consents, or to a credit less than the total sum included in all the consents filed.

(g) Corporate shareholders: If the shareholder who makes the consent is a corporation, the amount specified in the consent shall be considered as part of its earnings or profits for the taxable year, and shall be included in the computation of its accumulated earnings and profits.

(h) Basis of stock in hands of shareholders: The amount specified in a consent made under subsection (d) shall, for the purpose of adjusting the basis of the consent stock with respect to which the consent was given, be treated as having been reinvested by the shareholder as a contribution to the capital of the corporation; but only in an amount which bears the same ratio to the consent dividends credit of the corporation as the amount of such shareholder's consent stock bears to the total amount of consent stock with respect to which consents are made.

(i) Effect on capital account of corporation: The amount of the consent dividends credit allowed under subsection (c) shall be considered as paid-in surplus or as a contribution to the capital of the corporation, and the accumulated earnings and profits as of the close of the taxable year shall be correspondingly reduced.

(j) Amounts not included in shareholder's return: The failure of a shareholder of consent stock to include in his gross income for the proper taxable year the amount specified in the consent made by him and filed by the corporation, shall have the same effect, with respect to the deficiency resulting therefrom, as is provided in section 272 (f) with respect to a deficiency resulting from a mathematical error appearing on the face of the return.

PART III—CREDITS AGAINST TAX

SEC. 31. Taxes of foreign countries and possessions of United States.

The amount of income, war-profits, and excess-profits taxes imposed by foreign countries or possessions of the United States shall be allowed as a credit against the tax, to the extent provided in section 131.

SEC. 32. Taxes withheld at source.

The amount of tax withheld at the source under section 143 or 144 shall be allowed as a credit against the tax.

SEC. 33. Credit for overpayments.

For credit against the tax of overpayments of taxes imposed by this title for other taxable years, see section 322.

PART IV—ACCOUNTING PERIODS AND METHODS OF ACCOUNTING

SEC. 41. General rule.

The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method applied does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of the Commissioner does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year as defined in section 48 or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year. (For use of inventories, see sec. 22 (c).)

SEC. 42. Period in which items of gross income included.

The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under methods of accounting permitted under section 41, any such amounts are to be properly accounted for as of a different period. In the case of the death of a taxpayer there shall be included in computing net income for the taxable period in which falls the date of his death, amounts accrued up to the date of his death if not otherwise properly includible in respect of such period or a prior period.

SEC. 43. Period for which deductions and credits taken.

The deductions and credits (other than the corporation dividends paid credit provided in section 27) provided for in this title shall be taken for the taxable year in which "paid or accrued" or "paid or incurred," dependent upon the method of accounting upon the basis of which the net income is computed, unless in order to clearly reflect the income the deductions or credits should be taken as of a different period. In the case of the death of a taxpayer there shall be allowed as deductions and credits for the taxable period in which falls the date of his death amounts accrued up to the date of his death (except deductions under section 23 (o)) if not otherwise properly allowable in respect of such period or a prior period.

SEC. 44. Installment basis.

(a) Dealers in personal property: Under regulations prescribed by the Commissioner with the approval of the Secretary, a person who regularly sells or otherwise disposes of personal property on the installment plan may return as income therefrom in any taxable year that proportion of the installment payments actually received in that year which the gross profit realized or to be realized when payment is completed bears to the total contract price.

(b) Sales of realty and casual sales of personalty: In the case (1) of a casual sale or other casual disposition of personal property (other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year), for a price exceeding $1,000; or (2) of a sale or other disposition of real property, if in either case the initial payments do not exceed 30 percent of the selling price (or, in case the sale or other disposition was in a taxable year beginning prior to January 1, 1934, the percentage of the selling price prescribed in the law applicable to such year), the income may, under regulations prescribed by the Commissioner with the approval of the Secretary, be returned on the basis and in the manner above prescribed in this section. As used in this section the term "initial payments" means the payments received in cash or property other than evidences of indebtedness of the purchaser during the taxable period in which the sale or other disposition is made.

(c) Change from accrual to installment basis: If a taxpayer entitled to the benefits of subsection (a) elects for any taxable year to report his net income on the installment basis, then in computing his income for the year of change or any subsequent year amounts actually received during any such year on account of sales or other dispositions of property made in any prior year shall not be excluded.

(d) Gain or loss upon disposition of installment obligations: If an installment obligation is satisfied at other than its face value or distributed, transmitted, sold, or otherwise disposed of, gain or loss shall result to the extent of the difference between the basis of the obligation, and (1) in the case of satisfaction at other than face value or a sale or exchange, the amount realized; or (2) in case of a distribution, transmission, or disposition otherwise than by sale or exchange, the fair market value of the obligation at the time of such distribution, transmission, or disposition. Any gain or loss so resulting shall be considered as resulting from the sale or exchange of the property in respect of which the installment obligation was received. The basis of the obligation shall be the excess of the face value of the obligation over an amount equal to the income which would be returnable were the obligation satisfied in full. This subsection shall not apply to the transmission at death of installment obligations if there is filed with the Commissioner, at such time as he may by regulation prescribe, a bond in such amount and with such sureties as he may deem necessary, conditioned upon the return as income, by the person receiving any payment on such obligations, of the same proportion of such payment as would be returnable as income by the decedent

if he had lived and had received such payment. If an installment obligation is distributed by one corporation to another corporation in the course of a liquidation, and under section 112 (b) (6) no gain or loss with respect to the receipt of such obligation is recognized in the case of the recipient corporation, then no gain or loss with respect to the distribution of such obligation shall be recognized in the case of the distributing corporation.

SEC. 45. Allocation of income and deductions.

In any case of two or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the Commissioner is authorized to distribute, apportion, or allocate gross income or deductions between or among such organizations, trades, or businesses, if he determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such organizations, trades, or businesses.

SEC. 46. Change of accounting period.

If a taxpayer changes his accounting period from fiscal year to calendar year, from calendar year to fiscal year, or from one fiscal year to another, the net income shall, with the approval of the Commissioner, be computed on the basis of such new accounting period, subject to the provisions of section 47.

SEC. 47. Returns for a period of less than 12 months.

(a) Returns for short period resulting from change of accounting period: If a taxpayer, with the approval of the Commissioner, changes the basis of computing net income from fiscal year to calendar year a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31. If the change is from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the fiscal year. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year.

(b) Income computed on basis of short period: Where a separate return is made under subsection (a) on account of a change in the accounting period, and in all other cases where a separate return is required or permitted, by regulations prescribed by the Commissioner with the approval of the Secretary, to be made for a fractional part of a year, then the income shall be computed on the basis of the period for which separate return is made.

(c) Income placed on annual basis: If a separate return is made (except returns of the income of a corporation) under subsection (a) on account of a change in the accounting period, the net income, computed on the basis of the period for which separate return is made, shall be placed on an annual basis by multiplying the amount thereof by 12 and dividing by the number of months included in the period for which the separate return is made. The tax shall be such part of the tax computed on such annual basis as the number of months in such period is of 12 months.

(d) Earned income: The Commissioner with the approval of the Secretary shall by regulations prescribe the method of applying the provisions of subsections (b) and (c) (relating to computing income on the basis of a short period, and placing such income on an annual basis) to cases where the taxpayer makes a separate return under subsection (a) on account of a change in the accounting period, and it appears that for the period for which the return is so made he has received earned income.

(e) Reduction of credits against net income: In the case of a return made for a fractional part of a year, except a return made under subsection (a), on account of a change in the accounting period, the personal exemption and credit for dependents shall be reduced respectively to amounts which bear the same ratio to the full credits provided as the number of months in the period for which return is made bears to 12 months.

(f) Closing of taxable year in case of jeopardy: For closing of taxable year in case of jeopardy, see section 146.

SEC. 48. Definitions.

When used in this title—

(a) Taxable year: "Taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under this part. "Taxable year" includes, in the case of a return made for a fractional part of a year under the provisions of this title or under regulations prescribed by the Commissioner with the approval of the Secretary, the period for which such return is made.

(b) Fiscal year: "Fiscal year" means an accounting period of 12 months ending on the last day of any month other than December.

(c) "Paid or incurred," "paid or accrued": The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this part.

(d) Trade or business: The term "trade or business" includes the performance of the functions of a public office.

PART V—RETURNS AND PAYMENT OF TAX

SEC. 51. Individual returns.

(a) Requirement: The following individuals shall each make under oath a return stating specifically the items of his gross income and the deductions and credits allowed under this title and such other information for the purpose of carrying out the provisions of this title as the Commissioner with the approval of the Secretary may by regulations prescribe—

(1) Every individual who is single or who is married but not living with husband or wife, if—

(A) Having a net income for the taxable year of $1,000 or over; or

(B) Having a gross income for the taxable year of $5,000 or over, regardless of the amount of the net income.

(2) Every individual who is married and living with husband or wife, if no joint return is made under subsection (b) and if—

(A) Such individual has for the taxable year a net income of $2,500 or over or a gross income of $5,000 or over (regardless of the amount of the net income), and the other spouse has no gross income; or

(B) Such individual and his spouse each has for the taxable year a gross income (regardless of the amount of the net income) and the aggregate net income of the two is $2,500 or over; or

(C) Such individual and his spouse each has for the taxable year a gross income (regardless of the amount of the net income) and the aggregate gross income is $5,000 or over.

(b) Husband and wife: In the case of a husband and wife living together the income of each (even though one has no gross income) may be included in a single return made by them jointly, in which case the tax shall be computed on the aggregate income, and the liability with respect to the tax shall be joint and several. No joint return may be made if either the husband or wife is a nonresident alien.

(c) Persons under disability: If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

(d) Fiduciaries: For returns to be made by fiduciaries, see section 142.

SEC. 52. Corporation returns.

Every corporation subject to taxation under this title shall make a return, stating specifically the items of its gross income and the deductions and credits allowed by this title and such other information for the purpose of carrying out the provisions of this title as the Commissioner with the approval of the Secretary may by regulations prescribe. The return shall be sworn to by the president, vice president, or other principal officer and by the treasurer, assistant treasurer, or chief accounting officer. In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

SEC. 53. Time and place for filing returns.

(a) Time for filing.—

(1) General rule: Returns made on the basis of the calendar year shall be made on or before the 15th day of March following the close of the calendar year. Returns made on the basis of a fiscal year shall be made on or before the 15th day of the third month following the close of the fiscal year.

(2) Extension of time: The Commissioner may grant a reasonable extension of time for filing returns, under such rules and regulations as he shall prescribe with the approval of the Secretary. Except in the case of taxpayers who are abroad, no such extension shall be for more than 6 months.

(b) To whom return made.—

(1) Individuals: Returns (other than corporation returns) shall be made to the collector for the district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business in the United States, then to the collector at Baltimore, Md.

(2) Corporations: Returns of corporations shall be made to the collector of the district in which is located the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in the United States, then to the collector at Baltimore, Md.

SEC. 54. Records and special returns.

(a) By taxpayer: Every person liable to any tax imposed by this title or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) To determine liability to tax: Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the Commissioner deems sufficient to show whether or not such person is liable to tax under this title.

(c) Information at the source: For requirement of statements and returns by one person to assist in determining the tax liability of another person, see sections 147 to 150.

(d) Copies of returns: If any person, required by law or regulations made pursuant to law to file a copy of any income return for any taxable year, fails to file such copy at the time required, there shall be due and assessed against such person $5 in the case of an individual return or $10 in the case of a fiduciary, partnership, or corporation return, and the collector with whom the return is filed shall prepare such copy. Such amount shall be collected and paid, without interest, in the same manner as the amount of tax due in

excess of that shown by the taxpayer upon a return in the case of a mathematical error appearing on the face of the return. Copies of returns filed or prepared pursuant to this subsection shall remain on file for a period of not less than 2 years from the date they are required to be filed, and may be destroyed at any time thereafter under the direction of the Commissioner.

(e) Foreign personal holding companies: For information returns by officers, directors, and large shareholders with respect to foreign personal holding companies, see sections 338, 339, and 340.

SEC. 55. Publicity of returns.

(a) Returns made under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under title II of the Revenue Act of 1926; and all returns made under this act shall constitute public records and shall be open to public examination and inspection to such extent as shall be authorized in rules and regulations promulgated by the President.

(b) (1) All income returns filed under this title (or copies thereof, if so prescribed by regulations made under this subsection), shall be open to inspection by any official, body, or commission lawfully charged with the administration of any State tax law if the inspection is for the purpose of such administration or for the purpose of obtaining information to be furnished to local taxing authorities as provided in paragraph (2). The inspection shall be permitted only upon written request of the Governor of such State, designating the representative of such official, body, or commission to make the inspection on behalf of such official, body, or commission. The inspection shall be made in such manner, and at such times and places, as shall be prescribed by regulations made by the Commissioner with the approval of the Secretary.

(2) Any information thus secured by any official, body, or commission of any State may be used only for the administration of the tax laws of such State, except that upon written request of the Governor of such State any such information may be furnished to any official, body, or commission of any political subdivision of such State lawfully charged with the administration of the tax laws of such political subdivision, but may be furnished only for the purpose of, and may be used only for, the administration of such tax laws. Any officer, employee, or agent of any State or political subdivision who divulges (except as authorized in this subsection, or when called upon to testify in any judicial or administrative proceeding to which the State or political subdivision, or such State or local official, body, or commission, as such, is a party) any information acquired by him through an inspection permitted him or another under this subsection shall be guilty of a misdemeanor and shall upon conviction be punished by a fine of not more than $1,000, or by imprisonment for not more than 1 year, or both.

SEC. 56. Payment of tax.

(a) Time of payment: The total amount of tax imposed by this title shall be paid on the 15th day of March following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the 15th day of the third month following the close of the fiscal year.

(b) Installment payments: The taxpayer may elect to pay the tax in four equal installments, in which case the first installment shall be paid on the date prescribed for the payment of the tax by the taxpayer, the second installment shall be paid on the 15th day of the third month, the third installment on the 15th day of the sixth month, and the fourth installment on the 15th day of the ninth month, after such date. If any installment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

(c) Extension of time for payment.—

(1) General rule: At the request of the taxpayer, the Commissioner may extend the time for payment of the amount determined as the tax by the taxpayer, or any installment thereof, for a period not to exceed 6 months from the date prescribed for the payment of the tax or an installment thereof. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

(2) Liquidation of personal holding companies: At the request of the taxpayer, the Commissioner, with the approval of the Secretary, may (under regulations prescribed by the Commissioner with the approval of the Secretary) extend (for a period not to exceed 5 years from the date prescribed for the payment of the tax) the time for the payment of such portion of the amount determined as the tax by the taxpayer as is attributable to the short-term or long-term capital gain derived by the taxpayer from the receipt by him of property other than money upon the complete liquidation (as defined in section 115 (c)) of a corporation. This paragraph shall apply only if the corporation, for its taxable year preceding the year in which occurred the complete liquidation (or the first of the series of distributions referred to in such section), was a personal holding company or a foreign personal holding company. An extension under this paragraph shall be granted only if it is shown to the satisfaction of the Commissioner that the failure to grant it will result in undue hardship to the taxpayer. If an extension is granted the amount with respect to which the extension is granted shall be paid on or before the date of the expiration of the extension. If an extension is granted under this paragraph the Commissioner may require the taxpayer to furnish a bond in such amount, not exceeding double the amount with respect to which the extension is granted, and with such sureties as the Commissioner deems necessary, conditioned upon the payment of the amount with respect to which the extension is granted in accordance with the terms of the exension.

(d) Voluntary advance payment: A tax imposed by this title, or any installment thereof, may be paid, at the election of the taxpayer, prior to the date prescribed for its payment.

(e) Advance payment in case of jeopardy: For advance payment in case of jeopardy, see section 146.

(f) Tax withheld at source: For requirement of withholding tax at the source in the case of nonresident aliens and foreign corporations, and in the case of so-called tax-free covenant bonds, see sections 143 and 144.

(g) Fractional parts of cent: In the payment of any tax under this title a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(h) Receipts: Every collector to whom any payment of any income tax is made shall upon request give to the person making such payment a full written or printed receipt therefor.

SEC. 57. Examination of return and determination of tax.

As soon as practicable after the return is filed the Commissioner shall examine it and shall determine the correct amount of the tax.

SEC. 58. Additions to tax and penalties.

(a) For additions to the tax in case of negligence or fraud in the nonpayment of tax or failure to file return therefor, see supplement M.

(b) For criminal penalties for nonpayment of tax or failure to file return therefor, see section 145.

SEC. 59. Administrative proceedings.

For administrative proceedings in respect of the nonpayment or overpayment of a tax imposed by this title, see as follows:

(a) Supplement L, relating to assessment and collection of deficiencies.

(b) Supplement M, relating to interest and additions to tax.

(c) Supplement N, relating to claims against transferees and fiduciaries.

(d) Supplement O, relating to overpayments.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 61. Laws made applicable.

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this title.

SEC. 62. Rules and regulations.

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

SEC. 63. Taxes in lieu of taxes under 1936 act.

The taxes imposed by this title and title I–A shall be in lieu of the taxes imposed by titles I and I–A of the Revenue Act of 1936, as amended.

SUBTITLE C—SUPPLEMENTAL PROVISIONS

SUPPLEMENT A—RATES OF TAX

[Supplementary to subtitle B, part I]

SEC. 101. Exemptions from tax on corporations.

The following organizations shall be exempt from taxation under this title—

(1) Labor, agricultural, or horticultural organizations;

(2) Mutual savings banks not having a capital stock represented by shares;

(3) Fraternal beneficiary societies, orders, or associations, (A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and (B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;

(4) Domestic building and loan associations substantially all the business of which is confined to making loans to members; and cooperative banks without capital stock organized and operated for mutual purposes and without profit;

(5) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(6) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation;

(7) Business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(8) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes;

(9) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder;

(10) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses;

(11) Farmers' or other mutual hail, cyclone, casualty, or fire insurance companies or associations (including interinsurers and reciprocal underwriters) the income of which is used or held for the purpose of paying losses or expenses;

(12) Farmers', fruit growers', or like associations organized and operated on a cooperative basis (a) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, on the basis of either the quantity or the value of the products furnished by them, or (b) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses. Exemption shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by producers who market their products or purchase their supplies and equipment through the association; nor shall exemption be denied any such association because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose. Such an association may market the products of nonmembers in an amount the value of which does not exceed the value of the products marketed for members, and may purchase supplies and equipment for nonmembers in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 percent of the value of all its purchases. Business done for the United States or any of its agencies shall be disregarded in determining the right to exemption under this paragraph;

(13) Corporations organized by an association exempt under the provisions of paragraph (12), or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, upon dissolution or otherwise, beyond the fixed dividends) is owned by such association or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose;

(14) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title;

(15) Corporations organized under act of Congress, if such corporations are instrumentalities of the United States and if, under such act, as amended and supplemented, such corporations are exempted from Federal income taxes;

(16) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (A) no part of their net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (B) 85 percent or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses;

(17) Teachers' retirement fund associations of a purely local character, if (A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and (B) the income consists solely of amounts received from public taxation, amounts received from assessments upon the teaching salaries of members, and income in respect of investments;

(18) Religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the net income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

SEC. 102. Surtax on corporations improperly accumulating surplus.

(a) Imposition of tax: There shall be levied, collected, and paid for each taxable year (in addition to other taxes imposed by this title) upon the net income of every corporation (other than a personal holding company as defined in title I–A or a foreign personal holding company as defined in supplement P) if such corporation, however created or organized, is formed or availed of for the purpose of preventing the imposition of the surtax upon its shareholders or the shareholders of any other corporation, through the medium of permitting earnings or profits to accumulate instead of being divided or distributed, a surtax equal to the sum of the following:

Twenty-five percent of the amount of the undistributed section 102 net income not in excess of $100,000, plus

Thirty-five percent of the undistributed section 102 net income in excess of $100,000.

(b) Prima facie evidence: The fact that any corporation is a mere holding or investment company, or that the earnings or profits are permitted to accumulate beyond the reasonable needs of the business, shall be prima facie evidence of a purpose to avoid surtax upon shareholders.

(c) Definitions: As used in this title—

(1) Section 102 net income: The term "section 102 net income" means the net income minus the sum of—

(A) Taxes: Federal income, war-profits, and excess-profits taxes paid or accrued during the taxable year, to the extent not allowed as a deduction by section 23, but not including the tax imposed by this section or a corresponding section of a prior income-tax law, or by title I–B.

(B) Disallowed charitable, etc., contributions: Contributions or gifts payment of which is made within the taxable year, not otherwise allowed as a deduction, to or for the use of donees described in section 23 (o), for the purposes therein specified. In the case of a contribution or gift made in property other than money, the amount of such contribution or gift, for the purposes of this subparagraph, shall be equal to the adjusted basis of the property in the hands of the taxpayer or its fair market value, whichever is the lower.

(C) Disallowed losses: Losses from sales or exchanges of capital assets which are disallowed as a deduction by section 117 (d).

(2) Undistributed section 102 net income: The term "undistributed section 102 net income" means the section 102 net income minus the basic surtax credit provided in section 27 (b), but the computation of such credit under section 27 (b) (1) shall be made without its reduction by the amount of the credit provided in section 26 (a), relating to interest on certain obligations of the United States and Government corporations.

(d) Credit of tax under title I–B: The amount of the tax imposed upon the corporation for the taxable year under title I–B shall be allowed as a credit against the tax imposed by this section.

(e) Tax on personal holding companies: For surtax on personal holding companies, see title I–A.

(f) Closely held corporations not personal holding companies: For surtax on closely held corporations other than personal holding companies, see title I–B.

SEC. 103. Rates of tax on citizens and corporations of certain foreign countries.

Whenever the President finds that, under the laws of any foreign country, citizens or corporations of the United States are being subjected to discriminatory or extraterritorial taxes, the President shall so proclaim and the rates of tax imposed by sections 11, 12, 13, 14, 201 (b), 204 (a), 207, 211 (a), 231 (a), and 362 shall, for the taxable year during which such proclamation is made and for each taxable year thereafter, be doubled in the case of each citizen and corporation of such foreign country; but the tax at such doubled rate shall be considered as imposed by section 11, 12, 13, 14, 201 (b), 204 (a), 207, 211 (a), 231 (a), or 362, as the case may be. In no case shall this section operate to increase the taxes imposed by such sections (computed without regard to this section) to an amount in excess of 80 percent of the net income of the taxpayer. Whenever the President finds that the laws of any foreign country with respect to which the President has made a proclamation under the preceding provisions of this section have been modified so that discriminatory and extraterritorial taxes applicable to citizens and corporations of the United States have been removed, he shall so proclaim, and the provisions of this section providing for doubled rates of tax shall not apply to any citizen or corporation of such foreign country with respect to any taxable year beginning after such proclamation is made.

SEC. 104. Banks and trust companies.

(a) Definition: As used in this section the term "bank" means a bank or trust company incorporated and doing business under the laws of the United States (including laws relating to the District of Columbia), of any State, or of any Territory, a substantial part of the business of which consists of receiving deposits and making loans and discounts, or of exercising fiduciary powers similar to those permitted to national banks under section 11 (k) of the Federal Reserve Act, as amended, and which is subject by law to supervision and examination by State, Territorial, or Federal authority having supervision over banking institutions.

(b) Rate of Tax: Banks shall be taxable under section 14 (d).

SEC. 105. Sale of oil or gas properties.

In the case of a bona fide sale of any oil or gas property, or any interest therein, where the principal value of the property has been demonstrated by prospecting or exploration or discovery

work done by the taxpayer, the portion of the tax imposed by section 12 attributable to such sale shall not exceed 30 percent of the selling price of such property or interest.

SUPPLEMENT B—COMPUTATION OF NET INCOME

[Supplementary to subtitle B, part II]

SEC. 111. Determination of amount of, and recognition of, gain or loss.

(a) Computation of gain or loss: The gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the adjusted basis provided in section 113 (b) for determining gain, and the loss shall be the excess of the adjusted basis provided in such section for determining loss over the amount realized.

(b) Amount realized: The amount realized from the sale or other disposition of property shall be the sum of any money received plus the fair market value of the property (other than money) received.

(c) Recognition of gain or loss: In the case of a sale or exchange, the extent to which the gain or loss determined under this section shall be recognized for the purposes of this title, shall be determined under the provisions of section 112.

(d) Installment sales: Nothing in this section shall be construed to prevent (in the case of property sold under contract providing for payment in installments) the taxation of that portion of any installment payment representing gain or profit in the year in which such payment is received.

SEC. 112. Recognition of gain or loss.

(a) General rule: Upon the sale or exchange of property the entire amount of the gain or loss, determined under section 111, shall be recognized, except as hereinafter provided in this section.

(b) Exchanges solely in kind—

(1) Property held for productive use or investment: No gain or loss shall be recognized if property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, nor stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment.

(2) Stock for stock of same corporation: No gain or loss shall be recognized if common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

(3) Stock for stock on reorganization: No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization.

(4) Same—Gain of corporation: No gain or loss shall be recognized if a corporation a party to a reorganization exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation a party to the reorganization.

(5) Transfer to corporation controlled by transferor: No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock or securities in such corporation, and immediately after the exchange such person or persons are in control of the corporation; but in the case of an exchange by two or more persons this paragraph shall apply only if the amount of the stock and securities received by each is substantially in proportion to his interest in the property prior to the exchange.

(6) Property received by corporation on complete liquidation of another: No gain or loss shall be recognized upon the receipt by a corporation of property distributed in complete liquidation of another corporation. For the purposes of this paragraph a distribution shall be considered to be in complete liquidation only if—

(A) the corporation receiving such property was, on the date of the adoption of the plan of liquidation, and has continued to be at all times until the receipt of the property, the owner of stock (in such other corporation) possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and the owner of at least 80 percent of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends), and was at no time on or after the date of the adoption of the plan of liquidation and until the receipt of the property the owner of a greater percentage of any class of stock than the percentage of such class owned at the time of the receipt of the property; and

(B) no distribution under the liquidation was made before the first day of the first taxable year of the corporation beginning after December 31, 1935; and either

(C) the distribution is by such other corporation in complete cancelation or redemption of all its stock, and the transfer of all the property occurs within the taxable year; in such case the adoption by the shareholders of the resolution under which is authorized the distribution of all the assets of such corporation in complete cancelation or redemption of all its stock, shall be considered an adoption of a plan of liquidation, even though no time for the completion of the transfer of the property is specified in such resolution; or

(D) such distribution is one of a series of distributions by such other corporation in complete cancelation or redemption of all its stock in accordance with a plan of liquidation under which the transfer of all the property under the liquidation is to be completed within 3 years from the close of the taxable year during which is made the first of the series of distributions under the plan, except that if such transfer is not completed within such period, or if the taxpayer does not continue qualified under subparagraph (A) until the completion of such transfer, no distribution under the plan shall be considered a distribution in complete liquidation.

If such transfer of all the property does not occur within the taxable year the Commissioner may require of the taxpayer such bond, or waiver of the statute of limitations on assessment and collection, or both, as he may deem necessary to insure, if the transfer of the property is not completed within such 3-year period, or if the taxpayer does not continue qualified under subparagraph (A) until the completion of such transfer, the assessment and collection of all income, war-profits, and excess-profits taxes then imposed by law for such taxable year or subsequent taxable years, to the extent attributable to property so received. A distribution otherwise constituting a distribution in complete liquidation within the meaning of this paragraph shall not be considered as not constituting such a distribution merely because it does not constitute a distribution or liquidation within the meaning of the corporate law under which the distribution is made; and for the purposes of this paragraph a transfer of property of such other corporation to the taxpayer shall not be considered as not constituting a distribution (or one of a series of distributions) in complete cancelation or redemption of all the stock of such other corporation, merely because the carrying out of the plan involves (i) the transfer under the plan to the taxpayer by such other corporation of property, not attributable to shares owned by the taxpayer, upon an exchange described in paragraph (4) of this subsection, and (ii) the complete cancelation or redemption under the plan, as a result of exchanges described in paragraph (3) of this subsection, of the shares not owned by the taxpayer.

(c) Gain from exchanges not solely in kind.—

(1) If an exchange would be within the provisions of subsection (b) (1), (2), (3), or (5) of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

(2) If a distribution made in pursuance of a plan of reorganization is within the provisions of paragraph (1) of this subsection but has the effect of the distribution of a taxable dividend, then there shall be taxed as a dividend to each distributee such an amount of the gain recognized under paragraph (1) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913. The remainder, if any, of the gain recognized under paragraph (1) shall be taxed as a gain from the exchange of property.

(d) Same—gain of corporation: If an exchange would be within the provisions of subsection (b) (4) of this section if it were not for the fact that the property received in exchange consists not only of stock or securities permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then—

(1) If the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but

(2) If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property so received, which is not so distributed.

(e) Loss from exchanges not solely in kind: If an exchange would be within the provisions of subsection (b) (1) to (5), inclusive, of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

(f) Involuntary conversions: If property (as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation, or the threat or imminence thereof) is compulsory or involuntarily converted into property similar or related in service or use to the property so converted, or into money which is forthwith in good faith, under regulations prescribed by the Commissioner with the approval of the Secretary, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund, no gain or loss shall be recognized. If any part of the money is not so expended, the gain, if any, shall be recognized, but in an amount not in excess of the money which is not so expended.

(g) Definition of reorganization: As used in this section and section 113—

(1) The term "reorganization" means (A) a statutory merger or consolidation, or (B) the acquisition by one corporation in exchange solely for all or a part of its voting stock: of at least 80 percent of the voting stock and at least 80 percent of the total number of shares of all other classes of stock of another corporation; or of substantially all the properties of another corporation, or (C) a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor or its shareholders or both are in control of the corporation to which the assets are transferred, or (D) a recapitalization, or (E) a mere change in identity, form, or place of organization, however effected.

(2) The term "a party to a reorganization" includes a corporation resulting from a reorganization and includes both corporations in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another.

(h) Definition of control: As used in this section the term "control" means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

(i) Foreign corporations: In determining the extent to which gain shall be recognized in the case of any of the exchanges described in subsection (b) (3), (4), (5), or (6), or described in so much of subsection (c) as refers to subsection (b) (3) or (5), or described in subsection (d), a foreign corporation shall not be considered as a corporation unless, prior to such exchange, it has been established to the satisfaction of the Commissioner that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

(j) Installment obligations: For nonrecognition of gain or loss in the case of installment obligations, see section 44 (d).

SEC. 113. Adjusted basis for determining gain or loss.

(a) Basis (unadjusted) of property: The basis of property shall be the cost of such property; except that—

(1) Inventory value: If the property should have been included in the last inventory, the basis shall be the last inventory value thereof.

(2) Gifts after December 31, 1920: If the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that for the purpose of determining loss the basis shall be the basis so determined or the fair market value of the property at the time of the gift, whichever is lower. If the facts necessary to determine the basis in the hands of the donor or the last preceding owner are unknown to the donee, the Commissioner shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the Commissioner finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the Commissioner as of the date or approximate date at which, according to the best information that the Commissioner is able to obtain, such property was acquired by such donor or last preceding owner.

(3) Transfer in trust after December 31, 1920: If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a bequest or devise) the basis shall be the same as it would be in the hands of the grantor, increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon such transfer under the law applicable to the year in which the transfer was made.

(4) Gift or transfer in trust before January 1, 1921: If the property was acquired by gift or transfer in trust on or before December 31, 1920, the basis shall be the fair market value of such property at the time of such acquisition.

(5) Property transmitted at death: If the property was acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent, the basis shall be the fair market value of such property at the time of such acquisition. In the case of property transferred in trust to pay the income for life to or upon the order or direction of the grantor, with the right reserved to the grantor at all times prior to his death to revoke the trust, the basis of such property in the hands of the persons entitled under the terms of the trust instrument to the property after the grantor's death shall, after such death, be the same as if the trust instrument had been a will executed on the day of the grantor's death. For the purpose of this paragraph property passing without full and adequate consideration under a general power of appointment exercised by will shall be deemed to be property passing from the individual exercising such power by bequest or devise. If the property was acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent, and if the decedent died after August 26, 1937, and if the property consists of stock or securities of a foreign corporation, which with respect to its taxable year next preceding the date of the decedent's death was a foreign personal holding company, then the basis shall be the fair market value of such property at the time of such acquisition or the basis in the hands of the decedent, whichever is lower.

(6) Tax-free exchanges generally: If the property was acquired after February 28, 1913, upon an exchange described in section 112 (b) to (e), inclusive, the basis (except as provided in paragraph (15) of this subsection) shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by section 112 (b) to be received without the recognition of gain or loss, and in part of other property, the basis provided in this paragraph shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. This paragraph shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it.

(7) Transfers to corporations: If the property was acquired—

(A) after December 31, 1917, and in a taxable year beginning before January 1, 1936, by a corporation in connection with a reorganization, and immediately after the transfer an interest or control in such property of 50 per centum or more remained in the same persons or any of them, or

(B) in a taxable year beginning after December 31, 1935, by a corporation in connection with a reorganization,

then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. This paragraph shall not apply if the property acquired consists of stock or securities in a corporation a party to the reorganization, unless acquired by the issuance of stock or securities of the transferee as the consideration in whole or in part for the transfer.

(8) Property acquired by issuance of stock or as paid-in surplus: If the property was acquired after December 31, 1920, by a corporation—

(A) by the issuance of its stock or securities in connection with a transaction described in section 112 (b) (5) (including, also, cases where part of the consideration for the transfer of such property to the corporation was property or money, in addition to such stock or securities), or

(B) as paid-in surplus or as a contribution to capital,

then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made.

(9) Involuntary conversion: If the property was acquired after February 28, 1913, as a result of a compulsory or involuntary conversion described in section 112 (f), the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

(10) Wash sales of stock: If the property consists of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under sec. 118 of this act or corresponding provisions of prior income tax laws, relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, then the basis shall be the basis of the stock or securities so sold or disposed of, increased or decreased, as the case may be, by the difference, if any, between the price at which the property was acquired and the price at which such substantially identical stock or securities were sold or otherwise disposed of.

(11) Property acquired during affiliation: In the case of property acquired by a corporation, during a period of affiliation, from a corporation with which it was affiliated, the basis of such property, after such period of affiliation, shall be determined, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, without regard to inter-company transactions in respect of which gain or loss was not recognized. For the purposes of this paragraph, the term "period of affiliation" means the period during which such corporations were affiliated (determined in accordance with the law applicable thereto) but does not include any taxable year beginning on or after January 1, 1922, unless a consolidated return was made, nor any taxable year after the taxable year 1928. The basis in case of property acquired by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under section 141 of this act or the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of 1934 or the Revenue Act of 1936, shall be determined in accordance with regulations prescribed under section 141 (b) of this act or the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of 1934 or the Revenue Act of 1936. The basis in the case of property held by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under section 141 of this act or the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of 1934 or the Revenue Act of 1936, shall be adjusted in respect of any items relating to such period, in accordance with regulations prescribed under section 141 (b) of this act or the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of 1934 or the Revenue Act of 1936, applicable to such period.

(12) Basis established by Revenue Act of 1932: If the property was acquired, after February 28, 1913, in any taxable year beginning prior to January 1, 1934, and the basis thereof, for the purposes of the Revenue Act of 1932 was prescribed by section 113 (a) (6), (7), or (9) of such act, then for the purposes of this act the basis shall be the same as the basis therein prescribed in the Revenue Act of 1932.

(13) Partnerships: If the property was acquired, after February 28, 1913, by a partnership and the basis is not otherwise determined under any other paragraph of this subsection, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. If the property was distributed in kind by a partnership to any partner, the basis of such property in the hands of the partner shall be such part of the basis in his hands of his partnership interest as is properly allocable to such property.

(14) Property acquired before March 1, 1913: In the case of property acquired before March 1, 1913, if the basis otherwise determined under this subsection, adjusted (for the period prior to March 1, 1913) as provided in subsection (b), is less than the fair market value of the property as of March 1, 1913, then the basis for determining gain shall be such fair market value. In determining the fair market value of stock in a corporation as of March 1, 1913, due regard shall be given to the fair market value of the assets of the corporation as of that date.

(15) Property received by a corporation on complete liquidation of another: If the property was received by a corporation upon a distribution in complete liquidation of another corporation within the meaning of section 112 (b) (6), then the basis shall be the same as it would be in the hands of the transferor.

(16) Basis established by Revenue Act of 1934: If the property was acquired, after February 28, 1913, in any taxable year beginning prior to January 1, 1936, and the basis thereof, for the purposes of the Revenue Act of 1934 was prescribed by section 113 (a) (6), (7), or (8) of such act, then for the purposes of this act the basis shall be the same as the basis therein prescribed in the Revenue Act of 1934.

(b) Adjusted basis: The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis determined under subsection (a), adjusted as hereinafter provided.

(1) General rule: Proper adjustment in respect of the property shall in all cases be made—

(A) for expenditures, receipts, losses, or other items, properly chargeable to capital account, including taxes and other carrying charges on unimproved and unproductive real property, but no such adjustment shall be made for taxes or other carrying charges for which deductions have been taken by the taxpayer in determining net income for the taxable year or prior taxable years;

(B) in respect of any period since February 28, 1913, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent allowed (but not less than the amount allowable) under this act or prior income-tax laws. Where for any taxable year prior to the taxable year 1932 the depletion allowance was based on discovery value or a percentage of income, then the adjustment for depletion for such year shall be based on the depletion which would have been allowable for such year if computed without reference to discovery value or a percentage of income;

(C) in respect of any period prior to March 1, 1913, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained;

(D) in the case of stock (to the extent not provided for in the foregoing subparagraphs) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax-free or were applicable in reduction of basis (not including distributions made by a corporation, which was classified as a personal service corporation under the provisions of the Revenue Act of 1918 or 1921, out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the Revenue Act of 1918 or 1921);

(E) to the extent provided in section 337 (f) in the case of the stock of United States shareholders in a foreign personal holding company; and

(F) to the extent provided in section 28 (h) in the case of amounts specified in a shareholder's consent made under section 28.

(2) Substituted basis: The term "substituted basis" as used in this subsection means a basis determined under any provision of subsection (a) of this section or under any corresponding provision of a prior income-tax law, providing that the basis shall be determined—

(A) by reference to the basis in the hands of a transferor, donor, or grantor, or

(B) by reference to other property held at any time by the person for whom the basis is to be determined.

Whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, then the adjustments provided in paragraph (1) of this subsection shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in the case of a series of substituted bases.

SEC. 114. Basis for depreciation and depletion.

(a) Basis for depreciation: The basis upon which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 113 (b) for the purpose of determining the gain upon the sale or other disposition of such property.

(b) Basis for depletion.—

(1) General rule: The basis upon which depletion is to be allowed in respect of any property shall be the adjusted basis provided in section 113 (b) for the purpose of determining the gain upon the sale or other disposition of such property, except as provided in paragraphs (2), (3), and (4) of this subsection.

(2) Discovery value in case of mines: In the case of mines (other than metal, coal, or sulphur mines) discovered by the taxpayer after February 28, 1913, the basis for depletion shall be the fair market value of the property at the date of discovery or within 30 days thereafter, if such mines were not acquired as the result of purchase of a proven tract or lease, and if the fair market value of the property is materially disproportionate to the cost. The depletion allowance under section 23 (m) based on discovery value provided in this paragraph shall not exceed 50 percent of the net income of the taxpayer (computed without allowance for depletion) from the property upon which the discovery was made, except that in no case shall the depletion allowance under section 23 (m) be less than it would be if computed without reference to discovery value. Discoveries shall include minerals in commercial quantities contained within a vein or deposit discovered in an existing mine or mining tract by the taxpayer after February 28, 1913, if the vein or deposit thus discovered was not merely the uninterrupted extension of a continuing commercial vein or deposit already known to exist, and if the discovered minerals are of sufficient value and quantity that they could be separately mined and marketed at a profit.

(3) Percentage depletion for oil and gas wells: In the case of oil and gas wells the allowance for depletion under section 23 (m) shall be 27½ percent of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 percent of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance under section 23 (m) be less than it would be if computed without reference to this paragraph.

(4) Percentage depletion for coal and metal mines and sulphur: The allowance for depletion under section 23 (m) shall be, in the case of coal mines, 5 percent, in the case of metal mines, 15 percent, and, in the case of sulphur mines or deposits, 23 percent, of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 percent of the net income of the taxpayer (computed without allowance for depletion) from the property. A taxpayer making his first return under this title in respect of a property shall state whether he elects to have the depletion allowance for such property for the taxable year for which the return is made computed with or without regard to percentage depletion, and the depletion allowance in respect of such property for such year shall be computed according to the election thus made. If the taxpayer fails to make such statement in the return, the depletion allowance for such property for such year shall be computed without reference to percentage depletion. The method, determined as above, of computing the depletion allowance shall be applied in the case of the property for all taxable years in which it is in the hands of such taxpayer, or of any other person if the basis of the property (for determining gain) in his hands is, under section 113, determined by reference to the basis in the hands of such taxpayer, either directly or through one or more substituted bases, as defined in that section. The above right of election shall be subject to the qualification that this paragraph shall, for the purpose of determining whether the method of computing the depletion allowance follows the property, be considered a continuation of section 114 (b) (4) of the Revenue Act of 1934 and the Revenue Act of 1936, and as giving no new election in cases where either of such sections would, if applied, give no new election.

SEC. 115. Distributions by corporations.

(a) Definition of dividend: The term "dividend" when used in this title (except in sec. 203 (a) (3) and sec. 207 (c) (1), relating to insurance companies) means any distribution made by a corporation to its shareholders, whether in money or in other property, (1) out of its earnings or profits accumulated after February 28, 1913, or (2) out of the earnings or profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year), without regard to the amount of the earnings and profits at the time the distribution was made.

(b) Source of distributions: For the purposes of this act every distribution is made out of earnings or profits to the extent thereof and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax-free

distribution shall be applied against and reduce the adjusted basis of the stock provided in section 113.

(c) Distributions in liquidation: Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock, and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under section 111, but shall be recognized only to the extent provided in section 112. Despite the provisions of section 117 (b), 100 percent of the gain so recognized shall be taken into account in computing net income, except in the case of amounts distributed in complete liquidation of a corporation. For the purpose of the preceding sentence, "complete liquidation" includes any one of a series of distributions made by a corporation in complete cancelation or redemption of all of its stock in accordance with a bona fide plan of liquidation and under which the transfer of the property under the liquidation is to be completed within a time specified in the plan, not exceeding 2 years from the close of the taxable year during which is made the first of the series of distributions under the plan. In the case of amounts distributed (whether before Jan. 1, 1934, or on or after such date), in partial liquidation (other than a distribution within the provisions of subsecton (h) of this section of stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits. If any distribution in complete liquidation (including any one of a series of distributions made by the corporation in complete cancelation or redemption of all its stock) is made by a foreign corporation which with respect to any taxable year beginning on or before, and ending after August 26, 1937, was a foreign personal holding company and with respect to which a United States group (as defined in section 331 (a) (2)) existed after August 26, 1937, and before January 1, 1938, then, despite the foregoing provisions of this subsection 100 percent of the gain recognized resulting from such distribution shall be taken into account in computing net income—

(1) Unless such liquidation was completed before January 1, 1938; or

(2) Unless (if it was established to the satisfaction of the Commissioner by evidence submitted before Jan. 1, 1938, that due to the laws of the foreign country in which such corporation is incorporated, or for other reason it was or would be impossible to complete the liquidation of such company before such date) the liquidation is completed on or before such date as the Commissioner may find reasonable, but not later than June 30, 1938.

(d) Other distributions from capital: If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders is not out of increase in value of property accrued before March 1, 1913, and is not a dividend, then the amount of such distribution shall be applied against and reduce the adjusted basis of the stock provided in section 113, and if in excess of such basis, such excess shall be taxable in the same manner as a gain from the sale or exchange of property.

(e) Distributions by personal-service corporations: Any distribution made by a corporation, which was classified as a personal-service corporation under the provisions of the Revenue Act of 1918 or the Revenue Act of 1921, out of its earnings or profits, which were taxable in accordance with the provisions of section 218 of the Revenue Act of 1918 or section 218 of the Revenue Act of 1921, shall be exempt from tax to the distributees.

(f) Stock dividends.—

(1) General rule: A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall not be treated as a dividend to the extent that it does not constitute income to the shareholder within the meaning of the sixteenth amendment to the Constitution.

(2) Election of shareholders as to medium of payment: Whenever a distribution by a corporation is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either (A) in its stock or in rights to acquire its stock, of a class which if distributed without election would be exempt from tax under paragraph (1), or (B) in money or any other property (including its stock or in rights to acquire its stock, of a class which if distributed without election would not be exempt from tax under paragraph (1)), then the distribution shall constitute a taxable dividend in the hands of all shareholders, regardless of the medium in which paid.

(g) Redemption of stock: If a corporation cancels or redeems its stock (whether or not such stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancelation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancelation of the stock, to the extent that it represents a distribution of earnings or profits accumulated after February 28, 1913, shall be treated as a taxable dividend.

(h) Effect on earnings and profits of distributions of stock: The distribution (whether before January 1, 1938, or on or after such date) to a distributee by or on behalf of a corporation of its stock or securities or stock or securities in another corporation shall not be considered a distribution of earnings or profits of any corporation—

(1) if no gain to such distributee from the receipt of such stock or securities was recognized by law, or

(2) if the distribution was not subject to tax in the hands of such distributee because it did not constitute income to him within the meaning of the sixteenth amendment to the Constitution or because exempt to him under section 115 (f) of the Revenue Act of 1934 or a corresponding provision of a prior revenue act.

As used in this subsection the term "stock or securities" includes rights to acquire stock or securities.

(i) Definition of partial liquidation: As used in this section the term "amounts distributed in partial liquidation" means a distribution by a corporation in complete cancelation or redemption of a part of its stock, or one of a series of distributions in complete cancelation or redemption of all or a portion of its stock.

(j) Valuation of dividend: If the whole or any part of a dividend is paid to a shareholder in any medium other than money, the property received other than money shall be included in gross income at its fair market value at the time as of which it becomes income to the shareholder.

(k) Consent distributions: For taxability as dividends of amounts agreed to be included in gross income by shareholders' consents, see section 28.

SEC. 116. Exclusions from gross income.

In addition to the items specified in section 22 (b), the following items shall not be included in gross income and shall be exempt from taxation under this title:

(a) Earned income from sources without United States: In the case of an individual citizen of the United States, a bona fide nonresident of the United States for more than 6 months during the taxable year, amounts received from sources without the United States (except amounts paid by the United States or any agency thereof) if such amounts would constitute earned income as defined in section 25 (a) if received from sources within the United States; but such individual shall not be allowed as a deduction from his gross income any deductions properly allocable to or chargeable against amounts excluded from gross income under this subsection.

(b) Teachers in Alaska and Hawaii: In the case of an individual employed by Alaska or Hawaii or any political subdivision thereof as a teacher in any educational institution, the compensation received as such. This subsection shall not exempt compensation paid directly or indirectly by the Government of the United States.

(c) Income of foreign governments: The income of foreign governments received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign governments, or from interest on deposits in banks in the United States of moneys belonging to such foreign governments, or from any other source within the United States.

(d) Income of States, municipalities, etc.: Income derived from any public utility or the exercise of any essential governmental function and accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, or income accruing to the government of any possession of the United States, or any political subdivision thereof.

Whenever any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, prior to September 8, 1916, entered in good faith into a contract with any person, the object and purpose of which is to acquire, construct, operate, or maintain a public utility—

(1) If by the terms of such contract the tax imposed by this title is to be paid out of the proceeds from the operation of such public utility, prior to any division of such proceeds between the person and the State, Territory, political subdivision, or the District of Columbia, and if, but for the imposition of the tax imposed by this title, a part of such proceeds for the taxable year would accrue directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, then a tax upon the net income from the operation of such public utility shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title, but there shall be refunded to such State, Territory, political subdivision, or the District of Columbia (under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary) an amount which bears the same relation to the amount of the tax as the amount which (but for the imposition of the tax imposed by this title) would have accrued directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, bears to the amount of the net income from the operation of such public utility for such taxable year.

(2) If by the terms of such contract no part of the proceeds from the operation of the public utility for the taxable year would, irrespective of the tax imposed by this title, accrue directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, then the tax upon the net income of such person from the operation of such public utility shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title.

(e) Bridges to be acquired by State or political subdivision: Whenever any State or political subdivision thereof, in pursuance of a contract to which it is not a party entered into before the enactment of the Revenue Act of 1928, is to acquire a bridge—

(1) If by the terms of such contract the tax imposed by this title is to be paid out of the proceeds from the operation of such bridge prior to any division of such proceeds, and if, but for the imposition of the tax imposed by this title, a part of such proceeds for the taxable year would accrue directly to or for the use of or would be applied for the benefit of such State or political subdivision, then a tax upon the net income from the operation of

such bridge shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title, but there shall be refunded to such State or political subdivision (under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary) an amount which bears the same relation to the amount of the tax as the amount which (but for the imposition of the tax imposed by this title) would have accrued directly to or for the use of or would be applied for the benefit of such State or political subdivision, bears to the amount of the net income from the operation of such bridge for such taxable year. No such refund shall be made unless the entire amount of the refund is to be applied in part payment for the acquisition of such bridge.

(2) If by the terms of such contract no part of the proceeds from the operation of the bridge for the taxable year would, irrespective of the tax imposed by this title, accrue directly to or for the use of or be applied for the benefit of such State or political subdivision, then the tax upon the net income from the operation of such bridge shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title.

(f) Dividend from "China Trade Act" Corporation: In the case of a person, amounts distributed as dividends to or for his benefit by a corporation organized under the China Trade Act, 1922, if, at the time of such distribution, he is a resident of China, and the equitable right to the income of the shares of stock of the corporation is in good faith vested in him.

(g) Shipowners' protection and indemnity associations: The receipts of shipowners' mutual protection and indemnity associations not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder; but such corporations shall be subject as other persons to the tax upon their net income from interest, dividends, and rents.

(h) Compensation of employees of foreign governments:

(1) Rule for exclusion: Wages, fees, or salary of an employee of a foreign government (including a consular or other officer, or a nondiplomatic representative) received as compensation for official services to such government—

(A) If such employee is not a citizen of the United States; and

(B) If the services are of a character similar to those performed by employees of the Government of the United States in foreign countries; and

(C) If the foreign government whose employee is claiming exemption grants an equivalent exemption to employees of the Government of the United States performing similar services in such foreign country.

(2) Certificate by Secretary of State: The Secretary of State shall certify to the Secretary of the Treasury the names of the foreign countries which grant an equivalent exemption to the employees of the Government of the United States performing services in such foreign countries, and the character of the services performed by employees of the Government of the United States in foreign countries.

SEC. 117. Capital gains and losses.

(a) Definitions: As used in this title—

(1) Capital assets: The term "capital assets" means property held by the taxpayer (whether or not connected with his trade or business), but does not include stock in trade of the taxpayer or other property of the kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or property, used in the trade or business, of a character which is subject to the allowance for depreciation provided in section 23 (l).

(2) Short-term capital gain: The term "short-term capital gain" means gain from the sale or exchange of a capital asset held for not more than 1 year, if and to the extent such gain is taken into account in computing net income;

(3) Short-term capital loss: The term "short-term capital loss" means loss from the sale or exchange of a capital asset held for not more than 1 year, if and to the extent such loss is taken into account in computing net income;

(4) Long-term capital gain: The term "long-term capital gain" means gain from the sale or exchange of a capital asset held for more than 1 year, if and to the extent such gain is taken into account in computing net income;

(5) Long-term capital loss: The term "long-term capital loss" means loss from the sale or exchange of a capital asset held for more than 1 year, if and to the extent such loss is taken into account in computing net income;

(6) Net short-term capital gain: The term "net short-term capital gain" means the excess of short-term capital gains for the taxable year over the sum of (A) short-term capital losses for the taxable year, plus (B) the net short-term capital loss of the preceding taxable year, to the extent brought forward to the taxable year under subsection (e) (1);

(7) Net short-term capital loss: The term "net short-term capital loss" means the excess of short-term capital losses for the taxable year over the short-term capital gains for such year;

(8) Net long-term capital gain: The term "net long-term capital gain" means the excess of long-term capital gains for the taxable year over the sum of (A) long-term capital losses for the taxable year, plus (B) the net long-term capital loss of the preceding taxable year, to the extent brought forward to the taxable year under subsection (e) (2);

(9) Net long-term capital loss: The term "net long-term capital loss" means the excess of long-term capital losses for the taxable year over the long-term capital gains for such year.

(b) Percentage taken into account: In the case of a taxpayer, other than a corporation, only the following percentages of the gain or loss recognized upon the sale or exchange of a capital asset shall be taken into account in computing net income:

Period for which capital asset has been held	Percentage of recognized gain or loss to be taken into account
Not over 13 months	100
Over 13 months but not over 14 months	98
Over 14 months but not over 15 months	96
Over 15 months but not over 16 months	94
Over 16 months but not over 17 months	92
Over 17 months but not over 18 months	90
Over 18 months but not over 19 months	88
Over 19 months but not over 20 months	86
Over 20 months but not over 21 months	84
Over 21 months but not over 22 months	82
Over 22 months but not over 23 months	80
Over 23 months but not over 24 months	78
Over 24 months but not over 25 months	76
Over 25 months but not over 26 months	75
Over 26 months but not over 27 months	74
Over 27 months but not over 28 months	73
Over 28 months but not over 29 months	72
Over 29 months but not over 30 months	71
Over 30 months but not over 31 months	70
Over 31 months but not over 32 months	69
Over 32 months but not over 33 months	68
Over 33 months but not over 34 months	67
Over 34 months but not over 35 months	66
Over 35 months but not over 36 months	65
Over 36 months but not over 37 months	64
Over 37 months but not over 38 months	63
Over 38 months but not over 39 months	62
Over 39 months but not over 40 months	61
Over 40 months but not over 41 months	60
Over 41 months but not over 42 months	59
Over 42 months but not over 43 months	58
Over 43 months but not over 44 months	57
Over 44 months but not over 45 months	56
Over 45 months but not over 46 months	55
Over 46 months but not over 47 months	54
Over 47 months but not over 48 months	53
Over 48 months but not over 49 months	52
Over 49 months but not over 50 months	51
Over 50 months but not over 51 months	50
Over 51 months but not over 52 months	49
Over 52 months but not over 53 months	48
Over 53 months but not over 54 months	47
Over 54 months but not over 55 months	46
Over 55 months but not over 56 months	45
Over 56 months but not over 57 months	44
Over 57 months but not over 58 months	43
Over 58 months but not over 59 months	42
Over 59 months but not over 60 months	41
Over 60 months	40

(c) Alternative tax in case of net long-term capital gains: If for any taxable year a taxpayer (other than a corporation) derives a net long-term capital gain, there shall be levied, collected, and paid, in lieu of the tax imposed by sections 11 and 12, a tax determined as follows, if and only if such tax is less than the tax imposed by such sections:

A partial tax shall first be computed upon the net income reduced by the amount of the net long-term capital gain, at the rates and in the manner as if this subsection had not been enacted, and the total tax shall be the partial tax plus 40 percent of the net long-term captial gain.

(d) Limitation on capital losses:

(1) Corporations: In the case of a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of $2,000 plus the gains from such sales or exchanges. If a bank or trust company incorporated under the laws of the United States (including laws relating to the District of Columbia) or of any State or Territory, a substantial part of whose business is the receipt of deposits, sells any bond, debenture, note, or certificate or other evidence of indebtedness issued by any corporation (including one issued by a government or political subdivision thereof), with interest coupons or in registered form, any loss resulting from such sale (except such portion of the loss as does not exceed the amount, if any, by which the adjusted basis of such instrument exceeds the par or face value thereof) shall not be subject to the foregoing limitation and shall not be included in determining the applicability of such limitation to other losses.

(2) Other taxpayers: In the case of a taxpayer other than a corporation—

(A) Short-term capital losses shall be allowed only to the extent of short-term capital gains.

(B) Long-term capital losses shall be allowed only to the extent of $2,000 plus long-term capital gains.

(e) Net capital loss carry-over:

(1) Net short-term capital loss carry-over: If any taxpayer (other than a corporation) sustains in any taxable year a net

short-term capital loss, such loss (in an amount not in excess of the net income for such year) shall be treated in the succeeding taxable year as a short-term capital loss, except that it shall not be included in computing the net short-term capital loss for such year.

(2) Net long-term capital loss carry-over: If any taxpayer (other than a corporation) sustains in any taxable year a net long-term capital loss, such loss, reduced by $2,000, shall be treated in the succeeding taxable year as a long-term capital loss, but in an amount not greater than the excess of the long-term capital gains over the long-term capital losses for such year. If for the taxable year in which the net long-term capital loss is sustained the net income (computed without regard to long-term capital gains or losses) is less than $2,000, then the reduction in the loss carried forward under this paragraph shall equal the net income so computed.

(f) Retirement of bonds, etc: For the purposes of this title, amounts received by the holder upon the retirement of bonds, debentures, notes, or certificates or other evidences of indebtedness issued by any corporation (including those issued by a government or political subdivision thereof), with interest coupons or in registered form, shall be considered as amounts received in exchange therefor.

(g) Gains and losses from short sales, etc.: For the purpose of this title—

(1) gains or losses from short sales of property shall be considered as gains or losses and sales or exchanges of capital assets; and

(2) gains or losses attributable to the failure to exercise privileges or options to buy or sell property shall be considered as short-term capital gains or losses.

(h) Determination of period for which held: For the purpose of this section—

(1) In determining the period for which the taxpayer has held property received on an exchange there shall be included the period for which he held the property exchanged, if under the provisions of section 113, the property received has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as the property exchanged.

(2) In determining the period for which the taxpayer has held property however acquired there shall be included the period for which such property was held by any other person, if under the provisions of section 113, such property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as it would have in the hands of such other person.

(3) In determining the period for which the taxpayer has held stock or securities received upon a distribution where no gain was recognized to the distributee under the provisions of section 112 (g) of the Revenue Act of 1928 or the Revenue Act of 1932, there shall be included the period for which he held the stock or securities in the distributing corporation prior to the receipt of the stock or securities upon such distribution.

(4) In determining the period for which the taxpayer has held stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under section 118 of this act or section 118 of the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of 1934 or the Revenue Act of 1936, relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, there shall be included the period for which he held the stock or securities the loss from the sale or other disposition of which was not deductible.

SEC. 118. Loss from wash sales of stock or securities.

(a) In the case of any loss claimed to have been sustained from any sale or other disposition of shares of stock or securities where it appears that, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date, the taxpayer has acquired (by purchase or by an exchange upon which the entire amount of gain or loss was recognized by law), or has entered into a contract or option so to acquire, substantially identical stock or securities, then no deduction for the loss shall be allowed under section 23 (e) (2); nor shall such deduction be allowed under section 23 (f) unless the claim is made by a corporation, a dealer in stocks or securities, and with respect to a transaction made in the ordinary course of its business.

(b) If the amount of stock or securities acquired (or covered by the contract or option to acquire) is less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the loss from the sale or other disposition of which is not deductible shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

(c) If the amount of stock or securities acquired (or covered by the contract or option to acquire) is not less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility of the loss shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

SEC. 119. Income from sources within United States.

(a) Gross income from sources in United States: The following items of gross income shall be treated as income from sources within the United States:

(1) Interest: Interest from the United States, any Territory, any political subdivision of a Territory, or the District of Columbia, and interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, not including—

(A) interest on deposits with persons carrying on the banking business paid to persons not engaged in business within the United States and not having an office or place of business therein, or

(B) interest received from a resident alien individual, a resident foreign corporation, or a domestic corporation, when it is shown to the satisfaction of the Commissioner that less than 20 percent of the gross income of such resident payor or domestic corporation has been derived from sources within the United States, as determined under the provisions of this section, for the 3-year period ending with the close of the taxable year of such payor preceding the payment of such interest, or for such part of such period as may be applicable, or

(C) income derived by a foreign central bank of issue from bankers' acceptances;

(2) Dividends: The amount received as dividends—

(A) from a domestic corporation other than a corporation entitled to the benefits of section 251, and other than a corporation less than 20 percent of whose gross income is shown to the satisfaction of the Commissioner to have been derived from sources within the United States, as determined under the provisions of this section, for the 3-year period ending with the close of the taxable year of such corporation preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence), or

(B) from a foreign corporation unless less than 50 percent of the gross income of such foreign corporation for the 3-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as determined under the provisions of this section; but only in an amount which bears the same ratio to such dividends as the gross income of the corporation for such period derived from sources within the United States bears to its gross income from all sources; but dividends from a foreign corporation shall, for the purposes of section 131 (relating to foreign tax credit), be treated as income from sources without the United States;

(3) Personal services: Compensation for labor or personal services performed in the United States, but in the case of a nonresident alien individual temporarily present in the United States for a period or periods not exceeding a total of 90 days during the taxable year, compensation received by such an individual (if such compensation does not exceed $3,000 in the aggregate) for labor or services performed as an employee of or under a contract with a nonresident alien, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, shall not be deemed to be income from sources within the United States;

(4) Rentals and royalties: Rentals or royalties from property located in the United States or from any interest in such property, including rentals or royalties for the use of or for the privilege of using in the United States, patents, copyrights, secret processes and formulas, good will, trade-marks, trade brands, franchises, and other like property; and

(5) Sale of real property: Gains, profits, and income from the sale of real property located in the United States.

(6) Sale of personal property: For gains, profits, and income from the sale of personal property, see subsection (e).

(b) Net income from sources in United States: From the items of gross income specified in subsection (a) of this section there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income. The remainder, if any, shall be included in full as net income from sources within the United States.

(c) Gross income from sources without United States: The following items of gross income shall be treated as income from sources without the United States:

(1) Interest other than that derived from sources within the United States as provided in subsection (a) (1) of this section;

(2) Dividends other than those derived from sources within the United States as provided in subsection (a) (2) of this section;

(3) Compensation for labor or personal services performed without the United States;

(4) Rentals or royalties from property located without the United States or from any interest in such property, including rentals or royalties for the use of or for the privilege of using without the United States, patents, copyrights, secret processes and formulas, good will, trade-marks, trade brands, franchises, and other like properties; and

(5) Gains, profits, and income from the sale of real property located without the United States.

(d) Net income from sources without United States: From the items of gross income specified in subsection (c) of this section there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto, and a ratable part of any expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income. The remainder, if any, shall be treated in full as net income from sources without the United States.

(e) Income from sources partly within and partly without United States: Items of gross income, expenses, losses and deductions, other than those specified in subsections (a) and (c) of this section, shall be allocated or apportioned to sources within or without the United States, under rules and regulations pre-

scribed by the Commissioner with the approval of the Secretary. Where items of gross income are separately allocated to sources within the United States, there shall be deducted (for the purpose of computing the net income therefrom) the expenses, losses, and other deductions properly apportioned, or allocated thereto and a ratable part of other expenses, losses or other deductions which cannot definitely be allocated to some item or class of gross income. The remainder, if any, shall be included in full as net income from sources within the United States. In the case of gross income derived from sources partly within and partly without the United States, the net income may first be computed by deducting the expenses, losses, or other reductions apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which cannot definitely be allocated to some items or class of gross income; and the portion of such net income attributable to sources within the United States may be determined by processes or formulas of general apportionment prescribed by the Commisisoner with the approval of the Secretary. Gains, profits, and income from—

(1) transportation or other services rendered partly within and partly without the United States, or

(2) from the sale of personal property produced (in whole or in part) by the taxpayer within and sold without the United States, or produced (in whole or in part) by the taxpayer without and sold within the United States,

shall be treated as derived partly from sources within and partly from sources without the United States. Gains, profits, and income derived from the purchase of personal property within and its sale without the United States or from the purchase of personal property without and its sale within the United States, shall be treated as derived entirely from sources within the country in which sold, except that gains, profits, and income derived from the purchase of personal property within a possession of the United States and its sale within the United States shall be treated as derived partly from sources within and partly from sources without the United States.

(f) Definitions: As used in this section the words "sale" or "sold" include "exchange" or "exchanged"; and the word "produced" includes "created," "fabricated," "manufactured," "extracted," "processed," "cured," or "aged."

SEC. 120. Unlimited deduction for charitable and other contributions.

In the case of an individual if in the taxable year and in each of the 10 preceding taxable years the amount of the contributions or gifts described in section 23 (o) plus the amount of income, war-profits, or excess-profits taxes paid during such year in respect of preceding taxable years, exceeds 90 percent of the taxpayer's net income for each such year, as computed without the benefit of section 23 (o), then the 15-percent limit imposed by such section shall not be applicable.

SEC. 121. Reduction of dividends paid on certain preferred stock or certain corporations.

In computing the net income of any national banking association, or of any bank or trust company organized under the laws of any State, Territory, possession of the United States, or the Canal Zone, or of any other banking corporation engaged in the business of industrial banking and under the supervision of a State banking department or of the Comptroller of the Currency, or of any incorporated domestic insurance company, there shall be allowed as a deduction from gross income, in addition to deductions otherwise provided for in this title, any dividend (not including any distribution in liquidation) paid, within such taxable year, to the United States or to any instrumentality thereof exempt from Federal income taxes, on the preferred stock of the corporation owned by the United States or such instrumentality. The amount allowable as a deduction under this section shall be deducted from the basic surtax credit otherwise computed under section 27 (b).

SUPPLEMENT C—CREDITS AGAINST TAX

[Supplementary to subtitle B, pt. III]

SEC. 131. Taxes of foreign countries and possessions of United States.

(a) Allowance of credit: If the taxpayer signifies in his return his desire to have the benefits of this section, the tax imposed by this title shall be credited with:

(1) Citizen and domestic corporation: In the case of a citizen of the United States and of a domestic corporation, the amount of any income, war-profits, and excess-profits taxes paid or accrued during the taxable year to any foreign country or to any possession of the United States; and

(2) Resident of United States: In the case of a resident of the United States, the amount of any such taxes paid or accrued during the taxable year to any possession of the United States; and

(3) Alien resident of United States: In the case of an alien resident of the United States, the amount of any such taxes paid or accrued during the taxable year to any foreign country, if the foreign country of which such alien resident is a citizen or subject, in imposing such taxes, allows a similar credit to citizens of the United States residing in such country; and

(4) Partnerships and estates: In the case of any such individual who is a member of a partnership or a beneficiary of an estate or trust, his proportionate share of such taxes of the partnership or the estate or trust paid or accrued during the taxable year to a foreign country or to any possession of the United States, as the case may be.

(b) Limit on credit: The amount of the credit taken under this section shall be subject to each of the following limitations:

(1) The amount of the credit in respect of the tax paid or accrued to any country shall not exceed the same proportion of the tax against which such credit is taken, which the taxpayer's net income from sources within such country bears to his entire net income for the same taxable year; and

(2) The total amount of the credit shall not exceed the same proportion of the tax against which such credit is taken, which the taxpayer's net income from sources without the United States bears to his entire net income for the same taxable year.

(c) Adjustments on payment of accrued taxes: If accrued taxes when paid differ from the amounts claimed as credits by the taxpayer, or if any tax paid is refunded in whole or in part, the taxpayer shall notify the Commissioner who shall redetermine the amount of the tax for the year or years affected, and the amount of tax due upon such determination, if any, shall be paid by the taxpayer upon notice and demand by the collector, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of section 322. In the case of such a tax accrued but not paid, the Commissioner as a condition precedent to the allowance of this credit may require the taxpayer to give a bond with sureties satisfactory to and to be approved by the Commissioner in such sum as the Commissioner may require, conditioned upon the payment by the taxpayer of any amount of tax found due upon any such redetermination; and the bond herein prescribed shall contain such further conditions as the Commissioner may require.

(d) Year in which credit taken: The credits provided for in this section may, at the option of the taxpayer and irrespective of the method of accounting employed in keeping his books, be taken in the year in which the taxes of the foreign country or the possession of the United States accrued, subject, however, to the conditions prescribed in subsection (c) of this section. If the taxpayer elects to take such credits in the year in which the taxes of the foreign country or the possession of the United States accrued, the credits for all subsequent years shall be taken upon the same basis, and no portion of any such taxes shall be allowed as a deduction in the same or any succeeding year.

(e) Proof of credits: The credits provided in this section shall be allowed only if the taxpayer establishes to the satisfaction of the Commissioner (1) the total amount of income derived from sources without the United States, determined as provided in section 119, (2) the amount of income derived from each country, the tax paid or accrued to which is claimed as a credit under this section, such amount to be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary, and (3) all other information necessary for the verification and computation of such credits.

(f) Taxes of foreign subsidiary: For the purposes of this section a domestic corporation which owns a majority of the voting stock of a foreign corporation from which it receives dividends in any taxable year shall be deemed to have paid the same proportion of any income, war-profits, or excess-profits taxes paid by such foreign corporation to any foreign country or to any possession of the United States, upon or with respect to the accumulated profits of such foreign corporation from which such dividends were paid, which the amount of such dividends bears to the amount of such accumulated profits: *Provided*, That the amount of tax deemed to have been paid under this subsection shall in no case exceed the same proportion of the tax against which credit is taken which the amount of such dividends bears to the amount of the entire net income of the domestic corporation in which such dividends are included. The term "accumulated profits" when used in this subsection in reference to a foreign corporation, means the amount of its gains, profits, or income in excess of the income, war-profits, and excess-profits taxes imposed upon or with respect to such profits or income; and the Commissioner with the approval of the Secretary shall have full power to determine from the accumulated profits of what year or years such dividends were paid; treating dividends paid in the first 60 days of any year as having been paid from the accumulated profits of the preceding year or years (unless to his satisfaction shown otherwise), and in other respects treating dividends as having been paid from the most recently accumulated gains, profits, or earnings. In the case of a foreign corporation, the income, war-profits, and excess-profits taxes of which are determined on the basis of an accounting period of less than 1 year, the word "year" as used in this subsection shall be construed to mean such accounting period.

(g) Corporations treated as foreign: For the purposes of this section the following corporations shall be treated as foreign corporations:

(1) A corporation entitled to the benefits of section 251, by reason of receiving a large percentage of its gross income from sources within a possession of the United States.

(2) A corporation organized under the China Trade Act, 1922, and entitled to the credit provided for in section 262.

SUPPLEMENT D—RETURNS AND PAYMENT OF TAX

[Supplementary to subtitle B, part V]

SEC. 141. Consolidated returns of railroad corporations.

(a) Privilege to file consolidated returns: An affiliated group of corporations shall, subject to the provisions of this section, have the privilege of making a consolidated return for the taxable year

in lieu of separate returns. The making of a consolidated return shall be upon the condition that all the corporations which have been members of the affiliated group at any time during the taxable year for which the return is made consent to all the regulations under subsection (b) (or, in case such regulations are not prescribed prior to the making of the return, then the regulations prescribed under section 141 (b) of the Revenue Act of 1936 insofar as not inconsistent with this act) prescribed prior to the making of such return; and the making of a consolidated return shall be considered as such consent. In the case of a corporation which is a member of the affiliated group for a fractional part of the year the consolidated return shall include the income of such corporation for such part of the year as it is a member of the affiliated group.

(b) Regulations: The Commissioner, with the approval of the Secretary, shall prescribe such regulations as he may deem necessary in order that the tax liability of any affiliated group of corporations making a consolidated return and of each corporation in the group, both during and after the period of affiliation, may be determined, computed, assessed, collected, and adjusted in such manner as clearly to reflect the income and to prevent avoidance of tax liability.

(c) Computation and payment of tax: In any case in which a consolidated return is made the tax shall be determined, computed, assessed, collected, and adjusted in accordance with the regulations under subsection (b) (or, in case such regulations are not prescribed prior to the making of the return, then the regulations prescribed under section 141 (b) of the Revenue Act of 1936 insofar as not inconsistent with this act) prescribed prior to the date on which such return is made.

(d) Definition of "affiliated group": As used in this section an "affiliated group" means one or more chains of corporations connected through stock ownership with a common parent corporation if—

(1) At least 95 per cent of the stock of each of the corporations (except the common parent corporation) is owned directly by one or more of the other corporations; and

(2) The common parent corporation owns directly at least 95 percent of the stock of at least one of the other corporations; and

(3) Each of the corporations is either (A) a corporation whose principal business is that of a common carrier by railroad or (B) a corporation the assets of which consist principally of stock in such corporations and which does not itself operate a business other than that of a common carrier by railroad. For the purpose of determining whether the principal business of a corporation is that of a common carrier by railroad, if a common carrier by railroad has leased its railroad properties and such properties are operated as such by another common carrier by railroad, the business of receiving rents for such railroad properties shall be considered as the business of a common carrier by railroad. As used in this paragraph, the term "railroad" includes a street, suburban, or interurban electric railway.

As used in this subsection (except in paragraph (3)) the term "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(e) Foreign corporations: A foreign corporation shall not be deemed to be affiliated with any other corporation within the meaning of this section.

(f) China Trade Act corporations: A corporation organized under the China Trade Act, 1922, shall not be deemed to be affiliated with any other corporation within the meaning of this section.

(g) Corporations deriving income from possessions of United States: For the purposes of this section, a corporation entitled to the benefits of section 251, by reason of receiving a large percentage of its income from possessions of the United States, shall be treated as a foreign corporation.

(h) Subsidiary formed to comply with foreign law: In the case of a domestic corporation owning or controlling, directly or indirectly, 100 percent of the capital stock (exclusive of directors' qualifying shares) of a corporation organized under the laws of a contiguous foreign country and maintained solely for the purpose of complying with the laws of such country as to title and operation of property, such foreign corporation may, at the option of the domestic corporation, be treated for the purpose of this title as a domestic corporation.

(i) Suspension of running of statute of limitations: If a notice under section 272 (a) in respect of a deficiency for any taxable year is mailed to a corporation, the suspension of the running of the statute of limitations, provided in section 277, shall apply in the case of corporations with which such corporation made a consolidated return for such taxable year.

(j) Receivership cases: If the common parent corporation of an affiliated group making a consolidated return would, if filing a separate return, be entitled to the benefits of section 13 (e), the affiliated group shall be entitled to the benefits of such subsection. In all other cases the affiliated group making a consolidated return shall not be entitled to the benefits of such subsection, regardless of the fact that one or more of the corporations in the group are in bankruptcy or in receivership.

(k) Allocation of income and deductions: For allocation of income and deductions of related trades or businesses, see section 45.

SEC. 142. Fiduciary returns.

(a) Requirement of return: Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make under oath a return for any of the following individuals, estates, or trusts for which he acts, stating specifically the items of gross income thereof and the deductions and credits allowed under this title and such other information for the purpose of carrying out the provisions of this title as the Commissioner, with the approval of the Secretary, may by regulations prescribe—

(1) Every individual having a net income for the taxable year of $1,000 or over, if single, or if married and not living with husband or wife;

(2) Every individual having a net income for the taxable year of $2,500 or over, if married and living with husband or wife;

(3) Every individual having a gross income for the taxable year of $5,000 or over, regardless of the amount of his net income;

(4) Every estate the net income of which for the taxable year is $1,000 or over;

(5) Every trust the net income of which for the taxable year is $50 or over;

(6) Every estate or trust the gross income of which for the taxable year is $5,000 or over, regardless of the amount of the net income; and

(7) Every estate or trust of which any beneficiary is a nonresident alien.

(b) Joint fiduciaries: Under such regulations as the Commissioner with the approval of the Secretary may prescribe a return made by one or two or more joint fiduciaries and filed in the office of the collector of the district where such fiduciary resides shall be sufficient compliance with the above requirement. Such fiduciary shall make oath (1) that he has sufficient knowledge of the affairs of the individual, estate, or trust for which the return is made, to enable him to make the return, and (2) that the return is, to the best of his knowledge and belief, true and correct.

(c) Law applicable to fiduciaries: Any fiduciary required to make a return under this title shall be subject to all the provisions of law which apply to individuals.

SEC. 143. Withholding of tax at source.

(a) Tax-free covenant bonds:

(1) Requirement of withholding: In any case where bonds mortgages, or deeds of trust, or other similar obligations of a corporation, issued before January 1, 1934, contain a contract or provision by which the obligor agrees to pay any portion of the tax imposed by this title upon the obligee, or to reimburse the obligee for any portion of the tax, or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon, or to retain therefrom under any law of the United States, the obligor shall deduct and withhold a tax equal to 2 per centum of the interest upon such bonds, mortgages, deeds of trust, or other obligations, whether such interest is payable annually or at shorter or longer periods, if payable to an individual, a partnership, or a foreign corporation not engaged in trade or business within the United States and not having any office or place of business therein: *Provided*, That if the liability assumed by the obligor does not exceed 2 percent of the interest, then the deduction and withholding shall be at the following rates: (A) 10 percent in the case of a nonresident alien individual (except that such rate shall be reduced, in the case of a resident of a contiguous country, to such rate, not less than 5 percent, as may be provided by treaty with such country), or of any partnership not engaged in trade or business within the United States and not having any office or place of business therein and composed in whole or in part of nonresident aliens, (B) in the case of such a foreign corporation, 15 percent, and (C) 2 percent in the case of other individuals and partnerships: *Provided further*, That if the owners of such obligations are not known to the withholding agent the Commissioner may authorize such deduction and withholding to be at the rate of 2 percent, or, if the liability assumed by the obligor does not exceed 2 percent of the interest, then at the rate of 10 percent.

(2) Benefit of credits against net income: Such deduction and withholding shall not be required in the case of a citizen or resident entitled to receive such interest if he files with the withholding agent on or before February 1 a signed notice in writing claiming the benefit of the credits provided in section 25 (b); nor in the case of a nonresident alien individual if so provided for in regulations prescribed by the Commissioner under section 215.

(3) Income of obligor and obligee: The obligor shall not be allowed a deduction for the payment of the tax imposed by this title, or any other tax paid pursuant to the tax-free covenant clause, nor shall such tax be included in the gross income of the obligee.

(b) Nonresident aliens: All persons, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the United States, having the control, receipt, custody, disposal, or payment of interest (except interest on deposits with persons carrying on the banking business paid to persons not engaged in business in the United States and not having an office or place of business therein), dividends, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income (but only to the extent that any of the above items constitutes gross income from sources within the United States), of any nonresident alien individual, or of any partnership not engaged in trade or business within the United States and not having any office or place of business therein and composed in whole or in part of nonresident aliens, shall (except in the cases provided for in subsection (a) of this section and except as otherwise provided in regulations prescribed by the Commissioner under section 215) deduct

and withhold from such annual or periodical gains, profits, and income a tax equal to 10 percent thereof, except that such rate shall be reduced, in the case of a nonresident alien individual a resident of a contiguous country, to such rate (not less than 5 percent) as may be provided by treaty with such country: *Provided*, That no such deduction or withholding shall be required in the case of dividends paid by a foreign corporation unless (1) such corporation is engaged in trade or business within the United States or has an office or place of business therein, and (2) more than 85 percent of the gross income of such corporation for the 3-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as determined under the provisions of section 119: *Provided further*, That the Commissioner may authorize such tax to be deducted and withheld from the interest upon any securities the owners of which are not known to the withholding agent. Under regulations prescribed by the Commissioner, with the approval of the Secretary, there may be exempted from such deduction and withholding the compensation for personal services of nonresident alien individuals who enter and leave the United States at frequent intervals.

(c) Return and payment: Every person required to deduct and withhold any tax under this section shall make return thereof on or before March 15 of each year and shall on or before June 15, in lieu of the time prescribed in section 56, pay the tax to the official of the United States Government authorized to receive it. Every such person is hereby made liable for such tax and is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this section.

(d) Income of recipient: Income upon which any tax is required to be withheld at the source under this section shall be included in the return of the recipient of such income, but any amount of tax so withheld shall be credited against the amount of income tax as computed in such return.

(e) Tax paid by recipient: If any tax required under this section to be deducted and withheld is paid by the recipient of the income, it shall not be re-collected from the withholding agent; nor in cases in which the tax is so paid shall any penalty be imposed upon or collected from the recipient of the income or the withholding agent for failure to return or pay the same, unless such failure was fraudulent and for the purpose of evading payment.

(f) Refunds and credits: Where there has been an overpayment of tax under this section any refund or credit made under the provisions of section 322 shall be made to the withholding agent unless the amount of such tax was actually withheld by the withholding agent.

SEC. 144. Payment of corporation income tax at source.

In the case of foreign corporations subject to taxation under this title not engaged in trade or business within the United States and not having any office or place of business therein, there shall be deducted and withheld at the source in the same manner and upon the same items of income as is provided in section 143 a tax equal to 15 percent thereof, except that in the case of dividends the rate shall be 10 percent, and except that in the case of corporations organized under the laws of a contiguous country such rate of 10 percent with respect to dividends shall be reduced to such rate (not less than 5 percent) as may be provided by treaty with such country; and such tax shall be returned and paid in the same manner and subject to the same conditions as provided in that section: *Provided*, That in the case of interest described in subsection (a) of that section (relating to tax-free covenant bonds) the deduction and withholding shall be at the rate specified in such subsection.

SEC. 145. Penalties.

(a) Any person required under this title to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this title, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than 1 year, or both, together with the costs of prosecution.

(b) Any person required under this title to collect, account for, and pay over any tax imposed by this title, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than 5 years, or both, together with the costs of prosecution.

(c) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(d) For penalties for failure to file information returns with respect to foreign personal holding companies and foreign corporations, see section 340.

SEC. 146. Closing by Commissioner of taxable year.

(a) Tax in jeopardy.—

(1) Departure of taxpayer or removal of property from United States: If the Commissioner finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect the tax for the taxable year then last past or the taxable year then current unless such proceedings be brought without delay, the Commissioner shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year or so much of such tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable. In any proceeding in court brought to enforce payment of taxes made due and payable by virtue of the provisions of this section the finding of the Commissioner, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence of the taxpayer's design.

(2) Corporation in liquidation: If the Commissioner finds that the collection of the tax of a corporation for the current or last preceding taxable year will be jeopardized by the distribution of all or a portion of the assets of such corporation in the liquidation of the whole or any part of its capital stock, the Commissioner shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the last preceding taxable year or so much of such tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable.

(b) Security for payment: A taxpayer who is not in default in making any return or paying income, war-profits, or excess-profits tax under any act of Congress may furnish to the United States, under regulations to be prescribed by the Commissioner, with the approval of the Secretary, security approved by the Commissioner that he will duly make the return next thereafter required to be filed and pay the tax next thereafter required to be paid. The Commissioner may approve and accept in like manner security for return and payment of taxes made due and payable by virtue of the provisions of this section, provided the taxpayer has paid in full all other income, war-profits, or excess-profits taxes due from him under any act of Congress.

(c) Same—exemption from section: If security is approved and accepted pursuant to the provisions of this section and such further or other security with respect to the tax or taxes covered thereby is given as the Commissioner shall from time to time find necessary and require, payment of such taxes shall not be enforced by any proceedings under the provisions of this section prior to the expiration of the time otherwise allowed for paying such respective taxes.

(d) Citizens: In the case of a citizen of the United States or of a possession of the United States about to depart from the United States the Commissioner may, at his discretion, waive any or all of the requirements placed on the taxpayer by this section.

(e) Departure of alien: No alien shall depart from the United States unless he first procures from the collector or agent in charge a certificate that he has complied with all the obligations imposed upon him by the income, war-profits, and excess-profits tax laws.

(f) Addition to tax: If a taxpayer violates or attempts to violate this section there shall, in addition to all other penalties, be added as part of the tax 25 percent of the total amount of the tax or deficiency in the tax, together with interest at the rate of 6 percent per annum from the time the tax became due.

SEC. 147. Information at source—

(a) Payments of $1,000 or more: All persons, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, and employees, making payment to another person, of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments described in section 148 (a) or 149), of $1,000 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Commissioner, under such regulations and in such form and manner and to such extent as may be prescribed by him with the approval of the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

(b) Returns regardless of amount of payment: Such returns may be required, regardless of amounts, (1) in the case of payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations, and (2) in the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by persons undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

(c) Recipient to furnish name and address: When necessary to make effective the provisions of this section the name and address of the recipient of income shall be furnished upon demand of the person paying the income.

(d) Obligations of United States: The provisions of this section shall not apply to the payment of interest on obligations of the United States.

SEC. 148. Information by corporations.

(a) Dividend payments: Every corporation shall, when required by the Commissioner, render a correct return, duly verified under oath, of its payments of dividends, stating the name and address of each shareholder, the number of shares owned by him, and the amount of dividends paid to him.

(b) Profits declared as dividends: Every corporation shall, when required by the Commissioner, furnish him a statement of such facts as will enable him to determine the portion of the earnings or profits of the corporation (including gains, profits, and income not taxed) accumulated during such periods as the Commissioner may specify, which have been distributed or ordered to be distributed, respectively, to its shareholders during such taxable years as the Commissioner may specify.

(c) Accumulated earnings and profits: When requested by the Commissioner, or any collector, every corporation shall forward to him a correct statement of accumulated earnings and profits and the names and addresses of the individuals or shareholders who would be entitled to the same if divided or distributed, and of the amounts that would be payable to each.

(d) Contemplated dissolution or liquidation: Every corporation shall, within 30 days after the adoption by the corporation of a resolution or plan for the dissolution of the corporation or for the liquidation of the whole or any part of its capital stock, render a correct return to the Commissioner, verified under oath, setting forth the terms of such resolution or plan and such other information as the Commissioner shall, with the approval of the Secretary, by regulations prescribe.

(e) Distributions in liquidation: Every corporation shall, when required by the Commissioner, render a correct return, duly verified under oath, of its distributions in liquidation, stating the name and address of each shareholder, the number and class of shares owned by him, and the amount paid to him or, if the distribution is in property other than money, the fair market value (as of the date the distribution is made) of the property distributed to him.

SEC. 149. Returns of brokers.

Every person doing business as a broker shall, when required by the Commissioner, render a correct return duly verified under oath, under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe, showing the names of customers for whom such person has transacted any business, with such details as to the profits, losses, or other information which the Commissioner may require, as to each of such customers, as will enable the Commissioner to determine whether all income tax due on profits or gains of such customers has been paid.

SEC. 150. Collection of foreign items.

All persons undertaking as a matter of business or for profit the collection of foreign payments of interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Commissioner and shall be subject to such regulations enabling the Government to obtain the information required under this title as the Commissioner, with the approval of the Secretary, shall prescribe; and whoever knowingly undertakes to collect such payments without having obtained a license therefor, or without complying with such regulations, shall be guilty of a misdemeanor and shall be fined not more than $5,000 or imprisoned for not more than 1 year, or both.

Sec. 151. Foreign personal holding companies.

For information returns by officers, directors, and large shareholders, with respect to foreign personal holding companies, see sections 338, 339, and 340.

SUPPLEMENT E—ESTATES AND TRUSTS

SEC. 161. Imposition of tax.

(a) Application of tax: The taxes imposed by this title upon individuals shall apply to the income of estates or of any kind of property held in trust, including—

(1) Income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests, and income accumulated or held for future distribution under the terms of the will or trust;

(2) Income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a guardian of an infant which is to be held or distributed as the court may direct;

(3) Income received by estates of deceased persons during the period of administration or settlement of the estate; and

(4) Income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated.

(b) Computation and payment: The tax shall be computed upon the net income of the estate or trust, and shall be paid by the fiduciary, except as provided in section 166 (relating to revocable trusts) and section 167 (relating to income for benefit of the grantor). For return made by fiduciary, see section 142.

SEC. 162. Net income.

The net income of the estate or trust shall be computed in the same manner and on the same basis as in the case of an individual, except that—

(a) There shall be allowed as a deduction (in lieu of the deduction for charitable, etc., contributions authorized by section 23 (o)) any part of the gross income, without limitation, which pursuant to the terms of the will or deed creating the trust, is during the taxable year paid or permanently set aside for the purposes and in the manner specified in section 23 (o), or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance, or operation of a public cemetery not operated for profit;

(b) There shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is to be distributed currently by the fiduciary to the beneficiaries, and the amount of the income collected by a guardian of an infant which is to be held or distributed as the court may direct, but the amount so allowed as a deduction shall be included in computing the net income of the beneficiaries whether distributed to them or not. Any amount allowed as a deduction under this paragraph shall not be allowed as a deduction under subsection (c) of this section in the same or any succeeding taxable year;

(c) In the case of income received by estates of deceased persons during the period of administration or settlement of the estate, and in the case of income which, in the discretion of the fiduciary, may be either distributed to the beneficiary or accumulated, there shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year, which is properly paid or credited during such year to any legatee, heir, or beneficiary, but the amount so allowed as a deduction shall be included in computing the net income of the legatee, heir, or beneficiary.

SEC. 163. Credits against net income.

(a) Credits of estate or trust.—

(1) For the purpose of the normal tax and the surtax an estate shall be allowed the same personal exemption as is allowed to a single person under section 25 (b) (1), and a trust shall be allowed (in lieu of the personal exemption under section 25 (b) (1)) a credit of $50 against net income.

(2) If no part of the income of the estate or trust is included in computing the net income of any legatee, heir, or beneficiary, then the estate or trust shall be allowed the same credits against the net income for interest as are allowed by section 25 (a).

(b) Credits of beneficiary: If any part of the income of an estate or trust is included in computing the net income of any legatee, heir, or beneficiary, such legatee, heir, or beneficiary shall, for the purpose of the normal tax, be allowed as credits against net income, in addition to the credits allowed to him under section 25, his proportionate share of such amounts of interest specified in section 25 (a) as are, under this Supplement, required to be included in computing his net income. Any remaining portion of such amounts specified in section 25 (a) shall, for the purpose of the normal tax, be allowed as credits to the estate or trust.

SEC. 164. Different taxable years.

If the taxable year of a beneficiary is different from that of the estate or trust, the amount which he is required, under section 162 (b), to include in computing his net income, shall be based upon the income of the estate or trust for any taxable year of the estate or trust (whether beginning on, before, or after January 1, 1938) ending within or with his taxable year.

SEC. 165. Employees' trusts.

(a) Exemption from tax: A trust forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of some or all of his employees—

(1) if contributions are made to the trust by such employer, or employees, or both, for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, and

(2) if under the trust instrument it is impossible for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit of his employees,

shall not be taxable under section 161, but the amount actually distributed or made available to any distributee shall be taxable to him in the year in which so distributed or made available to the extent that it exceeds the amounts paid in by him. Such distributees shall for the purpose of the normal tax be allowed as credits against net income such part of the amount so distributed or made available as represents the items of interest specified in section 25 (a).

(b) Taxable year beginning before January 1, 1939: The provisions of clause (2) of subsection (a) shall not apply to a taxable year beginning before January 1, 1939.

SEC. 166. Revocable trusts.

Where at any time the power to revest in the grantor title to any part of the corpus of the trust is vested—

(1) in the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom, or

(2) in any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom,

then the income of such part of the trust shall be included in computing the net income of the grantor.

SEC. 167. Income for benefit of grantor.

(a) Where any part of the income of a trust—

(1) is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, held or accumulated for future distribution to the grantor; or

(2) may, in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income, be distributed to the grantor; or

(3) is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, applied to the payment of premiums upon policies of insurance on the life of the grantor (except policies of insurance irrevocably payable for the purposes and in the manner specified in section 23 (o), relating to the so-called "charitable contribution" deduction);

then such part of the income of the trust shall be included in computing the net income of the grantor.

(b) As used in this section, the term "in the discretion of the grantor" means "in the discretion of the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of the part of the income in question."

SEC. 168. Taxes of foreign countries and possessions of United States.

The amount of income, war-profits, and excess profits taxes imposed by foreign countries or possessions of the United States shall be allowed as credit against the tax of the beneficiary of an estate or trust to the extent provided in section 131.

SEC. 169. Common trust funds.—

(a) Definitions: The term "common trust fund" means a fund maintained by a bank (as defined in section 104)—

(1) exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity as a trustee, executor, administrator, or guardian; and

(2) in conformity with the rules and regulations, prevailing from time to time, of the Board of Governors of the Federal Reserve System pertaining to the collective investment of trust funds by national banks.

(b) Taxation of common trust funds: A common trust fund shall not be subject to taxation under this title, title I–A, title I–B, or sections 105 or 106 of the Revenue Act of 1935, or sections 601 or 602 of this act, and for the purposes of such titles and sections shall not be considered a corporation.

(c) Income of participants in fund.—

(1) Inclusions in net income: Each participant in the common trust fund in computing its net income shall include, whether or not distributed and whether or not distributable—

(A) As a part of its short-term capital gain or losses, its proportionate share of the net short-term capital gain or loss of the common trust fund;

(B) As a part of its long-term capital gains or losses, its proportionate share of the net long-term capital gain or loss of the common trust fund;

(C) Its proportionate share of the ordinary net income or the ordinary net loss of the common trust fund, computed as provided in subsection (d).

(2) Credit for partially exempt interest: The proportionate share of each participant in the amount of interest specified in section 25 (a) received by the common trust fund shall for the purposes of this supplement be considered as having been received by such participant as such interest.

(d) Computation of common trust fund income: The net income of the common trust fund shall be computed in the same manner and on the same basis as in the case of an individual, except that—

(1) There shall be segregated the short-term capital gains and losses and the long-term capital gains and losses, and the net short-term capital gain or loss and the net long-term capital gain or loss shall be computed;

(2) After excluding all items of either short-term or long-term capital gain or loss, there shall be computed—

(A) An ordinary net income which shall consist of the excess of the gross income over the deductions; or

(B) An ordinary net loss which shall consist of the excess of the deductions over the gross income;

(3) The so-called "charitable contribution" deduction allowed by section 23 (o) shall not be allowed.

(e) Admission and withdrawal: No gain or loss shall be realized by a common trust fund by the admission or withdrawal of a participant. The withdrawal of any participating interest by a participant shall be treated as a sale or exchange of such interest by the participant.

(f) Returns by bank: Every bank (as defined in section 104) maintaining a common trust fund shall make a return under oath for each taxable year, stating specifically, with respect to such fund, the items of gross income and the deductions allowed by this title, and shall include in the return the names and addresses of the participants who would be entitled to share in the net income if distributed and the amount of the proportionate share of each participant. The return shall be sworn to as in the case of a return filed by the bank under section 52.

(g) Different taxable years of common trust fund and participant:

(1) General rule: If the taxable year of the common trust fund is different from that of a participant, the inclusions with respect to the net income of the common trust fund, in computing the net income of the participant for its taxable year shall be based upon the net income of the common trust fund for any taxable year of the common trust fund (whether beginning on, before, or after January 1, 1938), ending within or with the taxable year of the participant.

(2) Exception: If the taxable year of the common trust fund begins before January 1, 1938, and the taxable year of a participant begins after December 31, 1937, the computation of the net income of the common trust fund, and the inclusions with respect to the common trust fund net income, in computing the net income of such participant, shall be made by the method provided in section 169 of the Revenue Act of 1936, and not by the method provided in subsections (c) and (d) of this section.

SUPPLEMENT F—PARTNERSHIPS

SEC. 181. Partnership not taxable.

Individuals carrying on business in partnership shall be liable for income tax only in their individual capacity.

SEC. 182. Tax of partners.

In computing the net income of each partner, he shall include, whether or not distribution is made to him—

(a) As a part of his short-term capital gains or losses, his distributive share of the net short-term capital gain or loss of the partnership.

(b) As a part of his long-term capital gains or losses, his distributive share of the net long-term capital gain or loss of the partnership.

(c) His distributive share of the ordinary net income or the ordinary net loss of the partnership, computed as provided in section 183 (b).

SEC. 183. Computation of partnership income.

(a) General rule: The net income of the partnership shall be computed in the same manner and on the same basis as in the case of an individual, except as provided in subsections (b) and (c).

(b) Segregation of items—

(1) Capital gains and losses: There shall be segregated the short-term capital gains and losses and the long-term capital gains and losses, and the net short-term capital gain or loss and the net long-term capital gain or loss shall be computed.

(2) Ordinary net income or loss: After excluding all items of either short-term or long-term capital gain or less, there shall be computed—

(A) An ordinary net income which shall consist of the excess of the gross income over the deductions; or

(B) An ordinary net loss which shall consist of the excess of the deductions over the gross income.

(c) Charitable contributions: In computing the net income of the partnership the so-called "charitable contribution" deduction allowed by section 23 (o) shall not be allowed; but each partner shall be considered as having made payment, within his taxable year, of his distributive portion of any contribution or gift, payment of which was made by the partnership within its taxable year, of the character which would be allowed to the partnership as a deduction under such section if this subsection had not been enacted.

SEC. 184. Credits against net income.

The partner shall, for the purpose of the normal tax, be allowed as a credit against his net income, in addition to the credits allowed to him under section 25, his proportionate share of such amounts (not in excess of the net income of the partnership) of interest specified in section 25 (a) as are received by the partnership.

SEC. 185. Earned income.

In the case of the members of a partnership the proper part of each share of the net income which consists of earned income shall be determined under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary and shall be separately shown in the return of the partnership.

SEC. 186. Taxes of foreign countries and possessions of United States.

The amount of income, war-profits, and excess-profits taxes imposed by foreign countries or possessions of the United States shall be allowed as a credit against the tax of the member of a partnership to the extent provided in section 131.

SEC. 187. Partnership returns.

Every partnership shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowed by this title and such other information for the purpose of carrying out the provisions of this title as the Commissioner with the approval of the Secretary may by regulations prescribe, and shall include in the return the names and addresses of the individuals who would be entitled to share in the net income if distributed and the amount of the distributive share of each individual. The return shall be sworn to by any one of the partners.

SEC. 188. Different taxable years of partner and partnership.

(a) General rule: If the taxable year of a partner is different from that of the partnership, the inclusions with respect to the net income of the partnership, in computing the net income of the partner for his taxable year, shall be based upon the net income of the partnership for any taxable year of the partnership (whether beginning on, before, or after January 1, 1938) ending within or with the taxable year of the partner.

(b) Partnership year beginning in 1937: If the taxable year of the partnership begins before January 1, 1938, and the taxable year of a partner begins after December 31, 1937, the computation of the net income of the partnership, and the inclusions with respect to the partnership net income, in computing the net income of such partner, shall be made by the method provided in sections 182 and 183 of the Revenue Act of 1936 and not by the method provided in sections 182 and 183 of this act.

SUPPLEMENT G—INSURANCE COMPANIES

SEC. 201. Tax on life insurance companies.

(a) Definition: When used in this title the term "life insurance company" means an insurance company engaged in the business of issuing life insurance and annuity contracts (including contracts of combined life, health, and accident insurance), the reserve funds of which held for the fulfillment of such contracts comprise more than 50 percent of its total reserve funds.

(b) Imposition of tax.—

(1) In general: In lieu of the tax imposed by sections 13 and 14, there shall be levied, collected, and paid for each taxable year upon the special class net income of every life insurance company a tax of 16 percent of the amount thereof.

(2) Special class net income of foreign life insurance companies: In the case of a foreign life insurance company, the special class net income shall be an amount which bears the same ratio to the special class net income, computed without regard to this paragraph, as the reserve funds required by law and held by it at the end of the taxable year upon business transacted within the United States bear to the reserve funds held by it at the end of the taxable year upon all business transacted.

(3) No United States insurance business: Foreign life insurance companies not carrying on an insurance business within the United States and holding no reserve funds upon business transacted within the United States, shall not be taxable under this section but shall be taxable as other foreign corporations.

SEC. 202. Gross income of life insurance companies.

(a) In the case of a life insurance company the term "gross income" means the gross amount of income received during the taxable year from interest, dividends, and rents. For inclusion in computation of tax of amount specified in shareholder's consent, see section 28.

(b) The term "reserve funds required by law" includes, in the case of assessment insurance, sums actually deposited by any company or association with State or Territorial officers pursuant to law as guaranty or reserve funds, and any funds maintained under the charter or articles of incorporation of the company or association exclusively for the payment of claims arising under certificates of membership or policies issued upon the assessment plan and not subject to any other use.

SEC. 203. Net income of life insurance companies.

(a) General rule: In the case of a life insurance company the term "net income" means the gross income less—

(1) Tax-free interest: The amount of interest received during the taxable year which under section 22 (b) (4) is excluded from gross income;

(2) Reserve funds: An amount equal to 4 percent of the mean of the reserve funds required by law and held at the beginning and end of the taxable year, except that in the case of any such reserve fund which is computed at a lower interest assumption rate, the rate of 3¾ percent shall be substituted for 4 percent. Life-insurance companies issuing policies covering life, health, and accident insurance combined in one policy issued on the weekly premium payment plan, continuing for life and not subject to cancelation, shall be allowed, in addition to the above, a deduction of 3¾ percent of the mean of such reserve funds (not required by law) held at the beginning and end of the taxable year, as the Commissioner finds to be necessary for the protection of the holders of such policies only;

(3) Reserve for dividends: An amount equal to 2 percent of any sums held at the end of the taxable year as a reserve for dividends (other than dividends payable during the year following the taxable year) the payment of which is deferred for a period of not less than 5 years from the date of the policy contract;

(4) Investment expenses: Investment expenses paid during the taxable year: *Provided*, That if any general expenses are in part assigned to or included in the investment expenses, the total deduction under this paragraph shall not exceed one-fourth of 1 percent of the book value of the mean of the invested assets held at the beginning and end of the taxable year;

(5) Real estate expenses: Taxes and other expenses paid during the taxable year exclusively upon or with respect to the real estate owned by the company, not including taxes assessed against local benefits of a kind tending to increase the value of the property assessed, and not including any amount paid out for new buildings, or for permanent improvements or betterments made to increase the value of any property. The deduction allowed by this paragraph shall be allowed in the case of taxes imposed upon a shareholder of a company upon his interest as shareholder, which are paid by the company without reimbursement from the shareholder, but in such cases no deduction shall be allowed the shareholder for the amount of such taxes;

(6) Depreciation: A reasonable allowance, as provided in section 23 (l), for the exhaustion, wear and tear of property, including a reasonable allowance for obsolescence; and

(7) Interest: All interest paid within the taxable year on its indebtedness, except on indebtedness incurred or continued to purchase or carry obligations (other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer) the interest upon which is wholly exempt from taxation under this title.

(b) Rental value of real estate: The deduction under subsection (a) (5) or (6) of this section on account of any real estate owned and occupied in whole or in part by a life-insurance company shall be limited to an amount which bears the same ratio to such reduction (computed without regard to this subsection) as the rental value of the space not so occupied bears to the rental value of the entire property.

SEC. 204. Insurance companies other than life or mutual.

(a) Imposition of tax:

(1) In general: In lieu of the tax imposed by sections 13 and 14, there shall be levied, collected, and paid for each taxable year upon the special class net income of every insurance company (other than a life- or mutual-insurance company) a tax of 16 percent of the amount thereof.

(2) Special class net income of foreign companies: In the case of a foreign insurance company (other than a life- or mutual-insurance company), the special class net income shall be the net income from sources within the United States minus the sum of—

(A) Interest on obligations of the United States and its instrumentalities: The credit provided in section 26 (a).

(B) Dividends received: The credit provided in section 26 (b).

(3) No United States insurance business: Foreign insurance companies not carrying on an insurance business within the United States shall not be taxable under this section but shall be taxable as other foreign corporations.

(b) Definition of income, etc.: In the case of an insurance company subject to the tax imposed by this section—

(1) Gross income: "Gross income" means the sum of (A) the combined gross amount earned during the taxable year, from investment income and from underwriting income as provided in this subsection, computed on the basis of the underwriting and investment exhibit of the annual statement approved by the National Convention of Insurance Commissioners, and (B) gain during the taxable year from the sale or other disposition of property, and (C) all other items constituting gross income under section 22;

(2) Net income: "Net income" means the gross income as defined in paragraph (1) of this subsection less the deductions allowed by subsection (c) of this section;

(3) Investment income: "Investment income" means the gross amount of income earned during the taxable year from interest, dividends, and rents, computed as follows:

To all interest, dividends, and rents received during the taxable year, add interest, dividends, and rents due and accrued at the end of the taxable year, and deduct all interest, dividends, and rents due and accrued at the end of the preceding taxable year;

(4) Underwriting income: "Underwriting income" means the premiums earned on insurance contracts during the taxable year less losses incurred and expenses incurred;

(5) Premiums earned: "Premiums earned on insurance contracts during the taxable year" means an amount computed as follows:

From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance. To the result so obtained add unearned premiums on outstanding business at the end of the preceding taxable year and deduct unearned premiums on outstanding business at the end of the taxable year;

(6) Losses incurred: "Losses incurred" means losses incurred during the taxable year on insurance contracts, computed as follows:

To losses paid during the taxable year, add salvage and reinsurance recoverable outstanding at the end of the preceding taxable year, and deduct salvage and reinsurance recoverable outstanding at the end of the taxable year. To the result so obtained add all unpaid losses outstanding at the end of the taxable year and deduct unpaid losses outstanding at the end of the preceding taxable year;

(7) Expenses incurred: "Expenses incurred" means all expenses shown on the annual statement approved by the National Convention of Insurance Commissioners, and shall be computed as follows:

To all expenses paid during the taxable year add expenses unpaid at the end of the taxable year and deduct expenses unpaid at the end of the preceding taxable year. For the purpose of computing the net income subject to the tax imposed by this section there shall be deducted from expenses incurred as defined in this paragraph all expenses incurred which are not allowed as deductions by subsection (c) of this section.

(c) Deductions allowed: In computing the net income of an insurance company subject to the tax imposed by this section, there shall be allowed as deductions:

(1) All ordinary and necessary expenses incurred, as provided in section 23 (a);

(2) All interest as provided in section 23 (b);

(3) Taxes as provided in section 23 (c);

(4) Losses incurred as defined in subsection (b) (6) of this section;

(5) Subject to the limitation contained in section 117 (d), losses sustained during the taxable year from the sale or other disposition of property;

(6) Bad debts in the nature of agency balances and bills receivable ascertained to be worthless and charged off within the taxable year;

(7) The amount of interest earned during the taxable year which under section 22 (b) (4) is excluded from gross income;

(8) A reasonable allowance for the exhaustion, wear and tear of property, as provided in section 23 (l);

(9) Charitable, and so forth, contributions, as provided in section 23 (q);

(10) Deductions (other than those specified in this subsection) as provided in section 23, but not in excess of the amount of the gross income included under subsection (b) (1) (C) of this section.

(d) Deductions of foreign corporations: In the case of a foreign corporation the deductions allowed in this section shall be allowed to the extent provided in Supplement I in the case of a foreign corporation engaged in trade or business within the United States or having an office or place of business therein.

(e) Double deductions: Nothing in this section shall be construed to permit the same item to be twice deducted.

SEC. 205. Taxes of foreign countries and possessions of the United States.

The amount of income, war-profits, and excess-profits taxes imposed by foreign countries or possessions of the United States shall be allowed as a credit against the tax of a domestic insurance company subject to the tax imposed by section 201, 204, or 207, to the extent provided in the case of a domestic corporation in section 131, and in the case of the tax imposed by section 201 or 204 "net income" as used in section 131 means the net income as defined in this supplement.

SEC. 206. Computation of gross income.

The gross income of insurance companies subject to the tax imposed by section 201 or 204 shall not be determined in the manner provided in section 119.

SEC. 207. Mutual insurance companies other than life.

(a) Imposition of tax.—

(1) In general: There shall be levied, collected, and paid for each taxable year upon the special class net income of every mutual insurance company (other than a life-insurance company) a tax equal to 16 percent thereof, regardless of the amount thereof.

(2) Foreign corporations: The tax imposed by paragraph (1) shall apply to foreign corporations as well as domestic corporations; but foreign insurance companies not carrying on an insurance business within the United States shall be taxable as other foreign corporations.

(b) Gross income: Mutual marine-insurance companies shall include in gross income the gross premiums collected and received by them less amounts paid for reinsurance.

(c) Deductions: In addition to the deductions allowed to corporations by section 23 the following deductions to insurance companies shall also be allowed, unless otherwise allowed—

(1) Mutual insurance companies other than life insurance: In the case of mutual insurance companies other than life-insurance companies—

(A) the net addition required by law to be made within the taxable year to reserve funds (including in the case of assessment insurance companies the actual deposit of sums with State or Territorial officers pursuant to law as additions to guarantee or reserve funds); and

(B) the sums other than dividends paid within the taxable year on policy and annuity contracts.

(2) Mutual marine insurance companies: In the case of mutual marine insurance companies, in addition to the deductions allowed in paragraph (1) of this subsection, unless otherwise allowed, amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment and the payment thereof;

(3) Mutual insurance companies other than life and marine: In the case of mutual insurance companies (including interinsurers and reciprocal underwriters, but not including mutual life or mutual marine insurance companies) requiring their members to make premium deposits to provide for losses and expenses, the amount of premium deposits returned to their policyholders and the amount of premium deposits retained for the payment of losses, expenses, and reinsurance reserves.

SUPPLEMENT H—NONRESIDENT ALIEN INDIVIDUALS

SEC. 211. Tax on nonresident alien individuals.

(a) No United States business or office.—

(1) General rule: There shall be levied, collected, and paid for each taxable year, in lieu of the tax imposed by sections 11 and 12, upon the amount received, by every nonresident alien individual not engaged in trade or business within the United States and not having an office or place of business therein, from sources within the United States as interest (except interest on deposits with persons carrying on the banking business), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, a tax of 10 percent of such amount, except that such rate shall be reduced, in the case of a resident of a contiguous country, to such rate (not less than 5 percent) as may be provided by treaty with such country. For inclusion in computation of tax of amount specified in shareholder's consent, see section 28.

(2) Aggregate more than $21,600: The tax imposed by paragraph (1) shall not apply to any individual if the aggregate amount received during the taxable year from the sources therein specified is more than $21,600.

(3) Residents of contiguous countries: Despite the provisions of paragraph (2), the provisions of paragraph (1) shall apply to a resident of a contiguous country so long as there is in effect a treaty with such country (ratified prior to August 26, 1937) under which the rate of tax under section 211 (a) of the Revenue Act of 1936, prior to its amendment by section 501 (a) of the Revenue Act of 1937, was reduced.

(b) United States business or office: A nonresident alien individual engaged in trade or business in the United States or having an office or place of business therein shall be taxable without regard to the provisions of subsection (a). As used in this section, section 119, section 143, section 144, and section 231, the phrase "engaged in trade or business within the United States" includes the performance of personal services within the United States at any time within the taxable year, but does not include the performance of personal services for a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, by a nonresident alien individual temporarily present in the United States for a period or periods not exceeding a total of 90 days during the taxable year and whose compensation for such services does not exceed in the aggregate $3,000. Such phrase does not include the effecting of transactions in the United States in stocks, securities, or commodities through a resident broker, commission agent, or custodian.

(c) No United States business or office and gross income of more than $21,600: A nonresident alien individual not engaged in trade or business within the United States and not having an office or place of business therein who has a gross income for any taxable year of more than $21,600 from the sources specified in subsection (a) (1), shall be taxable without regard to the provisions of subsection (a) (1), except that—

(1) The gross income shall include only income from the sources specified in subsection (a) (1);

(2) The deductions (other than the so-called "charitable deduction" provided in section 213 (c)) shall be allowed only if and to the extent that they are properly allocable to the gross income from the sources specified in subsection (a) (1);

(3) The aggregate of the normal tax and surtax under sections 11 and 12 shall, in no case, be less than 10 percent of the gross income from the sources specified in subsection (a) (1); and

(4) This subsection shall not apply to a resident of a contiguous country so long as there is in effect a treaty with such country (ratified prior to August 26, 1937) under which the rate of tax under section 211 (a) of the Revenue Act of 1936, prior to its amendment by section 501 (a) of the Revenue Act of 1937, was reduced.

SEC. 212. Gross income.

(a) General rule: In the case of a nonresident alien individual gross income includes only the gross income from sources within the United States.

(b) Ships under foreign flag: The income of a nonresident alien individual which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States shall not be included in gross income and shall be exempt from taxation under this title.

SEC. 213. Deductions.

(a) General rule: In the case of a nonresident alien individual the deductions shall be allowed only if and to the extent that they are connected with income from sources within the United States; and the proper apportionment and allocation of the deductions with respect to sources of income within and without the United States shall be determined as provided in section 119, under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

(b) Losses:

(1) The deduction, for losses not connected with the trade or business if incurred in transactions entered into for profit, allowed by section 23 (e) (2) shall be allowed whether or not connected with income from sources within the United States, but only if the profit, if such transaction had resulted in a profit, would be taxable under this title.

(2) The deduction for losses of property not connected with the trade or business if arising from certain casualties or theft, allowed by section 23 (e) (3), shall be allowed whether or not connected with income from sources within the United States, but only if the loss is of property within the United States.

(c) Charitable, etc., contributions: The so-called "charitable contribution" deduction allowed by section 23 (o) shall be allowed whether or not connected with income from sources within the United States, but only as to contributions or gifts made to domestic corporations, or to community chests, funds, or foundations, created in the United States, or to the vocational rehabilitation fund.

SEC. 214. Credits against net income.

In the case of a nonresident alien individual the personal exemption allowed by section 25 (b) (1) of this title shall be only $1,000. The credit for dependents allowed by section 25 (b) (2) shall not be allowed in the case of a nonresident alien individual unless he is a resident of a contiguous country.

SEC. 215. Allowance of deductions and credits.

(a) Return to contain information: A nonresident alien individual shall receive the benefit of the deductions and credits allowed to him in this title only by filing or causing to be filed with the collector a true and accurate return of his total income received from all sources in the United States, in the manner prescribed in this title; including therein all the information which

the Commissioner may deem necessary for the calculation of such deductions and credits.

(b) Tax withheld at source: The benefit of the personal exemption and credit for dependents may, in the discretion of the Commissioner and under regulations prescribed by him with the approval of the Secretary, be received by a nonresident alien individual entitled thereto, by filing a claim therefor with the withholding agent.

SEC. 216. Credits against tax.

A nonresident alien individual shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

SEC. 217. Returns.

(a) Requirement: In the case of a nonresident alien individual the return, in lieu of the time prescribed in section 53 (a) (1), shall be made on or before the fifteenth day of the sixth month following the close of the fiscal year, or, if the return is made on the basis of the calendar year, then on or before the 15th day of June.

(b) Exemption from requirement: Subject to such conditions, limitations, and exemptions and under such regulations as may be prescribed by the Commissioner, with the approval of the Secretary, nonresident alien individuals subject to the tax imposed by section 211 (a) may be exempted from the requirement of filing returns of such tax.

SEC. 218. Payment of tax.

(a) Time of payment: In the case of a nonresident alien individual the total amount of tax imposed by this title shall be paid, in lieu of the time prescribed in section 56 (a), on the 15th day of June following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the fifteenth day of the sixth month following the close of the fiscal year.

(b) Withholding at source: For withholding at source of tax on income of nonresident aliens, see section 143.

SEC. 219. Partnerships.

For the purpose of this title, a nonresident alien individual shall be considered as being engaged in a trade or business within the United States if the partnership of which he is a member is so engaged and as having an office or place of business within the United States if the partnership of which he is a member has such an office or place of business.

SUPPLEMENT I—FOREIGN CORPORATIONS

SEC. 231. Tax on foreign corporations.

(a) Nonresident corporations: There shall be levied, collected, and paid for each taxable year, in lieu of the tax imposed by sections 13 and 14, upon the amount received by every foreign corporation not engaged in trade or business within the United States and not having an office or place of business therein, from sources within the United States as interest (except interest on deposits with persons carrying on the banking business), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, a tax of 15 percent of such amount, except that in the case of dividends the rate shall be 10 percent, and except that in the case of corporations organized under the laws of a contiguous country such rate of 10 percent with respect to dividends shall be reduced to such rate (not less than 5 percent) as may be provided by treaty with such country. For inclusion in computation of tax of amount specified in shareholder's consent, see section 28.

(b) Resident corporations: A foreign corporation engaged in trade or business within the United States or having an office or place of business therein shall be taxable as provided in section 14 (e) (1).

(c) Gross income: In the case of a foreign corporation ross income includes only the gross income from sources within the United States.

(d) Ships under foreign flag: The income of a foreign corporation, which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States, shall not be included in gross income and shall be exempt from taxation under this title.

SEC. 232. Deductions.

(a) In general: In the case of a foreign corporation the deductions shall be allowed only if and to the extent that they are connected with income from sources within the United States; and the proper apportionment and allocation of the deductions with respect to sources within and without the United States shall be determined as provided in section 119, under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

(b) Charitable, and so forth, contributions: The so-called "charitable contribution" deduction allowed by section 23 (q) shall be allowed whether or not connected with income from sources within the United States.

SEC. 233. Allowance of deductions and credits.

A foreign corporation shall receive the benefit of the deductions and credits allowed to it in this title only by filing or causing to be filed with the collector a true and accurate return of its total income received from all sources in the United States, in the manner prescribed in this title; including therein all the information which the Commissioner may deem necessary for the calculation of such deductions and credits.

SEC. 234. Credits against tax.

Foreign corporations shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

SEC. 235. Returns.

(a) Time of filing: In the case of a foreign corporation not having any office or place of business in the United States the return, in lieu of the time prescribed in section 53 (a) (1), shall be made on or before the 15th day of the sixth month following the close of the fiscal year, or, if the return is made on the basis of the calendar year then on or before the 15th day of June. If any foreign corporation has no office or place of business in the United States but has an agent in the United States, the return shall be made by the agent.

(b) Exemption from requirement: Subject to such conditions, limitations, and exceptions and under such regulations as may be prescribed by the Commissioner, with the approval of the Secretary, corporations subject to the tax imposed by section 231 (a) may be exempted from the requirement of filing returns of such tax.

SEC. 236. Payment of tax.

(a) Time of payment: In the case of a foreign corporation not having any office or place of business in the United States the total amount of tax imposed by this title shall be paid, in lieu of the time prescribed in section 56 (a), on the 15th day of June following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the 15th day of the sixth month following the close of the fiscal year.

(b) Withholding at source: For withholding at source of tax on income of foreign corporations, see section 144.

SEC. 237. Foreign insurance companies.

For special provisions relating to foreign insurance companies, see Supplement G.

SEC. 238. Affiliation.

A foreign corporation shall not be deemed to be affiliated with any other corporation within the meaning of section 141.

SUPPLEMENT J—POSSESSIONS OF THE UNITED STATES

SEC. 251. Income from sources within possessions of United States.

(a) General rule: In the case of citizens of the United States or domestic corporations, satisfying the following conditions, gross income means only gross income from sources within the United States—

(1) If 80 percent or more of the gross income of such citizens or domestic corporations (computed without the benefit of this section), for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States; and

(2) If, in the case of such corporation, 50 percent or more of its gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States; or

(3) If, in case of such citizen, 50 percent or more of his gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States either on his own account or as an employee or agent of another.

(b) Amounts received in United States: Notwithstanding the provisions of subsection (a) there shall be included in gross income all amounts received by such citizens or corporations within the United States, whether derived from sources within or without the United States.

(c) Tax in case of corporations: A domestic corporation entitled to the benefits of this section shall be taxable as provided in section 14 (d). For inclusion in computation of tax of amount specified in shareholder's consent, see section 28.

(d) Definition: As used in this section the term "possession of the United States" does not include the Virgin Islands of the United States.

(e) Deductions :

(1) Citizens of the United States entitled to the benefits of this section shall have the same deductions as are allowed by supplement H in the case of a nonresident alien individual engaged in trade or business within the United States or having an office or place of business therein.

(2) Domestic corporations entitled to the benefits of this section shall have the same deductions as are allowed by supplement I in the case of a foreign corporation engaged in trade or business within the United States or having an office or place of business therein.

(f) Credits against net income: A citizen of the United States entitled to the benefits of this section shall be allowed a personal exemption of only $1,000 and shall not be allowed the credit for dependents provided in section 25 (b) (2).

(g) Allowance of deductions and credits: Citizens of the United States and domestic corporations entitled to the benefits of this section shall receive the benefit of the deductions and credits allowed to them in this title only by filing or causing to be filed with the collector a true and accurate return of their total income received from all sources in the United States, in the manner prescribed in this title; including therein all the information which the Commissioner may deem necessary for the calculation of such deductions and credits.

(h) Credits against tax: Persons entitled to the benefits of this section shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

(i) Affiliation: A corporation entitled to the benefits of this section shall not be deemed to be affiliated with any other corporation within the meaning of section 141.

SEC. 252. Citizens of possessions of United States.

(a) Any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States, shall be subject to taxation under this title only as to income derived from sources within the United States, and in such case the tax shall be computed and paid in the same manner and subject to the same conditions as in the case of other persons who are taxable only as to income derived from such sources.

(b) Nothing in this section shall be construed to alter or amend the provisions of the act entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1922, and for other purposes", approved July 12, 1921, relating to the imposition of income taxes in the Virgin Islands of the United States.

SUPPLEMENT K—CHINA TRADE ACT CORPORATIONS

SEC. 261. Taxation in general.

A corporation organized under the China Trade Act, 1922, shall be taxable as provided in section 14 (d). For inclusion in computation of tax of amount specified in shareholder's consent, see section 28.

SEC. 262. Credit against net income.

(a) Allowance of credit: For the purpose only of the taxes imposed by sections 14 and 602 of this act and section 106 of the Revenue Act of 1935 there shall be allowed, in the case of a corporation organized under the China Trade Act, 1922, in addition to the credits against net income otherwise allowed such corporation, a credit against the net income of an amount equal to the proportion of the net income derived from sources within China (determined in a similar manner to that provided in section 119) which the par value of the shares of stock of the corporation owned on the last day of the taxable year by (1) persons resident in China, the United States, or possessions of the United States, and (2) individual citizens of the United States or China wherever resident, bears to the par value of the whole number of shares of stock of the corporation outstanding on such date: *Provided*, That in no case shall the diminution, by reason of such credit, of the tax imposed by such section 14 (computed without regard to this section) exceed the amount of the special dividend certified under subsection (b) of this section; and in no case shall the diminution, by reason of such credit, of the tax imposed by such section 106 or 602 (computed without regard to this section) exceed the amount by which such special dividend exceeds the diminution permitted by this section in the tax imposed by such section 14.

(d) Special dividend: Such credit shall not be allowed unless the Secretary of Commerce has certified to the Commissioner—

(1) The amount which, during the year ending on the date fixed by law for filing the return, the corporation has distributed as a special dividend to or for the benefit of such persons as on the last day of the taxable year were resident in China, the United States, or possessions of the United States, or were individual citizens of the United States or China, and owned shares of stock of the corporation;

(2) That such special dividend was in addition to all other amounts, payable or to be payable to such persons or for their benefit, by reason of their interest in the corporation; and

(3) That such distribution has been made to or for the benefit of such persons in proportion to the par value of the shares of stock of the corporation owned by each; except that if the corporation has more than one class of stock, the certificates shall contain a statement that the articles of incorporation provide a method for the apportionment of such special dividend among such persons, and that the amount certified has been distributed in accordance with the method so provided.

(c) Ownership of stock: For the purposes of this section shares of stock of a corporation shall be considered to be owned by the person in whom the equitable right to the income from such shares is in good faith vested.

(d) Definition of China: As used in this section the term "China" shall have the same meaning as when used in the China Trade Act, 1922.

SEC. 263. Credits against the tax.

A corporation organized under the China Trade Act, 1922, shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

SEC. 264. Affiliation.

A corporation organized under the China Trade Act, 1922, shall not be deemed to be affiliated with any other corporation within the meaning of section 141.

SEC. 265. Income of shareholders.

For exclusion of dividends from gross income, see section 116.

SUPPLEMENT L—ASSESSMENT AND COLLECTION OF DEFICIENCIES

SEC. 271. Definition of deficiency.

As used in this title in respect of a tax imposed by this title "deficiency" means—

(a) The amount by which the tax imposed by this title exceeds the amount shown as the tax by the taxpayer upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or

(b) If no amount is shown as the tax by the taxpayer upon his return, or if no return is made by the taxpayer, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assessment, shall first be decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax.

SEC. 272. Procedure in general.

(a) Petition to Board of Tax Appeals: If in the case of any taxpayer, the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the taxpayer by registered mail. Within 90 days after such notice is mailed (not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day), the taxpayer may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such 90-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3224 of the Revised Statutes the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court. In the case of a joint return filed by husband and wife such notice of deficiency may be a single joint notice, except that if the Commissioner has been notified by either spouse that separate residences have been established, then, in lieu of the single joint notice, duplicate originals of the joint notice must be sent by registered mail to each spouse at his last known address.

For exceptions to the restrictions imposed by this subsection, see—

(1) Subsection (d) of this section, relating to waivers by the taxpayer;

(2) Subsection (f) of this section, relating to notifications of mathematical errors appearing upon the face of the return;

(3) Section 273, relating to jeopardy assessments;

(4) Section 274, relating to bankruptcy and receiverships; and

(5) Section 1001 of the Revenue Act of 1926, as amended, relating to assessment or collection of the amount of the deficiency determined by the Board pending court review.

(b) Collection of deficiency found by Board: If the taxpayer files a petition with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final shall be assessed and shall be paid upon notice and demand from the collector. No part of the amount determined as a deficiency by the Commissioner but disallowed as such by the decision of the Board which has become final shall be assessed or be collected by distraint or by proceeding in court with or without assessment.

(c) Failure to file petition: If the taxpayer does not file a petition with the Board within the time prescribed in subsection (a) of this section, the deficiency, notice of which has been mailed to the taxpayer, shall be assessed, and shall be paid upon notice and demand from the collector.

(d) Waiver of restrictions: The taxpayer shall at any time have the right, by a signed notice in writing filed with the Commissioner, to waive the restrictions provided in subsection (a) of this section on the assessment and collection of the whole or any part of the deficiency.

(e) Increase of deficiency after notice mailed: The Board shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any penalty, additional amount or addition to the tax should be assessed—if claim therefore is asserted by the Commissioner at or before the hearing or a rehearing.

(f) Further deficiency letters restricted: If the Commissioner has mailed to the taxpayer notice of a deficiency as provided in subsection (a) of this section, and the taxpayer files a petition with the Board within the time prescribed in such subsection, the Commissioner shall have no right to determine any additional deficiency in respect of the same taxable year, except in the case of fraud, and except as provided in subsection (e) of this section, relating to assertion of greater deficiencies before the Board, or in section 273 (c), relating to the making of jeopardy assessments. If the taxpayer is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered (for the purposes of this subsection, or of subsection (a) of this section, prohibiting assessment and collection until notice of deficiency has been mailed, or of section 322 (c), prohibiting credits or refunds after petition to the Board of Tax Appeals) as a notice of a deficiency, and the taxpayer shall have no right to file a petition with the Board based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section.

(g) Jurisdiction over other taxable years: The Board in redetermining a deficiency in respect of any taxable year shall consider such facts with relation to the taxes for other taxable years as may be necessary correctly to redetermine the amount of such

deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other taxable year has been overpaid or underpaid.

(h) Final decisions of Board: For the purposes of this title the date on which a decision of the Board becomes final shall be determined according to the provisions of section 1005 of the Revenue Act of 1926.

(i) Prorating of deficiency to installment: If the taxpayer has elected to pay the tax in installments and a deficiency has been assessed, the deficiency shall be prorated to the four installments. Except as provided in section 273 (relating to jeopardy assessments), that part of the deficiency so prorated to any installment the date for payment of which has not arrived, shall be collected at the same time as and as part of such installment. That part of the deficiency so prorated to any installment the date for payment of which has arrived, shall be paid upon notice and demand from the collector.

(j) Extension of time for payment of deficiencies: Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the taxpayer the Commissioner, with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulation, or to fraud with intent to evade tax), may grant an extension for the payment of such deficiency for a period not in excess of 18 months, and, in exceptional cases, for a further period not in excess of 12 months. If an extension is granted, the Commissioner may require the taxpayer to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties, as the Commissioner deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension.

(k) Address for notice of deficiency: In the absence of notice to the Commissioner under section 312 (a) of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by this title, if mailed to the taxpayer at his last known address, shall be sufficient for the purposes of this title even if such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

SEC. 273. Jeopardy assessments.

(a) Authority for making: If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, he shall immediately assess such deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) and notice and demand shall be made by the collector for the payment thereof.

(b) Deficiency letters: If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under section 272 (a), then the Commissioner shall mail a notice under such subsection within 60 days after the making of the assessment.

(c) Amount assessable before decision of Board: The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the taxpayer, despite the provisions of section 272 (f) prohibiting the determination of additional deficiencies, and whether or not the taxpayer has theretofore filed a petition with the Board of Tax Appeals. The Commissioner shall notify the Board of the amount of such assessment, if the petition is filed with the Board before the making of the assessment or is subsequently filed, and the Board shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

(d) Amount assessable after decision of Board: If the jeopardy assessment is made after the decision of the Board is rendered, such assessment may be made only in respect of the deficiency determined by the Board in its decision.

(e) Expiration of right to assess: A jeopardy assessment may not be made after the decision of the Board has become final, or after the taxpayer has filed a petition for review of the decision of the Board.

(f) Bond to stay collection: When a jeopardy assessment has been made, the taxpayer, within 10 days after notice and demand from the collector for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the Board which has become final, together with interest thereon as provided in section 297.

(g) Same—further conditions: If the bond is given before the taxpayer has filed his petition with the Board under section 272 (a), the bond shall contain a further condition that if a petition is not filed within the period provided in such subsection, then the amount the collection of which is stayed by the bond will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 percent per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subsection.

(h) Waiver of stay: Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The taxpayer shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the taxpayer, be proportionately reduced. If the Board determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the Board is rendered the bond shall, at the request of the taxpayer, be proportionately reduced.

(i) Collection of unpaid amounts: When the petition has been filed with the Board and when the amount which should have been assessed has been determined by a decision of the Board which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded to the taxpayer as provided in section 322, without the filing of claim therefor. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector.

(j) Claims in abatement: No claim in abatement shall be filed in respect of any assessment in respect of any tax imposed by this title.

SEC. 274. Bankruptcy and receiverships.

(a) Immediate assessment: Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the Commissioner in respect of a tax imposed by this title upon such taxpayer shall, despite the restrictions imposed by section 272 (a) upon assessments be immediately assessed if such deficiency has not theretofore been assessed in accordance with law. In such cases the trustee in bankruptcy or receiver shall give notice in writing to the Commissioner of the adjudication of bankruptcy or the appointment of the receiver, and the running of the statute of limitations on the making of assessments shall be suspended for the period from the date of adjudication in bankruptcy or the appointment of the receiver to a date 30 days after the date upon which the notice from the trustee or receiver is received by the Commissioner; but the suspension under this sentence shall in no case be for a period in excess of 2 years. Claims for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Board; but no petition for any such redetermination shall be filed with the Board after the adjudication of bankruptcy or the appointment of the receiver.

(b) Unpaid claims: Any portion of the claim allowed in such bankruptcy or receivership proceeding which is unpaid shall be paid by the taxpayer upon notice and demand from the collector after the termination of such proceeding, and may be collected by distraint or proceeding in court within 6 years after termination of such proceeding. Extensions of time for such payment may be had in the same manner and subject to the same provisions and limitations as are provided in section 272 (j) and section 296 in the case of a deficiency in a tax imposed by this title.

SEC. 275. Period of limitation upon assessment and collection.

Except as provided in section 276—

(a) General rule: The amount of income taxes imposed by this title shall be assessed within 3 years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period.

(b) Request for prompt assessment: In the case of income received during the lifetime of a decedent, or by his estate during the period of administration, or by a corporation, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within 18 months after written request therefor (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by the corporation, but not after the expiration of 3 years after the return was filed. This subsection shall not apply in the case of a corporation unless—

(1) Such written request notifies the Commissioner that the corporation contemplates dissolution at or before the expiration of such 18 months' period; and

(2) The dissolution is in good faith begun before the expiration of such 18 months' period; and

(3) The dissolution is completed.

(c) Omission from gross income: If the taxpayer omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 5 years after the return was filed.

(d) Shareholders of foreign personal holding companies: If the taxpayer omits from gross income an amount properly includible therein under section 337 (b) (relating to the inclusion in the gross income of United States shareholders of their distributive shares of the undistributed Supplement P net income of a foreign personal holding company) the tax may be assessed, or a proceed-

ing in court for the collection of such tax may be begun without assessment, at any time within 7 years after the return was filed.

(e) For the purposes of subsections (a), (b), (c), and (d), a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(f) Corporation and shareholder: If a corporation makes no return of the tax imposed by this title, but each of the shareholders includes in his return his distributive share of the net income of the corporation, then the tax of the corporation shall be assessed within 4 years after the last date on which any such shareholder's return was filed.

SEC. 276. Same—Exceptions.

(a) False return or no return: In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(b) Waiver: Where before the expiration of the time prescribed in section 275 for the assessment of the tax, both the Commissioner and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(c) Collection after assessment: Where the assessment of any income tax imposed by this title has been made within the period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun (1) within 6 years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer before the expiration of such 6-year period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

SEC. 277. Suspension of running of statute.

The running of the statute of limitations provided in sections 275 or 276 on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of a notice under section 272 (a)) be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter.

SUPPLEMENT M—INTEREST AND ADDITIONS TO THE TAX

SEC. 291. Failure to file return.

In case of any failure to make and file return required by this title, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the tax: 5 percent if the failure is for not more than 30 days, with an additional 5 percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax. The amount added to the tax under this section shall be in lieu of the 25 percent addition to the tax provided in section 3176 of the Revised Statutes, as amended.

SEC. 292. Interest on deficiencies.

Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax at the rate of 6 percent per annum from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed, or, in the case of a waiver under section 272 (d), to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed, whichever is the earlier.

SEC. 293. Additions to the tax in case of deficiency.

(a) Negligence: If any part of any deficiency is due to negligence or intentional disregard of rules and regulations but without intent to defraud, 5 percent of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions of section 272 (i), relating to the prorating of a deficiency, and of section 292, relating to interest on deficiencies, shall not be applicable.

(b) Fraud: If any part of any deficiency is due to fraud with intent to evade tax, then 50 percent of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected, and paid, in lieu of the 50 percent addition to the tax provided in section 3176 of the Revised Statutes, as amended.

SEC. 294. Additions to the tax in case of nonpayment.

(a) Tax shown on return—

(1) General rule: Where the amount determined by the taxpayer as the tax imposed by this title, or any installment thereof, or any part of such amount or installment, is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax interest upon such unpaid amount at the rate of 6 percent per annum from the date prescribed for its payment until it is paid.

(2) If extension granted: Where an extension of time for payment of the amount so determined as the tax by the taxpayer, or any installment thereof, has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under section 295, is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (1) of this subsection, interest at the rate of 6 percent per annum shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(b) Deficiency: Where a deficiency, or any interest or additional amounts assessed in connection therewith under section 292, or under section 293, or any addition to the tax in case of delinquency provided for in section 291, is not paid in full within 10 days from the date of notice and demand from the collector, there shall be collected as part of the tax interest upon the unpaid amount at the rate of 6 percent per annum from the date of such notice and demand until it is paid. If any part of a deficiency prorated to any unpaid installment under section 272 (i) is not paid in full on or before the date prescribed for the payment of such installment, there shall be collected as part of the tax interest upon the unpaid amount at the rate of 6 percent per annum from such date until it is paid.

(c) Filing of jeopardy bond: If a bond is filed, as provided in section 273, the provisions of subsection (b) of this section shall not apply to the amount covered by the bond.

SEC. 295. Time extended for payment of tax shown on return.

If the time for payment of the amount determined as the tax by the taxpayer, or any installment thereof, is extended under the authority of section 56 (c), there shall be collected as a part of such amount interest thereon at the rate of 6 percent per annum from the date when such payment should have been made if no extension had been granted until the expiration of the period of the extension.

SEC. 296. Time extended for payment of deficiency.

If the time for the payment of any part of a deficiency is extended, there shall be collected, as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended, at the rate of 6 percent per annum for the period of the extension, and no other interest shall be collected on such part of the deficiency for such period. If the part of the deficiency the time for payment of which is so extended is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of 6 percent per annum for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period.

SEC. 297. Interest in case of jeopardy assessments.

In the case of the amount collected under section 273 (i) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of 6 percent per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under section 273 (i), or, in the case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in section 292. If the amount included in the notice and demand from the collector under section 273 (i) is not paid in full within 10 days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 6 percent per annum from the date of such notice and demand until it is paid.

SEC. 298. Bankruptcy and receiverships.

If the unpaid portion of the claim allowed in a bankruptcy or receivership proceeding, as provided in section 274, is not paid in full within 10 days from the date of notice and demand from the collector, then there shall be collected as a part of such amount interest upon the unpaid portion thereof at the rate of 6 percent per annum from the date of such notice and demand until payment.

SEC. 299. Removal of property or departure from United States.

For additions to tax in case of leaving the United States or concealing property in such manner as to hinder collection of the tax, see section 146.

SUPPLEMENT N—CLAIMS AGAINST TRANSFEREES AND FIDUCIARIES

SEC. 311. Transferred assets.

(a) Method of collection: The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in a tax imposed by this title (including the provisions in case of delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds):

(1) Transferees: The liability, at law or in equity, of a transferee of property of a taxpayer, in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed upon the taxpayer by this title.

(2) Fiduciaries: The liability of a fiduciary under section 3467 of the Revised Statutes in respect of the payment of any such tax from the estate of the taxpayer.

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax.

(b) Period of limitation: The period of limitation for assessment of any such liability of a transferee or fiduciary shall be as follows:

(1) In the case of the liability of an initial transferee of the property of the taxpayer, within 1 year after the expiration of the period of limitation for assessment against the taxpayer;

(2) In the case of the liability of a transferee of a transferee of the property of the taxpayer, within 1 year after the expiration of the period of limitation for assessment against the preceding transferee, but only if within 3 years after the expiration of the period of limitation for assessment against the taxpayer—

except that if before the expiration of the period of limitation for the assessment of the liability of the transferee, a court proceeding for the collection of the tax or liability in respect thereof has been begun against the taxpayer or last preceding transferee, respectively, then the period of limitation for assessment of the liability of the transferee shall expire 1 year after the return of execution in the court proceeding.

(3) In the case of the liability of a fiduciary, not later than 1 year after the liability arises or not later than the expiration of the period for collection of the tax in respect of which such liability arises, whichever is the later.

(4) Where before the expiration of the time prescribed in paragraphs (1), (2), or (3) for the assessment of the liability, both the Commissioner and the transferee or fiduciary have consented in writing to its assessment after such time, the liability may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(c) Period for assessment against taxpayer: For the purposes of this section, if the taxpayer is deceased, or, in the case of a corporation, has terminated its existence, the period of limitation for assessment against the taxpayer shall be the period that would be in effect had death or termination of existence not occurred.

(d) Suspension of running of statute of limitations: The running of the statute of limitations upon the assessment of the liability of a transferee or fiduciary shall, after the mailing to the transferee or fiduciary of the notice provided for in section 272 (a), be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter.

(e) Address for notice of liability: In the absence of notice to the Commissioner under section 312 (b) of the existence of a fiduciary relationship, notice of liability enforceable under this section in respect of a tax imposed by this title, if mailed to the person subject to the liability at his last known address, shall be sufficient for the purposes of this title even if such person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(f) Definition of "transferee": As used in this section, the term "transferee" includes heir, legatee, devisee, and distributee.

SEC. 312. Notice of fiduciary relationship.

(a) Fiduciary of taxpayer: Upon notice to the Commissioner that any person is acting in a fiduciary capacity such fiduciary shall assume the powers, rights, duties, and privileges of the taxpayer in respect of a tax imposed by this title (except as otherwise specifically provided and except that the tax shall be collected from the estate of the taxpayer), until notice is given that the fiduciary capacity has terminated.

(b) Fiduciary of transferee: Upon notice to the Commissioner that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 311, the fiduciary shall assume, on behalf of such person, the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated.

(c) Manner of notice: Notice under subsections (a) or (b) shall be given in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

SUPPLEMENT O—OVERPAYMENTS

SEC. 321. Overpayment of installment.

If the taxpayer has paid as an installment of the tax more than the amount determined to be the correct amount of such installment, the overpayment shall be credited against the unpaid installments, if any. If the amount already paid, whether or not on the basis of installments, exceeds the amount determined to be the correct amount of the tax, the overpayment shall be credited or refunded as provided in section 322.

SEC. 322. Refunds and credits.

(a) Authorization: Where there has been an overpayment of any tax imposed by this title, the amount of such overpayment shall be credited against any income, war-profits, or excess-profits tax or installment thereof then due from the taxpayer, and any balance shall be refunded immediately to the taxpayer.

(b) Limitation on allowance:

(1) Period of limitation: Unless a claim for credit or refund is filed by the taxpayer within 3 years from the time the return was filed by the taxpayer or within 2 years from the time the tax was paid, no credit or refund shall be allowed or made after the expiration of whichever of such periods expires the later. If no return is filed by the taxpayer, then no credit or refund shall be allowed or made after 2 years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer.

(2) Limit on amount of credit or refund: The amount of the credit or refund shall not exceed the portion of the tax paid during the 3 years immediately preceding the filing of the claim, or, if no claim was filed, then during the 3 years immediately preceding the allowance of the credit or refund.

(c) Effect of petition to Board: If the Commissioner has mailed to the taxpayer a notice of deficiency under section 272 (a), and if the taxpayer files a petition with the Board of Tax Appeals within the time prescribed in such subsection, no credit or refund in respect of the tax for the taxable year in respect of which the Commissioner has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of such tax shall be instituted in any court, except—

(1) As to overpayments determined by a decision of the Board which has become final; and

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Board which has become final; and

(3) As to any amount collected after the period of limitation upon the beginning of distraint or a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the Board which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive.

(d) Overpayment found by Board: If the Board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the Commissioner determined the deficiency the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax unless the Board determines as part of its decision that such portion was paid (1) within 3 years before the filing of the claim or the filing of the petition, whichever is earlier, or (2) after the mailing of the notice of deficiency.

(e) Tax withheld at source: For refund or credit in case of excessive withholding at the source, see section 143 (f).

SUPPLEMENT P—FOREIGN PERSONAL HOLDING COMPANIES

SEC. 331. Definition of foreign personal holding company.

(a) General rule: For the purposes of this title, the term "foreign personal holding company" means any foreign corporation if—

(1) Gross income requirement: At least 60 percent of its gross income (as defined in sec. 334 (a)) for the taxable year is foreign personal holding-company income as defined in section 332; but if the corporation is a foreign personal holding company with respect to any taxable year ending after August 26, 1937, then, for each subsequent taxable year, the minimum percentage shall be 50 percent in lieu of 60 percent, until a taxable year during the whole of which the stock ownership required by paragraph (2) does not exist, or until the expiration of 3 consecutive taxable years in each of which less than 50 percent of the gross income is foreign personal holding-company income. For the purposes of this paragraph, there shall be included in the gross income the amount includible therein as a dividend by reason of the application of section 334 (c) (2); and

(2) Stock ownership requirement: At any time during the taxable year more than 50 percent in value of its outstanding stock is owned, directly or indirectly, by or for not more than five individuals who are citizens or residents of the United States, hereinafter called "United States group."

(b) Exceptions: The term "foreign personal holding company" does not include a corporation exempt from taxation under section 101.

SEC. 332. Foreign personal holding-company income.

For the purposes of this title, the term "foreign personal holding-company income" means the portion of the gross income determined for the purposes of section 331 (a) (1), which consists of:

(a) Dividends, interest, royalties, annuities.

(b) Stock and securities transactions: Except in the case of regular dealers in stock or securities, gains from the sale or exchange of stock or securities.

(c) Commodities transactions: Gains from futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange. This subsection shall not apply to gains by a producer, processor, merchant, or handler of the commodity which arise out of bona fide hedging transactions reasonably necessary to the conduct of its business in the manner in which such business is customarily and usually conducted by others.

(d) Estates and trusts: Amounts includible in computing the net income of the corporation under Supplement E; and gains from the sale or other disposition of any interest in an estate or trust.

(e) Personal service contracts: (1) Amounts received under a contract under which the corporation is to furnish personal services; if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract; and (2) amounts received from the sale or other disposition of such a contract. This subsection shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to

perform, or may be designated (by name or by description) as the one to perform, such services.

(f) Use of corporation property by shareholder: Amounts received as compensation (however designated and from whomsoever received) for the use of, or right to use, property of the corporation in any case where, at any time during the taxable year, 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual entitled to the use of the property; whether such right is obtained directly from the corporation or by means of a sublease or other arrangement.

(g) Rents: Rents, unless constituting 50 percent or more of the gross income. For the purposes of this subsection the term "rents" means compensation, however designated, for the use of, or right to use, property; but does not include amounts constituting foreign personal holding company income under subsection (f).

SEC. 333. Stock ownership.

(a) Constructive ownership: For the purpose of determining whether a foreign corporation is a foreign personal company, insofar as such determination is based on stock ownership under section 331 (a) (2), section 332 (e), or section 332 (f)—

(1) Stock not owned by individual: Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries.

(2) Family and partnership ownership: An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family or by or for his partner. For the purposes of this paragraph the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(3) Options: If any person has an option to acquire stock, such stock shall be considered as owned by such person. For the purposes of this paragraph an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

(4) Application of family-partnership and option rules: Paragraphs (2) and (3) shall be applied—

(A) For the purposes of the stock ownership requirement provided in section 331 (a) (2), if, but only if, the effect is to make the corporation a foreign personal holding company;

(B) For the purposes of section 332 (e) (relating to personal service contracts), or of section 332 (f) (relating to the use of property by shareholders), if, but only if, the effect is to make the amounts therein referred to includible under such subsection as foreign personal holding company income.

(5) Constructive ownership as actual ownership: Stock constructively owned by a person by reason of the application of paragraph (1) or (3) shall, for the purpose of applying paragraph (1) or (2), be treated as actually owned by such person; but stock constructively owned by an individual by reason of the application of paragraph (2) shall not be treated as owned by him for the purpose of again applying such paragraph in order to make another the constructive owner of such stock.

(6) Option rule in lieu of family and partnership rule: If stock may be considered as owned by an individual under either paragraph (2) or (3) it shall be considered as owned by him under paragraph (3).

(b) Convertible securities: Outstanding securities convertible into stock (whether or not convertible during the taxable year) shall be considered as outstanding stock—

(1) For the purpose of the stock ownership requirement provided in section 331 (a) (2), but only if the effect of the inclusion of all such securities is to make the corporation a foreign personal holding company;

(2) For the purpose of section 332 (e) (relating to personal service contracts), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such subsection as foreign personal holding-company income; and

(3) For the purpose of section 332 (f) (relating to the use of property by shareholders), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such subsection as foreign personal holding company income.

The requirement in paragraphs (1), (2), and (3) that all convertible securities must be included if any are to be included shall be subject to the exception that, where some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be included although the others are not included, but no convertible securities shall be included unless all outstanding securities having a prior conversion date are also included.

SEC. 334. Gross income of foreign personal holding companies.

(a) General rule: As used in this supplement with respect to a foreign corporation the term "gross income" means gross income computed (without regard to the provisions of Supplement I) as if the foreign corporation were a domestic corporation.

(b) Additions to gross income: In the case of a foreign personal holding company (whether or not a United States group, as defined in section 331 (a) (2), existed with respect to such company on the last day of its taxable year) which was a shareholder in another foreign personal holding company on the day in the taxable year of the second company which was the last day on which a United States group existed with respect to the second company, there shall be included, as a dividend, in the gross income of the first company, for the taxable year in which or with which the taxable year of the second company ends, the amount the first company would have received as a dividend if on such last day there had been distributed by the second company, and received by the shareholders, an amount which bears the same ratio to the undistributed Supplement P net income of the second company for its taxable year as the portion of such taxable year up to and including such last day bears to the entire taxable year.

(c) Application of subsection (b): The rule provided in subsection (b)—

(1) shall be applied in the case of a foreign personal holding company for the purpose of determining its undistributed Supplement P net income which, or a part of which, is to be included in the gross income of its shareholders, whether United States shareholders or other foreign personal holding companies;

(2) shall be applied in the case of every foreign corporation with respect to which a United States group exists on some day of its taxable year, for the purpose of determining whether such corporation meets the gross income requirements of section 331 (a) (1).

SEC. 335. Undistributed Supplement P net income.

For the purposes of this title the term "undistributed Supplement P net income" means the Supplement P net income (as defined in section 336) minus the amount of the basic surtax credit provided in section 27 (b) (computed without its reduction, under section 27 (b) (1), by the amount of the credit provided in section 26 (a), relating to interest on certain obligations of the United States and Government corporations).

SEC. 336. Supplement P net income.

For the purposes of this title the term "Supplement P net income" means the net income with the following adjustments:

(a) Additional deductions: There shall be allowed as deductions—

(1) Federal income, war-profits, and excess-profits taxes paid or accrued during the taxable year to the extent not allowed as a deduction under section 23; but not including the tax imposed by section 102, section 401, or a section of a prior income-tax law corresponding to either of such sections.

(2) In lieu of the deduction allowed by section 23 (q), contributions or gifts payment of which is made within the taxable year to or for the use of donees described in section 23 (q) for the purposes therein specified, to an amount which does not exceed 15 percent of the company's net income, computed without the benefit of this paragraph and section 23 (q), and without the deduction of the amount disallowed under subsection (b) of this section, and without the inclusion in gross income of the amounts includible therein as dividends by reason of the application of the provisions of section 334 (b) (relating to the inclusion in the gross income of a foreign personal holding company of its distributive share of the undistributed Supplement P net income of another foreign personal holding company in which it is a shareholder). In the case of a contribution or gift made in property other than money, the amount of such contribution or gift, for the purposes of this paragraph, shall be equal to the adjusted basis of the property in the hands of the taxpayer or its fair market value, whichever is the lower.

(b) Deductions not allowed—

(1) Taxes and pension trusts: The deductions provided in section 23 (d), relating to taxes of a shareholder paid by the corporation, and in section 23 (p), relating to pension trusts, shall not be allowed.

(2) Expenses and depreciation: The aggregate of the deductions allowed under section 23 (a), relating to expenses, and section 23 (l), relating to depreciation, which are allocable to the operation and maintenance of property owned or operated by the company, shall be allowed only in an amount equal to the rent or other compensation received for the use or right to use the property, unless it is established (under regulations prescribed by the Commissioner with the approval of the Secretary) to the satisfaction of the Commissioner:

(A) That the rent or other compensation received was the highest obtainable, or, if none was received, that none was obtainable;

(B) That the property was held in the course of a business carried on bona fide for profit; and

(C) Either that there was reasonable expectation that the operation of the property would result in a profit, or that the property was necessary to the conduct of the business.

SEC. 337. Corporation income taxed to United States shareholders.

(a) General rule: The undistributed Supplement P net income of a foreign personal holding company shall be included in the gross income of the citizens or residents of the United States, domestic corporations, domestic partnerships, and estates or trusts (other than estates or trusts, the gross income of which under this title includes only income from sources within the United States), who are shareholders in such foreign personal holding company (hereinafter called "United States shareholders") in the manner and to the extent set forth in this supplement.

(b) Amount included in gross income: Each United States shareholder, who was a shareholder on the day in the taxable year of the company which was the last day on which a United States group (as defined in sec. 331 (a) (2)) existed with respect to the company, shall include in his gross income, as a dividend, for the taxable year in which or with which the taxable year of the company ends, the amount he would have received as a dividend if on such last day there had been distributed by the company, and received by the

shareholders, an amount which bears the same ratio to the undistributed Supplement P net income of the company for the taxable year as the portion of such taxable year up to and including such last day bears to the entire taxable year.

(c) Credit for obligations of United States and its instrumentalities: Each United States shareholder shall be allowed a credit against net income, for the purpose of the tax imposed by sections 11, 13, 14, 201, 204, 207, or 362, of his proportionate share of the interest specified in section 25 (a) (1) or (2) which is included in the gross income of the company otherwise than by the application of the provisions of section 334 (b) (relating to the inclusion in the gross income of a foreign personal holding company of its distributive share of the undistributed Supplement P net income of another foreign personal holding company in which it is a shareholder).

(d) Information in return: Every United States shareholder who is required under subsection (b) to include in his gross income any amount with respect to the undistributed Supplement P net income of a foreign personal holding company and who, on the last day on which a United States group existed with respect to the company, owned 5 percent or more in value of the outstanding stock of such company, shall set forth in his return in complete detail the gross income, deductions and credits, net income, Supplement P net income, and undistributed Supplement P net income of such company.

(e) Effect on capital account of foreign personal holding company: An amount which bears the same ratio to the undistributed Supplement P net income of the foreign personal holding company for its taxable year as the portion of such taxable year up to and including the last day on which a United States group existed with respect to the company bears to the entire taxable year, shall, for the purpose of determining the effect of distributions in subsequent taxable years by the corporation, be considered as paid-in surplus or as a contribution to capital and the accumulated earnings and profits as of the close of the taxable year shall be correspondingly reduced, if such amount or any portion thereof is required to be included as a dividend, directly or indirectly, in the gross income of United States shareholders.

(f) Basis of stock in hands of shareholders: The amount required to be included in the gross income of a United States shareholder under subsection (b) shall, for the purpose of adjusting the basis of his stock with respect to which the distribution would have been made (if it had been made), be treated as having been reinvested by the shareholder as a contribution to the capital of the corporation; but only to the extent to which such amount is included in his gross income in his return, increased or decreased by any adjustment of such amount in the last determination of the shareholder's tax liability, made before the expiration of 7 years after the date prescribed by law for filing the return.

(g) Basis of stock in case or death: For basis of stock or securities in a foreign personal holding company acquired from a decedent, see section 113 (a) (5).

(h) Liquidation: For amount of gain taken into account on liquidation of foreign personal holding company see section 115 (c).

(i) Period of limitation on assessment and collection: For period of limitation on assessment and collection without assessment in case of failure to include in gross income the amount properly includible therein under subsection (b), see section 275 (d).

SEC. 338. Information returns by officers and directors.

(a) Monthly returns: On the fifteenth day of each month which begins after the date of the enactment of this act each individual who on such day is an officer or a director of a foreign corporation which, with respect to its taxable year (if not beginning before August 26, 1936) preceding the taxable year (whether beginning on, before, or after January 1, 1938) in which such month occurs, was a foreign personal holding company, shall file with the Commissioner a return setting forth with respect to the preceding calendar month the name and address of each shareholder, the class and number of shares held by each, together with any changes in stockholdings during such period, the name and address of any holder of securities convertible into stock of such corporation, and such other information with respect to the stock and securities of the corporation as the Commissioner with the approval of the Secretary shall by regulations prescribe as necessary for carrying out the provisions of this act. The Commissioner, with the approval of the Secretary, may by regulations prescribe, as the period with respect to which returns shall be filed, a longer period than a month. In such case the return shall be due on the fifteenth day of the succeeding period, and shall be filed by the individuals who on such day are officers and directors of the corporation.

(b) Annual returns: On the sixtieth day after the close of the taxable year of a foreign personal holding company each individual who on such sixtieth day is an officer or director of the corporation shall file with the Commissioner a return setting forth—

(1) In complete detail the gross income, deductions, and credits, net income, supplement P net income, and undistributed supplement P net income of such foreign personal holding company for such taxable year; and

(2) The same information with respect to such taxable year as is required in subsection (a); except that if all the required returns with respect to such year have been filed under subsection (a) no information under this paragraph need be set forth in the return filed under this subsection.

SEC. 339. Information returns by shareholders.

(a) Monthly returns: On the fifteenth day of each month which begins after the date of the enactment of this act each United States shareholder, by or for whom 50 percent or more in value of the outstanding stock of a foreign corporation is owned directly or indirectly (including in the case of an individual, stock owned by the members of his family as defined in section 333 (a) (2)), if such foreign corporation with respect to its taxable year (if not beginning before August 26, 1936) preceding the taxable year (whether beginning on, before, or after January 1, 1938) in which such month occurs was a foreign personal holding company, shall file with the Commissioner a return setting forth with respect to the preceding calendar month the name and address of each shareholder, the class and number of shares held by each, together with any changes in stockholdings during such period, the name and address of any holder of securities convertible into stock of such corporation, and such other information with respect to the stock and securities of the corporation as the Commissioner with the approval of the Secretary shall by regulations prescribe as necessary for carrying out the provisions of this act. The Commissioner, with the approval of the Secretary, may by regulations prescribe, as the period with respect to which returns shall be filed, a longer period than a month. In such case the return shall be due on the fifteenth day of the succeeding period, and shall be filed by the persons who on such day are United States shareholders.

(b) Annual returns: On the sixtieth day after the close of the taxable year of a foreign personal holding company each United States shareholder by or for whom on such sixtieth day 50 percent or more in value of the outstanding stock of such company is owned directly or indirectly (including in the case of an individual, stock owned by members of his family as defined in sec. 333 (a) (2)), shall file with the Commissioner a return setting forth the same information with respect to such taxable year as is required in subsection (a); except that if all the required returns with respect to such year have been filed under subsection (a) no return shall be required under this subsection.

SEC. 340. Penalties.

Any person required under section 338 or 339 to file a return, or to supply any information, who willfully fails to file such return, or supply such information, at the time or times required by law or regulations, shall, in lieu of the penalties provided in section 145 (a) for such offense, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $2,000, or imprisoned for not more than 1 year, or both.

SUPPLEMENT Q—MUTUAL INVESTMENT COMPANIES

SEC. 361. Definition.

(a) In general: For the purposes of this title the term "mutual investment company" means any domestic corporation (whether chartered or created as an investment trust, or otherwise), other than a personal holding company as defined in title I–A, if—

(1) It is organized for the purpose of, and substantially all its business consists of, holding, investing, or reinvesting in stock or securities; and

(2) At least 95 percent of its gross income is derived from dividends, interest, and gains from sales or other disposition of stock or securities; and

(3) Less than 30 percent of its gross income is derived from the sale or other disposition of stock or securities held for less than 6 months; and

(4) An amount not less than 90 percent of its net income is distributed to its shareholders as taxable dividends during the taxable year; and

(5) Its shareholders are upon reasonable notice entitled to redemption of their stock for their proportionate interests in the corporation's properties, or the cash equivalent thereof less a discount not in excess of 3 percent thereof.

(b) Limitations: Despite the provisions of paragraph (1) a corporation shall not be considered as a mutual investment company if at any time during the taxable year—

(1) More than 5 percent of the gross assets of the corporaton, taken at cost, was invested in stock or securities, or both, of any one corporation, government, or political subdivision thereof, but this limitation shall not apply to investments in obligations of the United States or in obligations of any corporation organized under general act of Congress if such corporation is an instrumentality of the United States; or

(2) It owned more than 10 percent of the outstanding stock or securities, or both, of any one corporation; or

(3) It had any outstanding bonds or indebtedness in excess of 10 percent of its gross assets taken at cost; or

(4) It fails to comply with any rule or regulation prescribed by the Commissioner, with the approval of the Secretary, for the purpose of ascertaining the actual ownership of its outstanding stock.

SEC. 362. Tax on mutual investment companies.

(a) Supplement Q net income: For the purposes of this title the term "Supplement Q net income" means the adjusted net income minus the basic surtax credit computed under section 27 (b) without the application of paragraphs (2) and (3).

(b) Imposition of tax: There shall be levied, collected, and paid for each taxable year upon the Supplement Q net income of every mutual investment company a tax equal to 16 percent of the amount thereof.

The CHAIRMAN. Amendments to title I are now in order. The Chair will endeavor to protect the rights of Members and give every Member an opportunity to present his amend-

ment and be heard, but under the parliamentary rules members of the committee are entitled to prior recognition.

Mr. McCORMACK. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I do this for the purpose of trying to assist the committee in the consideration of one part of this bill to which I shall offer an amendment, title I–B. The main features of title I–B come on page 275. Nevertheless, references to title I–B are contained in various parts of the bill starting on page 14. Most of them are cross references. It seems to me, therefore, that we should wait until we reach page 275 to offer amendments to title I–B rather than to have these various motions made throughout the bill; although, as I say, a number of references throughout title I are made to I–B, but they are cross references.

Mr. DOUGHTON. I will have no objection to that.

Mr. FULLER. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield.

Mr. FULLER. If title I–B were stricken out according to the gentleman's contention, then, for consistency we would have to amend previous references.

Mr. McCORMACK. Exactly.

Mr. FULLER. I have no objection.

Mr. McCORMACK. Mr. Chairman, I ask unanimous consent that it be understood that when title I–B is reached Members shall have the right, if the committee takes any action which requires it, to return to these various cross references in title I.

Mr. TREADWAY. Mr. Chairman, reserving the right to object, I do not want to confuse title I–B with an amendment I intend to offer on the undistributed-profits tax.

Mr. McCORMACK. That is the 20–16 plan is it not?

Mr. TREADWAY. Yes. I do not see why we should jump to page 275 when we are only going to page 263 in the first title.

Mr. McCORMACK. We are not; but in the first 263 pages of the bill are several cross references to title I–B; so my request is that before amendments are offered affecting title I–B or references to title I–B, that they wait until I offer my motion to strike out that section and then if my motion prevails, that the Members may have the right to return to these various cross references for the purpose of changing them.

Mr. TREADWAY. I agree with the gentleman that we do not want to refer to title I–B until it is reached in the natural course of reading the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. REED of New York. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. REED of New York: After line 13, page 145, insert the following new section:

"SEC. 122. Deduction for charitable and other contributions in the case of trusts taxable to the grantor.

"(a) Allowance of deduction: If any part of the income of any trust is required to be included in computing the net income of the grantor for the taxable year, there shall be allowed, as a deduction in computing such net income, contributions or gifts made during the taxable year out of the corpus or income of such trust, to or for the use of a domestic corporation, domestic trust, or domestic community chest fund, or foundation, organized, and operated exclusively for religious, charitable, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual. This deduction shall be allowed without regard to the 15-percent limit imposed by section 23 (o), but the amount of such deduction shall not exceed (1) the amount of the income from such trust which the grantor is required to include in computing his net income for the taxable year or (2) the sum of $20,000, whichever is the lesser. In computing the net income of the grantor for the purpose of the 15-percent limit imposed by section 23 (o), such trust income shall not be included.

"(b) Effective date: The provisions of subsection (a) shall apply to taxable years beginning after December 31, 1937."

Mr. REED of New York. Mr. Chairman, there appeared before our committee—Ways and Means—Dr. William P. Jacobs, president, Presbyterian College, Clinton, S. C., representing the Association of American Colleges. He came to transmit a resolution adopted by the association in their annual session held in Chicago January 20, 1938. The resolution follows:

In annual meeting, January 20, 1938, it was voted:

In view of consideration by the present Congress of amendments to the tax law, the Association of American Colleges, comprising 528 member institutions, respectfully urges amendment of the Revenue Act of 1936 to encourage larger philanthropies for education and charity.

The association believes that the downward trend in gifts to the endowments of privately controlled educational institutions creates an alarming emergency. The decrease has been more than 50 percent in the past 10 years (from $70,000,000 in 1925–26 to $33,000,000 in 1935–36); furthermore it seems clear to us that the cumulative effects of the present tax law will create an even more alarming situation.

The association urges the elimination from taxation of gifts from individuals, in excess of the present 15-percent exemption (with reasonable limitations); and the interpretation of income from donations to revocable trusts for education and charity, as the income of the trust and not of the donor.

The executive committee authorizes and requests President William P. Jacobs, of Presbyterian College, to transmit this resolution to the appropriate committee of Congress.

President Jacobs informed the committee that the Association of American Colleges include 528 institutions, which comprise most of the colleges of liberal arts and sciences of every State in the United States.

I have tabulated roughly by States the number of colleges in each State, which have joined in an appeal to the Congress for relief under this revenue bill:

Alabama	13
Arizona	1
Arkansas	4
California	20
Colorado	2
Connecticut	7
District of Columbia	5
Florida	6
Georgia	17
Idaho	2
Illinois	27
Indiana	14
Iowa	16
Kansas	13
Kentucky	9
Louisiana	8
Maine	4
Maryland	12
Massachusetts	19
Michigan	15
Minnesota	13
Mississippi	7
Missouri	13
Montana	1
Nebraska	6
New Hampshire	3
New Jersey	9
New Mexico	1
New York	46
North Carolina	14
North Dakota	1
Ohio	36
Oklahoma	7
Oregon	5
Pennsylvania	46
Rhode Island	3
South Carolina	12
South Dakota	3
Tennessee	15
Texas	22
Utah	2
Vermont	4
Virginia	19
Washington	5
West Virginia	7
Wisconsin	8

I insert in the RECORD the names of the colleges by States which have petitioned the Congress to amend the revenue law in the particular indicated to permit the flow of philanthropic contributions to them.

An amendment has been prepared by the joint committee to accomplish this purpose, with a limitation that will protect the Treasury from any material loss of revenue from the use of revocable trusts.

The amendment is as follows:

PROPOSED AMENDMENT

The Revenue Act of 1936 is amended by adding after section 121 a new section, reading as follows:

"SEC. 22. Deduction for charitable and other contributions in the case of trusts taxable to the grantor.

"(a) Allowance of deduction: If any part of the income of any trust is required to be included in computing the net income of the grantor for the taxable year, there shall be allowed, as a deduction in computing such net income, contributions, or gifts made during the taxable year out of the corpus or income of such trust, to or for the use of a domestic corporation, domestic trust, or domestic community chest fund, or foundation, organized, and operated exclusively for religious, charitable, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual. This deduction shall be allowed without regard to the 15-percent limit imposed by section 23 (o), but the amount of such deduction shall not exceed (1) the amount of the income from such trust which the grantor is required to include in computing his net income for the taxable year or (2) the sum of $20,000, whichever is the lesser. In computing the net income of the grantor for the purpose of the 15-percent limit imposed by section 23 (o), such trust income shall not be included.

"(b) Effective date: The provisions of subsection (a) shall apply to taxable years beginning after December 31, 1937."

The facts show that private gifts to endowments of privately controlled institutions have dropped from $70,119,672, during the past few years to $33,538,827. The cost of operation has increased. Unless private gifts are forthcoming, many worthy educational institutions will have to close. I am informed that some have already done so.

The colleges that have presented the resolution to Congress are not tax-supported. Tuition is hardly a factor in defraying the cost of operation. They must depend, therefore, upon philanthropic sources for their support, in fact the continued existence of many of them is contingent upon substantial gifts.

A revenue bill that discourages contributions to our private colleges is not in the interest of the public welfare.

I dare say that there comes to mind another occasion when the life of a small college was at stake. If the same advocate were living and privileged to speak for the little New Hampshire college, he would marshal his facts with consummate skill, and then conclude as he did then:

DARTMOUTH COLLEGE CASE

This, sir, is my case. It is the case not merely of that humble institution; it is the case of every college in our land. It is more; it is the case of every eleemosynary institution throughout our country—of all those great charities founded by the piety of our ancestors to alleviate human misery and scatter blessings along the pathway of life. Sir, you may destroy this little institution—it is weak, it is in your hands. I know it is one of the lesser lights in the literary horizon of our country. You may put it out. But if you do you must carry through your work; you must extinguish, one after another, all those great lights of science which, for more than a century, have thrown their radiance over our land.

It is, sir, as I have said, a small college, and yet, there are those who love it.

Sir, I know not how others may feel, but as for myself when I see my alma mater surrounded, like Caesar in the senate house, by those who are reiterating stab after stab, I would not for this right hand have her turn to me and say, "And thou, too, my son."

MEMBERS OF THE ASSOCIATION OF AMERICAN COLLEGES

OFFICERS AND MEMBERS OF THE EXECUTIVE COMMITTEE FOR YEAR ENDING JANUARY 1938

Office of the Executive Secretary, 19 West Forty-fourth Street, New York, N. Y.

President, James L. McConaughy, president of Wesleyan University.

Vice President, John L. Seaton, president of Albion College.

Treasurer, LeRoy E. Kimball, comptroller of New York University.

Executive secretary, Robert L. Kelly. Guy E. Snavely, June and thereafter.

Remsen D. Bird, president of Occidental College.

Mildred H. McAfee, president of Wellesley College.

Edward V. Stanford, president of Villanova College.

Raymond Walters, president of the University of Cincinnati.

By order of the association, in the case of universities the unit of membership is the university college of liberal arts. Unless otherwise indicated the name of the president or the chancelor is given in the column headed executive officer.

	Executive officer
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Alabama College, Montevallo	A. F. Harman
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Howard College, Birmingham	T. V. Neal
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Judson College, Marion	L. G. Cleverdon
Spring Hill College, Spring Hill	John J. Druhan
Talladega College, Talladega	B. G. Gallagher
Tuskegee Normal and Industrial Institute, Tuskegee Institute,	Frederick D. Patterson
University of Alabama	Richard C. Foster
ARIZONA	
University of Arizona, Tucson	Alfred Atkinson
ARKANSAS	
Arkansas State College, Jonesboro	V. C. Kays
College of the Ozarks, Clarksville	Wiley Lin Hurie
Hendrix College, Conway	J. H. Reynolds
Ouachita College, Arkadelphia	James R. Grant
CALIFORNIA	
Claremont Colleges, Claremont	Russell M. Story
Pomona College, Claremont	Charles K. Edmunds
Scripps College, Claremont	E. J. Jaqua
College of the Holy Names, Oakland	Sister Mary Austin, dean
College of the Pacific, Stockton	Tully C. Knoles
Dominican College, San Rafael	Mother M. Raymond
Immaculate Heart College, Hollywood	Sister Mary Redempta
La Verne College, La Verne	Ellis M. Studebaker
Loyola University, Los Angeles	Rev. Charles McQuillan
Mills College, Mills College	Aurelia H. Reinhardt
Mount St. Mary's College, Los Angeles	Mother Dolorosa
Occidental College, Los Angeles	Remsen duBois Bird
St. Mary's College, Oakland	Brother Albert
San Francisco College for Women, San Francisco	Mother M. Guerin
Stanford University, Stanford University	Ray Lyman Wilbur
University of Redlands, Redlands	Herbert E. Marsh, acting
University of San Francisco, San Francisco	W. I. Lonergan
University of Southern California, Los Angeles,	R. B. von KleinSmid
Whittier College, Whittier	W. O. Mendenhall
COLORADO	
Colorado College, Colorado Springs	Thurston J. Davies
University of Denver, Denver	David S. Duncan
CONNECTICUT	
Albertus Magnus College, New Haven	Sister M. Anacletus
Connecticut College for Women, New London	Katharine Blunt
Trinity College, Hartford	Remsen B. Ogilby
Wesleyan University, Middletown	James L. McConaughy
Connecticut State College	Albert M. Jorgensen
St. Joseph College	Rev. Mother Maria Francis
Yale	Charles Seymour
DELAWARE	
University of Delaware, Newark	Walter Hullihen
DISTRICT OF COLUMBIA	
The American University, Washington	Joseph M. M. Gray
The Catholic University of America, Washington,	Joseph M. Corrigan
George Washington University, Washington	C. H. Marvin
Georgetown University, Washington	Arthur A. O'Leary
Howard University, Washington	Mordecai W. Johnson
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Florida-Southern College, Lakeland	Ludd M. Spivey
Florida State College for Women, Tallahassee	Edward Conradi
John B. Stetson University, De Land	W. S. Allen
Rollins College, Winter Park	Hamilton Holt
University of Florida, Gainesville	John J. Tigert
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Bessie Tift College, Forsyth	Aquila Chamlee
Brenau College, Gainesville	H. J. Pearce
Clark University, Atlanta	M. S. Davage
Emory University, Emory University	Harvey W. Cox
Georgia State College for Women, Milledgeville	Guy H. Wells
Georgia State Women's College, Valdosta	Frank R. Reade
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Morehouse College, Atlanta	Samuel H. Archer
Morris Brown College, Atlanta	William A. Fountain, Jr.
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Spelman College, Atlanta	Florence M. Read
University of Georgia, Athens	Harmon W. Caldwell
Wesleyan College, Macon	Dice R. Anderson

IDAHO

	Executive officer
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Northwest Nogarene College, Nampa	Russell V. DeLong

ILLINOIS

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Aurora College, Aurora	Theodore Pierson Stephens
Bradley Polytechnic Institute, Peoria	F. R. Hamilton
Carthage College, Carthage	Rudolph G. Schulz, Jr.
DePaul University, Chicago	Michael J. O'Connell
Elmhurst College, Elmhurst	Timothy Lehmann
Eureka College, Eureka	Raymond McLain
George Williams College, Chicago	Harold C. Coffman
Greenville College, Greenville	Henry J. Long
Illinois College, Jacksonville	Dr. H. Gary Hudson
Illinois Wesleyan University, Bloomington	Wiley G. Brooks
James Millikin University, Decatur	John C. Hessler
Knox College, Galesburg	Carter Davidson
Lake Forest College, Lake Forest	Herbert M. Moore
Loyola University, Chicago	Samuel K. Wilson
McKendree College, Lebanon	Clark R. Yost
MacMurray College, Jacksonville	Clarence P. McClelland
Monmouth College, Monmouth	J. H. Grier
North Central College, Naperville	E. E. Rall
Northwestern University, Evanston	Walter Dill Scott
Rockford College, Rockford	Mary Ashby Cheek
Rosary College, River Forest	Sister Mary Thomas Aquinas
St. Xavier College for Women, Chicago	Sister Mary Genevieve Crane
Shurtleff College, Alton	Paul L. Thompson
University of Chicago, Chicago	A. J. Brumbaugh, acting dean
University of Illinois, Urbana	M. T. McClure, dean
Wheaton College, Wheaton	James O. Buswell, Jr.

INDIANA

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DePauw University, Greencastle	Clyde E. Wildman
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Evansville College, Evansville	F. Marion Smith
Franklin College, Franklin	Wm. G. Spencer
Goshen College, Goshen	S. C. Yoder
Hanover College, Hanover	Albert G. Parker, Jr.
Indiana Central College, Indianapolis	I. J. Good
Indiana University, Bloomington	Herman B. Wells, acting
Manchester College, North Manchester	Otho Winger
Rose Polytechnic Institute, Terre Haute	Donald B. Prentice
St. Mary's College, Notre Dame	Sister M. Madeleva
St. Mary-of-the-Woods College, St. Mary-of-the-Woods,	Mother Mary Raphael
University of Notre Dame, Notre Dame	John F. O'Hara

IOWA

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Central College, Pella	Irwin J. Lubbers
Clarke College, Dubuque	Sister Mary Antonia Durkin
Coe College, Cedar Rapids	Harry M. Gage
Columbia College, Dubuque	Thomas Conry
Cornell College, Mt. Vernon	Herbert J. Burgstahler
Drake University, Des Moines	Daniel W. Morehouse
Grinnell College, Grinnell	John S. Nollen
Iowa Wesleyan College, Mt. Pleasant	Harry D. Henry
Morningside College, Sioux City	Earl A. Roadman
Parsons College, Fairfield	Clarence W. Greene
Simpson College, Indianola	Earl E. Harper
St. Ambrose College, Davenport	Martin Cone
State University of Iowa, Iowa City	Eugene A. Gilmore
University of Dubuque, Dubuque	Eugene A. Gilmore
William Penn College, Oskaloosa	Henry E. McGrew

KANSAS

Baker University, Baldwin City	Nelson P. Horn
Bethel College, Bethel College	Ed G. Kaufman
College of Emporia, Emporia	John B. Kelly
Friends University, Wichita	David M. Edwards
Kansas Wesleyan University, Salina	L. B. Bowers
McPherson College, McPherson	V. F. Schwalm
Mount St. Scholastica College, Atchison	Mother Lucy Dooley
Ottawa University, Ottawa	Andrew B. Martin
St. Mary College, Leavenworth	A. M. Murphy
Southwestern College, Winfield	Frank E. Mossman
Sterling College, Sterling	H. A. Kelsey
University of Wichita, Wichita	W. M. Jardine
Washburn College, Topeka	Philip C. King

KENTUCKY

Asbury College, Wilmore	H. C. Morrison, acting
Berea College, Berea	W. J. Hutchins
Centre College, Danville	James H. Hewlett, acting
Georgetown College, Georgetown	Henry N. Sherwood
Kentucky State Industrial College, Frankfort	R. B. Atwood
Nazareth College, Louisville	Mother Mary Catherine Malone
Union College, Barbourville	John Owen Gross
University of Kentucky, Lexington	Frank L. McVey
University of Louisville, Louisville	R. A. Kent

LOUISIANA

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H. Sophie Newcomb College, New Orleans	Pierce Butler, dean
Louisiana Polytechnic Institute, Rushton	E. S. Richardson
Louisiana State University, Baton Rouge	James M. Smith
Loyola University, New Orleans	Harold A. Gaudin
Southwestern Louisiana Institute, Lafayette	L. E. Frazar
Xavier University, New Orleans	Mother M. Agatha
Dillard University	William S Nelson

MAINE

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Bowdoin College, Brunswick	Kenneth C. M. Sills
Colby College, Waterville	Franklin W. Johnson
University of Maine, Orono	Arthur A. Hauck

MARYLAND

College of Notre Dame of Maryland, Baltimore	Sister Mary Frances
Goucher College, Baltimore	David A. Robertson
Hood College, Frederick	Henry I. Stahr
Johns Hopkins University, Baltimore	Isaiah Bowman
Loyola College, Baltimore	Joseph A. Canning
Morgan College, Baltimore	Dwight O. W. Holmes
Mount St. Mary's College, Emmitsburg	J. L. Sheridan
St. John's College, Annapolis	Stringfellow Barr
St. Joseph's College, Emmitsburg	Sister Paula Dunn
Washington College, Chestertown	Gilbert W. Mead
Western Maryland College, Westminster	Fred G. Holloway
University of Maryland	H. C. Byrd

MASSACHUSETTS

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Boston College, Chestnut Hill	Louis J. Gallagher
Boston University, Boston	Daniel L. Marsh
Clark University, Worcester	Wallace W. Atwood
Emmanuel College, Boston	Sister Julie
Harvard University, Cambridge	James B. Conant
Holy Cross College, Worcester	Francis J. Dolan
American International College (Springfield), Chester,	Stow McGown
Massachusetts State College, Amherst	Hugh P. Baker
Mount Holyoke College, South Hadley	R. G. Ham
Regis College, Weston	Sister Genevieve Marie
Simmons College, Boston	Bancroft Beatley
Smith College, Northampton	William A. Neilson
Springfield College, Springfield	Ernest M. Best
Tufts College, Tufts College	Prof. George S. Miller, acting
Wellesley College, Wellesley	Mildred H. McAfee
Wheaton College, Norton	J. Edgar Park
Williams College, Williamstown	Dr. James Phinney Baxter, III
Worcester Polytechnic Institute, Worcester	Ralph Earle

MICHIGAN

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Albion College, Albion	John L. Seaton
Alma College, Alma	Harry Means Crooks
Battle Creek College, Battle Creek	Emil Leffler
Hillsdale College, Hillsdale	Willfred Mauck
Hope College, Holland	Wynand Wichers
Kalamazoo College, Kalamazoo	Stewart G. Cole
Marygrove College, Detroit	George Hermann Derry
Michigan State College of Agriculture and Applied Science, East Lansing	Robert S. Shaw
Nazareth College, Nazareth	Sister Mary Celestine
Olivet College, Olivet	Joseph H. Brewer
St. Joseph's College and Academy, Adrian	Mother M. Gerald
University of Detroit, Detroit	A. H. Poetker
University of Michigan, Ann Arbor	Edward H. Kraus, dean
Wayne University, Detroit	Frank Cody

MINNESOTA

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College of St. Benedict, St. Joseph	Sister Claire, dean
College of St. Catherine, St. Paul	Sister Antonia McHugh
College of St. Catherine, St. Paul	Sister Eucharista, president
College of St. Scholastica, Duluth	Mother M. Agnes Somers
College of St. Teresa, Winona	Sister Mary A. Molloy
College of St. Thomas, St. Paul	James H. Moynihan
Concordia College, Moorhead	J. N. Brown
Gustavus Adolphus College, St. Peter	O. J. Johnson
Hamline University, St. Paul	Charles N. Pace
Macalester College, St. Paul	———
St. Olaf College, Northfield	L. W. Boe
University of Minnesota, Minneapolis	J. B. Johnston, dean

MISSISSIPPI

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Millsaps College, Jackson	David M. Key
Mississippi State College	G. D. Humphrey
Belhaven	G. T. Gillespie
Mississippi College, Clinton	D. M. Nelson
Mississippi State College for Women, Columbus	B. L. Parkinson
University of Mississippi, University	A. B. Butts

MISSOURI

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Maryville College, St. Louis	Mother Odeide Marton
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University of Missouri, Columbia	F. M. Tisdel, dean
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Westminster College, Fulton	Franc L. McCluer
William Jewell College, Liberty	John F. Herget

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Carroll College, Helena	Emmet J. Riley

NEBRASKA

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Duchesne College in Creighton University, Omaha,	Mother Eleanor Regan
Doane College, Crete	Bryan S. Stoffer
Hastings College, Hastings	John W. Creighton
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York College, York	J. R. Overmiller

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St. Anselm's College, Manchester	Bertrand C. Dolan
University of New Hampshire, Durham	Fred Engelhardt

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College of St. Elizabeth, Convent Station,	Sister Marie José Byrne, dean
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Rutgers University, New Brunswick	Robert C. Clothier
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The New Jersey College for Women	Margaret T. Corwin, dean
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Seton Hall College, South Orange	James F. Kelley
Upsala College, East Orange	F. A. Ericsson, acting

NEW MEXICO

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Colgate University, Hamilton	George B. Cutten
College of the City of New York, New York	F. B. Robinson
College of Mount St. Vincent, New York,	Sister Catherine Marie, dean
College of New Rochelle, New Rochelle	Cornelius F. Crowley
College of St. Rose, Albany	Sister M. Rosina, dean
Columbia University, New York	Nicholas Murray Butler
Bard College, Annandale-on-Hudson,	Donald G. Tewksbury, dean
Barnard College, New York	Virginia C. Gildersleeve, dean
Columbia College, New York	Herbert E. Hawkes, dean
Cornell University, Ithaca	Robert M. Ogden, dean
D'Youville College, Buffalo	Mother St. Edward
Elmira College, Elmira	William S. A. Pott
Fordham University, New York	Robert I. Gannon
Good Counsel College, White Plains	Mother M. Aloysia
Hamilton College, Clinton	Frederick C. Ferry
Hobart College, Geneva	William Alfred Eddy
Houghton College, Houghton	Stephen W. Paine
Keuka College, Keuka Park	J. Hills Miller
Manhattan College, New York	Brother Patrick
Manhattanville College of the Sacred Heart, New York,	Mother Grace C. Dammann
Marymount College, Tarrytown-on-Hudson	Mother M. Gerard
Nazareth College, Rochester	Mother M. Sylvester
New York University, New York	Marshall S. Brown, dean
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Russell Sage College, Troy	J. L. Meader
St. Bonaventure College, St. Bonaventure	Thomas Plassman
St. John's University, Brooklyn	Edward J. Walsh
St. Joseph's College for Women, Brooklyn	William T. Dillon, dean
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Sarah Lawrence College, Bronxville	Constance Warren
Skidmore College, Saratoga Springs	Henry T. Moore
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Union College, Schenectady	Dixon Ryan Fox
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University of Buffalo, Buffalo	Samuel P. Capen
University of Rochester, Rochester	Alan C. Valentine
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Queens College	Paul Klapper

NEW YORK—continued

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Lenoir Rhyne College, Hickory	P. E. Monroe
Meredith College, Raleigh	Charles E. Brewer
North Carolina College for Negroes, Durham	James E. Shepard
Salem College, Winston-Salem	H. E. Rondthaler
Shaw University, Raleigh	Robert P. Daniel
University of North Carolina, Chapel Hill	Frank P. Graham

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OHIO

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Baldwin-Wallace College, Berea	Louis C. Wright
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College of Mount St. Joseph, Mount St. Joseph,	Sister Maria Corona, dean
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Heidelberg College, Tiffin	Clarence J. Josephson
Hiram College, Hiram	Kenneth I. Brown
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Lake Erie College, Painesville	Vivian B. Small
Marietta College, Marietta	H. K. Eversull
Mary Manse College, Toledo	Sister M. Catherine Raynor
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Muskingum College, New Concord	Robert N. Montgomery
Notre Dame College, South Euclid	Mother Mary Evarista
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Ohio Wesleyan University, Delaware	Edmund D. Soper
Otterbein College, Westerville	W. G. Clippinger
St. Mary's of the Springs College, Columbus	Sister Mary Aloyse
Kenyon College, Gordon	K. Chalmers
University of Akron, Akron	H. E. Simmons
University of Cincinnati, Cincinnati	Raymond Walters
University of Toledo, Toledo	Philip C. Nash
Ursuline College, Cleveland	Mother M. Veronica
Western College, Oxford	Ralph K. Hickok
Western Reserve University, Cleveland	W. G. Leutner
Wilberforce University, Wilberforce	D. Ormonde Walker
Wilmington College, Wilmington	Walter L. Collins
Wittenberg College, Springfield	Rees E. Tulloss
Xavier University, Cincinnati	Dennis F. Burns

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Oklahoma Agricultural and Mechanical College, Stillwater	H. G. Bennett
Oklahoma Baptist University, Shawnee	John W. Raley
Oklahoma City University, Oklahoma City	A. G. Williamson
Phillips University, Enid	(resigned) I. N. McCash
University of Tulsa, Tulsa	C. I. Pontius
Oklahoma College for Women	M. A. Nash

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Reed College, Portland	Dexter M. Keezer
Willamette University, Salem	Bruce R. Baxter

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Bucknell University, Lewisburg	A. C. Marts, acting
College Misericordia, Dallas	Sister Mary Loretta McGill
Dickinson College, Carlisle	Fred P. Corson
Drexel Institute of Technology, Philadelphia	Parke R. Kolbe
Duquesne University, Pittsburgh	S. J. Bryom, acting
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Franklin and Marshall College, Lancaster	John A. Schaeffer
Geneva College, Beaver Falls	McLeod M. Pearce
Gettysburg College, Gettysburg	Henry W. A. Hanson
Grove City College, Grove City	Weir C. Ketler
Haverford College, Haverford	W. W. Comfort
Immaculata College, Immaculata	Francis J. Furey
Juniata College, Huntingdon	Charles C. Ellis
Lafayette College, Easton	William Mather Lewis
Lebanon Valley College, Annville	Clyde A. Lynch

PENNSYLVANIA—continued

	Executive officer
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Lincoln University, Lincoln University	Walter L. Wright
Beaver College	Walter B. Greenway
Cedar Crest College for Women	William F. Curtis
Marywood College, Scranton	Mother M. Josepha
Mercyhurst College, Erie	Sister B. Borgia Egan, dean
Moravian College, Bethlehem	William N. Schwarze
Moravian College for Women, Bethlehem	Edwin J. Heath
Mount Mercy College, Pittsburgh	Mother M. Irenaeus
Mount St. Joseph College, Chestnut Hill	Sister Maria Kostka, dean
Muhlenberg College, Allentown	Levering Tyson
Pennsylvania College for Women, Pittsburgh	Herbert L. Spencer
Pennsylvania State College, State College	R. D. Hetzel
Rosemont College, Rosemont	Mother Mary Ignatius
St. Francis College, Loretto	John P. J. Sullivan
St. Joseph's College, Philadelphia	Thomas J. Higgins
St. Thomas College, Scranton	Brother D. Edward
St. Vincent College, Latrobe	Alfred Koch
Seton Hill College, Greensburg	James A. W. Reeves
Susquehanna University, Selinsgrove	G. Morris Smith
Swarthmore College, Swarthmore	Frank Aydelotte
Temple University, Philadelphia	Charles E. Beury
Thiel College, Greenville	Earl S. Rudisill
University of Pennsylvania, Philadelphia	Thomas S. Gates
University of Pittsburgh, Pittsburgh	John G. Bowman
Ursinus College, Collegeville	Norman E. McClure
Villa Maria College, Erie	Joseph J. Wehrle
Villanova College, Villanova	Edward V. Stanford
Washington and Jefferson College, Washington	Ralph C. Hutchsion
Waynesburg College, Waynesburg	Paul R. Stewart
Westminster College, New Wilmington	Robert F. Gallbreath
Wilson College, Chambersburg	Paul S. Havens

RHODE ISLAND

Brown University, Providence	Henry M. Wriston
Pembroke College in Brown University, Providence	Margaret S. Morris, dean
Providence College, Providence	John J. Dillon

SOUTH CAROLINA

Coker College, Hartsville	Charles S. Green
College of Charleston, Charleston	Harrison Randolph
Columbia College, Columbia	J. Caldwell Guilds
Converse College, Spartanburg	Edward M. Gwathmey
Erskine College, Due West	Robert C. Grier
Furman University, Greenville	Bennette E. Geer
Lander College, Greenwood	John W. Speake
Limestone College, Gaffney	R. C. Granberry
Newberry College, Newberry	James C. Kinard
Presbyterian College, Clinton	William P. Jacobs
Winthrop College, Rock Hill	Shelton J. Phelps
Wofford College, Spartanburg	Henry N. Snyder

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Knoxville College, Knoxville	Samuel M. Laing
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Southwestern, Memphis	Charles E. Diehl
Tennessee College for Women, Murfreesboro	Edward L. Atwood
Tusculum College, Greenville	Charles A. Anderson
Union University, Jackson	John J. Hurt
University of Chattanooga, Chattanooga	Alexander Guerry
University of the South, Sewanee	B. F. Finney
Vanderbilt University, Nashville	O. C. C.

TEXAS

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Texas College, Tyler	D. R. Glass
Texas State College for Women, Denton	L. H. Hubbard
Texas Technological College, Lubbock	Bradford Knapp
Texas Wesleyan College, Fort Worth	Law Sone

TEXAS—continued

	Executive officer
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Wiley College, Marshall	M. W. Dogan
Texas College of Arts and Industries	J. O. Loftin

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West Virginia University, Morgantown	C. S. Boucher
West Virginia Wesleyan College, Buckhannon	Roy McCuskey

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Beloit College, Beloit	Irving Maurer
Carroll College, Waukesha	William Arthur Ganfield
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Mount Mary College, Milwaukee	Edward A. Fitzpatrick
Northland College, Ashland	J. D. Brownell
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University of Western Ontario, London, Ontario	W. Sherwood Fox
Victoria University, Toronto, Ontario	E. W. Wallace
Mount Allison University, Sackville, New Brunswick,	George J. Trueman

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Mr. FRED M. VINSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is the first effort that will be made to strike out the revenues produced by this bill. The gentleman from New York [Mr. REED] expresses a very laudable ambition. His is an appeal to the old college boys to make contributions to their alma mater. But we better stop, look, and listen before we are swept off our feet by such a very strong and eloquent appeal.

I am not certain as to the full effect of the amendment. Therefore, I seek information from the gentleman from New York and address this question to him: Is the revocable trust idea contained in the amendment proposed?

Mr. REED of New York. Yes; but there is a limit placed to the extent of $20,000.

Mr. FRED M. VINSON. Mr. Chairman, I come from a small college and it needs money right now just like the colleges of South Carolina, New York, and elsewhere. May I say, Mr. Chairman, if the revocable trust idea is injected in here, and this amendment is so carefully drawn I was not certain it was there, in my opinion, you would be doing a grave injustice to the school that handed you your sheepskin.

I will tell you why. This amendment would permit the creation of revocable trusts, and the taxpayer would get the benefit of that revocable trust in that the moneys placed in trust for these purposes would be free from tax. The college would get the income from the revocable trust, but any time the taxpayer desired to revoke that trust and cover the money in the trust back into his own private exchequer he could do so. Then where would our small colleges be? You would have trusts set up, chairs would be established, and the small college plan to carry on with the income from the trusts. Should the grantor decide he needed the money in the trust and revoke the trust and take the money back into his own private pocketbook, what would happen to that chair and that institution?

Mr. FULLER. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. I yield to the gentleman from Arkansas.

Mr. FULLER. Is not the 15-percent provision in this bill the same as has been carried in the law for 20 years and longer?

Mr. FRED M. VINSON. There is a 15-percent provision on net income without including this amount as a deduction in existing law and in this bill in regard to charitable, educational, and scientific contributions on the part of individuals, and 5 percent on net income without including this amount as a deduction for corporations for charitable, scientific, and educational contributions. These amounts now are tax free.

Mr. FULLER. This provision has been in the act for many years.

Mr. FRED M. VINSON. I want to call attention to the effect of this provision because in this as in other amendments you must look below the surface to see exactly what would happen, if we in a spirit of enthusiasm and altruism should be carried off our feet by the eloquence of the gentleman from New York [Mr. REED].

Mr. COOPER. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. I yield to the gentleman from Tennessee.

Mr. COOPER. I am sure the gentleman will agree the House should consider carefully at this time all amendments which are offered. We are not in a position to sustain any loss of revenue, even though a proposition might appeal to us.

Mr. SIROVICH. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. I yield to the gentleman from New York.

Mr. SIROVICH. Suppose the word "irrevocable" were substituted for the word "revocable" in connection with these trusts?

Mr. FRED M. VINSON. They would not want it. They would not touch it with a 10-foot pole. It is the revocable feature of the trust in which they are interested. They create the trust and thereby get a tax advantage. The money they would put in would be free from tax, and when they sought to revoke the trust they would get the money back without any tax burden.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. REED].

The question was taken; and on a division (demanded by Mr. REED) there were—ayes 23, noes 82.

So the amendment was rejected.

Mr. TREADWAY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TREADWAY: Strike out all of pages 15, 16, 17, 18, 19, and 20, and lines 1 to 10, inclusive, on page 21, and insert in lieu thereof the following:

"(b) Imposition of tax: There shall be levied, collected, and paid for each taxable year upon the adjusted net income (minus the sum of the credit for dividends received provided in section 26 (b) and the credit for the net operating losses for the preceding taxable year provided in section 26 (c)) of every corporation a tax as follows:

"Upon adjusted net incomes not in excess of $5,000, 12½ percent.

"$625 upon adjusted net incomes of $5,000 and upon adjusted net incomes in excess of $5,000 and not in excess of $25,000, 14 percent in addition of such excess.

"$3,425 upon adjusted net incomes of $25,000, and upon adjusted net incomes in excess of $25,000, 16 percent in addition of such excess.

"(c) Exempt corporations: For corporations exempt from taxation under this title, see section 101.

"(d) Tax on personal holding companies: For surtax on personal holding companies, see title I–A.

"(e) Improper accumulation of surplus: For surtax on corporations which accumulate surplus to avoid surtax on shareholders, see section 102."

Mr. TREADWAY. Mr. Chairman, the sole purpose of this motion is to do away entirely with the discredited principle of the undistributed-surplus tax.

Under this motion small corporations would be treated practically the same as under the bill as offered by the committee. The committee has already recommended the complete repeal of the undistributed-profits tax, with respect to this group. I am simply extending it to still further groups of the larger corporations. My motion would extend the repeal of the iniquitous undistributed-profits tax to all corporations. If adopted, the motion would tax all corporations solely on the basis of their net income and without reference to their dividend policy. I think it will be admitted that this is the only sound and equitable basis of taxation; in other words, the tax to be levied on the basis of their net income rather than on the way in which they declare their dividends.

The rates of corporation income taxation that my motion provides are as follows:

Twelve and one-half percent on the first $5,000 of net income;

Fourteen percent on that portion of the net income between $5,000 and $25,000; and

Sixteen percent on that portion of the net income in excess of $25,000.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. TREADWAY. I prefer to complete my statement, and then, if I have the time, I will be pleased to yield.

It will be noted that under this plan the 16-percent bracket provided by the bill with respect to that portion of the net income between $20,000 and $25,000 is eliminated.

As I understand the attitude of the majority of the committee, this bracket was only included in the bill because of the sharp increase which would otherwise occur in the taxation of net incomes slightly over $25,000. There was too big a jump and this bracket was included, as I understand it, to avoid that jump.

The adoption of my motion would make unnecessary the complicated notch provision found on pages 15 and 16 of the bill.

Then one of the outstanding benefits to be derived from this motion is the simplification of the corporation-tax structure. This is a simple amendment and takes the place of seven complicated pages of the bill.

Corporations which under the bill are subject to a flat tax rate of from 16 to 20 percent, depending upon their dividend policy, which I do not approve, would pay under my amendment a flat tax of 16 percent on that portion of their net income in excess of $25,000. At the same time they would have the benefit of the lower brackets of that portion of their net income which was less than $25,000.

Under the bill corporations with 25 percent net income pay an effective rate of 14.1 percent. Under my motion they

would pay an effective rate of 13.7 percent, a slight reduction.

In dollars, the tax on a $25,000 corporation would be $3,425 under my motion as compared with $3,525 under the bill.

On a $50,000 corporation the tax under my motion would be $15,425 as compared with $16,000 to $20,000 under the bill.

On a $100,000 corporation the tax under my motion would be $15,425, as compared with $16,000 to $20,000 under the bill.

[Here the gavel fell.]

Mr. TREADWAY. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. DOUGHTON. Mr. Chairman, will the gentleman yield?

Mr. TREADWAY. Would the gentleman permit me to finish my statement, and then I shall be pleased to yield?

Mr. DOUGHTON. I would like to have the gentleman give the committee the amount of revenue that would be lost under the gentleman's amendment.

Mr. TREADWAY. Yes; I am coming to that, and I wish the majority members of the committee would give us the amount of revenue lost under the bill itself. Although we have asked for that information a number of times, it has never been forthcoming, but the moment any of us find any fault with the scheme suggested by the majority of the committee, the committee is then up in arms and wants an explanation. If the gentleman had postponed his inquiry a moment or two I would have informed him with pleasure what this amendment would do in that respect.

I now call attention to the fact that while the tax under my motion would be less than under the bill, it would be considerably in excess of the tax that was payable before the undistributed-profits tax was enacted by the Democratic majority 2 years ago.

So far as the revenue effect of my motion is concerned, I will say that I have had a nonpartisan, reliable estimate from the highest authority that it will not cost to exceed $81,000,000 based on 1938 incomes. I hope this is information that will sink in on the other side, in view of the enormous figures that they once represented.

Mr. McFARLANE. Mr. Chairman, will the gentleman yield?

Mr. TREADWAY. I beg leave to finish my statement before I am interrupted. I have almost completed my remarks. I did yield to the distinguished chairman of the committee, as, of course, the gentleman from Texas would expect me to do.

However, as an offset to that $81,000,000, Mr. Chairman, there would be the heartening effect of the amendment on business. I do not think the Treasury would lose a dollar, because no one has appeared except a representative of the Treasury itself to say that this is not an iniquitous tax. I have heard it defended on this floor, but certainly no businessman appeared before the committee and defended it, and the press has not defended it, the people of the country have not defended it, and, therefore, if it is absolutely taken off the statute books, we would find a heartening improvement in business that would offset the loss of $81,000,000, and I think would add to the revenue rather than reduce it. I can see no earthly reason why the Democratic majority is so insistent on retaining an iniquitous principle. I would say that we should not write into law such a principle as that, which has been repudiated from one end of the country to the other, and it ought not to be countenanced by this Congress or advocated by the administration. That is where I lay the blame. I lay it at the door of the administration, and the misleading methods of the administration itself. It is a shame that the majority will not act in their own best light. They have brains enough on that side to know that this is iniquitous and wrong and an out-of-place principle of taxation, and ought not to be on our statute books. I wish the majority today would rise above this partisanship attitude and assert themselves and say "no" to the White House, that they will not stand for such a ridiculous, outrageous, iniquitous principle of taxation.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. FRED M. VINSON. Mr. Chairman, did I hear anything from the distinguished gentleman from Massachusetts [Mr. TREADWAY], any word that would remind us about the necessity for balancing the Budget and saving the credit of the United States? No; he just offers this amendment, hoping to get some political advantage from it. He has no idea that this House, with the intelligence that is present, will adopt his amendment. He knows that the House will give no more than passing notice to it. But I want to tell you what the amendment does. My friend from Massachusetts says that it will cost $80,000,000 and that he gets that information from a nonpartisan source. God bless you, he gets it, in my opinion, from a high priest of the United States Chamber of Commerce. And now, let my friend tell me that I am wrong.

Mr. TREADWAY. If the gentleman wants me to answer the question, I would say emphatically that he is wrong.

Mr. FRED M. VINSON. Oh, I could spell the gentleman's name; I could tell you the man who drew the amendment. Did not Mr. Alvord draw up the amendment? Answer me that, my friend from Massachusetts.

Mr. TREADWAY. I am not ashamed to be advised by such a tax expert as Mr. Alvord.

Mr. FRED M. VINSON. Did not Mr. Alvord draw the bill that the gentleman introduced, and did he not draw this amendment?

Mr. TREADWAY. He did neither, to my knowledge.

Mr. FRED M. VINSON. Ah, my friend, he who hesitates is lost.

Mr. TREADWAY. And who has drawn the bill itself that is before us but the Treasury Department and Mr. Magill? With all due respect to the gentleman from Kentucky, he did not draw this bill.

Mr. FRED M. VINSON. It is a little different to accept the help of officials of the Government, men who desire to perpetuate our institutions and to carry on to provide money to pay the expense of government and calling on a gentleman who, even though he is mentioned as nonpartisan, came before our committee and spoke for the United States Chamber of Commerce.

Mr. TREADWAY. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. I would like to know what tax could be put on the statute books of the United States that the chamber of commerce would sponsor. Oh, they will tell you in the corridors and in your office that this is a fine bill, and that the relief provisions of the bill are most splendid and most helpful, but they have been eloquent in their silence when it comes to saying one word in public or to the press in favor of any provision of the bill.

In my opinion, this proposed amendment would cost at least $200,000,000 to $250,000,000 annually, and I will tell you just how I make that computation. The gentleman has a maximum rate of 16 percent in his amendment, and we were told by the Treasury officials that you would have to have an 18.7-percent rate on all corporations to raise the money that we propose to raise. Consequently, it would be 2.7 percent on all the net income of the country. Take a $7,000,000,000 net income and multiply it by 2.7 percent, and I think it figures around $189,000,000, but let us say that it is just 2 percent, to be certain; that makes $140,000,000. Then you lose every dollar in tax upon every dollar in dividends that will be forced out by this 4-percent undivided-profits tax. I am told, not by nonpartisan representatives of the chamber of commerce, but by men whom you know and whom you respect—Joint Internal Revenue Committee

experts—that the cost under this amendment would be between $200,000,000 and $250,000,000.

Mr. TREADWAY. Was not the first estimate the gentleman took from those people whom he respects that it would cost $416,000,000?

Mr. FRED M. VINSON. Oh, yes; under the bill the gentleman introduced which he offered in committee.

Mr. TREADWAY. What became of that?

Mr. FRED M. VINSON. What became of the gentleman's bill?

Mr. TREADWAY. What has become of the difference? This certainly is not the same.

Mr. FRED M. VINSON. It is not the same. Let me say to my friend that this amendment is not the same as his bill.

Mr. TREADWAY. I realize that.

Mr. FRED M. VINSON. Then why does the gentleman ask me what became of the difference between $416,000,000 loss on the bill that he offered before the committee and this amendment?

[Here the gavel fell.]

Mr. McCORMACK. Mr. Chairman, I ask that the gentleman's time be extended 5 minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. GIFFORD. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. I yield.

Mr. GIFFORD. I want to quote from the gentleman's statement of last Thursday when he said that the undistributed-profits tax part of the bill amounted to $150,000,000 notwithstanding the fact it was expected to be $600,000,000. How can you lose $250,000,000 if you have only $150,000,000 in all?

Mr. FRED M. VINSON. I may say to the gentleman that those figures are correct. The Treasury actually received $150,000,000 from the undistributed-profits tax from the corporations; and it is estimated that two hundred and thirty million to two hundred and fifty million extra dollars came from individual surtaxes because of the pressure rates—a total of three hundred and eighty to four hundred million extra tax dollars.

We lose the amount estimated under the proposed amendment because this amendment reduces the normal corporate rate. We get $1,200,000,000 from normal corporate rates, capital-stock tax, and excess-profits tax. I am inclined to think that the $80,000,000 estimate is on corporate income, but I think that is low; in my opinion, it includes nothing from individuals.

My good friend from Massachusetts got somewhat confused. He was thinking that the amendment he offered was the same thing as the bill he introduced and offered in the committee. Now, I know he has seen the error of his ways. The bill he offered in the committee upon which a vote was taken would have lost, according to Treasury officials, $416,000,000. The proposed amendment is vastly different from his bill. It, of course, only loses between $200,000,000 and $250,000,000. That is a little better; that is progress, I may say to my friend; but I say seriously, that is the trouble about amendments that seek to give some possible political advantage. It is offered in order that it may be said: "We offered an amendment that repealed the undistributed-profits tax." Mr. Chairman, we repeal the undistributed-profits tax for corporations with net incomes of $25,000 and less. The only undistributed-profits tax we have until we get to I-B is a 4-percent rate, the same rate that an individual pays, as a normal tax upon any dividend that would be paid out. And it only applies to corporations with net income of more than $25,000. We maintain that it is just as fair for the Federal Government to get a 4-percent tax on money retained as it is to collect it from the shareholder as a normal tax when distributed.

Mr. DOUGHTON. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. I yield.

Mr. DOUGHTON. The gentleman from Massachusetts, in making his statement, said that the nonpartisan authority had estimated the loss as only $80,000,000. He disputed that and said in his judgment we would not lose anything. That is exactly what he said.

Mr. McFARLANE. Mr. Chairman, if the gentleman will yield, I wish he would explain the difference between the bill and the $416,000,000 and the gentleman's amendment.

Mr. FRED M. VINSON. I do not recall the exact language of the bill, for it was long and complicated but there was also something there about capital gains and losses, something about a 12½-percent rate.

The point I want to illustrate is this: On one hand there is a nonpartisan representation of the United States Chamber of Commerce stating the loss is $80,000,000; on the other hand are officials of the Government telling us that we will lose between $200,000,000 and $250,000,000 annually if the amendment is adopted. The amendment should be voted down.

[Here the gavel fell.]

Mr. KNUTSON. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, it is always a pleasure for us on this side to hear the able and amiable gentleman from Kentucky. If there is one man in the House who can make black look white, and vice versa, it is our good friend; and the loss that we are about to sustain in his departure is the gain of the Federal judiciary.

The gentleman from Kentucky has taken the United States Chamber of Commerce for a little buggy ride. I hold no brief for the United States Chamber of Commerce, but that body is made up of manufacturers and businessmen all over the country. I dare say that in the aggregate they are the biggest employers of labor and certainly they should have the right to express opinions upon legislation that may mean the life or death of the organization in which they are interested. I do not see that they should be deprived of the right of telling us how they feel upon measures pending before this body. Oh, I know that under the New Deal standard any corporation, or any concern, or any individual who has been successful, or who has been able to meet his pay roll in these trying times brought on by the New Deal depression, is an outlaw. The gentleman did not refer to the fact that labor also asks for the repeal of this tax. And why? Because labor realizes that this indefensible tax is doing more to keep 15,000,000 people pounding the pavements looking for work than any other one thing upon the statute books. Is it a crime for business to come here and tell us what they would like, what they need in order to reopen their shops and factories and give employment to the 15,000,000 idle?

The gentleman from Massachusetts offered his amendment in good faith and it should be adopted. I know, of course, that it will not be, because too many of you have been at the other end of the Avenue having the blow-torch applied to you. [Laughter.]

Oh, we are never going to have perfection in government, Mr. Chairman, until we take postmasters, United States marshals, and what not out of patronage. Evidently there must be some vacancies that remain to be filled.

Mr. Chairman, I yield back the balance of my time.

Mr. HOFFMAN. Mr. Chairman, I rise in opposition to the pro forma amendment.

WHY NOT PUBLICITY FOR SALARIES AND BONUSES OF WHITE HOUSE OCCUPANTS?

Mr. Chairman, March 4, at his press conference, the President is quoted as saying:

> There is no valid reason why the new tax bill should repeal the clause making public salaries and bonuses to officials of companies controlled by thousands of stockholders or the closely held family corporations. It is a question of public morals.

If officials of corporations which are privately owned and who disclose to those for whom they are working the amount of salaries and bonuses which they receive, as they do by the entries on their corporate books and their annual reports, have they not fulfilled all obligations, legal and moral, which they owe to their stockholders? They at least

have placed the information as to their income derived from the corporation within the reach of those who employ them.

But the President says that the question whether this same information should be available to all, whether interested in that corporation or not, is "a question of public morals."

By inference, he charges that those who do not agree with him are in favor of an unmoral or immoral—whichever you prefer—position.

If it is immoral on the part of those corporation officials who fail to disclose by publication in newspapers and magazines the amount of their salaries and bonuses, what can be said of the occupants of the White House?

Why not be consistent?

The President, his son, James, who is his secretary and a lieutenant colonel, are employees of 130,000,000 people. To the 130,000,000 who hire them the amount of the President's salary as Chief Executive and the amount of James Roosevelt's compensation as secretary to the President, is known to be, respectively, $75,000 and $10,000 per year.

But, following the President's line of reasoning, why should not the public be advised as to the value of the byproducts which emanate from the Executive office? Why should they not be advised as to the amount of earned income which the President receives from other sources, so that they may have some yardstick to measure the amount of time which is required of him to carry on the job for which they employed him?

Are not the people just as much interested in knowing whether the President who receives from them $75,000 per year, also receives $175,000, or any other large sum, as earned income from some other source, but which comes to him because he is President, as they are in knowing what salary Mr. Knudsen receives from General Motors?

Are not the people interested in knowing whether the statements of Frank Kent, a responsible writer, to the effect that James Roosevelt is reported to have received from the insurance agency with which he is connected $150,000, and that, according to the magazine, Time, he is now worth $500,000, earned in the last few years, are true?

There has been a great deal of "clatter" on the floor of the House about excessive salaries. We have heard much from the White House about undue enrichment. The old saying, "What is sauce for the goose is sauce for the gander," might have some application here.

Why not let the occupants of the White House and those connected with it tell the American public just how much they earn from activities not directly connected with the Government but which come to them because of their connection with the Government because of their official positions?

By learning this, the people might be able to form some accurate estimate as to the value of the service rendered the public; also form some judgment as to the comparative amount of time, based on the amount received from outside sources, that each one receiving a salary from the Government devotes to public business.

If the question of whether the tax law shall contain a provision requiring the publication of the salaries and bonuses of the officials of private corporations involves a moral issue, and the failure to so require subjects us to the charge of being immoral, how much stronger is the case against those occupying positions of public trust and confidence, who fail to disclose to the public the amounts which they receive while in public service. [Applause.]

[Here the gavel fell.]

Mr. CELLER. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I have nothing but praise for the members of the Ways and Means Committee, and particularly the chairman of the subcommittee who devised this bill, but this should not prevent us from voicing our sentiments with reference to certain phases of the bill. There should be free and open discussion of the entire matter. There should be no resentment or objection to any Member speaking his mind.

In reference to the subject of the undistributed-profits tax, it might be well for us to take a leaf out of the books of European countries and find out what other countries on the continent of Europe do with reference to the undistributed-profits tax. I say with all due respect to the gentleman from Kentucky that Great Britain, for example, in 1919 was advised to adopt the undistributed-profits tax principle, but it rejected that tax. The present Prime Minister of England last year offered a suggestion of the same tenor, and again it was rejected by the House of Commons. Great Britain, despite the fact it has not an undistributed-profits tax, balances its budget.

We find in many European countries that instead of penalizing corporations because they husband their resources and build up their surpluses, they allow credits and reduce the tax.

THE IDEA OF PENALIZING CORPORATE SAVINGS HAS NOT WORKED ABROAD

Norway adopted a tax on corporate savings in 1921. It was at the rate of 10 percent. It allowed credits for losses in prior years. It is generally objectionable and has been lowered year by year.

Sweden adopted a general tax on undistributed profits in 1919. It was abandoned in 1926, except for the businesses of real estate and marketable securities.

Switzerland: Some Swiss cantons levy such a tax. Although the rates are high, the amount thus collected cannot exceed a moderate percentage of net income.

Czechoslovakia taxes undistributed profits at the rate of 8 percent, while dividends over 6 percent are taxed at the rate of 6 percent.

France imposes an undistributed-profits tax of 4 percent. But at this rate it is still cheaper to retain earnings than to pay them out.

Netherlands favors business saving. It taxes corporations 9.05 percent on their dividends but exempts them on their retained earnings.

Denmark favors business savings. It reduces taxes one-fourth on the portion of corporate profits reserved for certain purposes.

Belgium encourages retention of corporate profits by taxing disbursements at the higher rate of 24.2 percent and business savings at the lower rate of 9.9 percent.

Great Britain considered the idea of taxing corporate savings in 1919. It was rejected because it was believed that such a tax would penalize business at a time when the national welfare required the maintenance of corporate savings that were as large as possible.

The American Federation of Labor at its convention in Miami went on record as unalterably opposed to the principle of the undistributed-profits tax. Matthew Woll came out with a strong statement against it and pointed out that this tax was militating against the placing of workers in jobs.

Of all forms of taxes it is quite probable that the undivided profits and capital gains taxes in their present form have been the greatest factor contributing to unemployment, which is still at its peak.

But, will say our legislators, seeking new sources of revenue, these taxes are popular with the mass of the people, they are easy to collect, and they provide large sums with which to continue the payment of relief. If we repeal or modify them what will we do for money?

THERE IS ONE ANSWER

There is one answer which seems to me to be a very simple one. Suppose the Government should say to industry something like this: "Whenever and wherever you can show that you have spent capital, whether it be undivided profits, capital gains, or new capital invested or borrowed for expansion of your business, the replacement of obsolete machinery, or in any other way which provides additional employment somewhere along the line of production and distribution, the Government will credit you on the basis of the depreciated amount of your tax bill."

This procedure would seem highly desirable not alone because of its incentive to greater employment of labor but because of the vital need of lower selling prices as well. Then, too, it would encourage the capital-goods industry that so frequently lags behind. Isn't it conceivable that industry would prefer to employ

this money in increased production than to turn it over to the Government to be used for relief work allocated altogether too often with an eye to political expediency?

And the result: This same money which is being handed out in relief payments would go into pay envelopes every week end—honest wages for an honest week's work. The wheels of industry would begin humming again, purchasing power would increase, thereby calling for more production, the national income would steadily increase, additions would be made to the national wealth, unemployment would rapidly decline, and in a very short time the depression would be forgotten.

Mr. Chairman, if it is true this tax is a sort of job-killer, we should rip it out of our tax fabric in its entirety.

The committee deserves great praise. It has gone very far with reference to the undistributed-profits tax principle. It has eliminated the tax on corporations, the income of which is under $25,000. But I do not know why it stopped there. I would rather have seen it make up the deficit that might have been created through doing away with the undistributed-profits tax by increasing general taxation, so that corporations might have a larger tax. But business would be revived and unemployment lessened.

What is the experience of business generally as to this tax? What are businessmen's reactions? I have many thousands of letters. The following are typical:

THE FINANCING OF BUSINESS EXPANSION

A small electric company:

The financial condition of this company is sound. It has a good earnings record. But the tax has raised a problem with respect to a new plant. If the tax were not in existence, earnings would probably have been used for that purpose and a new plant built. But, as matters stand today, we have not yet decided to build the plant and one of the principal reasons a decision has not yet been reached is because it would appear necessary to raise perhaps a half million dollars of additional cash to carry out the building program by the sale of additional common stock to stockholders, general public, or both. Naturally there is some question about the advisability of increasing the amount of outstanding stock on which the company will need to earn in future years, and also the unfavorable condition of the securities market raises numerous problems even if we decided to make a stock offering.

A candy firm:

Very substantial plans for the early part of this year in the line of radical improvements and additions in mechanical equipment and the like were abandoned. * * * Our architects, prominent industrial ones, * * * told me the other day that their business had fallen off substantially, due not to high prices but to the unwillingness of their accounts to proceed with new buildings in the face of the undistributed-profits tax.

A feed manufacturer:

Last year we had intended to build additional storage providing for 1,000,000 bushels of grain; however, as the cost would have had to come from our surplus earnings, due to the undistributed-earnings tax, our entire expansion program had to be abandoned. Our only hope to expand will have to come with the relief offered by removal of the burden imposed by this tax or from a reorganization, which, of course, would cause us a considerable hardship.

A nut company:

We need to expand our plant badly, but we do not feel that we can pay 25 percent for the privilege of using earnings for this purpose. Therefore, we do not plan to expand our operations until we are able to raise new capital under favorable terms. Formerly we reserved a reasonable part of our earnings to provide for the orderly expansion of our business.

A brewery:

In the past we have made all improvements, including new buildings and purchase of new equipment, from earnings. It has been necessary for us, since this tax has become effective, to analyze each new improvement and ascertain whether the returns from such improvement would be sufficient to offset the amount of tax to be paid upon the undistributed earnings applied to such purpose. This has held up an expansion program and as a result thereof we have contracted for no new buildings or no new equipment.

A manufacturer of glass machinery:

It may interest you to know that just this morning we have had an informal meeting to determine what we should and could do in regard to purchasing considerable new machinery for our plant. Our superintendent and his assistants have made recommendations for the purchase of new machinery to replace some of our older machines and these expenditures call for an investment of approximately five or six times the amount of the annual depreciation charge on machinery as allowed by the Income Tax Bureau. If we purchase this machinery, it means that 80 percent of the money must come out of our surplus account or must be retained out of our current year's profits. We hesitate to spend any of our surplus for machinery as we feel that the surplus should be used to carry on the business and to give employment to our men during lean periods. On the other hand, if we retain some of our current year's profits, it means subjecting these profits to the undistributed-profits tax, which in reality means that the cost of the machinery is increased by the amount of the undistributed-profits tax. So, no matter which way we try to turn, we meet with discouragement. The net answer is that our decision this morning was to cut down and reduce the amount that we will appropriate for purchasing new machinery. This is not good business for us, neither is it good business for the machinery manufacturers.

NEW INDUSTRIES AND WEAK FIRMS

All the difficulties of the tax that relate to the corporate surplus are accentuated for companies in new and developing industries, and for those with impaired capital. The testimony of the corporation executives is emphatic on both situations, and particularly voluminous and vehement when treating the problems of firms in a weak financial position or with an impaired capital structure.

An aircraft manufacturer says:

The tax definitely affects us in the solution of the creation of a reserve for business expansion. Without the undistributed-profits tax our current profits would go a long way toward providing a reserve for business expansion. With the undistributed-profits tax we are forced to pay such a high rate of tax that practically nothing is left for business expansion. As a result we find that new capital is needed from time to time to take care of the rapid expansion and development of our business, and as yet we are not certain whether it is more advantageous to sell additional capital stock and pay the usual commission or retain our current profits and pay the high rate of tax. Either method is very costly to the company.

A motor-vehicle company:

This company lost money in its operations during the years 1930, 1931, 1932, and 1933. In 1934 the company broke about even. We made a little money in 1935 and had a fairly good year in 1936. However, our reserves have been practically wiped out, and our books today show that our surplus is only approximately $41,000.

We do not have an accumulation of any reserve for business expansion, due to losses in prior years and large dividends paid in 1936. Further, under the 1936 Revenue Act, we will be unable to accumulate reserve for business expansion in future years, except by withholding payment of dividends and by paying of heavy penalty imposed on such action. All previous reserves were used up in depression years.

A building-materials firm:

This firm lost $500,000 from 1930 to 1934. In 1935 it broke even; in 1936, it made, after depreciation, $70,000. The working capital is depleted. But it was required to pay a normal tax of $9,000 and an undistributed-profits tax of $11,000.

A maker of stone- and metal-working tools:

It seemed ironical to us that after having losses for 5 continuous years that we were forced, in order to save tax payments, to pay a dividend in 1936, the first year which has shown a profit. Therefore, it was impossible for us to start during 1936 a reserve for lean years or years of losses. We had to borrow $5,000 more at the bank in 1936 in order to replenish our working capital after payment of said preferred dividends.

A small corporation—unidentified as to product:

This company has a [large] deficit. * * * In 1937, based on the first-quarter showing, it should earn $90,000. On this amount a State income tax of $5,400 is due, leaving a Federal basis of $84,600. The normal tax on this is $11,530, and the undistributed-profits tax $14,978, or a little over 31 percent of the net income subject to Federal taxes.

The company cannot legally pay a dividend; on this basis 5 years would be required to wipe out the deficit. During this period the company would pay about $75,000 in undistributed-profits taxes, and a total of all Federal and State income taxes of $160,000. The money required on investment and equipment needed to meet competitive conditions would not be available.

A plating concern:

This company, capitalized at $400,000, at the end of 1935 had a deficit of $270,000. In 1936 it earned $170,000. All this amount should have been applied to debt payment, but the tax law required a dividend payment if a heavy penalty was to be avoided. On the other hand, the Delaware law made it illegal to distribute a dividend on the impaired capitalization. The company, therefore, reorganized its capital structure and paid dividends.

An iron works:

Our company, following the panic of 1929, has lost over half a million dollars. This loss not only wiped out all of our surplus laid up in prosperous years, but has left us badly in debt. Now, due to

the fact that we are in debt, on our small net earnings which we made last year for the first time since 1929, we are obliged to pay the Government 27 percent rather than 13.5 percent, because we were obliged to apply these earnings on our indebtedness and could not distribute these earnings in dividends.

HARD TO SECURE CAPITAL

The difficulty of obtaining capital from sources other than surplus earnings is indicated in the following statements by corporation officials.

An oil company:

The argument has been put forward in favor of this law that a company can always get temporary working capital by borrowing from the bank, or permanent working capital by an issue of stock. This may possibly be good enough theory, but anyone whose memory recalls conditions in 1930, 1931, and 1932 will know with what success such attempts would have met during the depression.

The law is worse for those industries faced with the dilemma of retaining a fair portion of their earnings in the business, at the cost of paying a punitive and ruinous tax so as to be prepared for a sudden demand for necessary working capital, or avoid the payment of the tax by distributing all their earnings and thereby leave themselves high and dry when the sudden demand for working capital arises. To say that such capital can be provided temporarily by bank loans or permanently by issue of stock is no solution. If the bank loan is resorted to, and is carried over from one year into the next, then the portion of the next year's profit that is applied toward paying off the bank loans is still subject to the tax. A stock issue is likewise unsatisfactory. The market may not be propitious at the time the money is needed, and the cost, time, trouble, and general inconvenience in complying with all the requirements constitute a serious deterrent. Furthermore, an issue of common stock provides permanent capital which may not be needed, whereas an issue of debentures or redeemable preferred stock will entail payment of the undistributed profits tax on any earned profit used to pay off the debt or the preferred stock.

A chemical company:

Remember that under our new security laws it is quite properly very difficult to obtain money from the public for speculative purposes. Also remember that the high surtaxes paid by very wealthy men have eliminated any incentive for these men to finance such new developments.

A motorcar maker:

The very existence of this tax hinders the securing of new capital in the form of a stock investment and is a definite hindrance in * * * the securing of funds from banking connections or in borrowing them in the way of bond issues from the public. Public financing of a corporation that has distributed its earnings and impaired its cash position is, at best, extremely difficult.

A large cigar manufacturer:

Fresh capital through underwriters and public offering is available only to a comparatively limited few corporations. The small or locally known corporation does not have this market for additional capital open to it. Forcing corporations to rely for growth on such public offerings will work to the benefit of the few larger and internationally known corporations and toward putting an effective brake on the growth of all the rest.

A locomotive maker:

Much can be said with respect to the propriety of capitalizing earnings retained within an enterprise. This is a difficult procedure, however, due to the Supreme Court decisions on the taxability of stock dividends. The Treasury Department rulings have helped to clarify this situation somewhat, but there is still a great deal of doubt as to what dividends paid in capital stock, even when of another kind or grade, are taxable in the hands of the recipient and what are not. Due to the necessity for paying such dividends in capital stock of another kind or grade from that upon which the dividend is payable, it is frequently difficult to create a market for such other capital stock sufficiently active to permit the recipient to sell such stock at a reasonable price for the purpose of raising funds with which to pay his income tax. A further complication is created by the inability to determine the dividend-paid credit allowable to the distributing corporation on a dividend paid in capital stocks, which credit is measured by the fair market value at the time of distribution of the security used for dividend purposes, regardless of its par value or the amount transferred from surplus in respect thereof. In other words, the inability of the recipient to find a ready market for such securities reacts not only upon him but upon the distributing corporation itself, in the determination of the dividend credit to which it is entitled.

Corporations that have obtained new capital by issuing securities also find that this method of obtaining capital has disadvantages.

A paper specialties manufacturer says:

We had no obligations outstanding before the tax became effective except a small serial note issue, part of which must be paid back regularly each year regardless of taxes. It did, however, affect our plans for new financing after the tax became effective. We had already planned on a considerable expansion which was necessary.

We could have gotten money from a bank to be repaid in 5 years at a very low interest rate, and we would have gotten it that way except for the undistributed-profits tax. This tax would have made it very, very expensive if we had borrowed the money from a bank for 5 years, because the amount necessary to pay back to the bank each year would have been so heavily taxed. We finally decided on preferred stock with no maturity date and no sinking-fund provision, the dividend rate of which was considerably higher than the bank rate would have been.

A motor-vehicle firm:

By withholding dividends and retaining the net earnings of the company, which are estimated at $250,000 for the current year in the business, its capital requirements could be satisfactorily met, but to do this would involve the payment of approximately $80,140 undistributed-profits tax.

Rather than pay such an exorbitant premium for capital, the directors have decided to secure additional capital by increasing the preferred stock of the company. Under existing conditions the larger stockholders are unwilling to increase their investment in the business, and as a consequence the new stock to the amount of $300,000 will be sold to brokers at a discount of not less than 10 percent plus the expense of legal fees, engineers' reports, and other incidental expenses.

In one instance the undistributed-profits tax is operating to continue a receivership.

A paper manufacturer says:

Since receivership the company has experienced a revival in business and a much better market for its product. Having had interest charges lifted and adjusted, it is now making money and should be shortly in position to propose a satisfactory plan of reorganization to its creditors and its stockholders.

The question now arises as to whether it would be advisable to submit a plan of reorganization promptly, or whether it would not be preferable to continue in receivership for a longer time, because when reorganization plans are submitted and approved, the company would immediately become subject to the undistributed-profits tax under the act of 1936, and as these profits could not be distributed they would be lost through the imposition of additional taxes.

It would seem, therefore, to me, that a company in our position would have a definite advantage over its competitors in remaining in receivership as long as possible.

The figure of $25,000 of earnings is rather arbitrary and valueless, it seems to me. Twenty-five thousand dollars might represent a very large profit for a small corporation and might be more than ample to meet the requirements in the way of surplus or reserves, but $25,000 might mean nothing to a large corporation requiring thousands of dollars for sound business expansion. The important thing is not the total number of corporations. It is stated you do eliminate from this tax some 90 percent of all the corporations of the country, but it is what the corporations do that counts in determining the good or bad effects of tax legislation. The Treasury returns show that possibly 80 percent of the corporations furnish only 10 to 15 percent of the taxable income. The remaining 20 percent earn 85 to 90 percent of the taxable income of American business. It is this small percentage of corporations that gives employment to the great mass of labor. These corporations employ most of the labor, and furthermore, this 20 percent of corporations buy all the great raw materials of the country, and therefore in fact give most employment. For that reason there is some merit in the amendment that has been offered. Give benefits to these larger corporations. You then help create more jobs by allowing more spending for new equipment, new buildings, new factories, in short, expansion.

I quote, partly, a good editorial from the New York Times:

THE PROFITS TAX

The new tax bill proposed by the House Ways and Means Committee contains one substantial improvement. For the great bulk of corporations it reduces the tax on undistributed profits to a nominal figure. In actual practice this is a highly important step for the better. But the committee's concessions have the appearance of being grudging ones. Its bill is needlessly complicated in form. For all but the smallest corporations the principle of the tax is retained. For family owned corporations the tax is kept with nearly all of its original unsound and punitive provisions. The concessions made in the capital-gains tax, moreover, are not important.

In other words, the committee has missed a great opportunity. By making no effort to save face, by acknowledging frankly that the tax had failed, by unmistakably repudiating its principle, by

revising the capital-gains tax drastically—in short, by doing handsomely in full what it does grudgingly in part, the committee might have changed overnight the anxious and depressed state of mind of the business community.

* * * * * * *

Rightly or wrongly, the undistributed-profits tax in particular has become for the business community a symbol for Government "persecution" of business. That is why, apart even from any other aspect, its repeal has become psychologically so important.

Mr. McFARLANE. Mr. Chairman, the apparent psychology of the House in regard to this tax legislation is peculiar, to say the least. Our friends on the Republican side of the aisle have offered an amendment to repeal the undistributed-profits tax. I wonder where is the gentleman from Pennsylvania [Mr. RICH], who is repeatedly on his feet wanting to know where we are going to get the money to balance the Budget. I have not seen him here in several days.

I believe it is conservatively estimated that if this amendment is adopted it will take out the very heart of this tax bill. The gentleman from Kentucky states eliminating this provision will reduce the revenues from $200,000,000 to $250,000,000. I say that if the undistributed-profits tax means what it states and what the record shows it means, its repeal will take out of the Treasury directly and indirectly considerably more money than the amount mentioned by the gentleman from Kentucky, because last year, according to the income-tax returns—and I have the records here and will be glad to read them to you, the individual income-tax returns; and no one has attempted to deny that the undistributed-profits tax is responsible for a large part of the increase in these returns—increased $427,324,000 over the previous year.

Corporation income-tax returns last year increased $318,400,000 over the previous year. If you repeal this tax and take from the American people and the corporations of this country the incentive to distribute dividends, you are taking away one of the greatest driving forces back of these increased-tax returns.

Mr. FRED M. VINSON. Mr. Chairman, will the gentleman yield?

Mr. McFARLANE. I yield to the gentleman from Kentucky.

Mr. FRED M. VINSON. I believe it is fair to say the undistributed-profits tax for the first year it was in operation brought into the Treasury between $380,000,000 and $400,000,000 extra, but this amendment increases the maximum rate 15 percent of the 16 percent, so you would have 1 percent applicable to the entire net-income base, which would be something like $70,000,000 or $75,000,000, and then you would have an increase in the lesser amount. I believe my estimate may be low, but certainly the returns will be at least that much.

Mr. McFARLANE. I understand that, but I want to call attention to the fact that the President in his message to the Congress made this very significant statement, which I believe the committee has, perhaps, overlooked; at least, I want to call it to the attention of the committee. This statement will be found in the President's message to Congress of January 3, 1938:

The total sum to be derived by the Federal Treasury must not be decreased as a result of any changes in schedules.

[Here the gavel fell.]

Mr. McFARLANE. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. McFARLANE. On pages 4 and 5 of its report, the Ways and Means Committee makes this statement in regard to the undistributed-profits tax:

It is proposed to tax the group of corporations with net incomes in excess of $25,000 at a flat rate of 20 percent. This rate of tax, 20 percent, imposed by the bill upon corporations which are taxable under the general rule and retain all their earnings, compares with a rate of 32.4 percent under the 1936 act. This represents a reduction of approximately 40 percent in the maximum rate of tax on such corporations.

The bill now before us reduces the tax rate on this great mass of corporations in the so-called second basket 40 percent, yet this amendment would strike out the whole section and, in my opinion, would eliminate well over $300,000,000 in taxes. The committee eliminates 40 percent in this so-called second basket, and all through the bill are similar reductions. I call upon the committee to explain to the House where and how they expect to maintain an even and equal revenue under the bill now before us. I ask them for complete breakdown figures showing net increases and losses on the different provisions of the bill. This is the thing that is worrying me, and it is what the gentleman from New York [Mr. SNELL] called upon the committee to bring in.

He asked the committee to give us a break-down showing where we expected to get the money under the proposed bill. I have listened in vain for this information. I should like to know where we are going to get the money under this bill in an amount at least equal to the revenue to be obtained under existing law. Here is a 40 percent reduction, a material reduction, to corporations earning over $25,000 net income, brought about by practically repealing the undistributed-profits tax as it affects them. While it is true the committee has jacked up the rates on the so-called 20–16 tax on corporations earning over $25,000 net incomes, they have materially reduced the revenues.

On page 57 of the report they speak of the third basket, about which we have heard such a sham battle waged on this floor. This title I–B is a farcical sham on the revenues of the Treasury. The revenues received under that provision will be materially less than they are under existing law as so stated by the committee in their report on page 57, so where are we going to get the money lost by the material reductions made in 12 or 15 places I could point out in the bill if I had the time? There are a few trivial increases in the bill, but they are not of any major importance.

So I say to you, frankly, you ought not only to vote down this amendment but I have an amendment which I shall offer to restore the present undistributed-profits tax with respect to corporations with net incomes in excess of $25,000. Very clearly, I think, we are going to be compelled to have such an amendment if we are to maintain the revenues of this country, and we are running into the ninth year of a unbalanced Budget, with a deficit running well into the billions of dollars. So, it seems to me, we ought not only to vote down the gentleman's amendment but we should vote to strike out of this bill the material reductions that are going to eliminate a large part of the revenue so badly needed at this time.

[Here the gavel fell.]

Mr. LUCE. Mr. Chairman, I move to strike out the last three words.

Mr. Chairman, after hearing or reading most of the discussion of this bill in the last 3 days, I find myself marveling that gentlemen of wide political experience and long acquaintance with human nature address themselves to the details of this bill and discuss figures, as in the remarks to which we have listened, instead of realizing and recognizing the vital point.

This bill is not at bottom a matter of taxation, it is not a matter of revenue in its effect on the people of this country. If men of our intelligence cannot readily comprehend these details, if those of us who have never served on the Committee on Ways and Means have to make inquiry about these figures, how can you presume that the masses of the businessmen of this country will give any heed whatever to such discussion as that to which we have just listened?

The one vital thing in this bill is its attack upon confidence. The one all-important thing at this moment is to pass a measure that the people of the United States—I will not say will understand, they will not understand any bill that we pass on this subject—but that will encourage the people of the United States to renew their business activities, will revive opportunities for men to work, and so will put an end to the terrible depression through which we are now passing. This is the question of the moment. This is the question for you to meet.

If I were tempted to talk of this thing primarily as a politician, I would not take the floor. I would keep silent and thank heaven for your stupidity. [Laughter and applause.] Whom the gods would destroy they first make mad; and the Democratic Party is at this moment mad because it evades the real question, because it gives no answer to those who are appealing to us for help.

I have received but a single letter asking me to vote to continue this undistributed-profits tax. Yesterday a Senator told me he had received a thousand letters on the subject and had not received one in favor of this undistributed-profits tax. Perhaps, it is a good tax. Money must be raised. I am not now questioning that. I say that the businessmen of this country demand in unison, as a mass, unanimously demand that you repeal this tax. So while I, as a politician, would keep quiet and joyously watch you go over the precipice, yet, as a citizen of the United States, as a man who believes its welfare is more important than that of any political party, I point out to you the need, I beg of you that you will consider the fact that what you ought to do at the moment is to allay fear, is to restore confidence to the business world. [Applause.]

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts.

The question was taken; and on a division (demanded by Mr. TREADWAY) there were—ayes 33, noes 78.

So the amendment was rejected.

Mr. HARLAN. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. HARLAN: Page 86, line 4, after the word "business", insert "for current operating expenses, plus contractual obligations."

Mr. HARLAN. Mr. Chairman, the purpose of this amendment is clarification of the phrase used on page 84—

Reasonable needs of the business.

This is under section 102 of the bill. The first paragraph of that section provides that any corporation, whether closely held or not, that holds its income for the purpose of avoiding taxation, shall be subject to a tax of 25 percent on the first $100,000 and 35 percent above that amount. Then the next paragraph to which this amendment addresses itself reads as follows:

The fact that any corporation is a mere holding or investment company, or that the earnings or profits are permitted to accumulate beyond the reasonable needs of the business, shall be prima facie evidence of the purpose to avoid surtax upon shareholders.

I would make the phrase read:

Reasonable needs of the business for current operating expenses, plus contractual obligations.

The Revenue Department has lost two cases in which they have attempted to enforce this section, and because of losing those cases they have come before us to ask us to adopt title I–B. The reason they lost these cases was because the Cecil DeMille Co. said:

We need all of this revenue for future development.

The National Grocery Co. came in and said the same thing and the courts in both cases declared that was a reasonable need of their business, because their future development could be anything they wanted to say it was. In other words, it was entirely in their own minds, and entirely speculative. If we define "reasonable needs of the business" as "current operating expenses plus contractual obligations" there will be no place for anyone to use their imagination, and it will confine these corporations that are attempting to evade this tax to what was meant when this section 102 was passed, and if the pending amendment had been in the bill both of those cases would have been won and we would not have had all of this agitation for section I–B on close corporations. If this amendment is adopted, the strongest argument for the retention of I–B will be removed, and then we can either strike it out or make I–B apply to all corporations, closely or broadly held.

Mr. COOPER. Mr. Chairman, will the gentleman yield.

Mr. HARLAN. Yes.

Mr. COOPER. The gentleman's amendment would just go I–B one better. The gentleman's amendment would put all the corporations in the country under section 102, and it would be far worse than it is now.

Mr. HARLAN. My amendment would do just exactly what the Revenue Department tried to do in the National Grocery case and in the DeMille case. That was the objection that the Treasury Department, headed by Mr. Helvering, had to this. It was because the court held that anything the owner of the corporation said was his reasonable need of business was accepted as "reasonable need of business."

Mr. CELLER. Did the Treasury Department offer any suggestion by way of strengthening section 102 at all? Did they give the gentleman any language at all?

Mr. HARLAN. So far as I know, they have not. The only amendments that have been made to section 102 have been corrective amendments, to make it fit in with the rest of the act. They say that they cannot enforce section 102 because it cannot get through the courts.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. HARLAN. I ask unanimous consent to proceed for 2 minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. McCORMACK. And may I say I agree with the gentleman in his argument about section 102. The Department has never undertaken to enforce it, and the National Grocery case is now pending before the Supreme Court.

Mr. HARLAN. And if this had been in the law, there would not have been any question about it.

Mr. McCORMACK. We do not know now what section 102 means, because the Department has never enforced it. They have used it as a lever, as a deterrent, that is all.

Mr. McFARLANE. The Department did not ask the gentleman to offer this amendment?

Mr. HARLAN. It did not.

Mr. CRAWFORD. May I submit this question: Assuming we get back to processing taxes and your firm decides you want to use $50,000 to increase your floor stock in order to avoid processing taxes that they may assess on floor stock, would that be construed as reasonable requirements of the business?

Mr. HARLAN. It is current operating expenses of the business, certainly.

Mr. FRED M. VINSON. Mr. Chairman, let us assume a corporation wanted to use $10,000 to build a wing to the plant.

Under the express language of the gentleman's amendment they would be subject to the provisions of section 102.

Mr. HARLAN. They would be, provided they had put it into some contractual obligation.

Mr. FRED M. VINSON. That is right.

Mr. HARLAN. That is all they have to do. They can expand as far as they want.

Mr. FRED M. VINSON. In other words, it goes further than 102 has ever gone; it goes further than I–B goes.

[Here the gavel fell.]

Mr. CELLER. Mr. Chairman, I ask unanimous consent that the gentleman's time may be extended 2 minutes that I may ask him a question.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CELLER. Will the gentleman tell us how far that National Grocery Co. case went? Did it go beyond the circuit court of appeals?

Mr. HARLAN. Yes; it is now pending in the Supreme Court on an application for certiorari from the court of appeals, and I think that writ has been granted.

Mr. McCORMACK. I understand the Court has granted the writ and that the Court is going to pass on the question.

Mr. CELLER. What is the condition with respect to the Cecil de Mille case?

Mr. HARLAN. The Cecil de Mille case was tried before the Board of Tax Appeals. As I remember it, the Board of Tax Appeals found against the Treasury. They carried it to the court of appeals, and the court of appeals threw it out because the Treasury Department did not have their record in proper shape. That is my recollection.

Mr. CELLER. There was no appeal from that?

Mr. HARLAN. There was no appeal from that.

[Here the gavel fell.]

Mr. FRED M. VINSON. Mr. Chairman, the gentleman from Ohio says that the Bureau of Internal Revenue has endeavored to enforce section 102 in only 2 cases and that they have lost both of these cases. I may say that from the time we have had an income-tax law we have sought to do that which 102 does—either upon the shareholder or as 102 does upon the corporation.

Until 1928 or 1929 there had been collected some $78,000 under section 102. I want to show its inefficacy. From 1928 or 1929 down to the present time $12,000,000 or $14,000,000 has been collected under section 102. The mere fact that this provision is on the statute books has some deterrent effect. The trouble with section 102 is that you have to show intent on the part of the corporation to accumulate these unreasonable reserves for the purpose of avoiding the payment of surtaxes. The National Grocery case about which you have heard is certainly illustrative of the difficulty of enforcing section 102, or making it effective.

I want, however, to direct my remarks to the amendment offered by the gentleman from Ohio. He is a distinguished Member of this body, he is a good lawyer, and his purpose is unquestioned. In my opinion this amendment would do that which he would not do under any circumstances if he had time to reflect upon the effect of the amendment. I shall read this section as altered by the amendment offered by the gentleman from Ohio:

Prima facie evidence: The fact that any corporation is a mere holding or investment company, or that the earnings or profits are permitted to accumulate beyond the reasonable needs of the business—

Mark this limitation—

for current operating expenses plus contractual obligations shall be prima facie evidence of a purpose to avoid a surtax upon shareholders.

For instance, if a corporation owes money then this contractual obligation provision will operate. If the corporation does not owe money they are in the trap. In other words, this limitation does what I know my friend from Ohio would not want done.

Mr. HARLAN. Mr. Chairman, will the gentleman yield for a question?

Mr. FRED M. VINSON. I yield.

Mr. HARLAN. This whole section pertains to section 102 income, does it not?

Mr. FRED M. VINSON. That is right.

Mr. HARLAN. And section 102 income eliminates taxes and previously allowed charitable contributions. This allowed losses and they are already eliminated.

Mr. FRED M. VINSON. But we are dealing with prima facie evidence, that if this condition exists there is prima facie evidence that 102 attaches. I submit my friend from Ohio does not want to do that. I ask him in the case of a corporation that earned $50,000 in a given year and wanted to spend $25,000 of it to build an addition to their plant, whether this $25,000 would be exempt? And I ask you to remember that the penalty under 102 is much greater than the tax under I–B. The tax under 102 is on the money retained after very generous deductions. Under 102, the base taxed is much larger than the 1–B base, and the rate runs from 25 to 35 percent. Back to the amendment—if they wanted to build this extra wing to their plant the cost of that addition would not be retained for current operating expenses or for the payment of contractual obligations; and then under this amendment you would have prima facie evidence that the corporation fell within 102.

Mr. McCORMACK. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I am very glad the gentleman from Ohio [Mr. HARLAN] offered the amendment. Personally I cannot subscribe to it because the amendment goes too far, but it is a step in the right direction. As a result of the offering of this amendment, the answer of the gentleman from Kentucky [Mr. VINSON] is the finest argument I have heard in this debate against section I–B. His defense of the committee's position against the amendment offered by the gentleman from Ohio is the best argument against I–B that could be advanced because everything he said is sound. Everything he said applies equally to section I–B as to the amendment offered by the gentleman from Ohio to section 102.

Mr. FRED M. VINSON. Will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Kentucky.

Mr. FRED M. VINSON. Of course, the tax in I–B does not apply to the entire net income.

Mr. McCORMACK. May I talk quietly to my friend? If you go over the country and take all corporations, whether they are to be covered by this sugar-coated proposition or not, they are potentially subject to the principle of I–B. They pay the normal corporation tax the same as any other corporation; then they pay the I–B tax; then they are subject to the section 102 tax. The committee said this type of corporation could be availed of for the purpose of avoiding section 102, although there is no evidence of that fact, and, to be consistent, having imposed this extra 20-percent tax on retention, they should eliminate these corporations from section 102, but instead of that the corporations are also subject to section 102. In other words, let us take this particular type of corporation located in every little city and practically every town in the country. Many towns have grown up around this type of corporation. May I say in passing, this is going to hit the South more than it will hit the industrial East, because you are developing down there and family or closely held corporations have been the basis of development in New England and in every industrial section of this country.

The South will suffer and the West will suffer, because those sections are not developed like the industrial East is at the present time. Title I–B retards growth and development. That argument has not and cannot be denied. Its principle is wrong. It is not based on logic or truth. It is predicated upon an unsound and unwise premise, and you cannot make a truth out of that which is inconsistent with it, no matter how sugar-coated the exemptions might be.

[Here the gavel fell.]

Mr. McCORMACK. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FORD of California. Will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from California.

Mr. FORD of California. Is it not true that section I–B will hit 90 percent of the closely held newspapers in the country which are ramming and hammering away all the time on this tax question?

Mr. McCORMACK. I may say there are two things included in the gentleman's question. Yes, it will hit 75 percent of the newspapers because, of necessity they are closely held, usually being built up by one family. This is necessary in order to have independence of views. I will fight a newspaper when I think it is wrong; but I want the press to be free. I believe in freedom of the press. I believe in freedom of speech. I believe in religious freedom. I believe in the rights guaranteed me by the Constitution, and I believe in preserving those rights. This question does not involve them at all. I am arguing that it is wrong to impose a tax on one corporation and impose a heavier tax upon another corporation in the same line of business. [Applause.]

May I tell you about the National Grocery Co. case, and I do not defend that at all. I agree with the majority of the Board of Tax Appeals, although it was decided by a bare majority vote.

I believe the majority decision in that case was correct, but the vote was a majority one, showing the closeness of the decision, and the honest difference that existed between the members of the Board of Tax Appeals. When the case went up to the Circuit Court of Appeals of the Third District the vote there was 2 to 1 the other way. This is the first time that a case under section 102 has gone up to the Supreme Court. Why can we not wait until the Supreme Court interprets section 102? Why should we not wait for that opinion before passing this drastic provision?

Mr. Chairman, when this bill goes over to the Senate, the section, according to what I recently read in the newspapers, is going out. Therefore, why not be practical? For 5 years we have been holding the fort over here. One hundred and fifty Members on this side have got to go back into districts that before their election were Republican districts. They will have to meet this issue; it will be raised by their opponents. They will have to explain if they can why they voted for a tax punitive in its nature, that adversely affected businesses located in their districts. Outside of the principle involved, the political feature calls for the elimination of I–B and with that elimination we have a very good bill that we can defend in our districts. [Applause.]

[Here the gavel fell.]

Mr. DOUGHTON. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, the amendment of the gentleman from Ohio and the speeches of the gentleman from Ohio and the gentleman from Massachusetts show conclusively the necessity for having something done along the line of the provisions of I–B. They talk about section 102 and try to lead us to believe that section 102 will take care of the situation. But if there are not taxpayers escaping taxes under the present law, they would not make this desperate effort to strengthen 102 rather than to enact section I–B.

The truth of the matter is, as we all know the situation to be, that the Department has been trying to enforce section 102 for 15 years and this under both Democratic and Republican administrations.

Their efforts have been a failure and futile, as everyone knows. Those representing the Treasury Department tell us in all sincerity that effort after effort has been made and suit after suit has been brought but they have not succeeded yet. They have collected only approximately $9,000,000 or $10,000,000 in 15 years, whereas it is well known that hundreds of millions of dollars have been leaking away that should be justly paid and which it is intended by title I–B shall be paid.

Mr. FRED M. VINSON. Mr. Chairman, will the gentleman yield?

Mr. DOUGHTON. I yield to the gentleman from Kentucky.

Mr. FRED M. VINSON. Is it not true that for the last 15 or 20 years those in a position of responsibility have been making a desperate effort to work out language in section 102 that would be effective, and did not the gentleman referred to here, my friend from Massachusetts, Mr. Alvord, formerly connected with the Committee on Ways and Means and the Treasury, and now one of the leading tax experts of the country, state that they knew of no way to strengthen section 102?

Mr. DOUGHTON. That is correct and every effort that has been made to strengthen section 102 has been a failure. If it could not be done in 15 years of diligent effort on the part of the Treasury Department and the Department of Justice, how can we on the floor of the House in 15 minutes of consideration write a statute to take care of the situation, or make the law efficient? It is so ridiculous and so absurd it is not worth the attention of the House for a minute.

The gentleman from Massachusetts says he believes in the freedom of the press. I believe in the freedom of the press, too, but not in the freedom of the press to escape taxation. I do not believe in that form of freedom of the press, and I never will. However, I hope the press does not desire such freedom and I am sure many of the papers are willing to pay their fair share of taxes.

Mr. HARLAN. Mr. Chairman, from the remarks of the gentleman from Kentucky, whose legal ability is too high for me even to compliment, I know he does not wish this question to go off on a quibble. I am assuming what he says is correct, although I question it. I therefore ask unanimous consent that the amendment may be modified by inserting, between the words "for" and "current", the words "outstanding debts", so the amendment will read "for outstanding debts, current expenses, plus contractual obligations."

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio.

The amendment was rejected.

Mr. DOUGHTON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. WOODRUM, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H. R. 9682) to provide revenue, equalize taxation, and for other purposes, had come to no resolution thereon.

MESSAGE FROM THE SENATE

A message by the Senate, by Mr. St. Claire, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8837) entitled "An act making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1939, and for other purposes."

EXTENSION OF REMARKS

Mr. CROWTHER. Mr. Speaker, I ask unanimous consent to revise and extend in the RECORD the remarks I made in Committee of the Whole today, and include therein a short newspaper article containing a list of salaries and the portion of them paid in taxes to the Federal Government.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. REED of New York. Mr. Speaker, I ask unanimous consent to revise and extend in the RECORD the remarks I made in connection with an amendment offered this afternoon, and include therein a list of the colleges to which I referred.

The SPEAKER. Is there objection to the request of the gentleman from New York.

There was no objection.

Mr. HOFFMAN. Mr. Speaker, I ask unanimous consent to revise and extend in the RECORD the remarks I made today and include therein an article from the Detroit Free Press.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CELLER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein a radio address I delivered on chain stores.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

FILIBERTO A. BONAVENTURA

Mr. POAGE. Mr. Speaker, I ask unanimous consent to file minority views on the bill (H. R. 8569) for the relief of Filiberto A. Bonaventura.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

EXTENSION OF REMARKS

By unanimous consent, Mr. QUINN was granted leave to extend his own remarks in the RECORD.

Mr. MICHENER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein two short statements.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONNERY. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein a speech, together with certain letters I have written, in connection with the bill (H. R. 2730) to protect American labor, to insure employment opportunities for America's workers, to increase the purchasing power of America's farmers, to provide markets for the products of America's workers and America's farmers, to relieve the distress created through the entry into American markets of articles, goods, or commodities, the products of foreign workers at total landed costs (including the payment of tariff duties, if any) which are less than the costs of production of similar or comparable articles, goods, or commodities, the products of America's workers and America's farmers.

This bill was introduced by my brother, the late William D. Connery, Jr., last year.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ADJOURNMENT

Mr. FRED M. VINSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 9 minutes p. m.) the House adjourned until tomorrow, Tuesday, March 8, 1938, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON MERCHANT MARINE AND FISHERIES

The Merchant Marine and Fisheries Committee will hold hearings in room 219, House Office Building, on the following bills as indicated:

Tuesday, March 8, 1938:

H. J. Res. 463. To permit the transportation of passengers by Canadian passenger vessels between the port of Rochester, N. Y., and the port of Alexandria Bay, N. Y., on Lake Ontario and the Saint Lawrence River.

Wednesday, March 9, 1938:

H. R. 8982. To amend Public Law, No. 282, Seventy-fifth Congress, relative to the fisheries of Alaska.

H. R. 9225. To amend section 3 of the act of May 27, 1936 (49 Stat. 1381), entitled "An act to provide for a change in the designation of the Bureau of Navigation and Steamboat Inspection, to create a Marine Casualty Investigation Board, and increase efficiency in administration of the steamboat inspection laws, and for other purposes."

H. R. 9368. To amend the act of March 4, 1915, as amended; the act of June 23, 1936; section 4551 of the Revised Statutes of the United States, as amended; and for other purposes.

Thursday, March 10, 1938:

H. R. 8715. To authorize the Secretary of Commerce of the United States to grant and convey to the State of Delaware fee title to certain lands of the United States in Kent County, Del., for highway purposes.

H. R. 9526. To amend the act of May 27, 1908, authorizing settlement of accounts of deceased officers and enlisted men of the Navy and Marine Corps.

Tuesday, March 15, 1938:

H. R. 2991 and S. 599. For the relief of Earl J. Thomas.

Wednesday, March 16, 1938:

H. R. 8251. To amend the act entitled "An act to amend the Communications Act of 1934, for the purpose of promoting safety of life and property at sea through the use of wire and radio communications, to make more effective the International Convention for the Safety of Life at Sea, 1929, and for other purposes," approved May 20, 1937.

Thursday, March 17, 1938:

H. R. 9577. To amend section 402 of the Merchant Marine Act, 1936, to further provide for the settlement of ocean mail contract claims.

Wednesday, March 23, 1938:

S. 992. To make electricians licensed officers after an examination.

Thursday, March 24, 1938:

H. R. 6745. To require a uniform manning scale for merchant vessels and an 8-hour day for all seamen.

H. R. 8774. To amend the Seamen Act of March 4, 1915, as amended and extended, with respect to its application to tug towing vessel firemen, linemen, and oilers.

H. R. 9588. To provide for an 8-hour day on tugs on the Great Lakes.

Wednesday, March 30, 1938:

H. R. 8840. To amend section 6 of the act approved May 27, 1936 (49 Stat. L. 1380).

S. 1273. To adopt regulations for preventing collisions at sea.

Tuesday, April 5, 1938:

S. 2580. To amend existing laws so as to promote safety at sea by requiring the proper design, construction, maintenance, inspection, and operation of ships; to give effect to the Convention for Promoting Safety of Life at Sea, 1929; and for other purposes.

Tuesday, April 12, 1938:

H. R. 6797. To provide for the establishment operation, and maintenance of one or more fish-cultural stations in each of the States of Oregon, Washington, and Idaho.

H. R. 8956. To provide for the conservation of the fishery resources of the Columbia River, establishment, operation, and maintenance of one or more stations in Oregon, Washington, and Idaho, and for the conduct of necessary investigations, surveys, stream improvements, and stocking operations for these purposes.

S. 2307. To provide for the conservation of the fishery resources of the Columbia River, establishment, operation, and maintenance of one or more stations in Oregon, Washington, and Idaho, and for the conduct of necessary investigations, surveys, and stream improvements, and stocking operations for these purposes.

Thursday, April 14, 1938:

H. R. 8523. To amend section 4370 of the Revised Statutes of the United States (U. S. C., 1934 edition, title 46, sec. 316).

Tuesday, April 19, 1938:

H. R. 5629. To exempt motorboats less than 21 feet in length not carrying passengers for hire from the act of June 9, 1910, regulating the equipment of motorboats.

H. R. 7089. To require examinations for issuance of motorboat operators' license.

H. R. 8839. To amend laws for preventing collisions of vessels, to regulate equipment of motorboats on the navigable waters of the United States, to regulate inspection and manning of certain motorboats which are not used exclusively for pleasure and those which are not engaged exclusively in the fisheries on inland waters of the United States, and for other purposes.

COMMITTEE ON BANKING AND CURRENCY

The Committee on Banking and Currency of the House will continue hearings on the Goldsborough bill, H. R. 7188, at 10:30 a. m., Tuesday, March 8, 1938.

COMMITTEE ON THE PUBLIC LANDS

There will be a meeting of the Committee on the Public Lands on Thursday, March 10, 1938, at 10 a. m., in room 328, House Office Building, to consider H. R. 5763, to provide for the extension of the boundaries of the Hot Springs National Park, in the State of Arkansas, and for other purposes.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

The Committee on Interstate and Foreign Commerce will resume hearings on S. 69, train limit bill, on or after March 15.

COMMITTEE ON PATENTS

The subcommittee to consider H. R. 9041, on trade-marks, will hold hearings in the caucus room of the House Office Building at 10:15 a. m., each morning of March 15, 16, 17, and 18, Chairman LANHAM presiding.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1111. A letter from the Secretary of War, transmitting the draft of a bill to authorize attendance of Philippine Army personnel at service schools of the United States Army; to the Committee on Military Affairs.

1112. A letter from the Secretary of the Interior, transmitting the draft of a bill relating to restrictions of Osage property acquired by descent or devise; to the Committee on Indian Affairs.

1113. A letter from the Secretary of the Interior transmitting a copy of resolutions passed by the Municipal Council of St. Thomas and St. John; to the Committee on Insular Affairs.

1114. A letter from the Attorney General of the United States, transmitting the draft of a bill to change the manner of appointment of probation officers; to the Committee on the Judiciary.

1115. A communication from the President of the United States, transmitting a supplemental estimate of appropriations for the fiscal year ending June 30, 1939, for the War Department, for maintenance of the office of the United States High Commissioner to the Philippine Islands, amounting to $16,500, of which amount $2,100 is made immediately available (H. Doc. No. 534); to the Committee on Appropriations and ordered to be printed.

1116. A letter from the Secretary of the Navy, transmitting a draft of a bill to provide for the retirement, rank, and pay of chiefs of naval operations, Chiefs of Bureau of the Navy Department, the Judge Advocates General of the Navy, and the major generals commandant of the Marine Corps; to the Committee on Naval Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. ROGERS of Oklahoma: Committee on Indian Affairs. H. R. 8885. A bill for the benefit of the Goshute and other Indians, and for other purposes; with amendment (Rept. No. 1909). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. WOOD: Committee on War Claims. H. R. 3045. A bill for the relief of Margaret Redmond; with amendment (Rept. No. 1907). Referred to the Committee of the Whole House.

Mr. WOOD: Committee on War Claims. H. R. 8365. A bill for the relief of the stockholders of the North Mississippi Oil Mills of Holly Springs, Miss.; with amendment (Rept. No. 1908). Referred to the Committee of the Whole House.

Mr. KENNEDY of Maryland: Committee on Claims. H. R. 9767. A bill for the relief of sundry claimants, and for other purposes; with amendment (Rept. No. 1910). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. LAMBERTSON: A bill (H. R. 9757) to relinquish jurisdiction to the State of Kansas to prosecute Indians or others for offenses committed on Indian reservations; to the Committee on Indian Affairs.

By Mr. GRIFFITH: A bill (H. R. 9758) to authorize the Secretary of the Treasury to acquire, by condemnation or otherwise, such land in the city of Ponchatoula, Tangipahoa Parish, La., as may be necessary for the location of a post-office building in said city, and also to construct a suitable building thereon, and making an appropriation therefor; to the Committee on Public Buildings and Grounds.

By Mr. SCHULTE: A bill (H. R. 9759) to provide for the punishment of assault with a dangerous weapon in the District of Columbia; to the Committee on the District of Columbia.

By Mr. MAY (by request): A bill (H. R. 9760) to amend the act of March 2, 1899, as amended, to authorize the Secretary of War to permit allotments from the pay of military personnel and permanent civilian employees under certain conditions; to the Committee on Military Affairs.

By Mr. MOTT: A bill (H. R. 9761) to exempt from the tax on admissions certain fees collected in the national parks and monuments; to the Committee on Ways and Means.

By Mr. McCLELLAN: A bill (H. R. 9762) to establish the Hot Springs division of the western judicial district of Arkansas; to the Committee on the Judiciary.

By Mr. CASE of South Dakota: A bill (H. R. 9763) to provide for the punishment of persons transporting stolen animals in interstate commerce, and for other purposes; to the Committee on the Judiciary.

By Mr. ANDREWS: A bill (H. R. 9764) to authorize an appropriation for reconstruction at Fort Niagara, N. Y., to replace loss by fire; to the Committee on Military Affairs.

By Mr. CALDWELL: A bill (H. R. 9765) to authorize the purchase and distribution of products of the fishing industry; to the Committee on Merchant Marine and Fisheries.

By Mr. REES of Kansas: A bill (H. R. 9766) to prohibit the movement in interstate commerce of adulterated and misbranded food, drugs, devices, and cosmetics, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HILL: A bill (H. R. 9768) authorizing the construction of flood-control works on Mill Creek for the protection of life and property in the city of Walla Walla, Wash., and vicinity; to the Committee on Flood Control.

By Mr. LAMNECK: Resolution (H. Res. 431) authorizing the Secretary of the Treasury to furnish the House of Representatives with certain information, with regard to those who may be affected by H. R. 9682; to the Committee on Ways and Means.

MEMORIALS

Under clause 3 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: Memorial of the Legislature of the State of Massachusetts, memorializing the Congress of the United States and the United States Tariff Commission in favor of excluding boots, shoes, leather, leatherboard, textiles, and wool and fur felt hats and hat bodies from any reciprocal-trade agreements; to the Committee on Ways and Means.

Also, memorial of the Legislature of the State of Massachusetts, memorializing the Congress of the United States in favor of the continuation of Works Progress Administration projects; to the Committee on Appropriations.

Also, memorial of the Legislature of the State of Kansas, memorializing the President and the Congress of the United States to consider their House Concurrent Resolution No. 6,

dated February 19, 1938, with reference to Senate bill 25 and House bill 6704, concerning the Universal Service Act; to the Committee on Military Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. KENNEDY of Maryland: A bill (H. R. 9767) for the relief of sundry claimants, and for other purposes; to the Committee on Claims.

By Mr. COLLINS: A bill (H. R. 9769) for the relief of Thomas J. Grayson; to the Committee on Claims.

By Mr. FLANNERY: A bill (H. R. 9770) granting a pension to Thomas R. Koch; to the Committee on Pensions.

Also, a bill (H. R. 9771) for the relief of John Kumple; to the Committee on Military Affairs.

By Mr. GRIFFITH: A bill (H. R. 9772) for the relief of Bryan D. Burns, Philip Burns, and Albert Burns; to the Committee on Claims.

By Mr. LAMNECK: A bill (H. R. 9773) for the relief of William E. Burgoon; to the Committee on Naval Affairs.

By Mr. LARRABEE: A bill (H. R. 9774) for the relief of Samuel T. Monroe; to the Committee on Claims.

By Mr. McSWEENEY: A bill (H. R. 9775) for the relief of Lima Locomotive Works, Inc.; to the Committee on Claims.

By Mr. MERRITT: A bill (H. R. 9776) for the relief of the estate of Edith M. Napier; to the Committee on Claims.

By Mr. REECE of Tennessee: A bill (H. R. 9777) granting a pension to Verdie Ellen Rankin; to the Committee on Invalid Pensions.

By Mr. SCOTT: A bill (H. R. 9778) granting a pension to Mrs. J. W. Jones; to the Committee on Invalid Pensions.

By Mr. STEAGALL: A bill (H. R. 9779) for the relief of Charles C. Young, United States Navy, retired; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

4319. By Mr. CONNERY: Resolution of the General Court of the Commonwealth of Massachusetts, memorializing Congress and the United States Tariff Commission in favor of excluding boots, shoes, leather, leatherboard, textiles, and wool and fur felt hats and hat bodies from any reciprocal-trade agreements; to the Committee on Foreign Affairs.

4320. Also, resolution of the General Court of the Commonwealth of Massachusetts, memorializing Congress in favor of the continuation of Works Progress Administration projects; to the Committee on Appropriations.

4321. By Mr. CRAWFORD: Petition of Albert Illikman and other Saginaw residents, protesting against foreign entanglements and petitioning Congress to restore to Congress the right to coin and regulate money according to the Constitution; to the Committee on Foreign Affairs.

4322. By Mr. CROWE: Petition of the Madison Retail Advancement Association, of Madison, Ind., endorsing the present principle of Federal aid for highway improvements and opposing any change in this principle; to the Committee on Appropriations.

4323. By Mr. FLAHERTY: Petition of the United Steel and Metal Workers, L. I. Union No. 511, Boston, Mass., affiliated with Committee for Industrial Organization, demanding the immediate passage of Schwellenbach-Allen resolution; to the Committee on Appropriations.

4324. By Mr. FORD of California: Petition of the Council of the City of Los Angeles, Calif., recording its opposition to any plan or proposal to terminate, reduce, or restrict the air passenger and express service now operated by Transcontinental & Western Air, Inc., between Kansas City, Mo., and Chicago, Ill.; to the Committee on Interstate and Foreign Commerce.

4325. By Mr. LUTHER A. JOHNSON: Petition of Ross M. Sherwood, secretary-treasurer, Texas World's Poultry Congress committee, College Station, Tex., favoring House Joint Resolution 566, concerning the issuance of postage stamps in honor of the seventh world's poultry congress and exposition; to the Committee on the Post Office and Post Roads.

4326. By Mr. KRAMER: Resolution of the Council of the City of Los Angeles, relative to air passenger and air express service of Transcontinental & Western Air, etc.; to the Committee on Interstate and Foreign Commerce.

4327. By Mr. KEOGH: Petition of the Empire Brush Works, Port Chester, N. Y., concerning the Patman chain-stores bill (H. R. 9464); to the Committee on Ways and Means.

4328. Also, petition of Walter N. Rothschild, president, Abraham & Straus, Inc., Brooklyn, N. Y., concerning title I–B of House bill 9682; to the Committee on Ways and Means.

4329. Also, petition of the Illinois Terminal Railroad System, traffic department, New York City, concerning House bill 5931, to amend the Revenue Act of 1932, by imposing an excise tax on tapioca, sago, and cascava; to the Committee on Ways and Means.

4330. Also, petition of Sweet-Orr & Co., Inc., New York City, concerning the proposed Federal tax of 1 cent a gallon on fuel oil; to the Committee on Ways and Means.

4331. Also, petition of the California Packing Corporation, San Francisco, Calif., opposing the enactment of House bill 3134, imposing a 1-cent tax on fuel oil; to the Committee on Ways and Means.

4332. By Mr. LAMNECK: Petition of C. E. Woolman, of Columbus, Ohio, and other Columbus citizens, urging the adoption of Senator Bailey's 10-point program; to the Committee on Government Organization.

4333. By Mr. LEAVY: Resolution of the Nespelem unit of the Washington Miners and Prospectors Association, opposing any reduction in the tariff on lead and zinc on the basis that such reduction as might be consummated by trade agreement with Canada or any other foreign power would operate to curtail activity in this phase of mining in northwestern United States and consequently result in further unemployment, loss of capital, and distress among domestic producers; to the Committee on Ways and Means.

4334. By Mr. LUCE: Petition of the Massachusetts General Court regarding reciprocal-trade agreement with Great Britain; to the Committee on Ways and Means.

4335. Also, memorial of the Massachusetts General Court, for continuation of Works Progress Administration projects; to the Committee on Appropriations.

4336. By Mr. McCORMACK: Memorial of the Massachusetts General Court, memorializing Congress in favor of the continuation of Works Progress Administration projects; to the Committee on Appropriations.

4337. Also, memorial of the Massachusetts General Court, memorializing Congress and the United States Tariff Commission in favor of excluding boots, shoes, leather, leatherboard, textiles, and wool and fur felt hats and hat bodies from any reciprocal-trade agreements; to the Committee on Foreign Affairs.

4338. By Mr. McLEAN: Petition of the Young Peoples' Society of the Presbyterian Church, of Roselle, N. J., registering disapproval of war as an instrument of national policy, and petitioning Congress to pass such legislation as will keep the United States from becoming involved in a war on foreign shores or from becoming involved in any war in which the interests of the whole American people are not affected; to the Committee on Foreign Affairs.

4339. Also, petition of the Union County committee for the Ludlow amendment; to the Committee on the Judiciary.

4340. By Mr. PFEIFER: Petition of the Chamber of Commerce of the State of New York, New York City, opposing the 1 cent per gallon tax on fuel oil; to the Committee on Ways and Means.

4341. Also, telegram of Abraham & Straus, Inc., Brooklyn, N. Y., opposing adoption of title I–B of the tax bill (H. R. 9682); to the Committee on Ways and Means.

4342. Also, telegram of Frederick Loeser Co., Brooklyn, N. Y., concerning corporation tax in the new tax bill; to the Committee on Ways and Means.

4343. Also, petition of the Brooklyn Peace Council, Brooklyn, N. Y., concerning the super-Navy bill; to the Committee on Naval Affairs.

4344. Also, petition of the Concord Oil Corporation, Brooklyn, N. Y., protesting against the 1 cent tax on fuel oil (H. R. 3134); to the Committee on Ways and Means.

4345. Also, petition of the United Colored Voters and Civic League of Brooklyn, Inc., Brooklyn, N. Y., concerning the Wagner-Van Nuys antilynching bill; to the Committee on the Judiciary.

4346. Also, petition of the Illinois Terminal Railroad System, H. A. Tuohy, eastern traffic manager, New York City, concerning House bill 5931, to amend the Revenue Act of 1932; to the Committee on Ways and Means.

4347. By Mr. QUINN: Resolution of the District Council No. 6 of the United Electrical, Radio and Machine Workers of America, Local No. 610, Wilmerding, Pa., against the use of Government funds for strike breaking; to the Committee on the Judiciary.

4348. By Mrs. ROGERS of Massachusetts: Petition of the General Court of Massachusetts, memorializing Congress in favor of the continuation of Works Progress Administration projects; to the Committee on Appropriations.

4349. Also, petition of the General Court of Massachusetts, memorializing Congress and the United States Tariff Commission in favor of excluding boots, shoes, leather, leatherboard, textiles, and wool and felt hats and hat bodies from any reciprocal-trade agreement; to the Committee on Foreign Affairs.

4350. By Mr. SHANLEY: Resolution presented by the Bridgeport Committee for Industrial Organization city council with regard to the Schwellenbach-Allen resolution; to the Committee on Appropriations.

4351. By Mr. WIGGLESWORTH: Petition of the General Court of Massachusetts, memorializing Congress in favor of the continuation of Works Progress Administration projects; to the Committee on Appropriations.

4352. Also, petition of the General Court of Massachusetts, memorializing Congress and the United States Tariff Commission in favor of excluding boots, shoes, leather, leatherboard, textiles, and wool and fur felt hats and hat bodies from any reciprocal-trade agreements; to the Committee on Foreign Affairs.

4353. By the SPEAKER: Petition of the Springfield General Welfare Unit, Springfield, Ohio, petitioning consideration of House bill 4199 with reference to general welfare; to the Committee on Ways and Means.

4354. Also, petition of the Florida Aviation Association, Inc., urging the Senate and House of Representatives to create a standing and permanent Committee on Civil Aeronautics; to the Committee on Rules.

4355. Also, petition of Florence Mohn, Mount Vession, Ohio, and others with reference to Senate bill 1270 and House bill 3291 concerning Sunday-observance bills; to the Committee on the District of Columbia.

SENATE

TUESDAY, MARCH 8, 1938

(Legislative day of Wednesday, January 5, 1938)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Monday, March 7, 1938, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. BARKLEY. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Dieterich	King	Pope
Andrews	Donahey	La Follette	Radcliffe
Ashurst	Duffy	Lee	Reames
Austin	Ellender	Lewis	Reynolds
Bailey	Frazier	Lodge	Russell
Bankhead	George	Logan	Schwartz
Barkley	Gerry	Lonergan	Schwellenbach
Berry	Gibson	Lundeen	Sheppard
Bone	Gillette	McAdoo	Shipstead
Borah	Glass	McCarran	Smathers
Bridges	Green	McGill	Thomas, Okla.
Brown, Mich.	Guffey	McKellar	Thomas, Utah
Brown, N. H.	Hale	McNary	Townsend
Bulkley	Harrison	Maloney	Truman
Bulow	Hatch	Miller	Tydings
Burke	Hayden	Minton	Vandenberg
Byrd	Herring	Murray	Van Nuys
Byrnes	Hill	Neely	Wagner
Capper	Hitchcock	Norris	Walsh
Caraway	Holt	O'Mahoney	Wheeler
Chavez	Hughes	Overton	
Copeland	Johnson, Calif.	Pepper	
Davis	Johnson, Colo.	Pittman	

Mr. LEWIS. I announce that the Senator from Mississippi [Mr. BILBO], the Senator from Texas [Mr. CONNALLY], and the Senator from New Jersey [Mr. MILTON] are detained on important public business.

The Senator from South Carolina [Mr. SMITH] is detained in his State, being engaged in delivering a series of lectures on the recently enacted farm bill.

Mr. TRUMAN. I announce that my colleague [Mr. CLARK] is detained from the Senate by a cold.

The VICE PRESIDENT. Eighty-nine Senators have answered to their names. A quorum is present.

IMPROVEMENT OF EFFICIENCY OF THE LIGHTHOUSE SERVICE

The VICE PRESIDENT laid before the Senate a letter from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to improve the efficiency of the Lighthouse Service, and for other purposes, which, with the accompanying papers, was referred to the Committee on Commerce.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate resolutions adopted by the American Federation of Actors, New York City, and District Council No. 28 of Queens and Nassau Counties, Brotherhood of Painters, Decorators and Paperhangers of America, in the State of New York, favoring the enactment of the joint resolution (S. J. Res. 127) memorializing the Honorable Frank F. Merriam, Governor of the State of California, to grant to Thomas J. Mooney a full and complete pardon, which were referred to the Committee on the Judiciary.

He also laid before the Senate resolutions adopted by the executive officials of the Creek National Council, assembled at Okmulgee, Okla., protesting against the enactment of the bill (S. 3364) conferring jurisdiction on the district courts of the United States for the State of Oklahoma to hear and determine certain causes involving property belonging to Indians of the Five Civilized Tribes, and for other purposes, which were referred to the Committee on Indian Affairs.

He also laid before the Senate a letter from Lester P. Barlow, of Washington, D. C., in relation to his offer to grant to the Government free rights under any patents which he may obtain for the manufacture and use of the Barlow aerial mine in connection with the national defense, which was referred to the Committee on Naval Affairs.

He also laid before the Senate a paper in the nature of a memorial from officials of the Creek National Council, Okmulgee, Okla., remonstrating against the enactment of the bill (S. 1652) to provide for the payment of certain Creek equalization claims, and for other purposes, which was ordered to lie on the table.

Mr. WAGNER presented numerous petitions and letters, telegrams, and papers in the nature of petitions, from sundry citizens and organizations, all in the State of New York, praying for the reopening and operation of the New York, Westchester & Boston Railway Co., which were referred to the Committee on Interstate Commerce.

Mr. CAPPER presented a resolution adopted by the governing body of the city of Bonner Springs, Kans., favoring amendment of the so-called Maloney bill, being the bill