By Mr. BIGELOW: A bill (H. R. 10174) to amend an act entitled the "Emergency Farm Mortgage Act of 1933"; to the Committee on Agriculture.

By Mr. BOLAND of Pennsylvania: A bill (H. R. 10175) to provide for the education of all types of physically handicapped children, to make an appropriation of money therefor, and to regulate its expenditure; to the Committee on Education.

By Mr. EICHER: A bill (H. R. 10176) to amend the anti-trust laws; to the Committee on the Judiciary.

By Mr. DUNN: A bill (H. R. 10177) authorizing the organization of a full regiment of colored combat troops as a part of the National Guard of the State of Pennsylvania; to the Committee on Military Affairs.

By Mr. SPENCE: A bill (H. R. 10178) to amend section 8 of the National Defense Act, and for other purposes; to the Committee on Military Affairs.

By Mr. BUCKLER of Minnesota: A bill (H. R. 10179) to amend the Wisconsin Chippewa Jurisdictional Act of August 30, 1935 (49 Stat. 1049); to clarify the act, to make it more equitable, and to extend the time for filing; to the Committee on Indian Affairs.

By Mr. MAY: Concurrent resolution (H. Con. Res. 48) creating a congressional committee to investigate the need for Government reorganization; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURDICK: A bill (H. R. 10180) for the relief of the International Oil Co., of Minot, N. Dak.; to the Committee on Claims.

By Mr. CLARK of North Carolina: A bill (H. R. 10181) granting an increase of pension to Mertie Lorain Anderson; to the Committee on Pensions.

By Mr. DISNEY: A bill (H. R. 10182) granting a pension to D. F. MacMartin; to the Committee on World War Veterans' Legislation.

By Mr. HOFFMAN: A bill (H. R. 10183) granting an increase of pension to Inez Clair Bandholtz; to the Committee on Pensions.

By Mr. McGRATH: A bill (H. R. 10184) for the relief of William H. Radcliffe; 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:

4761. By Mr. ENGEL: Petition of Harry L. Doty, Maurice M. Ward, Arthur E. Versluis, Wilford Hinshaw, and others, of Traverse City, Mich., protesting against the levying of any excise or processing taxes on primary food products; to the Committee on Ways and Means.

4762. By Mr. LUTHER A. JOHNSON: Petition of the Ellis County Agricultural Association of Waxahachie, Tex., favoring legislation to pay cotton farmers full parity prices for their 1938 cotton crop; to the Committee on Agriculture.

4763. Also, petition of Earlie H. Brannon, of Teague; Otis Strange, of Bynum; Rupert C. Robertson, of Kosse; and Frank P. Merryman, of Easterly, all of the State of Texas, favoring House bill 8893; to the Committee on World War Veterans' Legislation.

4764. By Mr. KEOGH: Petition of the Interstate Airways Committee, Washington, D. C., concerning House bill 9738; to the Committee on Interstate and Foreign Commerce.

4765. By Mr. MAVERICK: Petition of over 1,000 petitioners, protesting against the passage of House bill 9604, introduced by Mr. MAY, of Kentucky; to the Committee on Military Affairs.

4766. By Mr. PFEIFER: Petition of the Brooklyn Association for Improving the Condition of the Poor, Brooklyn, N. Y., urging the passage of Senate bill 2819; to the Committee on Interstate and Foreign Commerce.

4767. Also, petition of the Interstate Airways Committee, Washington, D. C., concerning the Lea bill (H. R. 9738); to the Committee on Interstate and Foreign Commerce.

4768. By Mr. QUINN: Resolution of the Tarentum District Industrial Union Council, Tarentum, Pa., R. E. Weems, recording secretary, opposing the Copeland-Bland bill (S. 3078), and demanding that Harry Bridges and the International Longshoremen's Union be given a hearing before the Senate Committee on Commerce; to the Committee on Labor.

4769. By Mr. RICH: Petition of citizens of Bradford, Pa., protesting against the passage of Senate bill 3331, the reorganization bill; to the Committee on Government Organization.

4770. By Mr. HANCOCK of New York: Resolution adopted by the Chamber of Commerce of Cortland, N. Y., in opposition to the reorganization bill; to the Committee on Government Organization.

SENATE

THURSDAY, APRIL 7, 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 Wednesday, April 6, 1938, was dispensed with, and the Journal was approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Latta, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H. R. 7448) to provide for experimental air-mail services to further develop safety, efficiency, and economy, and for other purposes.

The message also announced that the House had agreed to the concurrent resolution (S. Con. Res. 28) authorizing the Special Committee to Investigate Unemployment and Relief, United States Senate, to have printed for its use additional copies of the hearings on the resolution (S. Res. 36) creating a Special Committee to Investigate Unemployment and Relief.

The message further announced that the House had agreed to concurrent resolution (H. Con. Res. 47), in which it requested the concurrence of the Senate, as follows:

Resolved by the House of Representatives (the Senate concurring), That the Notes to the Rules of Civil Procedure for the District Courts of the United States, prepared under the direction of the Advisory Committee on Rules for Civil Procedure, be printed as a House document; and that 26,000 additional copies shall be printed, of which 17,000 copies shall be for the use of the House document room and 9,000 copies shall be for the use of the Senate document room.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 284. An act for the relief of Clear Creek Mountain Springs, Inc.;

S. 1448. An act for the relief of the Northeastern Piping & Construction Corporation, of North Tonawanda, N. Y.;

S. 1660. An act for the relief of Essie E. Leatherwood;

S. 3464. An act to extend the Metlakahtla Indians' Citizenship Act;

H. R. 7836. An act to amend the Agricultural Adjustment Act, as amended, by including hops as a commodity to which orders under such act are applicable; and

H. R. 9605. An act to provide for a commissioned strength of 14,659 for the Regular Army.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

CALL OF THE ROLL

Mr. MINTON. 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:

Ashurst	Donahey	La Follette	King
Austin	Duffy	Lee	Radcliffe
Bailey	Ellender	Lodge	Reames
Bankhead	Frazier	Logan	Reynolds
Barkley	George	Lonergan	Russell
Berry	Gerry	Lundeen	Schwartz
Bilbo	Gibson	McAdoo	Sheppard
Bone	Gillette	McCarran	Shipstead
Borah	Glass	McGill	Smathers
Bridges	Green	McKellar	Thomas, Okla.
Brown, Mich.	Guffey	McNary	Thomas, Utah
Bulkley	Hale	Maloney	Townsend
Bulow	Harrison	Miller	Truman
Burke	Hatch	Minton	Vandenberg
Byrd	Hayden	Murray	Van Nuys
Byrnes	Herring	Neely	Wagner
Capper	Hill	Norris	Walsh
Caraway	Hitchcock	Nye	Wheeler
Clark	Holt	O'Mahoney	White
Connally	Hughes	Overton	
Copeland	Johnson, Calif.	Pittman	
Dieterich	Johnson, Colo.	Pope	

Mr. MINTON. I announce that the Senator from Florida [Mr. ANDREWS] and the Senator from Washington [Mr. SCHWELLENBACH] are absent from the Senate because of illness.

The Senator from Colorado [Mr. ADAMS], the Senator from New Hampshire [Mr. BROWN], the Senator from New Mexico [Mr. CHAVEZ], the Senator from New Jersey [Mr. MILTON], the Senator from Florida [Mr. PEPPER], and the Senator from Maryland [Mr. TYDINGS] are detained on important public business.

The Senator from South Carolina [Mr. SMITH] is detained on official business in his State.

The Senator from Illinois [Mr. LEWIS] is unavoidably detained.

The VICE PRESIDENT. Eighty-five Senators have answered to their names. A quorum is present.

SPECIAL COMMITTEE TO INVESTIGATE ADMINISTRATION OF CIVIL SERVICE

The VICE PRESIDENT. The Chair lays before the Senate a communication, which will be read.

The legislative clerk read as follows:

UNITED STATES SENATE,
Washington, April 6, 1938.

To the PRESIDENT OF THE SENATE:

It is not convenient for me to serve on the Special Committee to Investigate the Administration of the Civil Service System, authorized by Senate Resolution 198, and I therefore tender my resignation as a member of the said committee.

Respectfully,

ERNEST LUNDEEN.

The VICE PRESIDENT. To fill the vacancy caused by the resignation of the Senator from Minnesota [Mr. LUNDEEN] as a member of the special committee, the Chair appoints the Senator from South Dakota [Mr. HITCHCOCK].

WAR DEPARTMENT APPROPRIATIONS—MOTION TO RECONSIDER

Mr. CLARK. Mr. President, I enter a motion to reconsider the vote by which the Army appropriation bill, being House bill 9995, was passed on yesterday.

The VICE PRESIDENT. The motion will be entered.

SCOTT HART

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 2261) for the relief of Scott Hart, which were, on page 1, line 5, after "Hart", to insert ", of Lewes, Delaware"; on page 1, line 7, to strike out "or about"; on page 1, line 8, to strike out "17" and to insert "18"; and on page 1, line 10, after "Lewes", to insert "(Delaware)."

Mr. TOWNSEND. I move that the Senate concur in the House amendments.

The motion was agreed to.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate resolutions adopted by the Elmhurst Heights (N. Y.) Taxpayers' Association, favoring the enactment of legislation for the relief of owners of homes mortgaged to the Home Owners' Loan Corporation, which were referred to the Committee on Banking and Currency.

Mr. COPELAND presented a petition of sundry citizens of the State of New York, praying for the enactment of the bill (S. 3549) to prevent discrimination against graduates of certain schools in the making of appointments to Government positions, the qualifications for which include legal training or legal experience, which was referred to the Committee on Civil Service.

He also presented a letter in the nature of a petition from Lee Bros., Inc., of New York City, N. Y., endorsing resolutions adopted by the National Furniture Warehousemen's Association, praying for an amendment to the Social Security Act so that pay-roll taxes, equally divided between employers and employees, may remain at the present level, which was referred to the Committee on Finance.

He also presented a resolution adopted by Ithaca Typographical Union, No. 379, of Ithaca, N. Y., favoring a congressional investigation of the condition of the newspaper-print stock used by publishers in the United States, which was referred to the Committee on Manufactures.

He also presented a memorial of sundry citizens of Rochester, N. Y., remonstrating against the enactment of legislation to permit the shipment of intoxicating liquors through the mails, which was referred to the Committee on Post Offices and Post Roads.

He also presented a resolution adopted by the Essex County (N. Y.) Petroleum Industries Committee, favoring the repeal of Federal taxes on gasoline and lubricating oils, which was ordered to lie on the table.

He also presented resolutions adopted by the Creedmoor Civic Association, and the Queenlawn Park Civic Association, of Queens Village, both in the State of New York, protesting against the enactment of legislation imposing a Federal tax on fuel oil, which were ordered to lie on the table.

REPORT OF A COMMITTEE

Mr. WALSH, from the Committee on Naval Affairs, to which was referred the bill (S. 2409) for the relief of certain officers of the United States Navy and the United States Marine Corps, reported it with amendments and submitted a report (No. 1574) thereon.

ENROLLED BILLS PRESENTED

Mrs. CARAWAY, from the Committee on Enrolled Bills, reported that on April 6, 1938, that committee presented to the President of the United States the following enrolled bills:

S. 2698. An act to set aside certain lands in Oklahoma for the Cheyenne and Arapahoe Indians;

S. 3105. An act to amend the Commodity Exchange Act, as amended, to extend its provisions to wool tops; and

S. 3304. An act to promote air commerce by providing for the closing of Military Road.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. PITTMAN:

A bill (S. 3804) authorizing the temporary detail of United States employees, possessing special qualifications, to governments of American republics and the Philippines, and for other purposes; to the Committee on Foreign Relations.

By Mr. WALSH (by request):

A bill (S. 3805) to adjust the lineal positions on the Navy list of certain officers of the Supply Corps of the United States Navy; to the Committee on Naval Affairs.

By Mr. COPELAND:

A bill (S. 3806) to validate certain payments to employees of the former United States Shipping Board (Emergency) Merchant Fleet Corporation; to the Committee on Commerce.

By Mr. BONE:

A bill (S. 3807) to amend sections 811 (b) and 907 (c) of the Social Security Act; to the Committee on Finance.

TAX REVISION—AMENDMENTS

Mr. BILBO submitted an amendment intended to be proposed by him to the bill (H. R. 9682) to provide revenue, equalize taxation, and for other purposes, which was ordered to lie on the table and to be printed.

Mr. LA FOLLETTE submitted sundry amendments intended to be proposed by him to the bill (H. R. 9682) to provide revenue, equalize taxation, and for other purposes, which were ordered to lie on the table and to be printed.

Mr. McNARY submitted an amendment intended to be proposed by him to the bill (H. R. 9682) to provide revenue, equalize taxation, and for other purposes, which was ordered to lie on the table and to be printed.

Mr. JOHNSON of California submitted an amendment intended to be proposed by him to the bill (H. R. 9682) to provide revenue, equalize taxation, and for other purposes, which was ordered to lie on the table and to be printed.

Mr. McADOO submitted an amendment intended to be proposed by him to the bill (H. R. 9682) to provide revenue, equalize taxation, and for other purposes, which was ordered to lie on the table and to be printed.

Mr. THOMAS of Utah submitted several amendments intended to be proposed by him to the bill (H. R. 9682) to provide revenue, equalize taxation, and for other purposes, which were ordered to lie on the table and to be printed.

Mr. LODGE submitted an amendment intended to be proposed by him to the bill (H. R. 9682) to provide revenue, equalize taxation, and for other purposes, which was ordered to lie on the table and to be printed.

Mr. COPELAND submitted an amendment intended to be proposed by him to the bill (H. R. 9682) to provide revenue, equalize taxation, and for other purposes, which was ordered to lie on the table and to be printed.

ASSISTANT CLERK TO COMMITTEE ON MILITARY AFFAIRS

Mr. SHEPPARD submitted the following resolution (S. Res. 262), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Military Affairs hereby is authorized to employ an assistant clerk to be paid from the contingent fund of the Senate at the rate of $1,800 per annum until the end of the present session.

PRINTING OF REPORT OF COLUMBIA INSTITUTION FOR THE DEAF

On motion by Mr. HAYDEN, it was—

Ordered, That the letter from the president of the Columbia Institution for the Deaf, together with the report of the proceedings of the thirtieth meeting of the Convention of American Instructors of the Deaf, held at New York, N. Y., June 20–25, 1937, be printed as a Senate document.

INSURANCE REQUIREMENT FOR PUBLIC CABS IN THE DISTRICT

Mr. KING. Mr. President, the bill (H. R. 7084) to provide that all cabs for hire in the District of Columbia be compelled to carry insurance for the protection of passengers, and for other purposes, was reported favorably by the Committee on the District of Columbia, and was amended and passed by the Senate on March 25. A motion to reconsider the vote by which the bill was passed was entered by the Senator from Florida [Mr. ANDREWS]. He advises me that he now desires to withdraw the motion, and that he has no objection to the bill. Therefore, on behalf of the Senator from Florida, I ask unanimous consent that the motion to reconsider may be withdrawn, and that the bill be transmitted to the House for action on the Senate amendments.

The VICE PRESIDENT. Without objection, the motion to reconsider the vote by which the bill was passed is withdrawn, and the request of the Senator from Utah will be complied with.

ECONOMIC SECURITY AND JUSTICE—ADDRESS BY SENATOR MURRAY

[Mr. POPE asked and obtained leave to have printed in the RECORD a radio address on the subject Economic Security and Justice, delivered by Senator MURRAY on March 18, 1938, which appears in the Appendix.]

ELIMINATING PROFITS OF WAR—ADDRESS BY SENATOR REYNOLDS

[Mr. REYNOLDS asked and obtained leave to have printed in the RECORD a radio address on the subject Eliminating Profits of War, delivered by him on April 2, 1938, which appears in the Appendix.]

ABRAHAM LINCOLN—ADDRESS BY TOM DAVIS

[Mr. HERRING asked and obtained leave to have printed in the RECORD a radio address on Abraham Lincoln delivered by Tom Davis, of Minneapolis, Minn., on February 12, 1938, which appears in the Appendix.]

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Calloway, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 9621) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1939, and for other purposes, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. TAYLOR of Colorado, Mr. JOHNSON of Oklahoma, Mr. SCRUGHAM, Mr. O'NEAL of Kentucky, Mr. FITZPATRICK, Mr. LEAVY, Mr. RICH, Mr. LAMBERTSON, and Mr. CARTER were appointed managers on the part of the House at the conference.

TAX REVISION

The Senate resumed the consideration of the bill (H. R. 9682) to provide revenue, equalize taxation, and for other purposes.

Mr. HARRISON. I ask unanimous consent that the formal reading of the bill be dispensed with, that it be read for amendment, and that the amendments of the committee be first considered.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. BILBO. I submit an amendment to the pending bill and ask that it be printed and lie on the table.

The VICE PRESIDENT. The amendment will be received, printed, and lie on the table.

Mr. HARRISON. Mr. President, I shall occupy as short a time as possible in a brief explanation of the pending bill which many of us conceive to be a very important legislative proposal.

At the outset, I desire to express my very sincere congratulations to the members of the Finance Committee who served with me in the formulation of the bill as it has been reported to the Senate. Never in my 27 years' experience in Congress have I observed a committee that worked more zealously and performed their work, in my opinion, in an abler manner than did the membership of the Finance Committee in this instance. It took the other House some 4 months to draft this bill, and they performed a splendid service. They gave every consideration to the many tax questions involved, and brought out a bill which, in my opinion, is a vast improvement over the present law. So I pay my tribute to the membership of the Ways and Means Committee for the fine services they rendered in presenting to us this bill, House bill 9682.

So anxious were the members of the Committee on Finance to formulate the bill at the earliest possible date that they were not content with working merely an hour and a half or two hours in the morning. After we received the bill from the House the members of the Finance Committee met at 9:30 in the morning, worked as long as they could, until they were called to the floor of the Senate, reconvened in the afternoon, and even convened at one night session in order to expedite the consideration of the bill. I may say, as an evidence of the industry and the zeal and the interest displayed by the membership of the Finance Committee in considering the bill, that at the night session of the committee every one of the 21 members was present and voted on the various propositions. So I appreciate their cooperation; and I believe we have presented to this body a bill which, if enacted into law, will go far toward removing some of the fears that exist in the country, and restoring the confidence in the Government which has been lost by some persons.

Mr. VANDENBERG. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from Michigan?

Mr. HARRISON. I yield to the Senator.

Mr. VANDENBERG. The Senator has been very generous in his compliments to the members of the Finance Committee. I think it is no more than fair to interrupt him to say from this side of the aisle that whatever credit belongs to the task which has been done is primarily due to the attitude of the chairman of the committee and his leadership in this connection.

Mr. HARRISON. I appreciate what the Senator says, but I claim no credit for what the committee has done, and care nothing about any laurels that might be heaped upon me. My sincere desire is to try to help the country, and to try to put through some of the ideas which have been presented in the lines of the Senate proposal.

Mr. President, I might take as the basis of the work of the Finance Committee, and of my philosophy of what ought to be done at this time, so far as the tax structure is concerned, the wise words uttered by one who is very close to the President of the United States. Indeed, I know of no higher authority on tax matters than the Secretary of the Treasury, Mr. Morgenthau. In a very admirable speech which he made before the Academy of Political Science in New York City on November 10, 1937, he expressed himself in plain language on these matters. Among other things, he said:

> The basic need today is to foster the full application of the driving force of private capital. We want to see capital go into the productive channels of private industry. We want to see private business expand. We believe that much of the remaining unemployment will disappear as private capital funds are increasingly employed in productive enterprises.

What wise words! What splendid philosophy! What confidence will be given to the country when we here, charged with the responsibility, carry out those ideas! So the golden thread of those words was woven into the work of the Finance Committee, and is incorporated in the measure we have presented here.

I know that differences of opinion may be voiced here as to the details of this legislation. That is all right. There may be some contests here in connection with the bill; but the reason why the Finance Committee worked so zealously and industriously was to present the bill promptly to the Senate, in order that we might get it into conference, and the conferees might agree upon it, and then the bill might be approved by the President. We believed that prompt action would be helpful to the country.

Mr. President, with that preface I desire to discuss briefly some of the provisions of the bill.

One of the provisions is the undistributed-profits tax. We have heard of that tax before. It was quite an issue in 1936. In theory, the undistributed-profits tax is a beautiful thing. It looks bad for a corporation to build up enormous surpluses, and not distribute among its shareholders some dividends growing out of the profits that accrue. The tax, however, has proven harmful. It has been so complicated in its working that it has brought about almost a unanimous condemnation upon the part of the business people of the country.

The House bill made a tremendous improvement in the law passed in 1936 imposing a tax on undistributed profits.

What was done in the House bill was to say that a 20-percent maximum tax should be imposed on corporate profits, and then it was provided in the House bill that if 50 percent of the earnings were distributed a tax of only 18 percent would be imposed. If all of the earnings were distributed a tax of only 16 percent would be imposed. As a matter of fact, however, the minimum tax is not 16 percent of the profits, as the country may have been led to believe, but the minimum tax is 16⅔ percent of the adjusted net income of the corporation, if sufficient earnings are retained to pay the tax.

What the House has done, as I say, is a great improvement over the present law, because the largest tax a corporation would have to pay on the profits it made would be 20 percent annually, and the tax might go down to 16⅔ percent of the adjusted net income for the year, depending, as I say, on the amount of distribution of profits to the shareholders. But, Mr. President, if we take the House provision and read the so-called "notch" section, which has been placed in the bill to remove the very abrupt tax rise in the case of a corporation making over $25,000, there is hardly a lawyer in Washington who can understand it. There is hardly a Senator who can understand it. I had it worked out by three of my experts day before yesterday in an effort to familiarize myself again with it, and I find that I have to have a lesson in it about every other day in order to grasp it; and even the three experts that I had—and I think they are the best in the country—differed somewhat as to the method by which the tax should be computed.

I could give an illustration to show how complicated that computation is, but I will not, because I do not want to take up the time. As we proceed and get into that matter I shall offer some illustrations to show the very great complexity.

Of course, the provision in the present law as to the tax on undistributed profits is equally as complex, because while we graduate the rate from 8 percent on the first $2,000 of income, to 15 percent in case of net incomes in excess of $40,000, when we begin to figure the amount retained out of the profits, the tax computation becomes more confusing and more complicated.

We have tried to make the matter simple. I believe that tax laws ought to be just as simple as they can be made, and when a tax of, say, 18 percent flat is imposed on corporation profits, the corporations understand what that means. The average fellow who keeps books can figure what the profits are, and apply 18 percent, and the corporation does not have to go through the complicated mess provided in the House bill or in the present law.

The only hint at any kind of a complication in the Senate committee bill is in the effort to protect the corporations which make less than $25,000, and we have a formula for that which is just as simple as can be, and yet get results. We provide that the amount of tax, in such a case, shall be reduced by the 10 percent of the difference between the $25,000 and the amount of profits the corporation earns. For example, suppose the corporation makes $10,000, the difference between $10,000 and $25,000 would be $15,000, and we provide that 10 percent of the $15,000 or $1,500 shall be deductible from the taxable income. If that is computed, it will be found that the smaller fellow gets greater relief than under the House bill and greater relief than under the present law.

It will be seen from the table that under the formula we have adopted a corporation making a net income of $500 would pay nothing under the Senate committee bill. But under the House bill that corporation would pay $62.50, and under the present law it would pay $40. I shall place in the RECORD later a table giving a comparison between the provisions in the committee bill and in the present law.

A corporation which made $1,500 under the Senate committee bill would pay no tax, but under the House bill it would pay $187.

A corporation which made $3,000 under the Senate committee bill would pay $144; under the House bill it would pay $375.

One hundred and thirty thousand six hundred and seven corporations, making profits of $5,000 and under, would pay less under the Senate committee bill than under the House bill, whereas only about 40,000 would pay more under the Senate committee bill than under the House bill. The table on page 4 of the report of the Senate committee gives the comparison.

Mr. BARKLEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Mississippi yield to the Senator from Kentucky?

Mr. HARRISON. I yield.

Mr. BARKLEY. How many corporations are there altogether in the United States?

Mr. HARRISON. There are about 200,000 which file income-tax returns.

Mr. KING. One hundred and ninety-three thousand.

Mr. BARKLEY. I see a note in the report stating that there are about 23,180 having net incomes of over $25,000 per annum.

Mr. HARRISON. That is correct.

Mr. BARKLEY. According to the comparison here, the corporations would pay a smaller tax under the Senate committee bill than under the House bill until the net income reaches $7,000.

Mr. HARRISON. That is about correct.

Mr. BARKLEY. And from $7,000 on up to $25,000, and on up to the limit the tax under the Senate committee bill would be larger because of the increase in the flat rate to 18 percent. Can the Senator give us the proportion of corporations earning less than $25,000 net which would come in the class between $7,000 and $25,000?

Mr. HARRISON. It would be a little over 131,000.

Mr. BARKLEY. Corporations?

Mr. HARRISON. Yes. In other words, we benefit many more corporations, and corporations with smaller incomes, than would be benefited under the House bill.

Mr. BARKLEY. I do not believe the Senator quite understood my question. My question was, What proportion of corporations which earn net incomes of less than $25,000 are included in the brackets between $7,000 and $25,000 where the increase in the Senate committee bill begins over the tax levied under the House bill?

Mr. HARRISON. About 20 percent of the corporations with net incomes of less than $25,000 have net incomes of over $7,000, and pay more tax under the Finance Committee bill. The other 80 percent pay less tax.

Mr. BARKLEY. About 20 percent are in those brackets?

Mr. HARRISON. Yes. So we have attempted, for the sake of simplicity and for revenue purposes, to impose a tax which the average American citizen would understand. The rate is quite high, it is true—it is 18 percent—and I do not recall that the normal corporation tax has heretofore ever been over 15 percent. I think that was the limit of the tax. We did impose a somewhat higher tax, I believe, on consolidated returns; but the average corporation has paid between 11½ to 15 percent during recent years.

According to the estimate of the Treasury Department under 1938 conditions, with which we are dealing, under the 18-percent flat corporation tax, the Government will obtain $89,000,000 more than under the undistributed-profits tax provided in the House bill. That was one of the reasons why we were enabled to strike off some of the miscellaneous taxes. That was one reason why we were able to strike out the very controversial question with respect to the liquor-tax increase. Under the flat corporation tax of 18 percent, we will obtain for this year $89,000,000 more than would be obtained under the House provision. So much for that.

Mr. President, in my opinion the two major changes which will affect business in this country are embodied in what we have done with reference to capital gains and liquidation of corporations. Of course, we have progressively advanced in the increase of surtaxes. Only a few years ago the maximum normal and surtax was 25 percent. We have increased it until the surtax in the highest brackets is now 75 percent, and when we add the 4-percent normal tax to the surtax in that bracket, we can understand the proportionate partnership the taxpayer has with his Government. The Government has about eight-tenths interest, and the taxpayer has about two-tenths interest, in those higher brackets.

In the matter of the capital-gains tax, the House, in my opinion, made very fine advancement, but still what they have done is complicated. If a person owns a piece of property for 2 years, or 3 years, or 5 years, under the present law, only a certain proportion of the gain is taken into account, this proportion becoming smaller as the time for which the property has been held becomes longer. For instance, if one has made a capital gain of $100,000 and has held the property 5 years, under the present law 40 percent of the $100,000 is taken as the tax base, and of course that would be $40,000. If the taxpayer is in the highest bracket, the 75-percent bracket, the 75 percent applies to the $40,000, and the tax on that gain would be $30,000. So it can be seen that the capital-gains tax under the present law is very high.

The House made an improvement in that, as I have said. They started on a basis of dividing the gains into two classes, long-term capital gains and short-term capital gains. Long-term capital gains are those made on capital assets which are held for more than a year, and short-term capital gains are put in the classification of ordinary incomes. In other words, if a person buys a capital asset and sells it within 12 months, he pays whatever rate of tax is applied in the bracket in which he falls, just as he would on his income from his salary, or interest, or rent, or whatever it may be.

In the case of long-term gains these are classified in the House bill according to months.

For example, if a taxpayer held his property more than 13 months but less than 14 months, he would pay on the basis of 98 percent of his gain, and then there would be applied the rate according to the bracket he may be in. A special provision is contained in the bill which provides that in no case shall the tax be more than 40 percent of the gain taken into account.

Take the case of a person who has held a piece of property for more than 5 years as it would be affected under the House bill. Let us say the gain would be placed at $1,000,000; then 40 percent of that, or $400,000, would be taken into account. His tax on this would be at the rate of 40 percent, which would give a tax of $160,000. This gives a rate on the actual gain of 16 percent. But if he held the property only 2 or 3 years, the percentage rate would increase very much. For example, if he held the property just over 2 years the effective rate on his capital gain would be over 30 percent.

We thought it was best that on all long-term capital gains we should apply a flat rate, and we placed that matter in a separate and distinct classification by itself. We provided that if a person held a piece of property, a capital asset, more than 18 months a 15-percent flat tax rate would be applied to it. In order to protect the little taxpayer in the smaller brackets so that he would not be hurt by virtue of the 15-percent flat capital-gains tax we have provided a formula under which the taxpayer can take 50 percent of his capital gains plus his ordinary income and pay his tax on that.

For instance, if a taxpayer has a capital long-term gain of $10,000 he could take 15 percent of the $10,000 and add it to the tax on his ordinary income or he could include 50 percent of net long-term gain in his income and compute tax on that sum at the regular rates.

We did that in order to protect the little fellow, to give him the opportunity in those cases to choose the method providing for the lesser tax.

In cases of losses from long-term capital gains, the taxpayer is not allowed to receive a reduction in tax of more than 15 percent of such net loss, nor is he allowed to pay a lesser tax than would have been payable if he had deducted only one-half of his capital net loss from his ordinary income. In that case the taxpayer cannot choose the lesser, but the Government has the opportunity of imposing the greater for the purpose of preventing those in the higher brackets from taking advantage of the new tax plan. This treatment of capital losses is absolutely consistent with the treatment proposed for capital gains. As we go along with the bill I shall offer some illustrations on that proposition.

With respect to short-term losses on property held for 18 months and less, the Senate bill provides that one can apply short-term losses against short-term gains. One cannot apply a short-term loss against the ordinary income. Under the Senate bill, if a taxpayer has made a sale within less than 18 months, and has a $500,000 loss, for instance, on a short-term transaction, but also has a $100,000 gain, he has a $400,000 net loss, and he can carry over that $400,000 loss to the next year and apply the short-term loss the next year against the short-term gain of the next year, but he cannot apply his short-term loss against the long-term gain.

Mr. NORRIS. Mr. President, will the Senator yield to me to ask a question?

Mr. HARRISON. I yield.

Mr. NORRIS. Is there any provision in the bill to guard the Government against any fraudulent loss, for instance, loss by sale of property sold purposely at a loss, let us say, to a member of the taxpayer's family?

Mr. HARRISON. Of course, it must be a bona fide transaction. If there is some fraud attached to the transaction, of course, we have the general provision of the law to catch that poor, unfortunate fellow. [Laughter.]

Mr. President, so much for the capital gains and loss provision, which I can discuss more at length when we get to that part of the bill, if someone wishes to ask about it.

We now come to the liquidation features, which is one of the provisions of the bill. In the investigation made of personal holding companies by the joint committee last year we found much evasion of taxes. We strengthened the law by tax legislation in 1937. There is no doubt, so far as personal holding companies are concerned, that while they have not been outlawed by law, as was done in the case of utility holding companies, nevertheless we have castigated them, we have condemned them, and we have criticized them, and in the opinion of the country they are not in very good standing. If that be true, we ought to let them get out of the way and liquidate, if they will; so we have placed a provision in the bill giving the opportunity for not only personal holding companies, but for all corporations to liquidate, and in liquidating they will pay the 15-percent capital-gains tax which is provided in the bill. And we have given them 3 years in which to liquidate. That applies to subsidiaries also.

That provision, together with the 15-percent flat rate on capital gains, is an invitation to those in this country who have said, "We cannot invest in a legitimate industry. We cannot go to Nevada and begin to mine again. We cannot go into Oregon and build a big lumber factory, because we have to pay such high surtax rates, and the rates on capital gains are so high that we cannot venture into such businesses. We would rather let our money either go into tax-exempt securities or lie idle and frozen."

So we say to them, "You can invest your money, you can go into business, take a chance, and you will only have to pay 15 percent on your capital gain if it is a long-term gain." It is estimated that today, in personal holding companies alone, there are frozen assets to the amount of between two billion and four billion dollars. We say to such persons, "If you will liquidate, give the money to your stockholders, or put it into channels of trade and industry, out of whatever gain you have made only 15 percent shall be the tax." It is my sincere conviction, and I believe it is the opinion of the majority of the Finance Committee, and I know it is of the business people of this country, from the expressions which have come to our committee, and that we hear voiced everywhere, that it might free some of these frozen assets, and start the building of new industries and the expansion of old industries.

When I talk about expansion of industry I think again of the undistributed-profits tax. The House provision is that if all the net income is distributed, there will be a tax of only 16 percent on that amount. This bill provides for a tax of 18 percent. It is the not-so-well-financed corporation which sometimes needs to retain some of its resources in its portfolio. If it wants to enlarge its plant, if it wants to build a new one, if it wants to pay some debts, the weaker corporation is most affected, not the strong corporation which has built up and accumulated large reserves. Of course it can go ahead and distribute the earnings for 1938 or 1939, and the fortunate corporation which has built up and accumulated a great deal of reserves can go in and tap its reserves and say, "We will build up our industry with them, or we will distribute all those reserves, because by doing it we will simply pay 16 percent." But the unfortunate corporation that does not have the reserves, that is not so strong, cannot escape the difficulties. It has to borrow the money if it wants to build another plant, or enlarge its plant.

I think it is the duty of the Congress of the United States and of everyone in public life to try to encourage private business at this time, according to the philosophy of the Secretary of the Treasury, in order that we might give employment to more people, and reduce the great expenditures we are making for the relief of the unemployed of this country.

So, Mr. President, that is what we have provided in connection with liquidation of these organizations.

As to the utilities upon whom we passed a death sentence in 1935, we have worked out a plan, that is approved by the Securities and Exchange Commission, working in cooperation with the experts of the joint committee and working with the experts of the Treasury Department, which permits, under the orders of the Securities and Exchange Commission, according to the yardstick laid down in the law which outlawed these utility holding companies, that they can regroup their properties, they can transfer their stocks from one to another, according to the orders of the Securities and Exchange Commission. It must all be based on the orders of the Securities and Exchange Commission. The tax is not eliminated, but it may be postponed. When the assets or other property is ultimately sold, then the 15 percent capital-gains tax applies in the case of individuals, and the regular corporation rate in the case of corporations.

It is a fair measure. It is just. It was inequitable to compel these companies to liquidate and pay a heavy tax penalty for doing so. I voted for outlawing utility holding companies, but at that time there was no provision made that might prevent the Government from taking practically all they had in the form of taxes.

In carrying out the law under the orders of the Securities and Exchange Commission we made it possible for the first time for the corporations, when they dispose of their property, to be relieved from a tax penalty. That provision in itself ought to be a great impetus to business, and help the economic life of the country.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. HARRISON. I yield to the Senator.

Mr. BARKLEY. In 1935, Congress ordered that the holding companies be liquidated by the transfer of stock, which transfer, under the law, would bear a tax. The provisions of the bill pertaining to holding companies permit the transfer of the stock to be carried out in pursuance of an order of the Securities and Exchange Commission, without the burden of paying the tax which would normally be levied if the sale or transfer of the stock, the consolidation of one corporation with another were a voluntary transaction. So long as the transaction is limited to the observance of the orders of the Commission, which are compulsory, it will be relieved of the normal tax.

Mr. HARRISON. That is correct.

Mr. BARKLEY. But the provision in the bill does not interfere with the tax which has heretofore existed on normal transfers.

Mr. HARRISON. The Senator is correct. The orders must comply with the measurement laid down by Congress in the law, and the Government receives its tax when the individual shareholders get rid of their stock. If there is a capital gain on the transaction, the tax is levied at a rate of 15 percent.

Mr. BARKLEY. After the corporations are liquidated or consolidated, and get back to a normal situation, any transfer of stock from one individual to another would come under the existing provisions of law and the tax would be paid.

Mr. HARRISON. That is correct.

Many persons believe that there ought to be a strengthening of the law with reference to corporations which have built up and accumulated their profits in large surpluses. We strengthened section 102. Section 102 imposes a high penalty tax upon such corporations, whether they are holding or operating companies or what not, if they build up unreasonable reserves for the purpose of relieving the shareholder from the necessity of paying his surtax. We have changed the rule in such cases. We have strengthened the

law, and we have said that when an unreasonable accumulation is shown, that fact is determinative, and the burden of proof is placed upon the taxpayer to show by a clear preponderance of the evidence that he was not trying to avoid the surtax. We think that provision in itself will force many corporations which have accumulated vast reserves to stop their former practices, and to begin to distribute the profits.

As to the gift and estate taxes, we have made a change in the House bill. It will be recalled that in 1926 we levied a 20-percent estate tax. We said to the State, "You may have an 80-percent credit." We did that because there were some States which had no inheritance tax or estate tax, and we wanted to bring about uniformity, so we gave the States an 80-percent credit. Following that, in 1932, we increased the estate tax from 20 percent to 70 percent in the case of large estates, but we said that the Federal Government was going to take all of the difference between the 20 percent and the 70 percent. We were not going to share the increase with the States, and they were to get no credit. The House very laudably tried to simplify the provisions of the estate and gift taxes by combining the two Federal estate taxes and giving to the States a credit. The House believed, under the simplification which it made, that the States should have about 16½ percent of the total tax the Federal Government now imposes on estates.

The plan seemed satisfactory; but when the committee began to investigate we found that certain States had large estates under their jurisdiction, while other States did not have any large estates, and that the State budgets might be thrown out of gear. It was shown, for example, that States such as New York, Massachusetts, and some of the other States where very wealthy people live, and where they may some day die, would need a credit of at least 25 percent to take care of the situation. States, like the Federal Government, make their budgets, and in the formulation of their budgets they figure on the amount they expect to receive from death taxes. The Senate committee could not accept the House provision, so we merely went back to the old law and rejected the House provision with reference to the gift and estate taxes.

The Senate committee may be criticized for some of the things it did. The Senator from Idaho [Mr. POPE], whom we all love and respect, and who nobody will deny is a great friend of the farmers, offered an amendment which sought, in connection with the farm bill which we recently passed, to impose a processing tax on some of the basic agricultural products. The Senator requested the committee to take up the matter in connection with the tax bill. The committee gave very serious consideration to the question of policy, as to whether or not to attach the processing tax to this bill. The committee has been deluged with letters from individuals and interests asking an opportunity to be heard in the event the processing tax should be considered.

The Committee on Finance has always tried to conduct its hearings in such a way as to give everybody a fair deal. We believe that if we hear one side, it is only right that we should also hear the other side. We know that the processing tax is a matter with respect to which Members of Congress and men everywhere have differences of opinion. For my part, I have no objection to a processing tax. If a proper bill should pass the House and come before the Senate after adequate consideration, I would be ready to vote for a processing tax. But we did not want to complicate the present bill with a proposal with respect to which there are sharp differences of opinion, a proposal which neither the House Ways and Means Committee nor the House Agricultural Committee had considered for a moment, and with respect to which we had received no recommendation from the Department of Agriculture or any other department of the Government. When Mr. Wallace was before the committee, he stated that at that time he could not tell definitely what kind of a processing tax could possibly be agreed upon. He had given no thought to the proposition. He did say, however, that when the next crop was harvested he believed it would be necessary for the Government to raise some money in order to take care of the benefits provided in the farm bill.

He said he thought it would throw nothing out of gear to wait until January, or possibly an earlier time, if Congress is in session. So we did not consider the processing tax in connection with the present bill; and I very much hope that no such controversy will arise in connection with the bill, which ought to be passed after reasonable consideration, free from extraneous matters which have not received the consideration of the other House.

Suppose the processing tax were placed in the bill, and the bill went to conference: Representatives of the House, not having given any consideration to it, and not having heard both sides of the question, would be placed in a very difficult situation in discussing the processing tax. So we eliminated it. We are prepared for whatever criticism is made of us for doing so. We did it in good faith.

The Senator from Oklahoma, in his persuasive and eloquent way—and we were charmed by the presentation he made—wanted us to take up a matter with relation to prohibition. I agree that the dry States of the country ought to be protected, and the Federal Government should offer every assistance to them in preventing importations into such States. However, we felt that that was a matter which could not be handled in connection with the present bill. We sincerely hope—and I express the hope on behalf of our committee—that the prohibition matter can be taken up and considered by the Judiciary Committee, which we think is the appropriate committee to consider such a matter.

I understand the Senator from Utah [Mr. KING] is chairman of a subcommittee having under consideration the bill the Senator from Oklahoma has introduced and has promised prompt action. The Senator from Texas [Mr. CONNALLY], a member of the committee, has worked long and diligently with reference to the proposal respecting a war-profits tax or a tax on war industries, and so on. I understand a report has been made on that measure; but the Finance Committee felt that the pending bill, important as it is, should not be complicated by a consideration of a war-profits tax amendment. So the committee, exercising its best judgment, asked that it be not presented.

Mr. President, I now conclude these brief remarks by expressing the hope that the Senate may stick strictly to the work now before it, of course, giving ample consideration to the various questions presented, and may expedite as much as possible the enactment of the measure.

Mr. NORRIS. Mr. President, may I ask the Senator a question before he yields the floor?

The PRESIDENT pro tempore. Does the Senator from Mississippi yield to the Senator from Nebraska?

Mr. HARRISON. I yield.

Mr. NORRIS. There is nothing in this bill, is there, in regard to tax-exempt securities?

Mr. HARRISON. There is nothing in the bill with regard to that subject.

Mr. NORRIS. Has the committee had that question under consideration?

Mr. HARRISON. Yes; the joint committee has studied the question, but we arrived at no conclusion, I may say to the Senator from Nebraska, about it. There is such a wide difference of opinion on the subject that no definite conclusions have been reached regarding it.

Mr. LA FOLLETTE. Mr. President, I desire to make a few general observations regarding the pending bill prior to the time when the committee amendments are taken up for consideration. If the attitude of the Finance Committee reflects the sentiment and attitude of the Senate, I realize that this measure is going to be passed without any great deliberation. I realize also that, in all probability, the recommendations of the committee will be supported by a majority of the Senate. However, as a member of the Finance Committee, and as one who has been committed ever since he has been a Member of this body to a system of taxation levied in accordance with the ability of the taxpayer to carry

the burden, I desire to place upon record my opposition to the two major proposals of the Finance Committee.

The average American citizen has generally approved the principle of levying taxes in accordance with the ability of the taxpayer to carry the burden. He has believed that those individuals who benefit most from our economy, by reason of their position in that economy, should pay their proportionate share of the cost of government.

Mr. President, it has been evident for a great many years that the growing concentration of ownership and wealth is a force that if allowed to continue unchecked must in the end inevitably constitute a profound threat both to political and economic democracy.

The pending tax bill will undermine much of the arduous accomplishments of preceding sessions of Congress in perpetuating the principle of progressive taxation. I here digress from the general trend of my remarks long enough to say, Mr. President, that, despite the contests which have been carried on in Congress after Congress in support of that principle of taxation, we are still a long way from our goal. Today 60 percent of the revenue received by our Government comes from excise and nuisance taxes, which violate the principle of the ability to pay and which fall heaviest upon those who are least able to carry the burden.

Stripped of technical issues, it is clear that the proposal presented to the Senate by the Finance Committee will go a long way toward destroying the accomplishments we have achieved after long years of effort in establishing a progressive system of taxation. The program embodied in the Finance Committee's bill is, in effect, a radical reversal of the policies which the people of the United States and the Congress have for two decades developed with considerable consistency. The comments which I wish to make, Mr. President, are wholly nontechnical, but I desire to put upon record my belief that the bill is a step backward from the standpoint of progressive taxation.

The proposals of the committee upon which I wish to make comment are those relating to the taxation of capital gains and those relating to the taxation of accrued individual income in the form of corporate undistributed profits. It does not seem to me that there should be any mystery in the mind of anyone regarding what a capital gain is. Broadly speaking, a capital gain is a profit from the sale of property, not including, of course, the ordinary stock or trade of business. The existence of a capital-gains tax in our tax structure is based upon the obvious fact that a net profit from the sale of property represents to the recipient a taxable ability to pay in exactly the same sense that any other profit or income represents ability to pay.

It seems to me that we are confronted, and will be confronted in the future, with the inescapable question to which the taxpayers of the country will ultimately demand an answer, why one kind of profit, a capital gain, should be given special and lenient consideration, while another kind of profit, or another kind of income, is heavily taxed under the high progressive rates now provided in our individual income tax schedules.

In my opinion, such an injustice cannot long survive without pressing inquiry not only by the people of the United States, but ultimately by the Congress itself.

If a capital-gains profit is to receive special consideration and be the object of solicitude on the part of Congress, then the Congress will eventually be forced to give a clear, unequivocal explanation of why it blandly chooses to favor one class of taxpayers or incomes against another class. Why should a man with $500,000 of income from a capital gain on property held over 18 months, as the Senate committee bill proposes, pay $75,000 in taxes, whereas a man with $500,000 of earned and other income pays about $286,000 in taxes? I do not see how such a preposterous situation can be defended.

It should be understood when we are considering the question of capital-gains taxation that the present tax law as has been the case almost universally since resort has been made to the taxation of capital gains, contains a provision giving special and lenient treatment to property profits as against other types of income. This favoritism has been afforded in the past either by giving capital gains a special rate or by lowering the proportion of such income returned as taxable income in accordance with the length of time the property has been held, and in some acts both devices have been utilized. I wish to say a few words about them for I think it is important, in considering the Senate committee's recommendations, to bear in mind the fact that in the past we have always been lenient and considerate of profit accruing from the sale of property as distinguished from other types of income and as distinguished from other measures of capacity to pay taxes.

The reduction of the taxable proportion of property profits in accordance with the length of time an asset is held has been written into the law in the past on the theory that the capital gain accrues over the period of time the property has been held. The enactment of that theory into the law, either as it stands in the present statute or as it is proposed in the House bill, is simply an effort to tax capital income as if it had accrued in annual amounts. I desire to emphasize that I am not interposing any objections to that theory; but I wish to stress certain points, and I hope the Senate will bear them in mind when considering the further step toward favoritism and leniency to capital-gain profits which is proposed in the Finance Committee's bill.

First. Capital gains are, in the way I have just mentioned, substantially favored over other types of income of equal amount received over the same period. In the testimony before the Finance Committee calculations were presented showing that of two taxpayers having equal incomes, the one from capital gains and the other from dividends, the recipient of capital gains receives a substantial discount on his tax bill in comparison with the taxpayer whose income is in the form of dividends. For example, of two individuals receiving $50,000, the one receiving dividends of that total amount over a 6-year period and the other a 6-year capital gain of like amount, the latter—that is, the one who receives his profit in the form of a capital gain—will pay 56 percent less tax than the man who receives an equivalent income in the form of dividends from corporations.

Still greater differentials exist in other instances. With the present advantages in favor of capital gains as tremendous as they are, I cannot see how anyone can defend increased tax favors to the receivers of property profits.

Second. Capital gains are favored over certain types of earned income. Let an artist or a writer spend the greater part of his lifetime in training and practice, and then write a book that suddenly becomes a best seller, or have sudden and concentrated earnings for other reasons, and what happens? Is the amount of taxable income reduced in accordance with the number of years over which the book was written or the training acquired? It is not. The law resolutely forces such suddenly received income to pay taxes as if it all accrued in the year received; but, under the recommendations of the Finance Committee, property profits are to be dealt with with great tenderness.

Third. The method of scaling down the taxability of property profits in accordance with the length of time an asset is held is of benefit chiefly to the upper-bracket income-tax payers. Those in the upper brackets typically hold their properties for long-run profits to a much greater degree than do those in the lower brackets. The point need not be stressed, but it is a simple fact, and will be amply proved by the income statistics available to every Member of Congress and some of the tables extracted therefrom which I shall incorporate in the RECORD at the conclusion of my brief remarks.

I desire to emphasize the fact that I am not interposing any objection to the theory that a property profit has accrued over the years that a property is held; but the fact that such special consideration is given capital-gains profits should not be forgotten, in my opinion, when it is proposed to grant such additional advantages to property profits as are now recommended by the overwhelming majority of the Finance Com-

mittee. In both the House bill and the Senate bill the taxable fraction of property profits is reduced in accordance with the time the property has been held; but, in addition to that favored treatment, the tax rate that may be applied to property profits also is reduced.

The Senate measure sets up a maximum rate of 15 percent after an asset has been held for 18 months. The House bill reduces the rate to an approximately similar sum after an asset has been held for 5 years. Both maximum rates apply regardless of the size of personal income derived from the capital gain. In that way, counting normal taxes and surtaxes, a person in the topmost bracket might pay as much as 79 percent on ordinary income under our existing rate schedule, but a capital-gain income would pay 15 or 16 percent. In my opinion, this does not make sense, and I do not see how it can be justified.

I have already pointed out that reduction in the taxability of capital-gain income in accordance with the length of time an asset is held is a provision which benefits chiefly those in the upper income-tax brackets. Such taxpayers are able to hold, or they do hold, their properties for long-run profits. The Senate Finance Committee's proposal, not content with favoring upper-bracket income receivers in that fashion, now proposes maximum rates as an additional grant of Congressional largess to this upper-bracket group of income-tax payers. There will be no chance that any taxpayer, regardless of the size of his caiptal-gain income or total income, will ever find himself paying more than 15 or 16 percent on his property profits. Who, then, is to get the benefit of this so-called reform?

The answer to that question is clear, Mr. President. Any Member of the Senate who will take the 5 minutes necessary to examine the tables which I shall have printed at the conclusion of my remarks will see in an instant precisely what group of taxpayers is to receive the benefit of this benevolence at the hands of Congress. The man who reads as he runs can tell at a glance that property profits are heavily concentrated in income-tax levels to which the average American taxpayer in his wildest dreams can never hope to attain. Add up the percentages of capital gains in income-tax brackets above $25,000, or even $100,000, in the tables to which I have referred. Then, in that connection, I desire to point out that in 1934, 67.8 percent of the capital-gains profits on property held less than 2 years were in the brackets above $25,000, and 48.5 percent of the capital-gains profits on property held more than 2 years were in the same brackets. This inequality in the treatment of incomes and in the treatment of capacity to pay will come back to plague Congress.

Mr. President, in the long run, if the policy recommended by the Finance Committee is continued, it will become apparent that we cannot make by magic these grants-in-aid to the wealthy income-tax payers of the United States who take down large chunks of profits in the form of property profits. We shall find that if we permit this largess to be extended, and it becomes the permanent policy of Congress and of the Government, eventually the benefits which have been extended to the upper-bracket income-tax payers who enjoy the special treatment of the capital-gains provision will make it necessary to saddle this burden from which they are relieved on the backs of the people who have not the ability and the capacity to carry the load.

Mr. President, I believe that the country is still committed to the principle of taxation in accordance with ability to pay, and I wish Senators would read the following tables with that idea in mind. I am sure they will come to the obvious conclusion, which is that in years of normal business activity the concentrated higher incomes in this country are in large proportion made up of capital gains. The corollary conclusion from this fact is that when we so largely reduce the taxation of capital gains we also abandon, in part, progressive taxation so far as the highest income classes of the United States are concerned.

Doubtless it will be defended by others as it was defended this morning by the able and distinguished Senator from Mississippi [Mr. HARRISON], for whom I have a deep personal affection, on the ground that it is going to be an aid to business, that it will stimulate economic recovery, so largely desired by every Senator in this Chamber, and by every patriotic citizen in the United States.

It will be argued in the future, as it was this morning, that the capital-gains tax destroys investment and reduces the capital supply, that it prevents risk-taking by those taxpayers whose tax rate on profits would be large. I am perfectly willing to concede immediately that the capital-gains tax has had grave defects, but sense, in my opinion, needs to be carefully distinguished from nonsense in the consideration of this exceedingly important question.

A little realistic thinking about this problem will be facilitated if we take time to recall that the United States was afflicted with severe depressions long before the capital-gains tax was ever dreamed of. The debacle from 1929 to 1933 occurred when the rates of tax on capital gains were negligible, and when during most of that period a full offset of capital losses was allowed against any type of income. There is no uniformity of experience in this or any other country with regard to the effect of the capital-gains tax upon the rise and fall of business activity.

There is nothing in the history of security prices to indicate that they have fluctuated more widely when this tax was higher than when it was lower. The simple truth is that, broadly speaking, the connection between the capital-gains tax and the ups and downs of the business cycle has never been logically demonstrable, at least to my satisfaction.

As for the contention that capital gains should not be taxed because they amount to a deduction from the capital supply of the country in the long run, I observe that any tax applied to funds which would otherwise be saved, whether capital gains or other income, is a deduction, in the last analysis, from capital which might otherwise be accumulated.

It needs to be pointed out, however, that in an economic period when the psychological shell shock of depression years causes savers to hoard funds rather than to invest them, there is reason for a tax which applies against savings, and in an economic period when the closing of the physical frontier, a declining increase of population, a tremendous increase in effective energy, and other factors, are diminishing investment opportunities, it may well be necessary to apply taxes against savings in order to maintain economic stability, and to prevent the economic collapse which results when capital funds are not invested.

Mr. President, in my opinion, the logically supportable criticism which may be made, not against the capital-gains tax in principle, but against the way we have been applying it the last few years, can be easily and briefly stated. In any system of income taxation having a progressive rate structure such as ours, a fluctuating income is taxed considerably more heavily in total amount than a nonfluctuating income. Capital gains, in which the sale price of properties is evidently of paramount importance, constitutes a fluctuating type of income, not merely because of the fact that sales prices are highly influenced by the level of economic activity, but because, at any level of economic activity, an investor necessarily makes errors of judgment regarding the future value of particular assets and thus acquires losses as well as gains.

It is thus true that when we attempted to tax capital gains on a basis which unfairly disallowed the offset of losses we established a tax force tending very greatly to increase the risk of investment and to propel investors with large incomes into Government and other high-grade issues which make for steadiness of income on the one hand, and, on the other hand, minimize the chance of loss. Thus we established a tax pressure against the venturing of capital in new or uncertain forms of enterprise.

Mr. President, the committee adopted that policy in an extreme situation when we were at the bottom of one of the crises within this major crisis, and when we had extended

such benefits that capital losses could be taken against the entire income, and thus the yield of the tax had shrunk to alarming proportions.

In my opinion, that constitutes the heart of the fair criticism which may be made against the capital-gains tax. We have been trying to tax gross capital gains rather than net capital gains. I am frank to say that this was an extremist program which inevitably was due for revision. However, the flaws which have existed in the tax are no excuse for destroying it by changes which do not directly meet the problem, and which involve advantages almost wholly for a special group of upper-bracket income-tax payers in the United States. I think we should have undertaken to solve this problem and to have gone to the center of it, but I contend that we should not go to the extent the Finance Committee recommends we should go.

Mr. President, a few words now about the undistributed-profits tax. I concede at the outset that this tax has been the object of one of the most widely organized and most successful propaganda campaigns in the history of tax legislation, but I should like to point out—and again I realize that I am doing it largely for the RECORD—that the development of income taxation in the United States chiefly involved the levy of a flat-rate tax on the income of corporations and a progressive tax on the received income of individuals. The accrued income of individuals, however, in contrast to their received income, has not been taxable if the accrual took the form of undistributed corporate earnings. This situation has meant, then, that the constituent individual owners of corporate-retained income found their income from corporate sources subject to one or two income-tax deductions, the result being dependent upon corporate policy with respect to the retention or distribution of corporate earnings.

If such earnings were distributed to their owners they were reduced by the amount of the corporate net income tax and the individual net income tax. If such earnings were not distributed to their owners, they were reduced by the amount of the corporate income tax only.

This unequal application of the revenue laws necessarily produced very unequal results. In the first place, there was created a kind of tax-exemption subsidy for investment expenditure in contrast with consumption expenditure.

In the second place, so far as investment itself was concerned, the subsidy was not proportionate for all income groups because of the graduated scale of the individual income-tax structure. In the main it inured to the advantage of the upper-bracket income-tax payers to whom the greatest percentage of dividends are typically paid, and for whom, of course, retained earnings chiefly accrue. Indeed, quite aside from the consideration of all income groups, the progressive rate schedule of the individual income tax means that the subsidy to corporate reinvestment is individually disproportionate even among corporate investors themselves.

In the third place, for persons whose individual tax rates would exceed the corporate flat rate, the subsidy constitutes, moreover, a premium on the corporate form of business organization as against the individual proprietorship or partnership, in which undistributed income is treated as if distributed.

A correlative effect in this connection is that, in the fourth place, surtaxes on individual incomes are made partially inoperative, which means that certain taxpayers are favored by the exemption of their saved income at the cost of other taxpayers—including corporate investors, whose individual tax rate would be lower than the corporate flat rate—who must in the long run be penalized by the necessity of paying levies greater than would be required of them if the revenue laws were evenly applicable.

This situation was not new, Mr. President. It was not first discovered in 1936. It has been evident to students of taxation, it has been evident to the experts of the Treasury Department, ever since the first income-tax law was enacted.

It is generally agreed for many years that these grossly unequal and unfair aspects of the tax system needed to be corrected. The final result was that in 1936 Congress adopted the undistributed-profits tax.

No one would contend for a moment that that was a successful job of legislative drafting. What happened was that the Finance Committee barely recognized the principle of the tax. The House had predicated its entire corporate structure on 100-percent application of the principle. When those two measures came together in conference it was a practical impossibility to secure a report and at the same time perform a successful job of legislative draftsmanship. In fact, Mr. President, I am willing to concede that perhaps some other form of tax would eventually have proven necessary to correct the unequal treatment of saved income. But instead of proceeding with a candid examination of the problem in an effort by amendment and change to derive a workable and equitable tax, the committee proposes to junk the whole idea. At this point I state that I have little or no confidence in the effectiveness of the committee's efforts to strengthen section 102.

The repeal of the undistributed-profits tax is recommended at a time when the surtax rates on individual incomes are at the highest point in the entire history of the United States.

Mr. MINTON. Mr. President——

The PRESIDING OFFICER (Mr. BERRY in the chair). Does the Senator from Wisconsin yield to the Senator from Indiana?

Mr. LA FOLLETTE. I yield.

Mr. MINTON. I ask the Senator if it is true that the committee has junked the principle altogether?

Mr. LA FOLLETTE. Yes; the committee recommends the repeal of the tax.

Mr. MINTON. I thought it was saved with reference to private holding-company income.

Mr. LA FOLLETTE. In speaking of the undistributed-profits tax applying to corporations, of course, I was not discussing the sections relating to personal holding companies. I was discussing the general corporate tax structure, and the Finance Committee recommends the complete repeal of the undistributed-profits tax and, in lieu thereof, the imposition of a flat 18-percent tax on income of corporations, with certain adjustments made to attempt to ease the impact of the flat tax on corporations with incomes of $25,000 or less.

Mr. BORAH. Mr. President, would it interfere with the Senator's discussion if he should yield for a moment?

Mr. LA FOLLETTE. No. I am glad to yield.

Mr. BORAH. I wish the Senator would explain just how the House left the undistributed-profits tax, that is, what income would be derived from the House provision should it be enacted into law.

Mr. LA FOLLETTE. Mr. President, I should be very glad at some later time to furnish the Senator with that information, but I do not have the estimates with me, because I intended today to make only a few general observations on the two major proposals. But I may say in passing that this action of the committee has to some extent been heralded over the country as relief for corporations, whereas I can state in general terms to the Senator that the estimates of the Treasury show that the taxes on corporations are to be drastically increased, and the resultant effect from repeal of the undistributed-profits tax principle will be, as the Treasury estimates, that income-tax payers who otherwise would receive these dividends in the form of personal income, will be relieved of considerable amounts.

Mr. President, the possible top rate, surtax and normal, is now 79 percent. The flat corporate-tax rate is proposed to be 18 percent. Is there any Senator who will not admit that such a differential in taxes is going to have a very compelling and controlling effect upon the policy of corporations with regard to retention of income? Every Senator knows also that the largest and most profitable corporations, although their stock is very widely held, are typically usually controlled by a small group of minority stockholders who control the balance of power in those corporations.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. VANDENBERG. The Senator submitted a rather general challenge, which I would not want to seem to have declined to accept by keeping my seat.

Mr. LA FOLLETTE. I shall be very happy to have the Senator accept it.

Mr. VANDENBERG. I do not want to go into the matter in detail at the moment, but I assert from my own point of view that I can produce what to me are persuasive studies to demonstrate that the withheld portions of corporate incomes, far from being hoarded, are usually put to the advantageous use of plant development and plant expansion, which, in my judgment, is the essential thing the country needs today. I simply did not want the Senator to challenge the entire Senate to sit silent when he was saying that the retained earnings were tax-avoidance earnings.

Mr. LA FOLLETTE. Mr. President, I am very happy to have the Senator make some appearance on the RECORD for the other point of view, and I realize that there are other points of view; but I do not see how anyone can believe that a 79-percent top rate in individual brackets and an 18-percent flat corporate tax is not going to have some influence upon the dividend policies of corporations. If the Senator thinks otherwise, he is entitled to his opinion.

Mr. VANDENBERG. No; I think it is, and I think it is very useful that it should have an effect, and I think it can have a useful effect. That is what I undertook to prove.

Mr. LA FOLLETTE. I am not for a moment contending that corporations do not use their undistributed profits in many instances for useful purposes. But what I am saying to the Senate is that when individual rates are as high as 79 percent, individuals who have a large voice in the policy of corporations are going to take the difference between the high individual rates and the flat corporate rate into consideration when it comes time to decide on the dividend policy of the corporation.

Mr. President, I do not want to go into details, but, incidentally, I have seen some very interesting figures to show that many of the large corporations down to 1936, and in some instances into 1937, had not even spent their depreciation account.

From 1923 through 1929 corporations retained $32,000,000,000 of undistributed profits despite the generally low surtax rate then applied against individual income. This, it seems to me, is likely to be no more than a foretaste of the avoidance that will occur under the impact of our present higher individual rates and the loophole for corporate, saved income that we are now so graciously recreating under the Senate Finance Committee bill.

Mr. VANDENBERG. Mr. President, will the Senator give me that figure again?

Mr. LA FOLLETTE. Thirty-two billion dollars of corporate income was retained from 1923 through 1929.

By means of the proposed changes in the capital-gains tax the Congress will have voted favors to the very wealthy at the inevitable expense of increased taxes laid upon those less able to pay. It will have made it difficult to maintain the high progressive rates on received individual income. The bill if enacted will in large measure have made the principle of graduated taxation an idle boast in this country. The repeal of the undistributed-profits tax will reestablish huge tax favors in behalf of retained corporate income.

Thus, there will have been granted another favor to the highly concentrated group of upper-bracket incomes which typically control the corporations doing the bulk of corporate business. The pressure which creates distortion with regard to the amount of savings and the form of enterprise in our economy will have been reestablished. The principle that equal incomes shall be equally treated will have been violated. A tax force for the accrual of income and its final receipt in the form of capital gains will have been revitalized, and I make the prediction that the bill, if enacted into law, will prove to be a loophole larger than is now anticipated.

Under the provisions of the bill proportionate taxes on retained corporate profits will not be collected. Values accruing in that fashion will be realized, in part, in the form of capital gains, which, in turn, will not be proportionately taxed; and when the estates pass, because we have never had the courage to correct this loophole in our tax laws, we shall ignore the capital gains within the estates. We are asked to grant enormous tax subsidies to the wealthy now and for the indefinite future as the price of business recovery. In my judgment, so far from stimulating recovery, the effect will be toward further deflation.

The failure of business to revive is not because of inadequate savings. There are now billions and billions of idle funds. Mr. Knudson, the head of the General Motors Corporation, told the whole story in a nutshell before the Special Committee on Unemployment and Relief. He said that corporation had over $200,000,000 in the form of cash and Government securities. He testified that the company had modern, up-to-date plants, but that he had been forced to discharge 18,000 men because the people of the United States were not buying enough second-hand and new automobiles.

There was no lack of surplus there. The banks, as every Senator knows, are now loaded with funds. There is no lack of funds for investment, if the owner of those funds can be convinced that there is an opportunity for a return upon his investment. But today if one should go to a banker and ask for money to build another automobile plant, the banker would be justified in sending him to St. Elizabeths Hospital to have his head examined. We have in this country an automobile capacity which has never been fully utilized, not even at the peak of the so-called boom period, when we had not only the largest domestic sales but also substantial sales abroad. As we look into industry after industry, the same picture is presented. The textile industry certainly is not now in need of more spindles, to stand idle. The same situation exists in the shoe and clothing industries and in other industries which produce commodities which people utilize and wear. The fact is that at the effective level of consumption, or ability to buy, we have overcapacity in the United States today, generally speaking, in nearly every industry. In making that statement I do not wish to ignore obsolescence, the retooling of plants, or the occasional utilization of a new process, if by so doing the labor costs and other costs can be drastically reduced, as, for example, by the introduction of the hot strip mill into the steel industry during the depression. But, by and large, I maintain that our problem is not one of funds for expansion. Our problem is a lack of effective buying power on the part of the people; and until that situation is remedied, we could repeal all taxes without producing business recovery.

Business will not revive in this country substantially until consumer purchasing power and consumer demand for the products of industry revive. To offer an inducement to corporations to retain earnings is but to add to the volume of hoarded and idle funds, and to subtract still further from consumer demand and the stream of income payments. To make up for the loss of revenue from taxation of the wealthy, the Congress will in the future be called upon to impose increased taxes on the poor. This will operate to decrease the demand for the products of industry and hence lower the opportunities for profitable investment. In a situation where we cannot now find outlets for the volume of saving, we propose to take measures to add to that volume, thus creating more deflation.

Mr. President, that is not only true in this period of economic crisis, but it was true in 1929, as demonstrated by the Brookings study, which shows that the system produced approximately $15,000,000,000 of savings in that year, and yet even in that period, when many people believed we were in an era of permanent prosperity, only $5,000,000,000, of those $15,000,000,000 of savings could find investment in profitable,

useful, and work-producing enterprise. The other $10,000,000,000, largely speaking, were sucked into the stock market, where they furnished financing for the bidding up and down of mere slips of paper, not things which people can eat, wear, and use.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. VANDENBERG. The Senator spoke about the Brookings Institution, with respect to which I share his powerfully confident opinion. Can the Senator tell me what the Brookings Institution reported upon the undistributed-profits tax?

Mr. LA FOLLETTE. The Brookings Institution has reported unequivocally against it. May I say further, in connection with the Brookings study which I have just mentioned, that, while I think the factual data which the Institution has gathered are of inestimable value, it seems to me the Institution goes off the deep end when it comes to applying the very facts which it spent so much time and money in gathering.

Mr. MINTON. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. MINTON. How much revenue has been produced per year by the undistributed-profits tax?

Mr. LA FOLLETTE. I have not the figures before me at present. I wanted only to make some general comments. I shall be glad to furnish the estimates to the Senator.

Mr. HARRISON. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. HARRISON. I may say that in 1937 the Government fell short of its estimate with respect to the undistributed-profits tax by $200,000,000.

Mr. VANDENBERG. Mr. President, will the Senator yield further?

Mr. LA FOLLETTE. I yield.

Mr. VANDENBERG. There is another very interesting fact to be stated in connection with the reason why the Government fell short in its collection. It fell short because when it made its estimate it thought that the investment of the country was in the higher surtax brackets to a greater degree than it was. It discovered that wealth was far better distributed than was believed to be the case.

Mr. LA FOLLETTE. Mr. President, that statement is open to argument, I may say to the Senator. I shall be glad at some time to go into it with him very fully.

The general proposal presented in the bill does not make sense to me. The proposed action of Congress in this measure is on all fours with giving a million dollars to a wealthy individual in the hope that it will make him feel so good that he will go out and invest it. I cannot forget, Mr. President, that we tried this plan in December of 1929, after the stock market crash, under the leadership of Herbert Hoover and Andrew W. Mellon. On the theory that it would make the upper-bracket income-tax payer feel good, that it would restore confidence, and that it would revive business, we refunded $185,000,000 of upper-bracket income. Did it stay the depression? Did it bring business revival? No. There is something very much more fundamentally wrong with the economy of this country than the tax structure. In my judgment, the economic effects of the bill will be very disappointing, even to its most ardent advocates.

Mr. VANDENBERG. Mr. President, will the Senator yield again?

Mr. LA FOLLETTE. I yield.

Mr. VANDENBERG. I agree with what the Senator has just said; and although I think it is stimulating, helpful, and soundly logical to repeal the undistributed-profits tax—at that point I disagree with the Senator—I emphatically agree with him that there are plenty of other things wrong with this country which must be corrected in order to stimulate recovery.

Mr. LA FOLLETTE. If this bill becomes law, the painful and laborious progress over many years toward a tax system based on the principle of ability to pay will have been partially undone, all in the course of a few months, and on the flimsiest premises. The inequalities and injustices, to say nothing of its deflationary effects now and in the future, will force another tax revision to remedy these evils in the near future. In my judgment the revenue yields will be shockingly inadequate despite the claims made for the bill by the committee and by the Treasury experts.

Now, Mr. President, I ask unanimous consent to have incorporated at the conclusion of my remarks the several tables to which I have referred.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Percentage distribution of total capital gains by income classes

Net income	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936
Under $5,000	10.1	10.4	4.7	6.3	9.1	22.3	25.3	20.0	22.6	20.2	-----
$5,000 to $25,000	28.4	25.1	22.4	20.2	27.4	26.9	31.3	30.5	38.5	38.9	46.5
$25,000 to $100,000	23.4	24.5	24.9	21.3	21.9	17.3	22.2	24.5	23.2	24.8	32.0
$100,000 to $1,000,000	26.2	28.3	32.8	33.9	29.3	24.6	21.2	17.4	13.4	13.9	16.9
$1,000,000 and over	11.9	11.7	15.2	18.3	12.3	8.9	-----	7.6	2.3	2.2	4.6

Percentage distribution of capital gains, by net-income classes

Net income	Held less than 2 years	Held more than 2 years	Total
1924			
Under $1,000	2.21	----------	2.21
$1,000 to $2,000	.88	----------	.88
$2,000 to $3,000	1.44	----------	1.44
$3,000 to $5,000	2.89	----------	2.89
$5,000 to $10,000	5.87	----------	5.87
$10,000 to $25,000	8.44	----------	8.44
$25,000 to $50,000	8.49	1.93	10.42
$50,000 to $100,000	5.75	6.64	12.39
$100,000 to $150,000	4.53	11.07	15.60
$150,000 to $300,000	4.47	16.12	20.59
$300,000 to $500,000	3.32	22.60	25.92
$500,000 to $1,000,000	1.82	29.42	31.24
$1,000,000 and over	1.55	26.62	28.17
1925			
Under $1,000	3.12	----------	3.12
$1,000 to $2,000	.98	----------	.98
$2,000 to $3,000	1.92	----------	1.92
$3,000 to $5,000	3.34	----------	3.34
$5,000 to $10,000	7.86	----------	7.86
$10,000 to $25,000	13.71	----------	13.71
$25,000 to $50,000	16.35	1.23	17.58
$50,000 to $100,000	12.36	8.93	21.29
$100,000 to $150,000	10.94	15.69	26.63
$150,000 to $300,000	10.72	22.02	32.74
$300,000 to $500,000	10.10	32.04	42.14
$500,000 to $1,000,000	7.56	37.77	45.33
$1,000,000 and over	5.90	50.87	56.77
1926			
Under $1,000	2.49	----------	2.49
$1,000 to $2,000	.83	----------	.83
$2,000 to $3,000	1.65	----------	1.65
$3,000 to $5,000	3.25	----------	3.25
$5,000 to $10,000	5.73	----------	5.73
$10,000 to $25,000	9.74	----------	9.74
$25,000 to $50,000	11.73	1.24	12.97
$50,000 to $100,000	7.60	8.85	16.45
$100,000 to $150,000	5.89	15.21	21.10
$150,000 to $300,000	6.10	20.63	26.73
$300,000 to $500,000	6.09	30.77	36.86
$500,000 to $1,000,000	4.98	32.03	37.01
$1,000,000 and over	6.38	45.01	51.39
1927			
Under $5,000	3.03	----------	3.03
$5,000 to $10,000	5.79	----------	5.79
$10,000 to $25,000	10.63	----------	10.63
$25,000 to $50,000	13.87	1.37	15.24
$50,000 to $100,000	9.99	9.56	19.55
$100,000 to $150,000	9.18	15.75	24.93
$150,000 to $300,000	9.34	21.88	31.22
$300,000 to $500,000	9.54	27.04	36.58
$500,000 to $1,000,000	9.23	31.74	40.97
$1,000,000 and over	6.21	43.77	49.98
1928			
Under $5,000	2.38	----------	2.38
$5,000 to $10,000	7.35	----------	7.35
$10,000 to $25,000	15.21	----------	15.21
$25,000 to $50,000	20.46	1.74	22.20
$50,000 to $100,000	16.74	11.70	28.44
$100,000 to $150,000	16.14	19.07	35.21
$150,000 to $300,000	15.24	25.34	40.58
$300,000 to $500,000	14.54	29.63	44.17
$500,000 to $1,000,000	14.65	35.76	50.41
$1,000,000 and over	12.11	47.31	59.42

Percentage distribution of capital gains, by net-income classes—Con.

Net income	Held less than 2 years	Held more than 2 years	Total
1929			
Under $5,000 (estimated)	2.87	----------	2.87
$5,000 and under $10,000	6.22	----------	6.22
$10,000 and under $25,000	12.84	----------	12.84
$25,000 and under $50,000	17.75	1.10	18.85
$50,000 and under $100,000	12.66	13.15	25.81
$100,000 and under $150,000	8.83	24.34	33.17
$150,000 and under $300,000	8.63	33.05	41.68
$300,000 and under $500,000	6.59	41.21	47.80
$500,000 and under $1,000,000	6.71	45.71	52.42
$1,000,000 and over	7.14	54.76	61.90
1930			
Under $5,000 (estimated)	1.18	----------	1.18
$5,000 and under $10,000	3.00	----------	3.00
$10,000 and under $25,000	5.15	----------	5.15
$25,000 and under $50,000	6.59	.77	7.36
$50,000 and under $100,000	3.58	7.35	10.93
$100,000 and under $150,000	2.37	13.19	15.56
$150,000 and under $300,000	1.89	19.62	21.51
$300,000 and under $500,000	1.99	25.31	27.30
$500,000 and under $1,000,000	1.44	27.96	29.40
$1,000,000 and over	2.38	32.05	34.43
1931			
Under $5,000 (estimated)	1.27	----------	1.27
$5,000 to $10,000	1.56	----------	1.56
$10,000 to $25,000	2.72	----------	2.72
$25,000 to $50,000	3.64	.40	4.04
$50,000 to $100,000	1.78	3.50	5.28
$100,000 to $150,000	1.53	7.21	8.74
$150,000 to $300,000	1.83	11.52	13.35
$300,000 to $500,000	2.09	16.56	18.65
$500,000 to $1,000,000	1.44	17.43	18.87
$1,000,000 and over	1.41	19.35	20.76
1932			
Under $5,000 (estimated)	.46	----------	.46
$5,000 to $10,000	1.12	----------	1.12
$10,000 to $25,000	1.77	.06	1.83
$25,000 to $50,000	1.44	1.08	2.52
$50,000 to $100,000	1.04	2.38	3.42
$100,000 to $150,000	1.14	4.38	5.52
$150,000 to $300,000	.77	5.85	6.62
$300,000 to $500,000	1.10	7.68	8.78
$500,000 to $1,000,000	2.43	11.43	13.86
$1,000,000 and over	.01	.01	.02
1933			
Under $5,000 (estimated)	1.34	----------	1.34
$5,000 to $10,000	4.14	----------	4.14
$10,000 to $25,000	6.33	.13	6.46
$25,000 to $50,000	7.96	1.99	9.95
$50,000 to $100,000	8.45	4.04	12.49
$100,000 to $150,000	9.09	8.33	17.42
$150,000 to $300,000	7.01	12.53	19.54
$300,000 to $500,000	8.12	18.10	26.22
$500,000 to $1,000,000	6.45	13.41	24.86
$1,000,000 and over	4.64	35.69	40.33

1934—Percentage distribution of net capital gains by net income classes and by period assets were held

Net income classes	1 year and under	1 to 2 years	2 to 5 years	5 to 10 years	10 years and over	Not stated	Aggregate
A. Total gains of each income class distributed by length of time held:							
$0 to $5,000	38.8	15.9	11.0	5.1	24.1	5.1	100.0
$5,000 to $25,000	40.4	19.5	8.4	2.4	25.6	3.7	100.0
$25,000 to $50,000	35.6	16.1	7.7	0.6	36.4	3.6	100.0
$50,000 to $100,000	33.4	18.4	3.6	5.2	35.8	3.6	100.0
Over $100,000	13.8	8.5	0.3	4.2	70.2	3.0	100.0
B. Total gains from assets held for specified time distributed by income classes:							
$0 to $5,000	22.3	19.1	31.0	31.0	13.3	26.0	19.6
$5,000 to $25,000	46.3	46.9	47.0	29.2	28.3	37.8	39.2
$25,000 to $50,000	15.4	14.7	16.5	2.7	15.2	14.0	14.8
$50,000 to $100,000	9.1	10.5	4.8	14.9	9.4	8.8	9.3
Over $100,000	6.9	8.8	.7	22.2	33.8	13.4	17.1
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Mr. HITCHCOCK. Mr. President, while we are wandering around in the tangled area of taxation, I should like to say a few words about a potential source of taxation which has been totally omitted.

The current plan for revision of the revenue laws, important and necessary as some of the proposed changes may be, fails to plug one loophole in our tax system, through which an unbelievably large amount of revenue escapes each day and month of the year. Taxation has always been a sore problem with Americans. We fought one war over the principle of taxation without representation, and we wage bitter personal wars in our offices and homes every time the income tax comes due. None of us can agree on a fair system of taxation. The only really fair tax seems to be a tax on the other fellow. But when we succeed in taxing the other fellow we are quite often surprised to find that the other fellow has successfully passed that tax back to us.

It is surprising that so important a loophole as I am about to suggest remains for the main part overlooked in current tax discussions. A loophole through which escapes annually several billion dollars of revenue should be plugged. The loophole to which I refer consists of the present vast volume of tax-exempt securities and bonds of Federal, State, county, and municipal governments, and the income of public employees of Federal, State, county, and municipal governments, which should be taxed equally with the income of private citizens.

NEVER BEEN FULLY DISCUSSED IN SENATE BEFORE

While several proposed constitutional amendments have been introduced and are now pending in the Judiciary Committees of the Senate and the House of Representatives, including a proposed constitutional amendment, Senate Joint Resolution 261, which I introduced February 14, 1938, nothing has been done about any of these amendments. In fact, a diligent search of the CONGRESSIONAL RECORD throughout the past 20 years reveals the fact that, except for very brief comments at the time an occasional resolution was introduced, the subject of taxation of securities and bonds of Federal, State, county, and municipal governments and the taxation of the income of public employees equally with the income of private citizens, has never been discussed on the floor of the Senate.

On December 22, 1932, and again in January 1934, the Senator from Arizona [Mr. ASHURST] introduced joint resolutions proposing a constitutional amendment which would provide for the taxation of present tax-exempt Government securities, although the matter of the taxation of Government salaries was not included. No action was ever taken on either of these joint resolutions. A joint resolution proposing a similar amendment had been previously approved by the House of Representatives on January 23, 1923, but no action was taken by the Senate before adjournment of the short session. The following year, on February 8, 1924, the proposal was defeated in the House.

Again, only a few weeks ago, another attempt was made to tax Government securities and salaries, but this time without a constitutional amendment, when Representative VOORHIS, of California, offered, on March 8, 1938, an amendment to the Revenue Act of 1938, then pending in the other House, which would permit the Federal Government to tax income from securities of State governments and subdivisions thereof, and the salaries of officials and employees of State governments and political subdivisions. In his amendment Representative VOORHIS also gave the States permission to tax the income derived from Federal obligations and the salaries of Federal employees. The amendment was eliminated, however, from the pending revenue bill on the ground that it was not germane to the bill. It is also very doubtful if such an amendment would be upheld by the Supreme Court unless it were adopted in pursuance of a constitutional amendment ratified by three-fourths of the States, as I shall explain later.

There are now pending over 25 proposed constitutional amendments on this subject introduced during the Seventy-fifth Congress. Nothing has been done on any of them. It is high time that we should take cognizance of several billion dollars of annual income and should spend a few moments trying to see how this source of income might be taxed.

Mr. BORAH. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Idaho?

Mr. HITCHCOCK. I yield.

Mr. BORAH. During the consideration of the last revenue act I offered an amendment providing for the taxation of all the securities thereafter issued by the Government. That amendment was adopted by the Senate but was lost in conference.

Mr. HITCHCOCK. The Senator is correct. It was not agreed to by the House. May I ask the Senator if he remembers the date of that action on the part of the Senate?

Mr. BORAH. I do not recall the date.

Mr. HITCHCOCK. I am sorry I overlooked that effort on the part of the Senator from Idaho.

WOULD GREATLY INCREASE REVENUE IN TREASURY

Mr. President, what are the main reasons to be advanced for the constitutional amendment which I propose which would subject this income to taxation? First of all, the taxation of such income would be a great step in substantially increasing the revenue in the present depleted National Treasury. The added revenue would aid greatly in balancing the National Budget, without the necessity of drastic curtailment of certain necessary expenditures of the Federal Government for relief and other vital necessities. Secondly, this amendment would mean the removal of a very large element of injustice in our present tax system, yet still would not permit the other fellow to pass the tax on to someone else. It would simply mean the taxing of income which now escapes taxation, with no valid reason for such exemption.

WOULD REMOVE INJUSTICE OF PRESENT SYSTEM

Mr. President, the taxation of Government securities and the salaries of public officials is in line with President Roosevelt's tax-evasion message of June 1, 1937. Although the President's message failed to mention specifically this source of revenue when the matter was subsequently called to his attention at a press conference on June 8, the President said that he favored the abolition of the present tax exemptions of income from Federal, State, and municipal securities and compensation paid to State and local officials and employees, but that action of this sort would require a constitutional amendment, and he could see little hope of immediate ratification of such an amendment by the States.

True, such a proposal would not be an immediate remedy for the present inequalities in our revenue laws, but it is a remedy which should be undertaken at some time. There is no reason why we should not start the ball rolling now. Ratification of an amendment to the Constitution does take time. But amendments have been known to be ratified within as short a period as 10 months. We certainly will never succeed in having such a proposed constitutional amendment ratified so long as all proposals therefor remain pigeonholed in committee files.

CONSTITUTION DOES NOT PROHIBIT SUCH TAXATION

But why is it necessary to have a constitutional amendment? There is no provision of the Constitution which expressly forbids taxation by the Federal Government or a State government of the instrumentalities of the other. However, the doctrine of immunity from such taxation has been established by a long line of Supreme Court decisions, the doctrine first being laid down by Chief Justice Marshall in the famous case of McCulloch against Maryland in 1819. The Court has always proceeded on the theory that "the power to tax involves the power to destroy"; or, to quote Chief Justice Marshall in McCulloch against Maryland:

> If the States may tax one instrument employed by the Government in the execution of its powers, they may tax any and every other instrument. They may tax the mail; they may tax the mint; they may tax patent rights; they may tax the papers of the customhouse; they may tax judicial process; they may tax all the means employed by the Government to an excess which would defeat all the ends of government. This was not intended by the American people. They did not design to make their Government dependent on the States.

The United States Supreme Court, however, has always distinguished between governmental and proprietary functions, holding that income derived from State or local governments in the exercise of governmental functions is immune from Federal taxation, but when a State exercises proprietary, as distinct from governmental, powers and engages in activities ordinarily conducted by private enterprise, it is not immune from Federal taxation, even though such activities may be undertaken for the public benefit. This distinction was first laid down in 1910 in the case of Flint against Stone Tracy Co., and was again stated as late as March 7, 1938, in the case of Guy T. Helvering, Commissioner of Internal Revenue, against Mountain Producers' Corporation, in which the Supreme Court went even further and held that the Federal Government could tax income derived from oil land leased from a State, providing, of course, such tax was levied "on the same basis as on others who are engaged in similar businesses."

Likewise, in the case of James against Dravo Contracting Co., decided December 6, 1937, the Supreme Court also broadened its previous interpretations by stating that "the income of independent contractors engaged in carrying on Government enterprises may be taxed," but specifically laid down the rule that "any taxation by one government of the salary of an officer of the other, or the public securities of the other," was unconstitutional.

We can readily grant that taxation by one government of the salary of an officer or of the public securities of another government at a higher rate than imposed on the officers and public securities of its own government, would be unjust discrimination which would be repugnant to the spirit of our Federal Constitution. But for one government to tax the salary of an officer or the public securities of another government at the same rate as it taxed the officers and public securities of its own government would certainly not be in violation of the spirit of our Constitution. In my proposed constitutional amendment I have been careful to include the words "without discrimination," and thus the taxation of one government of the instrumentalities of another at a higher rate than it taxed its own instrumentalities would be prevented.

DOES NOT THREATEN THE SOVEREIGNTY OF THE STATES

I certainly do not believe that by subjecting the holders of State securities and State employees to the same taxes that other citizens of the United States must bear, there is any danger to the continued existence of the sovereign States. Likewise, the taxation of holders of Federal securities and Federal employees by the States, at the same rates paid by other citizens, would in no way threaten the existence of the Federal Government.

Approximately what is the total amount of tax-exempt securities of Federal, State, and municipal governments outstanding? Mr. George D. Brabson, special attorney of the office of Assistant General Counsel, of Washington, D. C., has prepared two tables on tax-exempt securities in an article appearing in the Tax Magazine for January 1937, page 8. His first table reads as follows:

Total tax-exempt securities outstanding as of June 30, 1935

State, county, and municipal	$19,277,000,000
Federal	27,645,000,000
Territories and insular possessions	146,000,000
Federal farm-loan system	3,625,000,000
R. F. C	3,905,000,000
H. O. L. C	2,647,000,000
Total gross	57,245,000,000

Of course, it is difficult to determine exactly how much of this sum is exempt from taxation because of these securities being held by charitable, scientific, and eleemosynary institutions which are exempt from Federal taxation, but it is estimated that this sum approaches $8,826,000,000. Mr. Brabson also estimates that approximately $2,433,000,000 of securities are held by the Federal Reserve banks which are also exempt from taxation. This leaves a total of $45,986,000,000 of such securities in the hands of the general public which now escapes taxation. Mr. Brabson's second table, therefore, reads as follows:

Estimated amount of tax-exempt securities in the hands of the public as of June 30, 1935

State, county, and municipal	$16,895,000,000
Federal	26,137,000,000
Territories and insular possessions	117,000,000
Federal Farm Loan System	2,544,000,000
R. F. C.	250,000,000
H. O. L. C.	2,476,000,000
Total net	48,419,000,000
Less Federal Reserve holdings	2,433,000,000
	45,986,000,000

OVER 46 BILLIONS OF DOLLARS IN TAX-EXEMPT SECURITIES

This total of $45,986,000,000 which was estimated to be the total amount of tax-exempt securities in the hands of the public as of June 30, 1935, has undoubtedly risen to considerably in excess of $46,000,000,000 by the present time. Forty-six billion dollars is a very large sum. It is considerably in excess of the present national debt. Is there any logical reason why holders of $46,000,000,000 of tax-exempt securities should not be required to pay a tax on these securities, the same as holders of securities of private corporations or public utilities?

Of course, upon ratification of the proposed constitutional amendment, all of this $46,000,000 now escaping taxation would not be immediately taxed, since only securities issued after the ratification of this article would be subject to taxation. Therefore, approximately what is the present annual loss to the Federal Government from the exemption of these securities? Ogden L. Mills, the late Secretary of the Treasury, estimated the loss to the Federal Government alone (not counting the loss to State, county, and municipal governments) from the exemption of these securities, on the basis of the income-tax rates in effect in 1923, to be $240,000,000 annually.

Joseph S. McCoy, Government actuary, estimated the loss, on the basis of the volume of tax-free securities outstanding at the beginning of 1922, at $120,000,000. E. R. B. Seligman, professor of political economy at Columbia University, on the other hand, testified before the House Ways and Means Committee that the loss to the Federal Government through tax-exempt securities is not less than $300,000,000 annually.

WOULD NOT MATERIALLY INCREASE COST OF PUBLIC BORROWING

The principal argument used against taxing present tax-exempt Government securities is that it would increase the cost of public borrowing, for the reason that many persons buy Government securities because they are tax-exempt, and that there might not be a good demand for these securities if they were taxed, unless the Federal and State Governments increased the interest rate, which would thus offset the gain to the Treasury through taxes. The Senator from Arizona [Mr. ASHURST] and Secretary Morgenthau contradict this argument. When Congress convened in January 1934, the Senator from Arizona introduced another joint resolution proposing a constitutional amendment authorizing taxation by the Federal and State Governments of future issues of public securities. At that time he said that he had been assured by the Treasury that taxation of new issues would not interfere with the Government's financing program, for the reason that thousands of persons have money locked up who are willing and anxious to buy Government securities, even at a reduced rate of interest and without the tax-exempt features. Secretary Morgenthau likewise felt that the ready sale of Federal securities would not be impaired, for it is but a matter of confidence, and as long as the people have confidence in the Government, they will purchase its obligations.

PEOPLE BUY GOVERNMENT SECURITIES FOR SAFETY, NOT PROFIT

In my opinion, the main reason why the average person buys Government securities is not for the profit to be derived, since the interest rate is much lower than in the case of other securities but the main reason why the average citizen buys Government securities is to obtain a safe investment. He does not care to speculate. All he wants is a safe place to put the money, where he knows it will not all go up in smoke at the next gyration of the stock market. He is not nearly so much concerned about the interest rate as he is about the principal.

In making a study of the opinions of authorities expert in the matter of the taxation of securities, I find a considerable difference of opinion as to the exact sum that would be realized to the Treasury through the taxation of these securities; but all authorities who have studied the question unanimously agree that the present loss to the Federal Government and the States, taken together, largely exceeds the savings in interest due to the tax-exempt status of the securities. A wealthy taxpayer who owns a considerable amount of tax-exempt Government securities gains much more by his Federal-tax avoidance than he loses in accepting a lower rate of interest. It has been estimated that under the 1936 Federal income-tax rates, for an investor with a $50,000 income, a 2-percent yield on a tax-exempt Government bond corresponds to a 3-percent yield on a bond that is not tax exempt. For an investor at the $250,000 level, the corresponding percentages are 1 and 3.

I agree with the Senator from Arizona [Mr. ASHURST] when he said that, in his opinion—

> All the evils of increased rates of interest would be counterbalanced or overweighed by the enormous public good that would result by taxing all property.

I think it can be readily argued, first, that the present loss to the Federal Government and the States through the issuance of tax-exempt securities largely exceeds the savings in interest due to the tax-exempt status of the securities; and, secondly, that the very nature of the securities—namely, their safety—would in large part eliminate the necessity of increasing the interest rate in order to attract buyers, since the general public is primarily interested in investing in Government securities not for profit but for safety from the dangers of speculation.

OVER THREE AND A HALF BILLION DOLLARS IN TAX-EXEMPT SALARIES

How much is the estimated loss to the Federal and State Governments from the tax exemption of salaries of officers and employees in the Federal and State service? Mr. Buel W. Patch, in an article entitled "Exemptions From Income Taxation," printed in the Editorial Research Reports for June 17, 1937, has prepared a table of Federal, State, and local employees and pay rolls, which is as follows:

Federal, State, and local employees and pay rolls

	Employed personnel	Annual pay roll [1]	Average annual salary
Federal Service:			
Executive branch	829,794	$1,553,444,616	$1,872
Legislative branch	5,308	14,287,812	2,692
Judicial branch	1,952	5,738,052	2,939
Military and naval [2]	310,000	275,000,000	887
Total	1,147,054	1,848,470,480	1,612
State and local:			
State employees	305,045	433,957,000	1,422
City employees	590,202	1,033,221,000	1,750
Counties, townships, etc.	295,678	412,219,000	1,394
Public education	1,252,831	1,604,359,000	1,290
Total	2,443,756	3,483,756,000	1,426

[1] Figures for Federal service, except military and naval, based on January 1937 pay rolls. State and local figures are for 1935.
[2] Rough estimates.

A glance at the table will, of course, reveal the fact that even though the total Federal, State, and local pay roll amounts to more than three and a half billion dollars, still, since the average salary of Federal and State employees is between $1,400 and $1,600, many such employees would escape taxation because of personal deduction under our income-tax law, which grants personal exemptions up to $2,500 for married persons and up to $1,000 for single persons.

However, there still are a surprisingly large number of persons who would be subject to the income tax except for the doctrine of immunity established by the Supreme Court.

The time may also be approaching when it will become necessary to broaden the tax base by lowering the personal exemptions, as already advocated by the Senator from Wisconsin [Mr. LA FOLLETTE]. In 1934 he offered an amendment which would have reduced the personal exemptions to $2,000 for married persons and $800 for single persons, which amendment received the votes of 36 Senators. Then again, on June 24, 1937, a similar amendment offered by the Senator from Wisconsin, reducing the personal exemption for married persons to $2,000, and for single persons to $800, and increasing the rate of taxation in the higher brackets, very nearly became a part of the 1937 Revenue Act. The amendment was first adopted by a vote of 35 to 31, then the vote was reconsidered and the amendment finally was defeated by a vote of 42 to 29.

Mr. BONE. Mr. President, does the Senator think it would be necessary to broaden the tax base, so to speak, if the Supreme Court of the United States in interpreting the meaning of the sixteenth amendment had not interpreted that amendment as it did?

Mr. HITCHCOCK. The assumption of the Senator I think is correct.

Mr. BORAH. Mr. President, a Federal employee or official, except the judiciary, now pays an income tax down to the exemption, does he not?

Mr. HITCHCOCK. Yes. Of course, except for certain Federal judges, all Federal employees are subject to the Federal income tax and exempt from any State tax on income derived from the Federal Government, while, on the other hand, employees of States and their political subdivisions are subject to the State income tax, if one is imposed, and exempt from Federal tax on income derived from the State or a local government.

FEDERAL JUDGES EXEMPT FROM BOTH FEDERAL AND STATE TAXES

Few people realize that Federal judges do not have to pay either a State or a Federal income tax, and even fewer realize that the judges themselves decided that they did not have to pay an income tax, in spite of the wording of the sixteenth amendment to the Constitution, which authorizes Congress to levy direct taxes on income "from whatever source derived."

The Supreme Court of the United States, in the case of Evans against Gore, in 1920, in a 7-to-2 decision, delivered by Mr. Justice Van Devanter, declared the income tax, as it affected Federal judges, to be invalid, holding that it constituted a diminution of salary contrary to article III of the Constitution, which states that—

> The judges, both of the Supreme and inferior courts * * * shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office.

Mr. Justice Holmes, in a vigorous dissent, stated that he saw nothing in the purpose of article III of the Constitution to indicate that—

> The judges were to be a privileged class, free from bearing their share of the cost of the institutions upon which their well-being, if not their life, depends.

But only one of the other eight Justices agreed with Mr. Justice Holmes, and since that time the Supreme Court has consistently held unconstitutional all attempts to tax the salaries of Federal judges under the provisions of the sixteenth amendment, although an act of Congress taxing all Federal judges appointed since 1932 has not yet been tested before the Court.

AMENDMENT WOULD NOT INCREASE TAX BURDEN ON ANY SPECIFIC CLASS

One of the great advantages of my proposed constitutional amendment permitting the taxation of compensation paid to Federal, State, and local officials and income from Federal, State, and municipal securities is that it would not increase the tax burden unfairly on any specific class or group of persons. Most of the other recognized forms of taxation which we are now studying in the pending 1938 Revenue Act have the disadvantage of either increasing unjustly the burden of taxation on one particular group or of permitting the tax burden to be shifted to the person least able to pay.

For example, the property or land tax often works an unjust hardship on the property owner who, during depressions and unfavorable times, makes hardly enough money to pay his property taxes. Particularly is this true of many farmers during drought-stricken years, who find it absolutely impossible to meet the taxes on their farms. Taxes on businesses, partnerships, or corporations are seldom paid directly by the business concerned, but are nearly always passed on to the consumer through increased prices. A high sales tax is a particularly vicious form of taxation, because it hits the consumer in the lowest income group who is least able to pay, and yet it has been utilized frequently, because it seems to be the easiest tax to collect.

My proposed amendment to the Constitution would obviate such evils, because it would permit to be taxed merely those persons who have unjustly escaped taxation under our present tax system through a legal fiction which forbids taxation by one government of the instrumentalities of another. It would not increase the burden of taxation upon Government employees or holders of Government securities, but would merely subject them to the same rate of taxation paid by other citizens.

To paraphrase the words of Justice Holmes, whom I have just cited, is there anything in the Constitution to indicate that Government employees and holders of Government securities are a privileged class, free from bearing their share of the cost of the institutions upon which their well-being, if not their life, depends? I would not increase unjustly the taxes which they pay, but merely subject them to the same rate of taxation applicable to other citizens, through the adoption of my proposed constitutional amendment, or a similar proposal, thereby plugging a great loophole in our tax system.

This body should insist that such proposed constitutional amendments be reported to the floor of the Senate for discussion, and no longer gather dust in the files of some Senate committee.

Mr. BONE. Mr. President, I am sorry I was not privileged to hear all the Senator from South Dakota had to say, because I was out of the Chamber part of the time, and I should like to ask him if he discussed the effect on prices of municipal bonds, and the possible fluctuation in prices which would make them vary widely from prices at present, of the adoption of an amendment which would tax that type of security. I think of that because the municipalities now sell their bonds on a market which considers very closely the yield of the bond over a period of years. I am sorry if I have missed any discussion on that particular phase of the subject by the Senator from South Dakota.

Mr. HITCHCOCK. Mr. President, there is a good deal of assumption about that. Of course, tax-exempt securities would not be issued if it were known that all issues would be taxed.

Mr. BONE. Of course, Congress might tax them on one basis one year and the next Congress might shift the amount of tax, thereby placing the mind of the prospective buyer of that type of security in uncertainty as to the yield. That is one of the arguments advanced, and it is a field of inquiry which has been canvassed repeatedly. I confess there are two sides to it, and it is a thing which ought to be examined realistically.

If the yield of municipals were taxed it has seemed quite likely to many people that they would be compelled to bear a higher interest rate than if they were not taxed. The argument is that that would immediately impose on the people of the municipalities issuing the bonds an additional tax burden, which would have to be met by payments out of their pockets in the form of added interest on the bonds, or whatever security was issued.

Mr. HITCHCOCK. The authorities seem to agree on one point—namely, that the difference would not be so great that any harm would come to the municipalities issuing the bonds, for the reason that the tax income derived would offset the higher rate of interest. But that is an assumption which is hard to prove, and there is argument on both sides.

So far as fairness is concerned, I think all securities which are now tax exempt should be taxed equally, and that the salaries of Federal employees and the salaries of State employees should be taxed fairly.

Mr. BONE. I take it that the Senator has discussed the decision of the Supreme Court interpreting the words "from whatever source derived."

Mr. HITCHCOCK. Yes.

Mr. BONE. Of course, the conclusion that is urged is that it would be destructive to one of the governments under our dual system of government for one of them to be able to tax the instrumentalities of the other, on the theory that that would in some fashion modify our form of government.

It has seemed to me that that completely overlooks the whole doctrine, which is equally fundamental, that the people of this country have a right to change their form of government by orderly means if they wish to.

Mr. HITCHCOCK. If they so desire.

Mr. BONE. The people of the United States voted on the words "from whatever source derived," and if they changed our form of government the people of the United States had the right to make that change, Supreme Court or no Supreme Court. I do not know whether or not the Senator agrees with that conclusion.

Mr. HITCHCOCK. I do.

Mr. BONE. It seems to me that in logic it is inescapable that the people of this country and not the Supreme Court are the masters of America, and if they desire to change this system of government so that one instrumentality may tax the other, the people of the United States have a right to lay down that principle of law. I have always believed that, and I hope the Senator arrives at the same conclusion.

Mr. HITCHCOCK. I do.

The PRESIDING OFFICER (Mr. SCHWARTZ in the chair). The clerk will state the first amendment of the Committee on Finance.

The first amendment of the Committee on Finance was, under the heading "Title I—Income Tax—Subtitle A—Introductory Provisions", on page 8, after line 24, to strike out:

(j) Mutual investment companies, supplement Q.

The amendment was agreed to.

The next amendment was, under the subhead "Subtitle B—General provisions—Part I—Rates of tax," on page 14, line 16, after the word "gains", to insert "or losses"; in line 18, after the word "gain", to insert "or loss", and in line 19, after the word "than", to strike out "1 year" and insert "18 months", so as to read:

(c) Tax in case of capital gains or losses: For rate and computation of alternative tax in lieu of normal tax and surtax in the case of a capital gain or loss from the sale or exchange of capital assets held for more than 18 months, see section 117 (c).

The amendment was agreed to.

The next amendment was, on page 14, line 23, after the word "section", to strike out "105" and insert "104", so as to read:

(d) Sale of oil or gas properties: For limitation of surtax attributable to the sale of oil or gas properties, see section 104.

The amendment was agreed to.

The next amendment was, on page 15, after line 3, under the heading "Tax on corporations in general", to strike out down to and including line 16, on page 21, and in lieu thereof to insert a new section.

Mr. HARRISON. Mr. President, the Senator from Kentucky [Mr. BARKLEY] asked me to request that that amendment be passed over for the present.

The VICE PRESIDENT. Without objection, the amendment will be temporarily passed over.

The clerk will state the next amendment reported by the committee.

The next amendment was, under the subhead "Part II—Computation of net income", on page 22, line 19, after the word "income", to strike out the comma and "see section 13 (a); for definition of 'special class net income', see section 14 (a)" and insert "and 'normal-tax net income', see section 13 (a)", so as to read:

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" and "normal-tax net income," see section 13 (a).

The amendment was agreed to.

The next amendment was, on page 27, line 24, after the word "section", to strike out "28" and insert "363", so as to read:

(h) Consent dividends: For inclusion in gross income of amounts specified in shareholders' consents, see section 363.

The amendment was agreed to.

The next amendment was, on page 31, line 7, after the numerals "117" to strike out "(d)"; so as to read:

(1) Limitation: Losses from sales or exchanges of capital assets shall be allowed only to the extent provided in section 117.

The amendment was agreed to.

The next amendment was, on page 31, line 11, after the word "shall" to insert a comma and "in the case of a taxpayer other than a corporation," and in line 14, after the word "the", to strike out "first" and insert "last", so as to read:

(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, in the case of a taxpayer other than a corporation, for the purposes of this title, be considered as a loss from the sale or exchange, on the last day of such taxable year, of capital assets.

The amendment was agreed to.

The next amendment was, on page 32, after line 9, to strike out:

(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.

And in lieu thereof to insert the following:

(1) General rule: Debts 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); and when satisfied that a debt 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. This paragraph shall not apply in the case of a taxpayer other than a corporation with respect to a debt evidenced by a security as defined in paragraph (3).

(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, in the case of a taxpayer other than a corporation, for the purposes of this title, be considered as a loss from the sale or exchange, on the last day of such taxable year, of capital assets.

The amendment was agreed to.

The next amendment was, on page 37, line 6, after the word "Secretary", to strike out "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", so as to read:

(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. (For unlimited deduction if contributions and gifts exceed 90 percent of the net income, see section 120.)

The amendment was agreed to.

The next amendment was, on page 39, line 15, after the word "Secretary", to strike out "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", so as to read:

(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 such 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 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.

(r) For deduction of dividends paid by certain banking corporations, see section 121.

The amendment was agreed to.

The next amendment was, on page 48, after line 13, to strike out:

(c) Net operating loss of preceding year:

(1) Amount of credit: The amount of the net operating loss (as defined in par. (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.

The amendment was agreed to.

The next amendment was, on page 49, after line 10, to strike out:

(d) Bank affiliates: In the case of a holding company affiliate (as defined in sec. 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.

The amendment was agreed to.

The next amendment was, on page 49, after line 23, to insert:

(c) Dividends paid credit: For corporation dividends paid credit, see section 361.

The amendment was agreed to.

The next amendment was, at the top of page 50, to insert:

(d) Net operating loss credit: For corporation net operating loss credit, see section 361 (d).

The amendment was agreed to.

The next amendment was, on page 50, after line 2, to insert:

(e) Bank affiliate credit: For bank affiliate credit, see section 361 (e).

The amendment was agreed to.

The next amendment was, on page 50, after line 4, to insert:

(f) Consent dividends credit: For corporation consent dividends credit, see section 363.

The amendment was agreed to.

The next amendment was, on page 50, after line 6, to strike out:

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 an 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.

The amendment was agreed to.

The next amendment was, on page 54, after line 6, to strike out:

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.

The amendment was agreed to.

The next amendment was, under the subhead "Part IV. Accounting Periods and Methods of Accounting", on page 62, line 16, after the word "section", to strike out "27" and insert "361", so as to make the section read:

SEC. 43. Period for which deductions and credits taken.

The deductions and credits (other than the corporation dividends paid credit provided in sec. 361) 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 sec. 23 (o)) if not otherwise properly allowable in respect of such period or a prior period.

The amendment was agreed to.

The next amendment was, under the subhead "Part V. Returns and Payment of Tax", on page 69, line 17, after the word "make", to strike out "under oath a return stating" and insert "a return, which shall contain or be verified by a written declaration that it is made under the penalties of perjury, stating", so as to read:

(a) Requirement: The following individuals shall each make a return, which shall contain or be verified by a written declaration that it is made under the penalties of perjury, 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.

The amendment was agreed to.

The next amendment was, on page 71, after line 10, to insert:

(d) Signature presumed correct: The fact that an individual's name is signed to a filed return shall be prima facie evidence for all purposes that the return was actually signed by him.

The amendment was agreed to.

The next amendment was, on page 71, after line 14, to insert:

(e) Penalty for filing untrue return: For penalties in case of untrue return, see section 145.

The amendment was agreed to.

The next amendment was, on page 78, line 6, after the word "Commissioner", to strike out the comma and "with the approval of the Secretary,", and in line 19, after the word "section),", to strike out "was a" and insert "was, under the law applicable to such taxable year, a", so as to read:

(2) Liquidation of personal holding companies: At the request of the taxpayer, the Commissioner 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, under the law applicable to such taxable year, 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 extension.

The amendment was agreed to.

The next amendment was, under the subhead "Subtitle C—Supplemental provisions—Supplement A—Rates of tax", on page 88, after line 18, to strike out:

(b) Prima facie evidence: The fact that any corporation is a mere holding or investmnt 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.

And in lieu thereof to insert:

(b) Prima facie evidence: The fact that any corporation is a mere holding or investment company, or that the earnings or of a purpose to avoid surtax upon shareholders.

The amendment was agreed to.

The next amendment was, on page 89, after line 2, to insert:

(c) Evidence determinative of purpose: The fact that the earnings or profits of a corporation are permitted to accumulate beyond the reasonable needs of the business shall be determinative of the purpose to avoid surtax upon shareholders unless the corporation by the clear preponderance of the evidence shall prove to the contrary.

The amendment was agreed to.

The next amendment was, on page 89, line 24, after the word "specified." to strike out: "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.", so as to read:

(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.

The amendment was agreed to.

The next amendment was, on page 90, line 11, after the word "section" to strike out "27" and insert "361", and in line 12, after the word "section" to strike out "27" and insert "361", so as to read:

(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 361 (b), but the computation of such credit under section 361 (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.

The amendment was agreed to.

The next amendment was, on page 90, line 25, after the numerals "13," to strike out "14,"; on page 91, line 1, before the word "shall", to strike out "231 (a), and 362" and insert "231 (a)"; in line 6, after the numerals "13", to strike out "14", and in line 7, before the word "as" to strike out "231 (a), or 362" and insert "or 231 (a)"; so as to make the section read:

Sec. 103. Rates of tax on citizens and corportions 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, 201 (b), 204 (a), 207, 211 (a), and 231 (a) 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, 201 (b), 204 (a), 207, 211 (a), or 231 (a), 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.

The amendment was agreed to.

The next amendment was, on page 91, after line 20, to strike out:

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).

The amendment was agreed to.

The next amendment was, on page 92, line 11, to change the section number from 105 to 104.

The amendment was agreed to.

The next amendment was, under the subhead "Supplement B—Computation of net income", on page 98, after line 21, to insert:

(7) Exchanges and distributions in obedience to orders of Securities and Exchange Commission: In the case of any exchange or distribution described in section 371, no gain or loss shall be recognized to the extent specified in such section with respect to such exchange or distribution.

The amendment was agreed to.

The next amendment was, on page 105, line 22, after the word "death", to strike out "was a" and insert "was, under the law applicable to such year, a", so as to read:

(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, under the law applicable to such year, 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.

The amendment was agreed to.

The next amendment was, on page 106, line 7, before the word "of", to insert "or (17)"; so as to read:

(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) or (17) 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.

The amendment was agreed to.

The next amendment was, on page 112, line 14, after the word "transferor" and the period, to insert: "The basis of property with respect to which election has been made in pursuance of the last sentence of section 113 (a) (15) of the Revenue Act of 1936, as amended, shall, in the hands of the corporation making such election, be the basis prescribed in the Revenue Act of 1934, as amended." so as to read:

(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. The basis of property with respect to which election has been made in pursuance of the last sentence of section 113 (a) (15) of the Revenue Act of 1936, as amended, shall, in the hands of the corporation making such election, be the basis prescribed in the Revenue Act of 1934, as amended.

The amendment was agreed to.

The next amendment was, on page 113, after line 2, to insert:

(17) Property acquired in connection with exchanges and distributions in obedience to certain orders of Securities and Exchange Commission: If the property was acquired in any manner described in section 372, the basis shall be that prescribed in such section with respect to such property.

The amendment was agreed to.

The next amendment was, on page 115, line 5, after the word "section", to strike out the numerals "28" and insert "363", and in line 7, after the word "section", to strike out the numerals "28" and insert "363", so as to read:

(F) to the extent provided in section 363 (h) in the case of amounts specified in a shareholder's consent made under section 363.

The amendment was agreed to.

The next amendment was, on page 121, line 10, after the word "exceeding", to strike out "two" and insert "three", and in line 12, after the word "plan" and the period, to strike out "In the case of amounts distributed (whether before January 1, 1934, or on or after such date) in partial liquidation (other than a distribution within the provisions of subsection (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" and insert "In the case of amounts distributed (whether before January 1, 1938, or on or after such date) in partial liquidation (other than a distribution to which the provisions of subsection (h) of this section are applicable) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits", and on page 122, line 11, after the word "net", to strike out "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 January 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," and insert "income, unless such liquidation is completed before July 1, 1939," so as to read:

(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 3 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 January 1, 1938, or on or after such date) in partial liquidation (other than a distribution to which the provisions of subsection (h) of this section are applicable) 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, unless such liquidation is completed before July 1, 1939.

The amendment was agreed to.

The next amendment was, on page 124, line 25, after the word "stock", to strike out:

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.

And in lieu thereof to insert:

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, of stock or securities in another corporation, or of property or money, 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, property or money, was recognized by law, or.

So as to read:

(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, of stock or securities in another corporation, or of property or money, 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, property or money, 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.

The amendment was agreed to.

The next amendment was, on page 126, line 14, after the word "section", to strike out "28" and insert "363", so as to read:

(k) Consent distributions: For taxability as dividends of amounts agreed to be included in gross income by shareholders' consents, see section 363.

The amendment was agreed to.

The next amendment was, on page 133, line 4, after the word "means", insert "recognized"; and in line 6, after the word "than", to strike out "1 year, if and to the extent such gain is taken into account in computing net income" and insert "18 months", so as to read:

(2) Short-term capital gain: The term "short-term capital gain" means the recognized gain from the sale or exchange of a capital asset held for not more than 18 months.

The amendment was agreed to.

The next amendment was, on page 133, in line 9, after the word "means", insert "the recognized", and in line 11, after the word "than", to strike out "1 year, if and to the extent such loss is taken into account in computing net income" and insert "18 months", so as to read:

(3) Short-term capital loss: The term "short-term capital loss" means the recognized loss from the sale or exchange of a capital asset held for not more than 18 months.

The amendment was agreed to.

The next amendment was, on page 133, in line 15, after the word "means" to insert "the recognized", and in line 17, after the word "than" to strike out "one year, if and to the extent such gain is taken into account in computing net income" and insert "18 months", so as to read:

(4) Long-term capital gain: The term "long-term capital gain" means the recognized gain from the sale or exchange of a capital asset held for more than 18 months.

The amendment was agreed to.

The next amendment was, on page 133, in line 20, after the word "means" insert "the recognized", and in line 22, after the word "than" to strike out "one year, if and to the extent such loss is taken into account in computing net income" and insert "18 months", so as to read:

(5) Long-term capital loss: The term "long-term capital loss" means the recognized loss from the sale or exchange of a capital asset held for more than 18 months.

The amendment was agreed to.

The next amendment was, on page 134, line 12, after the words "over the" strike out "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)" and insert "long-term capital losses for such year"; so as to read:

(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 long-term capital losses for such year.

The amendment was agreed to.

The next amendment was, on page 134, line 23, after the word "only" to strike out "the following percentages of the gain or loss" and insert "50 percent of the long-term capital gains or 50 percent of the long-term capital losses"; on page 135, line 2, after the word "net" to strike out "incomes" and the colon, and insert the word "income.", and after line 2 to strike out:

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

So as to read:

(b) Percentage taken into account: In the case of a taxpayer, other than a corporation, only 50 percent of the long-term capital gains or 50 percent of the long-term capital losses recognized upon the sale or exchange of a capital asset shall be taken into account in computing net income.

The amendment was agreed to.

The next amendment was, on page 135, line 3, after the word "Alternative", to strike out "Tax in case of net long-term capital gains" and insert "Taxes"; at the beginning of

line 5, to insert "(1) In case of net long-term capital gain"; on page 136, line 7, after the word "by", to insert "50 percent of"; in line 11, after the word "plus", to strike out "40" and insert "15"; and after line 12, to insert:

(2) In case of net long-term capital loss: If for any taxable year a taxpayer (other than a corporation) sustains a net long-term capital loss, 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 greater than the tax imposed by such sections:

A partial tax shall first be computed upon the net income increased by 50 percent of the amount of the net long-term capital loss, at the rates and in the manner as if this subsection had not been enacted, and the total tax shall be the partial tax minus 15 percent of the net long-term capital loss.

So as to read:

(c) Alternative taxes:

(1) In case of net long-term capital gain: 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 50 percent of 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 15 percent of the net long-term capital gain.

(2) In case of net long-term capital loss: If for any taxable year a taxpayer (other than a corporation) sustains a net long-term capital loss, 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 greater than the tax imposed by such sections:

A partial tax shall first be computed upon the net income increased by 50 percent of the amount of the net long-term capital loss, at the rates and in the manner as if this subsection had not been enacted, and the total tax shall be the partial tax minus 15 percent of the net long-term capital loss.

The amendment was agreed to.

The next amendments were, on page 137, line 23, after the words "than a", strike out "corporation"; on page 138, line 1, to strike out the words "(a) Short term" and insert the words "corporation, short-term"; and after line 3 to strike out:

(B) Long-term capital losses shall be allowed only to the extent of $2,000 plus long-term capital gains.

So as to read:

(2) Other taxpayers: In the case of a taxpayer other than a corporation, short-term capital losses shall be allowed only to the extent of short-term capital gains.

The amendment was agreed to.

The next amendment was, on page 138, to strike out lines 7, 8, and 9, as follows:

(e) Net capital loss carry-over.
(1) Net short-term capital loss carry-over.

The amendment was agreed to.

The next amendment was, on page 138, line 10, to insert "(e) Net short-term capital loss carry-over", so as to read:

(e) 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.

The amendment was agreed to.

The next amendment was, on page 138, after line 16, to strike out:

(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 in 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.

The amendment was agreed to.

The next amendment was, on page 140, line 17, after "1932", to insert the words "or under the provisions of section 371 (c) of this act", so as to read:

(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, or under the provisions of section 371 (c) of this act, 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.

The amendment was agreed to.

The next amendment was, on page 149, in line 18, after "section 23 (o)", to insert "(or corresponding provisions of prior revenue acts)", and in line 23, after the word "of", to strike out "section 23 (o), then the 15 percent limit imposed by such section shall not be applicable" and insert "the applicable subsection, then the 15-percent limit imposed by section 23 (o) shall not be applicable", so as to make the section read:

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) (or corresponding provisions of prior revenue acts) 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 the applicable subsection, then the 15-percent limit imposed by section 23 (o) shall not be applicable.

The amendment was agreed to.

The next amendment was, on page 150, line 18, after the word "within", to strike out "such" and insert "the"; and in line 24, after the word "section", to strike out "27" and insert "361 (b)", so as to make the section read:

SEC. 121. Deduction of dividends paid on certain preferred stock of 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 the 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 361 (b).

The amendment was agreed to.

The next amendment was, under the subhead "Supplement C—Credits against tax," on page 156, line 7, after the word "section", to strike out "262" and insert "261", so as to read:

(2) A corporation organized under the China Trade Act, 1922, and entitled to the credit provided for in section 261.

The amendment was agreed to.

The next amendment was, under the subhead "Supplement D—Returns and payments of tax", on page 158, in line 21, after the word "includes", to strike out "a street, suburban, or interurban electric railway" and insert "a suburban or interurban electric railway, or a street or suburban electric railway, trackless trolley, or bus system of transportation", so as to read:

(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 percent 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 suburban or interurban electric railway or a street or suburban electric railway, trackless trolley, or bus system of transportation.

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.

The amendment was agreed to.

The next amendment was, on page 160, after line 9, to strike out:

(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.

The amendment was agreed to.

The next amendment was, on page 161, line 20, after the word "is" to strike out "$50" and insert "$100", so as to make the section read:

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 $100 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 of 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.

The amendment was agreed to.

The next amendment was, in "Sec. 144. Payment of corporation income tax at source", on page 169, after line 6, to insert:

(c) Any individual who willfully makes and subscribes a return which he does not believe to be true and correct as to every material matter, shall be guilty of a felony, and, upon conviction thereof, shall be subject to the penalties prescribed for perjury in section 125 of the Criminal Code.

The amendment was agreed to.

The next amendment was, in "Sec. 148. Information by corporations", on page 176, line 11, to strike out "The Secretary of the Treasury shall submit an annual report to Congress compiled from the returns made containing the names of, and amounts paid to, each such officer and employee and the name of the paying corporation, and the same shall be made available to the public through the Department of the Treasury" and insert "The Secretary of the Treasury shall compile from the returns made, a list containing the names of, and the amounts paid to, each such officer and employee and the name of the paying corporation, and shall make such list available to the public", so as to read:

(f) Compensation of officers and employees: Under regulations prescribed by the Commissioner with the approval of the Secretary, every corporation subject to taxation under this title shall, in its return, submit a list of the names of all officers and employees of such corporation and the respective amounts paid to them during the taxable year of the corporation by the corporation as salary, commission, bonus, or other compensation for personal services rendered, if the aggregate amount so paid to the individual is in excess of $75,000. The Secretary of the Treasury shall compile from the returns made a list containing the names of, and the amounts paid to, each such officer and employee and the name of the paying corporation, and shall make such list available to the public.

The amendment was agreed to.

The next amendment was, in subhead "Supplement E—Estates and trusts", page 180, line 21, after the word "of", to strike out "$50" and insert "$100", so as to make the section read:

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 $100 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 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.

The amendment was agreed to.

The next amendment was, on page 182, line 5, after the word "impossible", to insert "at any time prior to the satisfaction of all liabilities with respect to employees under the trust", so as to make the section read:

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, at any time prior to the satisfaction of all liabilities with respect to employees under the trust, 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.

The amendment was agreed to.

The next amendment was, in "Sec. 169. Common trust funds", on page 184, line 20, after the word "bank", to strike out "(as defined in section 104)", so as to read:

(1) The term "common trust fund" means a fund maintained by a bank.

The amendment was agreed to.

The next amendment was, in "Sec. 369. Common trust funds", on page 185, after line 5, to insert:

(2) 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.

The amendment was agreed to.

The next amendment was, on page 187, line 19, after the word "bank", to strike out "(as defined in section 104)", so as to read:

(f) Returns by bank: Every bank 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.

The amendment was agreed to.

The next amendment was, under the subhead "Supplement G—Insurance companies", page 193, line 6, after the word "by", to strike out "sections 13 and 14" and insert "section 13"; in line 7, after the word "the", to strike out "special class" and insert "normal-tax"; and in line 19, after the words "tax of", to strike out "16" and insert "18", so as to read:

(1) In general: In lieu of the tax imposed by section 13, there shall be levied, collected, and paid for each taxable year upon the normal-tax net income of every life-insurance company a tax of 18 percent of the amount thereof.

The amendment was agreed to.

The next amendment was, on page 193, line 10, to strike out "special class" and insert "normal-tax net income of foreign life insurance companies"; in line 12, after the word "the", to strike out "special class" and insert "normal-tax"; in line 14, after the words "to the", to strike out "special class" and insert "normal-tax", so as to read:

(2) Normal-tax net income of foreign life insurance companies: In the case of a foreign life insurance company, the normal-tax net income shall be an amount which bears the same ratio to the normal-tax 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.

The amendment was agreed to.

The next amendment was, on page 194, line 8, after the word "section", to strike out "28" and insert "363", so as to make the section read:

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 363.

(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.

The amendment was agreed to.

The next amendment was, in "Sec. 204. Insurance Companies Other Than Life or Mutual", on page 197, line 17, after the word "by", to strike out "sections 13 and 14" and insert "section 13"; in line 18, after the word "the", to strike out "special class" and insert "normal-tax"; and in line 21, after the words "tax of", to strike out "16" and insert "18", so as to read:

(1) In general: In lieu of the tax imposed by section 13, there shall be levied, collected, and paid for each taxable year upon the normal-tax net income of every insurance company (other than a life or mutual insurance company) a tax of 18 percent of the amount thereof.

The amendment was agreed to.

The next amendment was, on page 197, after line 22, to strike out:

(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).

And in lieu thereof to insert:

(2) Net income of foreign companies: In the case of a foreign insurance company (other than a life or mutual company), the net income shall be net income from sources within the United States.

The amendment was agreed to.

The next amendment was, on page 203, line 9, after the word "the", to strike out "special class" and insert "normal-tax"; in line 12, after the word "to", to strike out "16 percent thereof, regardless of the amount thereof" and insert "18 percent thereof", so as to read:

(1) In general: There shall be levied, collected, and paid for each taxable year upon the normal-tax net income of every mutual insurance company (other than a life-insurance company) a tax equal to 18 percent thereof.

The amendment was agreed to.

The next amendment was, under the subhead "Supplement H—Nonresident alien individuals", in "Sec. 211. Tax on nonresident alien individuals", on page 206, line 2, after the word "section", to strike out "82" and insert "363", so as to read:

(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 363.

The amendment was agreed to.

The next amendment was, under the subhead "Supplement I—Foreign corporations," in "Sec. 231. Tax on foreign corporations", on page 212, line 23, after the word "by", to strike out "sections 13 and 14" and insert "section 13", and on page 213, line 13, after the word "section", to strike out "28" and insert "363", so as to read:

(a) Nonresident corporations: There shall be levied, collected, and paid for each taxable year, in lieu of the tax imposed by section 13, 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 363.

The amendment was agreed to.

The next amendment was, on page 213, line 17, after the word "section", to strike out "14 (c) (1)" and insert "13", so as to read:

(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 13.

The amendment was agreed to.

The next amendment was, under the subhead "Supplement J—Possessions of the United States", on page 217, in line 22, to strike out:

(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.

The amendment was agreed to.

The next amendment was, under the subhead "Supplement K—China Trade Act corporations", on page 220, after line 11, to strike out:

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.

The amendment was agreed to.

The next amendment was, on page 220, line 17, after the word "sections", to strike out "14" and insert "13"; on page 221, line 8, after the word "section", to strike out "14" and insert "13"; and in line 15, after the word "section", to strike out "14" and insert "13", so as to read:

(a) Allowance of credit: For the purpose only of the taxes imposed by sections 13 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 sec. 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 13 (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 13.

The amendment was agreed to.

The next amendment was, on page 228, line 24, after the word "Commission", to strike out "with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax)" and insert "under regulations prescribed by the Commissioner, with the approval of the Secretary", and on page 229, line 12, after the word "extension", to insert a period and "No extension shall be granted if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax", so as to read:

(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, under regulations prescribed by the Commissioner, with the approval of the Secretary, 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. No extension shall be granted if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

The amendment was agreed to.

The next amendment was, on page 230, line 19, after the words "Tax Appeals," to insert "The Commissioner may, at any time before the decision of the Board is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amounts.", and in line 23, after the word "assessment," to insert "or abatement", so as to read:

(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 may, at any time before the decision of the Board is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Commissioner shall notify the Board of the amount of such assessment, or abatement, 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.

The amendment was agreed to.

The next amendment was, on page 231, line 24, after "section 297" to insert "If any portion of the jeopardy assessment is abated by the Commissioner before the decision of the Board is rendered, the bond shall, at the request of the taxpayer, be proportionately reduced", so as to read:

(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. If any portion of the jeopardy assessment is abated by the Commissioner before the decision of the Board is rendered, the bond shall, at the request of the taxpayer, be proportionately reduced.

The amendment was agreed to.

The next amendment was, on page 237, after line 2, to insert:

(e) Distributions in liquidation to shareholders: If the taxpayer omits from gross income an amount properly includible therein under section 115 (c) as an amount distributed in liquidation of a corporation, other than a foreign personal holding company, 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 4 years after the return was filed.

The amendment was agreed to.

The next amendment was, on page 237, at the beginning of line 11, to strike out "(e)" and insert "(f)" and in line 12, after "(c)", to strike out "and (d)" and insert "(d), and (e)", so as to read:

(f) For the purposes of subsections (a), (b), (c), (d), and (e), a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

The amendment was agreed to.

The next amendment was, on page 260, line 21, after the word "section", to strike out "27" and to insert "361", and in line 22, after the word "section", to strike out "27" and to insert "361", so as to make the section read:

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 sec. 336) minus the amount of the basic surtax credit provided in section 361 (b) (computed without its reduction, under sec. 361 (b) (1), by the amount of the credit provided in sec. 26 (a), relating to interest on certain obligations of the United States and Government corporations).

The amendment was agreed to.

The next amendment was, in section 336, page 262, line 3, after the word "shareholder", to strike out:

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.

So as to read:

(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).

The amendment was agreed to.

The next amendment was, in section 337, page 264, line 15, after the figures "13", to strike out "14"; and in line 16, after the figures "204", to strike out "207, or 362"; and to insert "or 207", so as to make the section read:

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 section 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 section 11, 13, 201, 204, or 207, 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 of 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).

The amendment was agreed to.

The next amendment was, on page 270, after line 19, to strike out:

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 IA, 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 corporation, 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 the 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 amendment was agreed to.

The next amendment was, at the top of page 273, to insert:

SUPPLEMENT Q—CORPORATION CREDITS ON ACCOUNT OF DIVIDENDS

SEC. 361. 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 363, 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 credit provided in subsection (d);

(3) The bank affiliate credit provided in subsection (e).

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) Net operating loss of preceding year:

(1) Amount of credit: The net operating loss credit shall be 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.

(e) Bank affiliates: In the case of a holding company affiliate (as defined in section 2 of the Banking Act of 1933), the bank affiliate credit shall be 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 beginning after December 31, 1935, 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.

The amendment was agreed to.

The next amendment was, on page 276, after line 12, to insert:

SEC. 362. Dividends included in basic surtax credit.

(a) Dividends in kind: If a dividend is paid in property other than money (including stock of the corporation if held by the corporation as an 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.

(b) 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 of any such dividend paid in any taxable year of the corporation beginning after December 31, 1935, is lower than the face value, then when the obligation is redeemed by the corporation in a taxable year of the corporation beginning after December 31, 1937, 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.

(c) 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.

(d) 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.

(e) 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. 363 (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 363.

(f) 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.

The amendment was agreed to.

The next amendment was, on page 278, after line 19, to insert:

SEC. 363. 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 whether beginning on, before, or after, January 1, 1938) 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 or its equivalent 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 shareholders' 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.

The amendment was agreed to.

The next amendment was, on page 285, after line 8, to insert:

SUPPLEMENT R—EXCHANGES AND DISTRIBUTIONS IN OBEDIENCE TO ORDERS OF SECURITIES AND EXCHANGE COMMISSION

SEC. 371. Nonrecognition of gain or loss.

(a) Exchanges of stock or securities only: No gain or loss shall be recognized to the transferor if stock or securities in a corporation which is a registered holding company or a majority-owned subsidiary company are transferred to such corporation or to an associate company thereof which is a registered holding company or a majority-owned subsidiary company solely in exchange for stock or securities (other than stock or securities which are nonexempt property), and the exchange is made by the transferee corporation in obedience to an order of the Securities and Exchange Commission.

(b) Exchanges of property for property by corporations: No gain or loss shall be recognized to a transferor corporation which is a registered holding company or an associate company of a registered holding company, if such corporation, in obedience to an order of the Securities and Exchange Commission transfers property solely in exchange for property (other than nonexempt property), and such order recites that such exchange by the transferor corporation is necessary or appropriate to the integration or simplification of the holding company system of which the transferor corporation is a member.

(c) Distribution of stock or securities only: If there is distributed, in obedience to an order of the Securities and Exchange Commission, to a shareholder in a corporation which is a registered holding company or a majority-owned subsidiary company, stock or securities (other than stock or securities which are nonexempt property), without the surrender by such shareholder of stock or securities in such corporation, no gain to the distributee from the receipt of the stock or securities so distributed shall be recognized.

(d) Transfers within system group: (1) No gain or loss shall be recognized to a corporation which is a member of a system group (A) if such corporation transfers property to another corporation which is a member of the same system group in exchange for other property or money, and the exchange by each corporation is made in obedience to an order of the Securities and Exchange Commission, or (B) if there is distributed to such corporation as a shareholder in a corporation which is a member of the same system group, property or money, without the surrender by such shareholder of stock or securities in the corporation making the distribution, and the distribution is made and received in obedience to an order of the Securities and Exchange Commission. If an exchange by or a distribution to a corporation with respect to which no gain or loss is recognized under any of the provisions of this paragraph may also be considered to be within the provisions of subsection (a), (b), or (c), then the provisions of this paragraph only shall apply.

(2) If the property received upon an exchange which is within any of the provisions of paragraph (1) of this subsection consists in whole or in part of stock or securities issued by the corporation from which such property was received, and if in obedience to an order of the Securities and Exchange Commission such stock or securities (other than stock which is not preferred as to both dividends and assets) are sold and the proceeds derived therefrom are applied in whole or in part in the retirement or cancelation of stock or of securities of the recipient corporation outstanding at the time of such exchange, no gain or loss shall be recognized to the recipient corporation upon the sale of the stock or securities with respect to which such order was made; except that if any part of the proceeds derived from the sale of such stock or securities is not so applied, or if the amount of such proceeds is in excess of the fair market value of such stock or securities at the time of such exchange, the gain, if any, shall be recognized, but in an amount not in excess of the proceeds which are not so applied, or in an amount not more than the amount by which the proceeds derived from such sale exceed such fair market value, whichever is the greater.

(e) Exchanges not solely in kind: (1) If an exchange (not within any of the provisions of subsection (d)) would be within the provisions of subsection (a) or (b) if it were not for the fact that property received in exchange consists not only of property permitted by such subsection to be received without the recognition of gain or loss, 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, and the loss, if any, to the recipient shall not be recognized.

(2) If an exchange is within the provisions of paragraph (1) of this subsection and if it includes a distribution which 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 such 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 such paragraph (1) shall be taxed as a gain from the exchange of property.

(f) Application of section: The provisions of this section shall not apply to an exchange or distribution unless (1) the order of the Securities and Exchange Commission in obedience to which such exchange or distribution was made recites that such exchange or distribution is necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, (2) such order specifies and itemizes the stock and securities and other property which are ordered to be transferred and received upon such exchange or distribution, and (3) such exchange or distribution was made in obedience to such order and was completed within the time prescribed therefor in such order.

(g) Nonapplication of other provisions: If an exchange or distribution made in obedience to an order of the Securities and Exchange Commission is within any of the provisions of this section and may also be considered to be within any of the provisions of section 112 (other than the provisions of paragraph (7) of subsection (b)), then the provisions of this section only shall apply.

The amendment was agreed to.

The next amendment was, on page 290, after line 4, to insert:

SEC. 372. Basis for determining gain or loss.

(a) Exchanges generally: If the property was acquired upon an exchange subject to the provisions of section 371 (a), (b), or (e), the basis 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 371 (a) or (b) to be received without the recognition of gain or loss, and in part of nonexempt property, the basis provided in this subsection shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such nonexempt property (other than money) an amount equivalent to its fair market value at the date of the exchange. This subsection 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.

(b) Transfers to corporations: If, in connection with a transfer subject to the provisions of section 371 (a), (b), or (e), the property was acquired by a corporation, either as paid-in surplus or as a contribution to capital, or in consideration for stock or securities issued by the corporation receiving the property (including cases where part of the consideration for the transfer of such property to the corporation consisted of property or money in addition to such stock or securities), 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.

(c) Distributions of stock or securities: If the stock or securities were received in a distribution subject to the provisions of section 371 (c), then the basis in the case of the stock in respect of which the distribution was made shall be apportioned, under rules and

regulations prescribed by the Commissioner with the approval of the Secretary, between such stock and the stock or securities distributed.

(d) Transfers within system group: If the property was acquired by a corporation which is a member of a system group, and if gain or loss to such corporation from the receipt of such property was not recognized by virtue of the provisions of section 371 (d), then the basis shall be the same as it would be in the hands of the transferor; except that if such property is stock or securities issued by the corporation from which such stock or securities were received and they were issued (1) as the sole consideration for the property transferred to such corporation, then the basis of such stock or securities shall be either (A) the same as in the case of the property transferred therefor, or (B) the fair market value of such stock or securities at the time of their receipt, whichever is the lower; or (2) as part consideration for the property transferred to such corporation, then the basis of such stock or securities shall be either (A) an amount which bears the same ratio to the basis of the property transferred as the fair market value of such stock or securities at the time of their receipt bears to the total fair market value of the entire consideration received, or (B) the fair market value of such stock or securities at the time of their receipt, whichever is the lower.

The amendment was agreed to.

The next amendment was, at the top of page 293, to insert:

SEC. 373. Definitions.

As used in this supplement—

(a) The term "order of the Securities and Exchange Commission" means an order (1) issued after the date of enactment of this act and prior to January 1, 1940, by the Securities and Exchange Commission to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, or (2) issued by the Commission subsequent to December 31, 1939, in which it is expressly stated that an order of the character specified in clause (1) is amended or supplemented, and (3) which has become final in accordance with law.

(b) The terms "registered holding company", "holding-company system", and "associate company" shall have the meanings assigned to them by section 2 of the Public Utility Holding Company Act of 1935.

(c) The term "majority-owned subsidiary company" of a registered holding company means a corporation, the stock of which, representing in the aggregate more than 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote (not including stock which is entitled to vote only upon default or nonpayment of dividends or other special circumstances) is owned wholly by such registered holding company, or partly by such registered holding company and partly by one or more majority-owned subsidiary companies thereof, or by one or more majority-owned subsidiary companies of such registered holding company.

(d) The term "system group" means one or more chains of corporations connected through stock ownership with a common parent corporation if—

(1) At least 90 percent of each class of the stock (other than stock which is preferred as to both dividends and assets) 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 90 percent of each class of the stock (other than stock which is preferred as to both dividends and assets) of at least one of the other corporations; and

(3) Each of the corporations is either a registered holding company or a majority-owned subsidiary company.

(e) The term "nonexempt property" means—

(1) Any consideration in the form of a cancelation or assumption of debts or other liabilities (including a continuance of encumbrances subject to which the property was transferred);

(2) Short-term obligations (including notes, drafts, bills of exchange, and bankers' acceptances) having a maturity at the time of issuance of not exceeding 24 months, exclusive of days of grace;

(3) Securities issued or guaranteed as to principal or interest by a government or subdivision thereof (including those issued by a corporation which is an instrumentality of a government or subdivision thereof);

(4) Stock or securities which were acquired after February 28, 1938 unless such stock or securities (other than obligations described as nonexempt property in paragraph (2) or (3)) were acquired in obedience to an order of the Securities and Exchange Commission;

(5) Money, and the right to receive money not evidenced by a security other than an obligation described as nonexempt property in paragraph (2) or (3).

(f) The term "stock or securities" means shares of stock in any corporation, certificates of stock or interest in any corporation, notes, bonds, debentures, and evidences of indebtedness (including any evidence of an interest in or right to subscribe to or purchase any of the foregoing).

The amendment was agreed to.

The next amendment was, under the heading "Title IV—Personal holding companies", in "Sec. 401. Surtax on personal holding companies", on page 297, line 11, after the word "section" where it occurs the second time, to strike out the figures "104" and to insert "169"; and after line 20, to insert:

(c) Corporations making consolidated returns: If the common parent corporation of an affiliated group of corporations making a consolidated return under the provisions of section 141 satisfies the stock ownership requirement provided in section 402 (a) (2), and the income of such affiliated group, determined as provided in section 141, satisfies the gross-income requirement provided in section 402 (a) (1), such affiliated group shall be subject to the surtax imposed by this title.

So as to make the section read:

SEC. 402. Definition of personal holding company.

(a) General rule: For the purposes of this title, and title I, the term "personal holding company" means any corporation if—

(1) Gross income requirement: At least 80 percent of its gross income for the taxable year is personal holding company income as defined in section 403; but if the corporation is a personal holding company with respect to any taxable year beginning after December 31, 1936, then, for each subsequent taxable year, the minimum percentage shall be 70 percent in lieu of 80 percent, until a taxable year during the whole of the last half of which the stock ownership required by paragraph (2) does not exist, or until the expiration of three consecutive taxable years in each of which less than 70 percent of the gross income is personal holding company income; and

(2) Stock ownership requirement: At any time during the last half of 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.

(b) Exceptions: The term "personal holding company" does not include a corporation exempt from taxation under section 101, a bank as defined in section 169, a life insurance company, a surety company, a foreign personal holding company as defined in section 331, or a licensed personal finance company, under State supervision, at least 80 percent of the gross income of which is lawful interest received from individuals each of whose indebtedness to such company did not at any time during the taxable year exceed $300 in principal amount, if such interest is not payable in advance or compounded and is computed only on unpaid balances.

(c) Corporations making consolidated returns: If the common parent corporation of an affiliated group of corporations making a consolidated return under the provisions of section 141 satisfies the stock-ownership requirement provided in section 402 (a) (2), and the income of such affiliated group, determined as provided in section 141, satisfies the gross-income requirement provided in section 402 (a) (1), such affiliated group shall be subject to the surtax imposed by this title.

The next amendment was, in section 405, undistributed Title IA net income, page 304, line 2, after the word "section" to strike out "27" and insert "361"; and in line 3, after the word "section", to strike out "27" and insert "361", so as to read:

(a) The amount of the dividends paid credit provided in section 361 (computed without its reduction, under section 361 (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); but, in the computation of the dividends paid credit for the purposes of this title, the amount allowed under subsection (c) of this section in the computation of the tax under this title for any preceding taxable year shall be considered as a dividend paid in such preceding taxable year and not in the year of distribution;

The amendment was agreed to.

The next amendment was, in section 406, Title IA, net income, on page 306, line 7, after the word "section", to strike out:

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.

The amendment was agreed to.

The next amendment was, in "Sec. 407. Deficiency dividends—Credits and refunds," on page 307, line 23, after the word "Board", to insert "of Tax Appeals"; on page 308, line 2, after the word "amended", to strike out "by section 801 of this act"; on page 309, line 1, after the word "Board", to insert "of Tax Appeals"; in line 4, after the word "amended", to strike out "by section 801 of this act"; in line 22, after the word "thereof", to insert "No interest shall be allowed on such credit or refund"; on page 310, line 1, after the words "may be", to strike out "No interest shall be allowed on such credit or refund", so as to make the section read:

SEC. 407. Deficiency dividends—Credits and refunds.

(a) Credit against unpaid deficiency: If the amount of a deficiency with respect to the tax imposed by this title for any taxable year has been established—

(1) by a decision of the Board of Tax Appeals which has become final; or

(2) by a closing agreement made under section 606 of the Revenue Act of 1928, as amended; or

(3) by a final judgment in a suit to which the United States is a party;

then a deficiency dividend credit shall be allowed against the amount of the deficiency so established and all interest, additional amounts, and additions to the tax provided by law not paid on or before the date when claim for a deficiency dividend credit is filed under subsection (d). The amount of such credit shall be 65 percent of the amount of deficiency dividends, as defined in subsection (c), not in excess of $2,000, plus 75 percent of the amount of such dividends in excess of $2,000; but such credit shall not exceed the portion of the deficiency so established which is not paid on or before the date of the closing agreement, or the date the decision of the Board or the judgment becomes final, as the case may be. Such credit shall be allowed as of the date the claim for deficiency dividend credit is filed.

(b) Credit or refund of deficiency paid: When the Commissioner has determined that there is a deficiency with respect to the tax imposed by this title and the corporation has paid any portion of such asserted deficiency and it has been established—

(1) by a decision of the Board of Tax Appeals which has become final; or

(2) by a closing agreement made under section 606 of the Revenue Act of 1928, as amended; or

(3) by a final judgment in a suit against the United States for refund—

(A) if such suit is brought within 6 months after the corporation became entitled to bring suit, and

(B) if claim for refund was filed within 6 months after the payment of such amount;

that any portion of the amount so paid was the whole or a part of a deficiency at the time when paid, then there shall be credited or refunded to the corporation an amount equal to 65 percent of the amount of deficiency dividends not in excess of $2,000, plus 75 percent of the amount of such dividends in excess of $2,000, but such credit or refund shall not exceed the portion so paid by the corporation. Such credit or refund shall be made as provided in section 322 but without regard to subsection (b) or subsection (c) thereof. No interest shall be allowed on such credit or refund. No credit or refund shall be made under this subsection with respect to any amount of tax paid after the date of the closing agreement, or the date the decision of the Board or the judgment becomes final, as the case may be.

(c) Deficiency dividends:

(1) Definition: For the purpose of this title, the term "deficiency dividends" means the amount of the dividends paid, on or after the date of the closing agreement or on or after the date the decision of the Board or the judgment becomes final, as the case may be, and prior to filing claim under subsection (d), which are includible, for the purposes of title I, in the computation of the basic surtax credit for the year of distribution. No dividends shall be considered as deficiency dividends for the purposes of allowance of credit under subsection (a) unless (under regulations prescribed by the Commissioner with the approval of the Secretary) the corporation files, within 30 days after the date of the closing agreement, or the date upon which the decision of the Board or judgment becomes final, as the case may be, notification (which specifies the amount of the credit intended to be claimed) of its intention to have the dividends so considered.

(2) Effect on dividends paid credit:

(A) For taxable year in which paid: Deficiency dividends paid in any taxable year (to the extent of the portion thereof with respect to which the credit under subsection (a), or the credit or refund under subsection (b), or both, are allowed) shall be subtracted from the basic surtax credit for such year, but only for the purpose of computing the tax under this title for such year and succeeding years.

(B) For prior taxable year: Deficiency dividends paid in any taxable year (to the extent of the portion thereof with respect to which the credit under subsection (a), or the credit or refund under subsection (b), or both, are allowed) shall not be allowed under section 405 (c) in the computation of the tax under this title for any taxable year preceding the taxable year in which paid.

(d) Claim required: No deficiency dividends credit shall be allowed under subsection (a) and no credit or refund shall be made under subsection (b) unless (under regulations prescribed by the Commissioner with the approval of the Secretary) claim therefor is filed within 60 days after the date of the closing agreement, or the date upon which the decision of the Board or judgment becomes final, as the case may be.

(e) Suspension of statute of limitations and stay of collection:

(1) Suspension of running of statute: If the corporation files a notification, as provided in subsection (c), to have dividends considered as deficiency dividends, the running of the statute of limitations provided in section 275 or 276 on the making of assessments and the bringing of distraint or a proceeding in court for collection, in respect of the deficiency and all interest, additional amounts, and additions to the tax provided by law, shall be suspended for a period of 2 years after the date of the filing of such notification.

(2) Stay of collection: In the case of any deficiency with respect to the tax imposed by this title established as provided in subsection (a)—

(A) The collection of the deficiency and all interest, additional amounts, and additions to the tax provided for by law shall, except in cases of jeopardy, be stayed until the expiration of 30 days after the date of the closing agreement, or the date upon which the decision of the Board or judgment becomes final, as the case may be.

(B) If notification has been filed, as provided in subsection (c), the collection of such part of the deficiency as is not in excess of either the credit allowable under subsection (a) or the amount which, in the notification, is specified as intended to be claimed as credit, shall, except in cases of jeopardy, be stayed until the expiration of 60 days after the date of the closing agreement, or the date upon which the decision of the Board or judgment becomes final, as the case may be.

(C) If claim for deficiency dividend credit is filed under subsection (d), the collection of such part of the deficiency as is not in excess of either the credit allowable under subsection (a) or the amount claimed, shall be stayed until the date the claim for credit is disallowed (in whole or in part), and if disallowed in part collection shall be made only of the part disallowed.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (A), (B), or (C) during the period for which the collection of such amount is stayed.

(f) Credit or refund denied if fraud, etc.: No deficiency dividend credit shall be allowed under subsection (a) and no credit or refund shall be made under subsection (b) of the closing agreement, decision of the Board, or judgment contains a finding that any part of the deficiency is due to fraud with intent to evade tax, or to failure to file the return under this title within the time prescribed by law or prescribed by the Commissioner in pursuance of law, unless it is shown that such failure to file is due to reasonable cause and not due to willful neglect.

The amendment was agreed to.

The next amendment was, in "Title II—Estate and gift taxes", on page 314, after line 19, to strike out:

SEC. 501. Estate-tax rates.

(a) The schedule of estate-tax rates set forth in section 301 (a) of the Revenue Act of 1926 is amended to read as follows:

"Upon net estates not in excess of $10,000, 2 percent.

"$200 upon net estates of $10,000; and upon net estates in excess of $10,000 and not in excess of $20,000, 4 percent in addition of such excess.

"$600 upon net estates of $20,000; and upon net estates in excess of $20,000 and not in excess of $30,000, 6 percent in addition of such excess.

"$1,200 upon net estates of $30,000; and upon net estates in excess of $30,000 and not in excess of $40,000, 8 percent in addition of such excess.

"$2,000 upon net estates of $40,000; and upon net estates in excess of $40,000 and not in excess of $50,000, 10 percent in addition of such excess.

"3,000 upon net estates of $50,000; and upon net estates in excess of $50,000 and not in excess of $70,000, 12 percent in addition of such excess.

"$5,400 upon net estates of $70,000; and upon net estates in excess of $70,000 and not in excess of $100,000, 14 percent in addition of such excess.

"$9,600 upon net estates of $100,000; and upon net estates in excess of $100,000 and not in excess of $200,000, 17 percent in addition of such excess.

"$26,600 upon net estates of $200,000; and upon net estates in excess of $200,000 and not in excess of $400,000, 20 percent in addition of such excess.

"$66,600 upon net estates of $400,000; and upon net estates in excess of $400,000 and not in excess of $600,000, 23 percent in addition of such excess.

"$112,600 upon net estates of $600,000; and upon net estates in excess of $600,000 and not in excess of $800,000, 26 percent in addition of such excess.

"$164,600 upon net estates of $800,000; and upon net estates in excess of $800,000 and not in excess of $1,000,000, 29 percent in addition of such excess.

"$222,600 upon net estates of $1,000,000; and upon net estates in excess of $1,000,000 and not in excess of $1,500,000, 32 percent in addition of such excess.

"$382,600 upon net estates of $1,500,000; and upon net estates in excess of $1,500,000 and not in excess of $2,000,000, 35 percent in addition of such excess.

"$557,600 upon net estates of $2,000,000; and upon net estates in excess of $2,000,000 and not in excess of $2,500,000, 38 percent in addition of such excess.

"$747,600 upon net estates of $2,500,000; and upon net estates in excess of $2,500,000 and not in excess of $3,000,000, 41 percent in addition of such excess.

"$952,600 upon net estates of $3,000,000; and upon net estates in excess of $3,000,000 and not in excess of $3,500,000, 44 percent in addition of such excess.

"$1,172,600 upon net estates of $3,500,000; and upon net estates in excess of $3,500,000 and not in excess of $4,000,000, 47 percent in addition of such excess.

"$1,407,600 upon net estates of $4,000,000; and upon net estates in excess of $4,000,000 and not in excess of $4,500,000, 50 percent in addition of such excess.

"$1,657,600 upon net estates of $4,500,000; and upon net estates in excess of $4,500,000 and not in excess of $5,000,000, 53 percent in addition of such excess.

"$1,922,600 upon net estates of $5,000,000; and upon net estates in excess of $5,000,000 and not in excess of $6,000,000, 56 percent in addition of such excess.

"$2,482,600 upon net estates of $6,000,000; and upon net estates in excess of $6,000,000 and not in excess of $7,000,000, 59 percent in addition of such excess.

"$3,072,600 upon net estates of $7,000,000; and upon net estates in excess of $7,000,000 and not in excess of $8,000,000, 61 percent in addition of such excess.

"$3,682,600 upon net estates of $8,000,000; and upon net estates in excess of $8,000,000 and not in excess of $9,000,000, 63 percent in addition of such excess.

"$4,312,600 upon net estates of $9,000,000; and upon net estates in excess of $9,000,000 and not in excess of $10,000,000, 65 percent in addition of such excess.

"$4,962,600 upon net estates of $10,000,000; and upon net estates in excess of $10,000,000 and not in excess of $20,000,000, 67 percent in addition of such excess.

"$11,662,600 upon net estates of $20,000,000; and upon net estates in excess of $20,000,000 and not in excess of $50,000,000, 69 percent in addition of such excess.

"$32,362,600 upon net estates of $50,000,000; and upon net estates in excess of $50,000,000, 70 percent in addition of such excess."

(b) The amendment made by subsection (a) of this section shall be effective only with respect to transfers of estates of decedents dying after December 31, 1939.

(c) Title II of the Revenue Act of 1932, as amended (imposing an estate tax in addition to that imposed by title III of the Revenue Act of 1926), shall not apply to transfers of estates of decedents dying after December 31, 1939.

SEC. 502. Credit of local death taxes on estate tax.

(a) Section 301 (c) of the Revenue Act of 1926, as amended (relating to credit of local estate, inheritance, legacy, and succession taxes against the estate tax), is amended by striking out "80 percent" and inserting in lieu thereof "16½ percent."

(b) The amendment made by subsection (a) of this section shall be effective only with respect to transfers of estates of decedents dying after December 31, 1939.

Sec. 503. Priority of credit for local death taxes.

(a) Section 301 (c) of the Revenue Act of 1926, as amended (relating to credit of local estate, inheritance, legacy, and succession taxes against the estate tax), is amended by striking out "after deducting from such tax the credits provided by subdivision (b)", and inserting in lieu thereof "before deducting from such tax the credits provided by subdivision (b)".

(b) The amendment made by subsection (a) of this section shall be effective only with respect to transfers of estates of decedents dying after the date of the enactment of this act.

Sec. 504. Credit of gift tax on estate tax.

(a) Section 301 (b) of the Revenue Act of 1926, as added by section 801 of the Revenue Act of 1932 (relating to credit of gift tax against the estate tax), is amended to read as follows:

"(b) (1) If upon the death of an individual any amount in respect of a gift made by him is required for the purposes of this title to be included in the value of his gross estate, then there shall be credited against the tax imposed by subdivision (a) of this section the amount of any tax paid under title III of the Revenue Act of 1932, as amended, with respect to so much of the property which constituted the gift as is included in the computation of the total amount of gifts for the purposes of such title III, and as is included in the gross estate, except that the amount of such credit shall not exceed an amount which bears the same ratio to the tax imposed by subdivision (a) of this section (after deducting from such tax the credit provided by subdivision (c)) as the value (determined for the purposes of title III or for the purposes of this title, whichever is lower) of so much of the property which was included for the purposes of such title III as is included in the gross estate, bears to the value of the entire gross estate.

"(2) For the purposes of paragraph (1), the amount of tax paid for any year under title III of the Revenue Act of 1932, as amended, with respect to any property shall be an amount which bears the same ratio to the total tax paid for such year as the value of so much of such property as is included in the computation of the total amount of gifts for the purposes of such title III bears to the total amount of net gifts (computed without deduction of the specific exemption) for such year."

(b) So much of the amendment made by subsection (a) of this section as requires that credits for payment of gift tax shall be deducted after deducting the credit provided by section 301 (c) of the Revenue Act of 1926, as amended by this act shall be effective only with respect to transfers of estates of decedents dying after the date of the enactment of this act.

SEC. 505. Credit of gift tax on additional estate tax.

Section 402 (b) of the Revenue Act of 1932 (relating to credit of gift tax against the additional estate tax) is amended to read as follows:

"(b) (1) If upon the death of an individual any amount in respect of a gift made by him is required for the purposes of this title to be included in the value of his gross estate, then there shall be credited against the tax imposed by section 401 of this act the amount of any tax paid under title III of this act with respect to so much of the property which constituted the gift as is included in the computation of the total amount of gifts for the purposes of such title III, and as is included in the gross estate, except that the amount of such credit (A) shall not exceed an amount which bears the same ratio to the tax imposed by section 401 of this act, as the value (determined for the purposes of such title III or for the purposes of this title, whichever is lower) of so much of the property which was included for the purposes of such title III as is included in the gross estate, bears to the value of the entire gross estate, and (B) shall not exceed the amount by which the gift tax paid under such title III with respect to so much of the property as constituted the gift as is included in the gross estate exceeds the amount of credit under section 301 (b) of the Revenue Act of 1926, as amended.

"(2) For the purposes of paragraph (1), the amount of tax paid for any year under title III of this act with respect to any property shall be an amount which bears the same ratio to the total tax paid for such year as the value of so much of such property as is included in the computation of the total amount of gifts for the purposes of such title III bears to the total amount of net gifts (computed without deduction of the specific exemption) for such year."

SEC. 506. Estate tax specific exemption.

(a) Section 303 (a) (4) of the Revenue Act of 1926 (relating to the specific exemption deductible from value of the gross estate) is amended to read as follows:

"(4) An exemption of $40,000, less the aggregate of the amounts claimed and allowed under section 505 (a) (1) of title III of the Revenue Act of 1932, as amended, as specific exemption for the calendar year 1938 and succeeding calendar years."

(b) The amendment made by subsection (a) of this section shall be effective only with respect to transfers of estates of decedents dying after December 31, 1939.

SEC. 507. Specific exemption for additional estate tax.

(a) Section 401 (c) of title II of the Revenue Act of 1932, as amended, is amended to read as follows:

"(c) For the purposes of this section the value of the net estate shall be determined as provided in title III of the Revenue Act of 1926, as amended, except that in lieu of the exemption of $100,000 provided in section 303 (a) (4) of such act, the exemption shall be $40,000, less the aggregate of the amounts claimed and allowed under section 505 (a) (1) of title III of the Revenue Act of 1932, as amended, as specific exemption for the calendar years 1938 and 1939."

(b) The amendment made by subsection (a) of this section shall be effective only with respect to transfers of estates of decedents dying after the date of the enactment of this act.

SEC. 508. Estate tax returns.

Section 304 (b) of the Revenue Act of 1926, as amended (relating to the amount of gross estate requiring the filing of a return), is amended by striking out "$100,000" and inserting in lieu thereof "the amount of the specific exemption provided in section 303 (a) (4)."

SEC. 509. Returns of additional estate tax.

Section 403 of the Revenue Act of 1932, as amended, relating to returns of the additional estate tax, is amended by striking out "$40,000" and inserting in lieu thereof "the amount of the specific exemption provided in section 401 (c)."

The amendment was agreed to.

The next amendment was, at the top of page 324, to insert:

SEC. 501. Extensions of time for payment of estate tax.

Section 305 (b) of the Revenue Act of 1926, as amended, is amended to read as follows:

"(b) Where the Commissioner finds that the payment on the due date of any part of the amount determined by the executor as the tax would impose undue hardship upon the estate, the Commissioner may extend the time for payment of any such part not to exceed 12 years from the due date. 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, and the running of the statute of limitations for assessment and collection, as provided in sections 310 (a) and 311 (b), shall be suspended for the period of any such extension. If an extension is granted, the Commissioner may, if he deems it necessary, require the executor to furnish security for the payment of the amount in respect of which the extension is granted in accordance with the terms of the extension."

SEC. 502. Rate of interest on extensions of time for payment of estate tax.

Section 305 (b) of the Revenue Act of 1926, as amended, is amended by inserting at the end thereof the following new sentence: "In the case of any such extension granted after March 31, 1938, the rate of interest shall be 4 percent per annum."

The amendment was agreed to.

The next amendment was, in section 503, page 325, after line 4, to strike out:

"(b) Gifts not more than $3,000: In the case of gifts (other than of future interests in property) made to any person by the donor during the calendar year, the first $3,000 of such gifts to such person shall not, for the purposes of subsection (a), be included in the total amount of gifts made during such year."

And insert:

"(b) Gifts less than $5,000: In the case of gifts (other than gifts in trust or of future interests in property) made to any person by the donor during the calendar year, the first $5,000 of

such gifts to such person shall not, for the purposes of subsection (a), be included in the total amount of gifts made during such year."

So as to make the section read:

SEC. 503. Computation of net gifts.

(a) Section 504 (b) of the Revenue Act of 1932, relating to the computation of net gifts, is amended to read as follows:

"(b) Gifts less than $5,000: In the case of gifts (other than gifts in trust or of future interests in property) made to any person by the donor during the calendar year, the first $5,000 of such gifts to such person shall not, for the purposes of subsection (a), be included in the total amount of gifts made during such year."

(b) The amendment made by subsection (a) of this section shall be applied in computing the tax for the calendar year 1939 and each calendar year thereafter (but not the tax for the calendar year 1938 or a previous calendar year), but such amendment shall not be applied in any computations in respect of the calendar year 1938 and previous calendar years for the purpose of computing the tax for the calendar year 1939 or any calendar year thereafter.

The amendment was agreed to.

The next amendment was, under "Title III—Capital stock and excess profits taxes", in section 601, page 330, after line 9, to insert:

(6) The capital-stock tax year beginning with or within an income-tax taxable year within which bankruptcy or receivership, due to insolvency, of a domestic corporation, is terminated shall constitute a declaration year. In such case the adjusted declared value for any subsequent year of the 3-year period shall be determined on the basis of the value declared in the return for such declaration year.

The amendment was agreed to.

The next amendment was, at the top of page 333, to insert a new section, as follows:

SEC. 603. New declaration of value under 1935 capital-stock tax.

Section 105 (f) of the Revenue Act of 1935 is amended by inserting at the end thereof the following new sentence: "If after June 30, 1936, and prior to July 1, 1938, a bankruptcy or receivership, due to insolvency, of a domestic corporation is terminated, for the capital-stock tax year ending June 30, 1938, such corporation shall be entitled to a new declaration of value of its capital stock."

The amendment was agreed to.

The next amendment was, under the heading "Title IV—Excise taxes", in section 701, page 334, after line 13, to insert:

(i) Brewer's wort, malt syrup, etc.: The tax imposed by section 601 (c) (2), as amended, of the Revenue Act of 1932 shall not apply to articles sold or imported after June 30, 1938.

The amendment was agreed to.

The next amendment was, on page 334, after line 17, to insert:

(j) Sales of produce for future delivery: The tax imposed by subdivision 4 of schedule A of title VIII of the Revenue Act of 1926, as amended, shall not apply to sales, agreements of sale, or agreements to sell made after June 30, 1938. Effective July 1, 1938, section 726 (c) of the Revenue Act of 1932, as amended, is repealed.

Mr. HARRISON. May I ask the Senator from North Dakota [Mr. FRAZIER] if he desires to pass over the amendment with respect to sales of produce for future delivery?

Mr. FRAZIER. I should like to have that amendment passed over for the present.

Mr. HARRISON. I have no objection to its being passed over in order that we may proceed to the consideration of the unobjected amendments.

The PRESIDING OFFICER (Mr. BURKE in the chair). Without objection, the amendment will be passed over.

The next amendment was, in section 702, subhead "Tax on certain oils"; on page 335, line 8, after the word "pound", to insert a colon and the following proviso.

Provided, That no whale oil, fish oil, or marine animal oil of any kind (whether or not refined, sulphonated, sulphated, hydrogenated or otherwise processed), or fatty acids derived therefrom, shall be admitted to entry, after June 30, 1939, free from the tax herein provided unless such oil was produced on vessels of the United States or in the United States or its possessions, from whales, fish, or marine animals or parts thereof taken and captured by vessels of the United States.

So as to read:

"(8) (A) Whale oil (except sperm oil), fish oil (except cod oil, cod-liver oil, and halibut-liver oil), marine-animal oil, tallow, inedible animal oils, inedible animal fats, inedible animal greases, fatty acids derived from any of the foregoing, and salts of any of the foregoing; all the foregoing, whether or not refined, sulphonated, sulphated, hydrogenated, or otherwise processed, 3 cents per pound: *Provided*, That no whale oil, fish oil, or marine animal oil of any kind (whether or not refined, sulphonated, sulphated, hydrogenated or otherwise processed), or fatty acids derived therefrom, shall be admitted to entry, after June 30, 1939, free from the tax herein provided unless such oil was produced on vessels of the United States or in the United States or its possessions, from whales, fish, or marine animals or parts thereof taken and captured by vessels of the United States."

The amendment was agreed to.

The next amendment was, on page 337, line 7, after the word "of", to strike out "taxes)." " and insert "taxes).", so as to read:

"(E) The tax on the articles described in this paragraph shall apply only with respect to the importation of such articles after the date of the enactment of the Revenue Act of 1934, and shall not be subject to the provisions of subsection (b) (4) of this section (prohibiting drawback) or section 629 (relating to expiration of taxes)."

The amendment was agreed to.

The next amendment was, on page 337, after line 7, to insert:

"(F) The tax imposed under subparagraph (B) shall not apply to rapeseed oil imported to be used in the manufacture of rubber substitutes, and the Commissioner of Customs shall, with the approval of the Secretary, prescribe methods and regulations to carry out this subparagraph."

The amendment was agreed to.

The next amendment was, on page 337, after line 13, to insert:

"(G) The taxes imposed by this section shall not apply to any article, merchandise, or combination, by reason of the presence therein of any coconut oil produced in Guam or American Samoa, or any direct or indirect derivative of such oil."

The amendment was agreed to.

The next amendment was, on page 337, after line 18, to insert:

(b) Section 601 (b) (5) of the Revenue Act of 1932, as amended, is amended to read as follows:

"(5) Such tax (except tax under subsec. (c) (4) to (7), inclusive, and except as specifically provided in subsec. (c) (8) (G) with reference to certain products of Guam and American Samoa) shall be imposed in full notwithstanding any provision of law granting exemption from or reduction of duties to products of any possession of the United States; and for the purposes of taxes under subsection (c) (4) to (7), inclusive, the term 'United States' includes Puerto Rico."

(c) The amendments made by this section shall be effective July 1, 1938.

The amendment was agreed to.

The next amendment was, on page 338, after line 7, to strike out:

SEC. 703. Tax on certain meat products.

Section 601 (c) of the Revenue Act of 1932, as amended, is further amended by adding at the end thereof the following new paragraphs:

"(9) Pork, bacon, hams, sides, shoulders, loins, and other pork, including fresh, chilled, frozen, cured or cooked, steamed, prepared, or preserved, 6 cents per pound.

"(10) Pork joints, sweet pickled, fresh, frozen, or cured, 3 cents per pound.

"The tax on the articles described in paragraphs (9) and (10) shall apply only with respect to the importation of such articles after 60 days after the date of the enactment of such paragraphs and shall not be subject to the provisions of subsection (b) (4) of section 601 (prohibiting drawback) or section 629 (relating to expiration of taxes)."

Mr. CAPPER. Mr. President, I ask that that amendment be passed over for the present.

The PRESIDING OFFICER. Without objection, the amendment will be passed over.

The next amendment was in section 704, under the subhead "Amendments to Tax on Lumber," on page 340, line 5, after the words "(pinus resinosa)" to strike out "Engelmann spruce", so as to make the paragraph read:

(c) Section 601 (c) (6) of the Revenue Act of 1932 is further amended by inserting after the amendment made by subsection (a) of this section the following: "The tax imposed by this paragraph shall not apply to lumber of Northern white pine (pinus strobus), Norway pine (pinus resinosa), and Western white spruce."

Mr. DUFFY. Mr. President, will the Senator consent to passing over at this time the section with regard to the tax on lumber?

Mr. HARRISON. Certainly. The only amendment is in line 5, on page 340.

The PRESIDING OFFICER. Without objection, the amendment will be passed over.

The next amendment was, under the subhead "Exemption from Excise Tax on Supplies for Certain Aircraft," on page 340, in line 8, to change the section number from 706 to 705, on page 340, line 18, after the word "thereof" to insert: "The privileges granted under this section in respect of civil aircraft employed in foreign trade or trade between the United States and any of its possessions, in respect of aircraft registered in a foreign country, shall be allowed only if the Secretary of the Treasury shall have been advised by the Secretary of Commerce that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of Commerce shall advise the Secretary of the Treasury that a foreign country has discontinued, or will discontinue, the allowance of such privileges, the privileges granted under this section shall not apply thereafter in respect of civil aircraft registered in that foreign country and employed in foreign trade or trade between the United States and any of its possessions." So as to make the section read:

Sec. 705. Exemption from excise tax of supplies for certain aircraft.

(a) Section 630 of the Revenue Act of 1932, as amended, is amended by inserting at the end thereof the following: "The term 'vessels' as used in this section includes civil aircraft employed in foreign trade or trade between the United States and any of its possessions, and the term 'vessels of war of the United States or of any foreign nation' includes aircraft owned by the United States or by any foreign nation and constituting a part of the armed forces thereof. The privileges granted under this section in respect of civil aircraft employed in foreign trade or trade between the United States and any of its possessions, in respect of aircraft registered in a foreign country, shall be allowed only if the Secretary of the Treasury shall have been advised by the Secretary of Commerce that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of Commerce shall advise the Secretary of the Treasury that a foreign country has discontinued, or will discontinue, the allowance of such privileges, the privileges granted under this section shall not apply thereafter in respect of civil aircraft registered in that foreign country and employed in foreign trade or trade between the United States and any of its possessions."

(b) The amendment made by subsection (a) shall be effective July 1, 1938.

The amendment was agreed to.

The next amendment was, on page 341, after line 9, to strike out:

Sec. 707. Stamp tax on sales of produce for future delivery.

(a) Section 726 (c), as amended, of the Revenue Act of 1932 (relating to the date upon which the rate of stamp tax on futures contracts is reduced to 1 cent) is amended by striking out "July 1, 1939" and inserting in lieu thereof "July 1, 1938".

(b) Effective July 1, 1938, subdivision 4 of schedule A of title VIII of the Revenue Act of 1926, as amended, is amended by striking out "(not including so-called transferred or scratch sales)".

The amendment was agreed to.

The next amendment was, on page 341, after line 20, to strike out:

Sec. 708. Exemption from tax on filled cheese.

(a) Section 2 (relating to the definition of filled cheese) of the act entitled "An act defining cheese, and also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of 'filled cheese'", approved June 6, 1896, is amended by adding at the end thereof the following: "Substances and compounds, consisting principally of cheese with added edible oils, which are not sold as cheese or as substitutes for cheese but are primarily useful for imparting a natural cheese flavor to other foods shall not be considered 'filled cheese' within the meaning of this act."

(b) The amendment made by subsection (a) shall be effective July 1, 1938.

The amendment was agreed to.

The next amendment was, on page 342, in section 706, subhead "Tax on Matches", to strike out:

There is hereby imposed on fancy wooden matches and wooden matches having a stained, dyed, or colored stick or stem, packed in boxes or in bulk, sold by the manufacturer, producer, or importer, a tax of 5 cents per 1,000 matches.

And to insert:

There is hereby imposed upon matches, sold by the manufacturer, producer, or importer, a tax of 2 cents per 1,000 matches, except that in the case of fancy wooden matches and wooden matches having a stained, dyed, or colored stick or stem, packed in boxes or in bulk, the tax shall be 5 cents per 1,000 matches.

So as to make the section read:

Sec. 706. Tax on matches.

(a) Section 612 of the Revenue Act of 1932, as amended, is amended to read as follows:

"Sec. 612. Tax on matches.

"There is hereby imposed upon matches, sold by the manufacturer, producer, or importer, a tax of 2 cents per 1,000 matches, except that in the case of fancy wooden matches and wooden matches having a stained, dyed, or colored stick or stem, packed in boxes or in bulk, the tax shall be 5 cents per 1,000 matches."

(b) The amendment made by subsection (a) shall be effective with respect to matches sold after June 30, 1938.

Mr. BULKLEY. Mr. President, I am authorized by the committee to offer an amendment to the committee amendment.

The PRESIDING OFFICER. The amendment offered by the Senator from Ohio to the amendment reported by the committee will be stated.

The CHIEF CLERK. On page 342, line 18, in the committee amendment, before the word "There", it is proposed to insert "(a)"; on page 342, line 23, in the committee amendment, it is proposed to strike out the quotation marks; and after line 23, to insert the following:

(b) If any person has, prior to July 1, 1938, made a bona fide contract for the sale of paper matches in books after June 30, 1938, and such contract does not permit the adding to the amount to be paid under such contract of the whole of the increase of tax provided in subsection (a) then (unless the contract forbids such addition) the vendee shall in lieu of the vendor, pay so much of such increase as is not so permitted to be added to the contract price. If the contract of the character above described was made with the United States no tax shall be collected under this title.

(c) The taxes payable by the vendee shall be paid to the vendor at the time the sale is consummated, and shall be collected, returned, and paid to the United States by such vendor in the same manner as provided in section 702. In case of failure or refusal by the vendee to pay such taxes to the vendor, the vendor shall report the facts to the Commissioner, who shall cause collection of such taxes to be made from the vendee.

Mr. HARRISON. Mr. President, it was voted by the committee to offer the amendment to the committee amendment at this time.

Mr. BULKLEY. Mr. President, the bill as reported eliminated the provision of the House bill which would have repealed the tax on matches, other than fancy wooden matches and wooden matches having a stained, dyed, or colored stick or stem, imposed by section 612 of the Revenue Act of 1932, as amended. Section 706 of the reported bill restores the tax imposed by the 1932 act, as amended, and in addition removes the inequality between paper and wooden matches by increasing the rate of tax on paper matches from one-half cent to 2 cents per thousand. This increase is effective as to sales made after June 30, 1938.

The purpose and effect of this committee amendment is to relieve manufacturers of paper matches from the burden of this increase in tax in cases in which bona fide contracts for the sale of such matches after June 30, 1938, have been made prior to that date, and such contracts do not permit adding to the amount to be paid the whole of the increase of tax provided by section 706 (a) of the reported bill. In such cases, unless the contract forbids such addition, the committee amendment permits so much of such increase as is not so permitted to be added to be added to the contract price and to be collected from the vendee, except that if such contract was made with the United States, no tax shall be collected.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Ohio, on behalf of the committee, to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment was, on page 344, after line 7, to strike out:

SEC. 712. Tax on distilled spirits.

(a) Section 600 (a) of the Revenue Act of 1918, as amended, is amended by inserting at the end thereof the following:

"(5) On and after July 1, 1938, $2.25 on each proof gallon or wine gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon."

(b) Section 600 (a) (4) of such act, as amended, is amended by inserting after "1934" the following "and prior to July 1, 1938".

(c) Section 600 (c) of such act, as amended, is amended by striking out "$2 per wine gallon" and inserting in lieu thereof "$2.25 per wine gallon".

(d) Section 4 of the Liquor Taxing Act of 1934 is amended by striking out "$2" and inserting in lieu thereof "$2.25".

(e) The amendments made by this section shall not apply to brandy and the rates of tax applicable to such brandy shall be the rates applicable without regard to such amendments.

Mr. FRAZIER. Mr. President, I should like to have an explanation of the amendment on page 344 with respect to distilled spirits.

Mr. HARRISON. I may say to the Senator that the present tax on distilled liquors is $2 per gallon. The House placed the tax at $2.25 in order to raise some revenue. It was estimated that the increase would raise about $19,000,000 a year. The Senate committee, because of what it had done with reference to the increase in the tax for this year on corporations, felt that we could do without that revenue, and so we did not agree to the House provision.

I may say to the Senator that the matter will be in conference.

Mr. BARKLEY. Mr. President, if the Senator will yield, I will say that prior to the war the tax on distilled spirits was $1.10 per gallon. During the war Congress increased the tax to $2.20, doubling it. The tax on distilled spirits remained at $2.20 per gallon until the new alcohol-tax law was passed 3 or 4 years ago. It was represented to the committee at the time that $2 was a sufficient tax to levy on a gallon of distilled spirits, because anything above that was likely to increase the price of legitimate liquor to such an extent as to encourage the bootlegger; and the Congress, after long deliberation and debate in both the House and the Senate committees, decided that $2 per gallon was a sufficient tax to levy upon distilled spirits. The Ways and Means Committee in the House gave no consideration to an increase in this tax.

When the House struck out the so-called third basket in the tax bill as reported to the House by the Committee on Ways and Means, it automatically reduced the amount of revenue raised by the bill by about $25,000,000. An amendment was offered on the floor of the House merely to grab that much money, or approximately that much money, from some source. About the only source they could think of at the time was an additional 25 cents per gallon on distilled spirits; and, as an amendment to make up the deficiency brought about by the elimination of the so-called third basket, the additional tax of 25 cents per gallon on distilled spirits was adopted on the floor of the House. The House provision would raise about $19,000,000 a year.

When the Senate committee had so adjusted the corporation tax as to increase the revenue by about $89,000,000, the necessity for this hasty and ill-considered increase in the tax on distilled spirits was eliminated.

Everyone who is familiar with the situation in this country realizes that, whatever one's position may be with respect to prohibition or to the manufacture and sale of liquor, the higher the cost of legitimate liquor to the consumer the greater is the opportunity for the illegitimate manufacturer and seller of liquor to produce a cheap quality and sell it without the payment of any tax, and thereby impose not only on the Government but likewise on the consumer. So, after considering all these matters, the committee felt that this additional tax was not justified and eliminated it.

Mr. FRAZIER. And, therefore, the tax is taken off entirely?

Mr. HARRISON. No; all the tax is not taken off.

Mr. BARKLEY. No. The action of the committee simply leaves the tax where it is now, at $2 a gallon, instead of $2.25 a gallon as fixed by the House provision. All this amendment does is to eliminate the extra 25 cents that was put on by the House. Distilled liquor will still bear a tax of $2 a gallon.

Mr. HARRISON. I may say to the Senator from North Dakota that we are getting about $400,000,000 from the liquor tax. If this matter is going to lead to any controversy, I suggest that it be passed over, so that we may get amendments which are not controversial out of the way.

Mr. BORAH. Mr. President, I should like to know whether there was any hearing or any evidence adduced tending to show that the tax provided by the House would be calculated to encourage illegitimate traffic in liquor?

Mr. HARRISON. There was such testimony before the committee, I may say to the Senator from Idaho. There appeared representatives from various States who opposed this increase in the tax on distilled liquor on the ground, first, that it would affect the revenues of the various States and some divisions of States which had imposed taxes on liquors, and others very forcefully put it to the committee that to make the tax on liquor so high would encourage bootlegging.

Mr. BORAH. It is my opinion that that is the only legitimate reason for this action. I should like to know whether or not there were any real facts sustaining that contention?

Mr. BARKLEY. I may say there were no hearings at all in the House committee on the subject. As I said a while ago, they were just reaching out in the sky to get about $20,000,000 revenue from some source. But when it is considered that the retailer pays a local license and every manufacturer pays a license and also pays a gallonage tax to the State, in addition to the Federal tax of $2 a gallon, when the taxes are pyramided so as to make it more difficult for those who are licensed by the States and localities to engage in this business, the illicit traffic in liquor is encouraged. That was gone into in great detail when the alcoholic liquor tax was fixed at $2 a gallon some 3 or 4 years ago. There were extensive hearings on the subject, at which time representatives of the Treasury Department came before the Committee on Finance and the Committee on Ways and Means. It was because of that situation that both committees and the Congress reduced the tax from $2.20 to $2. The House bill increases the tax to $2.25, which is higher than it has ever been even in wartime, and that was one of the war taxes that were never reduced at all until we wrote the alcoholic tax law of 1934, I think it was, and reduced the tax from $2.20 to $2 a gallon.

Mr. FRAZIER. Mr. President, I think that, so far as taxes are concerned, the war is still on. I should like to ask that this amendment go over for the present.

The PRESIDING OFFICER. Without objection, the amendment will be passed over.

Mr. VANDENBERG. Mr. President, before the amendment goes over, I should like to make an observation in connection with it, while the inquiry made by the Senator from Idaho [Mr. BORAH] is still fresh in mind.

I do not think there was any testimony presented to the Senate Finance Committee which was in any degree conclusive of the subject that this small increase in the tax on liquor would encourage illicit operations. On the other hand, the contemplation which is involved at this point and in the repeal of the various excise taxes goes to a still more fundamental consideration, and it is the one point at which I am in chief quarrel with the majority of the committee and with its able chairman.

Mr. HARRISON. Mr. President, will the Senator yield for an interruption right there?

Mr. VANDENBERG. Yes.

Mr. HARRISON. The Senator will recall, I think, that the head of the liquor administration in Virginia expressed the thought that if this tax were increased it would throw out of gear the machinery of the State so far as the State taxation of liquor is concerned and would encourage the "blind tiger" liquor traffic. It will also be recalled that the head of the liquor administration in New Jersey appeared and presented the same argument. I, myself, would not say, either, that it was conclusive proof to me, but that was the testimony before the committee.

Mr. VANDENBERG. The Senator is entirely correct; but I repeat that I think it is utterly inconclusive as respects the particular proposition. However, there is involved still another question, to which the able Senator from Wisconsin [Mr. LA FOLLETTE] referred in passing this morning.

I think it is perfectly absurd to say that this bill will raise $5,000,000,000 in revenue. In spite of all the encouragement which it may incidentally afford by a correction of recent tax atrocities, in spite of all the stimulation which may come from a temporary reversion to some degree of sanity in dealing with business, still the fact remains that individual incomes and corporate incomes this year are going to be lower than they have been in many years past. The estimates of revenue in this bill are based on the business index prior to New Year's 1938. That is prior to last New Year's. I am referring to Dr. Magill's testimony on page 7 of part 1 on March 17 before the committee. That index unfortunately is far healithier than the index for this year is going to be, because we know already that the Federal Reserve index estimate of production has dropped from 84 last December to 81 in January and to 79 in February and is still on the way down. I do not think that it is possible we are going to have the tax base upon which these estimates are made.

Mr. President, to the degree the bill fails to produce the contemplated revenue, it increases the contemplated deficit. We already confront a tremendous deficit in the regular operations of the Government for this year. There has been no economy; there has been no remote attempt at economy. The deficit will be as large as ever.

In addition to that deficit, we are contemplating an amazing increase in naval expenditures. In addition to that, we are contemplating, according to the notification in the newspapers today, a substantial increase in relief necessities. As the result, the margin between Federal income and Federal outgo is going to increase rather than diminish. And, Mr. President, in my judgment, in spite of all the stimulation we may give to business, in spite of all the stimulation we may give to a greater confidence in the stability of government, so long as we fail to make any approach whatsoever to a balanced Budget we are discouraging precisely the thing we want to encourage.

Therefore, I submit that this bill has no right to give up any available revenue. That is not a pleasant thing to say; it is not a popular thing to say, or politic thing to say. I should like to vote for lower taxes rather than higher taxes; but, in the face of this contemplation, I do not see how any justification can be pleaded for giving up any excise tax or for giving away the additional revenue which may be derived from liquor; and when the time comes I can see no possible answer to the appeal which the Senator from Wisconsin will make for an additional surtax revenue and for a broadening of the income-tax base.

We are not free agents at the moment when we confront this situation. We confront an enormous deficit for the eighth successive year in the operation of the Government; we confront a constantly growing expenditure, without the slightest effort to economize or without at least the slightest net result which represents economy, and the longer that breach between income and outgo continues just so long all the other stimulants that may be applied to business are going to be either ineffective or not so effective as some may think they are going to be.

Under the circumstances, I think this tax ought to remain, and the other taxes ought to remain, because, if they do not, when we meet here a year from today, if the present administration has not drastically economized, if they have not closed the gap between Federal income and outgo, we will confront such a situation that we will not be able to do anything else except to vote the cruelest tax bill that we have ever confronted in our lives in order to save the public credit.

Mr. HARRISON. I ask that the amendment which has just been discussed be passed over, and I hope now we may proceed with the amendments about which there is no controversy.

The PRESIDING OFFICER. Without objection, the amendment is passed over. The clerk will state the next amendment reported by the Committee on Finance.

The next amendment was, on page 345, after line 4, to insert:

SEC. 709. Tax on tires and inner tubes.

(a) Section 602 of the Revenue Act of 1932 is amended to read as follows:

"There is hereby imposed upon the following articles sold by the manufacturer, producer, or importer, a tax at the following rates:

"(1) Tires wholly or in part of rubber, 1½ cents a pound on total weight (exclusive of metal rims or rim bases), to be determined under regulations prescribed by the Commissioner with the approval of the Secretary.

(2) Inner tubes (for tires) wholly or in part of rubber, 2½ cents a pound on total weight, to be determined under regulations prescribed by the Commissioner with the approval of the Secretary."

(b) The amendment made by subsection (a) shall apply to articles sold after June 30, 1938.

The amendment was agreed to.

The next amendment was, on page 345, after line 20, to insert:

SEC. 710. Sales considered arm's-length transactions.

(a) Section 619 (b) of the Revenue Act of 1932 is amended by inserting at the end thereof the following: "In the case of a sale by a manufacturer to a selling corporation, the transaction shall be presumed to be otherwise than at arm's length if either the manufacturer or the selling corporation owns more than 75 percent of the outstanding stock of the other, or if more than 75 percent of the outstanding stock of both corporations is owned by the same persons in substantially the same proportions. Sales by a manufacturer to a selling corporation shall, in all cases, be presumed to be at arm's length."

(b) The amendment made by subsection (a) shall be effective with respect to sales made after the date of the enactment of this act.

The amendment was agreed to.

The next amendment was, on page 346, after line 10, to insert:

SEC. 711. Exemption from stamp tax on certain transfers of stocks and bonds.

(a) Subdivision 3 and subdivision 9 of schedule A of title VIII of the Revenue Act of 1926, as amended, are amended by inserting at the end thereof the following: "The tax shall not be imposed upon deliveries or transfers from the owner to a nominee or custodian, or from such custodian to a nominee of such custodian, or from the nominee of such owner or custodian to another nominee, provided the same continue to be held by such custodian or nominee for the same purpose for which they would be held if retained by such owner, or from such nominee to such owner or custodian or from such custodian to such owner, but such deliveries and transfers shall be accompanied by a certificate setting forth the facts. Any person who, with intent to evade the tax provided in this subdivision, falsely makes a certificate accompanying any delivery or transfer shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $1,000, or imprisoned not more than 6 months, or both."

(b) The amendments made by this section shall be effective with respect to deliveries or transfers made after June 30, 1938.

The amendment was agreed to.

The next amendment was, on page 347, after line 14, to insert:

SEC. 802. Closing agreements, approval by Commissioner.

Section 606 (b) of the Revenue Act of 1928 is amended by striking out "is approved by the Secretary, or the Undersecretary," and inserting in lieu thereof "is approved, under regulations prescribed by the Commissioner with the approval of the Secretary, by the Commissioner".

The amendment was agreed to.

The next amendment was, on page 349, after line 19, to insert:

(b) The amendment made by subsection (a) shall apply only where notice is served or sent after the date of the enactment of this act.

The amendment was agreed to.

The next amendment was, on page 351, after line 11, to insert:

SEC. 808. Basis of property acquired in connection with liquidation.

(a) Section 113 (a) (15) of the Revenue Act of 1936 is amended by inserting at the end thereof the following: "If upon the complete liquidation of a corporation within the meaning of section 112 (b) (6) of the Revenue Act of 1934, as amended, in case the first of the series of distributions in liquidation was made after August 29, 1935, and the last of the series of distributions was made before June 23, 1936, if with respect to all the property (other than money) received by a corporation prior to June 23, 1936, and in a taxable year beginning after December 31, 1935, no gain or loss would have been recognized on the receipt of such property under such section 112 (b) (6), the basis of such property in the hands of such corporation shall be the basis prescribed by the Revenue Act of 1934, as amended, if such corporation (within 180 days after the date of the enactment of the Revenue Act of 1938) elects, under regulations prescribed by the Commissioner, to have such basis apply."

The amendment was agreed to.

The next amendment was, on page 357, after line 21, to insert:

SEC. 814. Compromise before suit.

Section 3229 of the Revised Statutes is amended by striking out "with the advice and consent of the Secretary" and inserting in lieu thereof "under regulations prescribed by the Commissioner with the approval of the Secretary."

The amendment was agreed to.

The next amendment was, at the top of page 358, to insert:

SEC. 815. Extension of time for payment of deficiencies approved by Commissioner.

The requirement of section 272 (j) of the Revenue Act of 1936, 1934, 1932, and 1928, section 273 (k) of the Revenue Act of 1926, section 273 (g) of the Revenue Act of 1924, section 250 (f) of the Revenue Act of 1921, section 513 (i) of the Revenue Act of 1932, and section 308 (i) of the Revenue Act of 1926, of approval by the Secretary of extension of time for payment of deficiency in income, estate, or gift tax shall not apply after the date of the enactment of this act, but the approval shall be by the Commissioner under regulations prescribed by the Commissioner with the approval of the Secretary.

The amendment was agreed to.

The next amendment was, on page 358, after line 13, to insert:

SEC. 816. Gain on obligations and mortgages of joint-stock land banks.

Notwithstanding the provisions of section 26 of the Federal Farm Loan Act, as amended, gain realized on the acquisition by a joint-stock land bank of obligations issued by it or mortgages made by it, if such obligations or mortgages are made or issued after the date of the enactment of this act, shall not be exempt from Federal income taxation.

The amendment was agreed to.

Mr. KING. Mr. President, with respect to the amendment just agreed to, section 816, my attention has been called to the fact that perhaps the language is not as broad as it should be, and it is now being considered by the Treasury officials. Before we conclude the consideration of the bill I shall offer an amendment to broaden and amplify the provision.

The next amendment was, on page 358, after line 21, to insert:

SEC. 817. Taxes of insolvent banks.

Section 22 of the act of March 1, 1879 (20 Stat. 351; 12 U. S. C. 570), is amended to read as follows:

"That whenever and after any bank or trust company, a substantial portion of the business of which consists of receiving deposits and making loans and discounts, has ceased to do business by reason of insolvency or bankruptcy, no tax shall be assessed or collected, or paid into the Treasury of the United States on account of such bank, which shall diminish the assets thereof necessary for the full payment of all its depositors and other creditors; and such tax shall be abated from such national banks as are found by the Comptroller of the Currency to be insolvent; and the Commissioner of Internal Revenue, when the facts shall appear to him, is authorized to remit so much of the said tax against insolvent State banks, trust companies and savings banks as shall be found to affect the claims of their depositors and other creditors.

"Whenever any bank has been released or discharged from its liability to its depositors and other creditors for any part of their claims against it, and such depositors and creditors have accepted, in lieu thereof, a lien upon subsequent earnings of the bank, or claims against assets segregated by such bank or against assets transferred from it to an individual or corporate trustee or agent, no tax shall be assessed or collected, or paid into the Treasury of the United States on account of such bank, such individual or corporate trustee or such agent, which shall diminish the assets thereof necessary for the full payment of such depositor and other creditor claims.

"Any such tax so collected shall be deemed to be erroneously collected, and shall be refunded subject to all legal provisions and limitations, so far as applicable, relating to the refunding of taxes, but tax so abated or refunded shall be reassessed whenever it shall appear that payment of the tax will not diminish the assets as aforesaid, and the assets are held by a person from whom the tax may be legally collected. The running of the statute of limitations on the making of assessment and collection shall be suspended during the period for which, pursuant to this section, assessment or collection may not be made, and a tax which has been abated may be reassessed and collected during the time within which, had there been no abatement, collection might have been made. Nothing herein shall be regarded as relieving any bank, trust company, or other person, from payments due under the Social Security Act."

The amendment was agreed to.

The next amendment was, on page 360, after line 18, to insert:

Sec. 818. Abatement of jeopardy assessment.

(a) Section 273 (c) of the Revenue Act of 1936, the Revenue Act of 1934, the Revenue Act of 1932, and the Revenue Act of 1928, are amended to read as follows:

"(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 may, at any time before the decision of the Board is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Commissioner shall notify the Board of the amount of such assessment, or abatement, 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."

(b) Section 279 (c) of the Revenue Act of 1926 is amended to read as follows:

"(c) 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 subdivision (f) of section 274 and whether or not the taxpayer has theretofore filed a petition with the Board of Tax Appeals. The Commissioner may, at any time before the decision of the Board is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Commissioner shall notify the Board of the amount of such assessment, or abatement, 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."

(c) Section 514 (c) of the Revenue Act of 1932 is amended to read as follows:

"(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 donor, despite the provisions of section 513 (f) prohibiting the determination of additional deficiencies, and whether or not the donor has theretofore filed a petition with the Board of Tax Appeals. The Commissioner may, at any time before the decision of the Board is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Commissioner shall notify the Board of the amount of such assessment, or abatement, 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) Section 312 (c) of the Revenue Act of 1926 is amended to read as follows:

"(c) The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the executor, despite the provisions of subdivision (f) of section 308 and whether or not the executor has theretofore filed a petition with the Board of Tax Appeals. The Commissioner may, at any time before the decision of the Board is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Commissioner shall notify the Board of the amount of such assessment, or abatement, 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."

(e) Section 273 (f) of the Revenue Act of 1936, the Revenue Act of 1934, the Revenue Act of 1932, and the Revenue Act of 1928, and section 279 (f) of the Revenue Act of 1926, section 514 (f) of the Revenue Act of 1932 and section 312 (f) of the Revenue Act of 1926, are amended by inserting at the end thereof the following new sentence: "If any portion of the jeopardy assessment is abated by the Commissioner before the decision of the Board is rendered, the bond shall, at the request of the taxpayer, be proportionately reduced."

(f) The amendments made by this section shall be effective only with respect to jeopardy assessments made after the date of the enactment of this act.

The amendment was agreed to.

The next amendment was, on page 364, after line 3, to insert:

SEC. 819. Mitigation of effect of limitation and other provisions in income-tax cases.

(a) Definitions: For the purpose of this section—

(1) Determination: The term "determination under the income-tax laws" means—

(A) A closing agreement made under section 606 of the Revenue Act of 1928, as amended;

(B) A decision by the Board of Tax Appeals or a judgment, decree, or other order by any court of competent jurisdiction, which has become final; or

(C) A final disposition by the Commissioner of a claim for refund. For the purposes of this section a claim for refund shall be deemed finally disposed of by the Commissioner—

(i) as to items with respect to which the claim was allowed, upon the date of allowance of refund or credit or upon the date of mailing notice of disallowance (by reason of offsetting items) of the claim for refund, and

(ii) as to items with respect to which the claim was disallowed, in whole or in part, or as to items applied by the Commissioner in reduction of the refund or credit, upon expiration of the time for instituting suit with respect thereto (unless suit is instituted prior to the expiration of such time).

(2) Related taxpayer: The term "related taxpayer" means a taxpayer who with "the taxpayer" specified in subsection (b) (1) to (4), inclusive, stands in one of the following relationships: (A) Husband and wife; (B) grantor and fiduciary; (C) grantor and beneficiary; (D) fiduciary and beneficiary, legatee, or heir; (E) decedent and decedent's estate; (F) partners; (G) assignor and assignee; (H) donor and donee; (I) lessor and lessee; or (J) claimants to ownership of the same property or income.

(b) Circumstances of adjustment: When a determination under the income-tax laws—

(1) Requires the inclusion in gross income of an item which was erroneously included in the gross income of the taxpayer for another taxable year or in the gross income of a related taxpayer; or

(2) Allows a deduction, credit, or exemption which was erroneously allowed to the taxpayer for another taxable year or to a related taxpayer; or

(3) Requires the exclusion from gross income of an item which was erroneously excluded or omitted from the gross income of the taxpayer for another taxable year or from the gross income of a related taxpayer, but only if the determination requires refund, credit, or set-off of an amount of tax paid in respect of the item excluded by the determination; or

(4) Allows or disallows any of the additional deductions allowable in computing the net income of estates or trusts, or requires or denies any of the inclusions in the computation of net income of beneficiaries, heirs, or legatees, specified in section 162 (b) and (c) of this act, and corresponding sections of prior revenue acts, and the correlative deduction or inclusion, as the case may be, has been erroneously excluded or included, or disallowed or allowed, as the case may be, in respect of the related taxpayer; or

(5) Determines the basis for depletion, exhaustion, wear and tear, or obsolescence, or gain or loss on a sale or exchange of property and in respect of any transaction upon which such basis depends there was an erroneous inclusion in or omission from the gross income of, or an erroneous recognition or nonrecognition of gain or loss to, the taxpayer or any person from whom mediately or immediately he derived title subsequent to such transaction—and, on or before the date the determination becomes final, correction of the effect of the error is prevented by the operation (whether before, on, or after the date of enactment of this act) of any provision of the internal-revenue laws other than this section, then the effect of the error shall be corrected by an adjustment made under this section.

(c) Ascertainment of amount of adjustment: In computing the amount of an adjustment under this section there shall first be ascertained the tax previously determined for the taxable year with respect to which the error was made. The amount of the tax previously determined shall be (1) the tax shown by the taxpayer (or related taxpayer) upon his return, increased by the amounts previously assessed (or collected without assessment) as deficiencies, and decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or (2) if no amount was shown as the tax by the taxpayer (or related taxpayer) upon his return, or if no return was made by the taxpayer (or related taxpayer), then the amounts previously assessed (or collected without assessment) as deficiencies, but such amounts previously assessed, or collected without assessment, shall be decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax. A recomputation of the tax for such taxable year shall then be made. Such recomputation shall be limited to ascertaining the increase or decrease in the tax previously determined which results solely from the correct exclusion, inclusion, allowance, disallowance, recognition, or nonrecognition, of the item, inclusion, deduction, credit, exemption, gain, or loss, which was the subject of the error. The amount so ascertained (together with any amounts wrongfully collected, as additions to the tax or interest, as a result of such error) shall be the amount of the adjustment under this section.

(d) Method of adjustment: The amount of the adjustment ascertained under subsection (c) shall be considered as a deficiency or overpayment, as the case may be, for the taxable year with respect to which the error was made, and shall be assessed and collected, or refunded or credited, as the case may be, in the same manner as deficiencies or overpayments for such taxable year, but only if a notice of deficiency in respect of such deficiency is mailed to the taxpayer or a claim for refund in respect of such overpayment is filed within 1 year from the date the determination specified in subsection (b) has become final, or if before the expiration of such year the Commissioner and the taxpayer agree in writing to waive the requirement of such notice of deficiency or claim for refund.

(e) Adjustment unaffected by other items, etc.: The amount to be assessed and collected as a deficiency, or to be refunded or credited as an overpayment, under this section, shall not be diminished by any credit or set-off based upon any item, inclusion, deduction, credit, exemption, gain, or loss other than the one which was the subject of the error. Such amount, if paid, shall not be recovered by a claim or suit for refund or suit for erroneous refund based upon any item, inclusion, deduction, credit, exemption, gain, or loss other than the one which was the subject of the error.

The amendment was agreed to.

The CHIEF CLERK. It is also proposed to renumber the sections.

The PRESIDING OFFICER. Without objection, the clerks will be authorized to renumber the sections.

That completes the committee amendments.

Mr. BULKLEY. Mr. President, I am authorized by the committee to offer a further committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 297, line 13, it is proposed to strike out the word "or"; and on the same page, after line 20, it is proposed to insert ", or a corporation which establishes to the satisfaction of the Commissioner that it is actively and principally engaged in creating, developing, and commercializing inventions, processes, or patents, or licenses relating thereto."

Mr. BULKLEY. Mr. President, the purpose and effect of this provision is to exclude from the classification of personal holding companies a small number of meritorious enterprises which are operating companies and are not formed or operated for purposes of surtax avoidance by the shareholders.

In order to obtain the benefits of the amendment, a corporation must establish to the satisfaction of the Commissioner that it is actively and principally engaged in creating, developing, and commercializing inventions, processes, or patents, or licenses relating thereto. The amendment does not apply to a corporation which is otherwise a personal holding company which derives royalty income from patents acquired as an investment, or whose activities in creating, developing, and commercializing inventions, processes, or patents, or licenses relating thereto, are colorable or incidental to its other and principal activities, rather than constituting the principal business in which such corporation is actively engaged.

The PRESIDING OFFICER (Mr. MINTON in the chair). The question is on agreeing to the amendment offered by the Senator from Ohio on behalf of the committee.

The amendment was agreed to.

Mr. GUFFEY. Mr. President, I offer the amendment which I send to the desk, to be inserted on page 333, line 15.

The PRESIDING OFFICER. The amendment offered by the Senator from Pennsylvania will be stated.

The CHIEF CLERK. On page 333, line 15, before the period, it is proposed to insert ", and shall not apply to articles sold by the manufacturer, producer, or importer, after June 30, 1938, for 9 cents or less."

Mr. VANDENBERG. Mr. President, I merely wish to call attention to the fact that this is one more of the efforts to whittle away the existing revenue-law excise taxes; and we have no business to do it in the face of the accumulated deficit which the Treasury confronts.

Mr. HARRISON. Mr. President, this amendment was recommended by the committee after they gave consideration to it.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. VANDENBERG. I object. I ask the Chair to put the amendment to a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Pennsylvania [Mr. GUFFEY]. [Putting the question.] The ayes have it, and the amendment is agreed to.

Mr. GUFFEY. Mr. President, I submit for the RECORD an explanation of this amendment.

The PRESIDING OFFICER. Without objection, the explanation will be printed in the RECORD.

The explanation is as follows:

The effect of this amendment is to relieve from the tax of 10 percent imposed on manufacturers, producers, or importers of cosmetics and certain other articles, such articles sold by the manufacturer, producer, or importer, after June 30, 1938, for 9 cents or less. The purpose of the amendment is to remove the burden of this tax from such articles which are commonly sold to consumers at prices not greatly in excess of 10 cents.

Mr. FRAZIER. Mr. President, I find on page 341 that section 707 was stricken out by the committee. It is the section entitled "Stamp tax on sales of produce for future delivery."

Mr. HARRISON. That amendment was passed over.

Mr. FRAZIER. I did not understand that it was.

Mr. HARRISON. Yes; it was passed over.

Mr. FRAZIER. The amendment on page 334 was passed over, and I should like to have this one passed over also if it has not been done.

The PRESIDING OFFICER. The Chair thinks the amendment referred to by the Senator from North Dakota has been agreed to; but, in any event, it will be passed over.

Mr. HARRISON. The amendment is with reference to the stamp tax on sales of produce, is it not?

Mr. FRAZIER. Produce for future delivery.

Mr. HARRISON. That amendment was passed over.

Mr. POPE. Mr. President, does the Senator expect to proceed with the committee amendments now, before any other amendments are offered?

Mr. HARRISON. The order which the Senate entered was that committee amendments should be first disposed of.

Mr. POPE. The Senator will return to the amendments passed over after that is done?

Mr. HARRISON. Oh, yes. After we get through with these amendments we will return to the Senate committee amendments which have been passed over.

On behalf of the committee, I offer the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 120, line 25, it is proposed to strike out all after the period, through the word "corporation", in line 3, page 121, and in lieu thereof to insert the following:

Despite the provisions of section 117, the gain so recognized shall be considered as a short-term capital gain, except in the case of amounts distributed in complete liquidation.

Mr. HARRISON. That is merely a clarification, and I offer for the RECORD an explanation of it.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Mississippi on behalf of the committee.

The amendment was agreed to.

The PRESIDING OFFICER. Without objection, the explanation will be printed in the RECORD.

The explanation is as follows:

This amendment is necessary to close a loophole for avoidance of taxes which would otherwise exist under the modified plan for the taxation of long-term capital gains contained in section 117 of the bill as reported. Its effect is to limit the special treatment given to long-term capital gains, in the case of gains recognized on distributions in corporate liquidation, to gains realized on distributions in complete liquidation, as defined in the section. Such treatment cannot safely be extended to gains on partial liquidation, because of the facility with which partial liquidation could be used as a device for distributing accumulated earnings and profits of the corporation, in order to relieve the shareholders of the payment of the regular surtaxes which would apply if such earnings and profits were distributed in ordinary course as dividends. The amendment preserves the policy of prior acts with respect to the treatment of gains realized on partial liquidation.

Mr. KING. Mr. President, on behalf of the committee I offer the amendment which I send to the desk, which is merely a clarification.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 152, line 15, after the word "income", and on page 152, line 21, after the word "income", it is proposed to insert ", reduced by the amount of the credit for dividends received provided by section 26 (b)."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Utah on behalf of the committee.

The amendment was agreed to.

Mr. KING. An explanation of the amendment will be filed for the RECORD.

The PRESIDING OFFICER. Without objection, the explanation will be printed in the RECORD.

The explanation is as follows:

Prior to the Revenue Act of 1936, corporations deducted the credit allowed for intercorporate dividends received before determining net income. As a result, the net income from sources within the United States or entire net income, used as a part of the ratios limiting the amount of the foreign tax credit in section 131 (a) (1) and (2), was reduced by the credit for intercorporate dividends received. In 1936, however, due to the introduction of the undistributed-profits tax into the law, the credit for intercorporate dividends was not subtracted first in arriving at net income but was allowed as a credit after net income had been computed. The net income used in the ratios limiting the foreign-tax credit was therefore greater by the amount of the intercorporate dividend credit than it would have been under the prior law, and since it appeared in the denominator of the fraction representing the ratios, the limits imposed by the ratios were thus lower than they would have been in an equivalent situation under the prior law.

The purpose of the limits is to insure that the United States will be protected in collecting fully the tax due under the income-tax laws on the portion of the income arising from sources in the United States. This result was accomplished by the rule prior to the Revenue Act of 1936. Under the rule of the 1936 act and of the House bill even more than the amount thus sought to be protected is collected in cases where the taxpayer seeking the foreign-tax credit has received intercorporate dividends from domestic corporations.

Since no undistributed-profit tax is contained in the reported bill applicable to corporations in general, it is possible by means of the proposed committee amendment to return to the rule which existed prior to 1936 for calculating the foreign-tax credit. The committee believes this rule accomplishes a fairer result and therefore proposes the amendment.

Mr. HARRISON. Mr. President, on behalf of the committee I offer the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 122, line 9, it is proposed to strike out all after the comma through the figures "1938" in line 22 and in lieu thereof to insert the following:

The gain recognized resulting from such distribution shall be considered as a short-term capital gain, unless such liquidation is completed before July 1, 1939.

The PRESIDING OFFICER. Without objection, the vote by which the committee amendment on page 122 was agreed to will be reconsidered. The question is on agreeing to the

amendment offered by the Senator from Mississippi, on behalf of the committee, to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. HARRISON. I offer for the RECORD an explanation of the amendment.

The PRESIDING OFFICER. Without objection, the explanation will be printed in the RECORD.

The explanation is as follows:

This amendment to section 115 (c) applies to gains recognized on the liquidation of foreign personal holding companies the same principle contained in an earlier amendment to the section. Such gains are considered short-term capital gains, unless they result from distributions in complete liquidation, which by definition in the bill as reported means a liquidation completed before July 1, 1939.

Mr. HARRISON. Mr. President, on behalf of the committee I offer another amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 121, line 10, it is proposed to strike out all after the word "exceeding", through the word "plan" in line 12, and in lieu thereof to insert the following:

, from the close of the taxable year during which is made the first of the series of distributions under the plan, (1) 3 years, if the first of such series of distributions is made in a taxable year beginning after December 31, 1937, or (2) 2 years, if the first of such series of distributions was made in a taxable year beginning before January 1, 1938.

The PRESIDING OFFICER. Without objection, the vote by which the committee amendment on page 121, line 10, was agreed to will be reconsidered. The question is on agreeing to the amendment offered by the Senator from Mississippi on behalf of the committee, to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. HARRISON. I offer for the RECORD the explanation of the amendment.

The PRESIDING OFFICER. Without objection, the explanation will be printed in the RECORD.

The explanation is as follows:

This amendment to section 115 (c) is a clarifying amendment to make certain that the change made in the House bill by the bill as reported, which lengthened by 1 year, as compared with the similar provision of the 1936 act, the period within which a corporate liquidation must be completed in order to qualify as a complete liquidation, will apply only to liquidations begun in a taxable year governed by the bill.

Mr. HARRISON. Mr. President, on behalf of the committee I offer another amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 259, line 16, after the word "year", it is proposed to insert "(whether beginning before or after January 1, 1938)."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Mississippi on behalf of the committee.

The amendment was agreed to.

Mr. HARRISON. I offer for the RECORD an explanation of the amendment.

The PRESIDING OFFICER. Without objection, the explanation will be printed in the RECORD.

The explanation is as follows:

This amendment is merely clarifying to make certain that section 334 (b) of the reported bill applies in determining the gross income of a foreign personal holding company for its taxable year which begins after December 31, 1937, but which ends in or with the taxable year of another foreign personal holding company, in which it is a shareholder, beginning before January 1, 1938.

Mr. HARRISON. Mr. President, I offer another committee amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 273, line 18, in the committee amendment heretofore agreed to, it is proposed to strike out the word "The" and insert:

In the case of a taxable year beginning after December 31, 1938, the

The PRESIDING OFFICER. Without objection, the vote by which the committee amendment on page 273 was agreed to will be reconsidered. The question is on agreeing to the amendment offered by the Senator from Mississippi, on behalf of the committee, to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. HARRISON. I offer for the RECORD an explanation of that amendment.

The PRESIDING OFFICER. Without objection, the explanation will be printed in the RECORD.

The explanation is as follows:

This amendment is clarifying to make certain that the credit for net operating loss incurred in a prior taxable year is inapplicable to any taxable year beginning prior to January 1, 1939.

Mr. HARRISON. On behalf of the committee, I offer another amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 286, lines 23 and 24, it is proposed to strike out "or money"; and on page 287, line 4, it is proposed to strike out "or money."

The PRESIDING OFFICER. Without objection, the vote by which the committee amendment on pages 286 and 287 was agreed to will be reconsidered. The question is on agreeing to the amendment offered by the Senator from Mississippi on behalf of the committee to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. HARRISON. I offer for the RECORD an explanation of this amendment.

The PRESIDING OFFICER. Without objection, the explanation will be printed in the RECORD.

The explanation is as follows:

These amendments are purely clarifying. In the transfers by corporations of property for property covered by this subsection, no distinction is intended to be made between the various types of property (including money), and the treatment is to be the same in this respect as in the case of transfers involving money and other property covered by section 112 (b) (6). Under that section "property" has been held to include all types of property including "money." Consequently, the addition of the words "or money" in this subsection is surplusage, and as some confusion might arise if they were retained, the words "or money" should be stricken out.

Mr. HARRISON. On behalf of the committee, I offer another amendment which I send to the desk and ask to have stated. These amendments are the suggestions of the draftsmen which have been given to the committee, and are clarifying in their nature.

The PRESIDING OFFICER. The amendment offered by the Senator from Mississippi on behalf of the committee will be stated.

The CHIEF CLERK. On page 292, line 3, beginning with the comma, it is proposed to strike out through line 5, and in lieu thereof to insert "upon a transfer or distribution described in section 371 (d) (1)."

The PRESIDING OFFICER. Without objection, the vote by which the committee amendment on page 292 was agreed to will be reconsidered. The question is on agreeing to the amendment offered by the Senator from Mississippi, on behalf of the committee, to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. HARRISON. I offer for the RECORD an explanation of this amendment.

The PRESIDING OFFICER. Without objection, the explanation will be printed in the RECORD.

The explanation is as follows:

This amendment is clarifying in character. It will have the effect of making it plain that in the case in which property is acquired solely for cash upon a transfer described in paragraph (1) of section 371 (d) the basis which the property had in the hands of the transferor at the time of such acquisition will continue to attach to the property in the hands of the transferee, just as in the case of property acquired upon other transfers described in such paragraph with respect to which no gain or loss is recognized.

Mr. McNARY. Mr. President, I am sorry, but I am too slow to keep up with the present occupant of the chair and the clerk who is reading the bill. Before I reached page 292 the whole thing was over. May we proceed a little more deliberately?

The PRESIDING OFFICER. The amendment will be restated.

The CHIEF CLERK. On page 292, line 3, beginning with the comma, it is proposed to strike out through line 5, and in lieu thereof to insert "upon a transfer or distribution described in section 371 (d) (1)."

Mr. McNARY. Mr. President, I heard the amendment read the second time. Will the very able Senator from Mississippi, in charge of the bill, tell me what it is about?

Mr. HARRISON. I may say that the amendment is purely a clarifying amendment. [Laughter.]

Mr. McNARY. Is that what it does?

Mr. HARRISON. That is all it does. It was given to us by the draftsmen, with the statement that it is a clarifying amendment. That is the only explanation I have for it.

The PRESIDING OFFICER. The amendment has already been agreed to.

Mr. HARRISON. Mr. President, on behalf of the committee, I offer another amendment, to be inserted on page 293.

The PRESIDING OFFICER. The amendment offered by the Senator from Mississippi on behalf of the committee will be stated.

The CHIEF CLERK. On page 293, line 18, it is proposed to strike out the word "the."

Mr. McNARY. I understand that amendment.

The PRESIDING OFFICER. Without objection, the vote by which the committee amendment on page 293 was agreed to will be reconsidered. The question is on agreeing to the amendment offered by the Senator from Mississippi, on behalf of the committee, to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. HARRISON. Mr. President, on behalf of the committee I offer another amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 347, after line 8, it is proposed to insert the following:

SEC. 712. Tax on admissions to theaters.

(a) Section 500 (a) (1) of the Revenue Act of 1926, as amended, is amended by inserting before the period at the end of the second sentence the following:

", and except that in the case of tickets or cards of admission to any such spoken play sold at the ticket office of theaters at reduced rates the tax shall be based upon the price for which sold".

(b) The amendment made by subsection (a) shall apply with respect to sales made after June 30, 1938.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Mississippi on behalf of the committee.

The amendment was agreed to.

Mr. HARRISON. Mr. President, I offer for the RECORD an explanation of that amendment.

The PRESIDING OFFICER. Without objection, the explanation will be printed in the RECORD.

The explanation is as follows:

The purpose and effect of this amendment is to relieve theaters, in the case of tickets or cards of admission to any spoken play (as defined in the statute) sold at the ticket office of such theaters at rates lower than the prices originally printed on such tickets, from the necessity of collecting from purchasers the tax imposed by section 501 (a) (1) of the Revenue Act of 1926, as amended, on the basis of such printed price, and, in lieu thereof, to measure the tax by the price for which such tickets are actually sold.

Representations have been made to the committee by the so-called legitimate theaters that the requirements of the existing law unduly burden their operations, and that this amendment will give them substantial relief which is badly needed because of the depressed state of the industry.

The burden of establishing the price at which such tickets are sold, where sales are made at reduced rates, will, of course, be upon the theaters required by law to collect the tax.

Mr. HARRISON. Mr. President, on behalf of the committee, I offer another amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 335, in the committee amendment heretofore agreed to, after the word "oil", in line 8, it is proposed to insert the following:

(Except sperm oil).

Mr. BARKLEY. Mr. President, I should like to ask the Senator from Mississippi a question about this amendment.

Mr. HARRISON. Mr. President, I will say to the Senator that if he will note, on page 335, the oil section, he will observe that in the tax on whale oil, fish oil, and others, after "whale oil", in line 1, the provision reads "(except sperm oil)." That is excepted; but there is a provision in the Senate committee amendment on page 335 which sought to take care of a situation wherein some American vessels were bringing in whale oil, and the committee thought it wise to give them until June 30, 1939, before this part of the law should go into effect.

Mr. CONNALLY. Mr. President, has the Senate adopted that committee amendment?

Mr. HARRISON. The committee amendment has been agreed to, but the Senator will notice that in the first part of the subdivision is the phrase "except sperm oil," but in the proviso sperm oil is not excepted. That matter was brought to the attention of the Committee on Finance, and they recommended that an amendment be offered to except sperm oil.

Mr. CONNALLY. Why does not the Senator ask to have the whole thing reconsidered? I want to make a motion to change the date.

Mr. HARRISON. I do not ask for a reconsideration. I just leave it as it is. If someone else desires to move for a reconsideration, that is all right.

Mr. BARKLEY. Mr. President, I rose to ask the Senator from Mississippi a question about this amendment, which I understand has already been agreed to.

Mr. KING. The Senator is inquiring about sperm oil. That is already on the free list.

Mr. BARKLEY. I desire to inquire about whale oil. Objection has been made that this postpones the effective date of the amendment to June 30, 1939, on the ground that the Treasury loses a considerable amount of revenue, and that if this prohibition ought to be put in it ought to take effect either immediately or on June 30 of this year. What was the reason which actuated the committee?

Mr. HARRISON. It is my opinion, as one of the members of the committee, that the question of revenue did not enter into the matter of giving this additional year.

Mr. BARKLEY. I agree that it had nothing to do with it.

Mr. HARRISON. The reason for making the date June 30, 1939, was that there were two companies operating on the Pacific coast, or somewhere else, bringing the whale oil into this country. It was stated they did not own what were called "mother boats," or some kind of boats, which

actually go out and, through the people employed, harpoon the whales.

Mr. BARKLEY. They are supposed to go out and kill the whales and bring them in.

Mr. HARRISON. Yes. These companies represented to us that they were trying to revamp their organization so that they would own their part of the fleet, and at the same time man them with American seamen, and not with Norwegian seamen. It was a sort of a compromise, I think, to put it off a year in order that they might come within the terms.

Mr. BARKLEY. There being no provision on that subject in the bill as it passed the House, the amendment would go to conference.

Mr. HARRISON. It would go to conference, and the amendment could be accepted or rejected in conference.

Mr. CONNALLY. Or it could be adopted with an amendment.

Mr. BARKLEY. Yes; the conferees can either accept or reject it, or modify it.

Mr. NORRIS. Mr. President, has the Senator from Mississippi finished with the committee amendments?

Mr. HARRISON. Not quite.

Mr. NORRIS. I thought the Senator had concluded the committee amendments.

Mr. HARRISON. I will be through in a moment.

The Senator from Texas offered the amendment originally. The proviso reads "That no whale oil," and so forth. It should except sperm oil. I desire to offer a committee amendment on line 8, page 335.

Mr. BARKLEY. The Senator will have to have the vote by which the amendment was agreed to reconsidered.

Mr. HARRISON. I ask that the vote by which the amendment on page 335 was agreed to be reconsidered.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the vote is reconsidered.

Mr. HARRISON. In the committee amendment, on page 335, on line 8, after the word "oil", I move to insert in parentheses the words "(except sperm oil)".

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Mississippi to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. CONNALLY. Mr. President, I desire to offer a committee amendment, I hope with the concurrence of the Senator from Mississippi.

Mr. HARRISON. Mr. President, I think there is one amendment the Senator from Michigan [Mr. BROWN] has to offer, which relates to banks in receivership. I am sure it carries out the committee's viewpoint with reference to the matter. I ask that the vote by which the committee amendment, on page 358, line 22, was agreed to be reconsidered.

The PRESIDING OFFICER. Without objection, the vote is reconsidered, and the clerk will state the amendment presented on behalf of the Senator from Michigan [Mr. BROWN].

The CHIEF CLERK. In the committee amendment, on page 359, line 6, after the word "bank", it is proposed to insert "or trust company"; on lines 12 and 13 it is proposed to strike out "insolvent State banks, trust companies, and savings banks", and insert "any such insolvent banks and trust companies organized under State law"; on line 15, after the word "bank" to insert the words "or trust company, a substantial portion of the business of which consists of receiving deposits and making loans and discounts"; on line 19, to strike out the words "the bank" and insert "such bank or trust company"; and on line 23, after the word "bank", to insert the words "or trust company".

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. HARRISON. Mr. President, there are some committee amendments which were passed over temporarily. Under the order entered into by the Senate those amendments ought to be discussed before individual amendments are offered. I hope we may recur to the first Senate committee amendment passed over and go through all those passed over and dispose of them. Four or five amendments were passed over. The first one was the corporation-tax amendment.

The PRESIDING OFFICER. The clerk will state the first amendment passed over.

The CHIEF CLERK. On page 15, after line 3, it is proposed to strike out the following:

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 section 14, section 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) 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) Improper accumulation of surplus: For surtax on corporations which accumulate surplus to avoid surtax on shareholders, see section 102.

And to insert in lieu thereof:

SEC. 13. Tax on corporations.

(a) Definitions: For the purposes of this title—

(1) Adjusted net income: 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.

(2) Normal-tax net income: The term "normal-tax net income" means the adjusted net income minus (A) the credit for dividends received provided in section 26 (b), and (B) 10 percent of the amount by which $25,000 exceeds the net income.

(b) Imposition of tax: There shall be levied, collected, and paid for each taxable year upon the normal-tax net income of every corporation a tax of 18 percent of the amount thereof.

(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. BARKLEY. Mr. President, this amendment was passed over at my request, among others, because I had to be absent from the floor at the time it was reached. I do not intend to take much of the time of the Senate in discussing it. I am merely speaking in my individual capacity about it, because I voted in the committee against the amendment which would eliminate the tax on undistributed profits. I entertain no delusions with respect to the action of the Senate on the subject, but inasmuch as I took that action in the committee I wish to make a brief explanation.

When this tax was levied, we all recognized the difficulty of making adjustments in it which would not result in some injustices to small corporations. As it was first proposed, it was offered as a substitute for all other corporation taxes, including the regular corporation tax on net income, the capital-gains tax, and all other corporation taxes.

When the Committee on Ways and Means of the House and the Committee on Finance of the Senate undertook to consider the tax, they soon made up their minds that it was impossible to substitute that tax for all other corporation taxes, and the ultimate result was that we let the two systems run along parallel for a while, retaining certain fixed corporation taxes on net incomes somewhat after the fashion of the law which already existed, and provided a graduated rate of from 7 to 27 percent on undistributed profits.

Of course, we all realized that that was not a final adjudication of the matter; it was really a sort of trial balance in order that we might make the comparison, and that the Treasury might make a comparison between the two systems, the undistributed-profits tax being a new venture in the field of corporate taxation.

One of the hardest things to determine in the writing of the tax was the so-called "backlog," by which small corporations or other corporations might withhold a legitimate amount of money in order to enable them to expand, or to meet emergencies, or to pay off their debts, or do other legitimate things which a corporation is expected to do with its money.

Efforts were made in the committee and in the conference, of which I happened to be a member at the time the law was written, to adjust all that by some form of exemption which was commonly denominated as a "backlog." Thirty percent of the net earnings were thought to be a fairly just amount to be retained for any needs of the corporation.

The law has been in effect for 2 or 3 years, and I think we are all prepared to admit what was probably anticipated in the beginning, because a complicated tax system cannot fail to work injustices on some, and there is no tax system ever devised which is so exact in its justice that no one is injured by reason of it.

When Congress met this year it was recognized by everyone that there ought to be a substantial modification in the undistributed surplus-profits tax. The House Committee on Ways and Means, through its subcommittee, worked for months on the matter, and I wish to say they did a very excellent job in attempting to eliminate injustices, in attempting to place the tax on a more scientific base. Without going into any details of comparison between the two bills, the net result is that the House, I believe, retained its 16-percent levy on the net income of corporations above a certain amount, plus a 4-percent tax on undistributed profits down to a certain amount, so that in case the corporation made no distribution whatever it would pay a total, under the House bill, of 20 percent, being the 16 percent regular corporation tax and the 4 percent levied on undistributed profits of a certain kind; whereas the Senate committee has eliminated altogether the tax on undistributed profits, and has levied a straight 18-percent tax on net income above $25,000 a year, with different rates of graduated taxes on corporations that make less than $25,000 net income per year.

In net result, so far as revenue is concerned, probably the Senate bill is more favorable to the Treasury in that it will raise about $89,000,000 more than will the House bill this taxable year. That probably will not be true of other years in the future. I myself individually have felt that we have not yet sufficiently tried this new principle of taxation. I am as anxious as anyone can be to eliminate every injustice that may have been discovered in the imposition and collection of the tax. While, as between the Senate bill and the House bill, the Senate bill does give advantage to corporations that make less than $7,000 net income per year, the Senate committee bill does not do that with respect to corporations making between $7,000 and $25,000.

There is one point in both bills where the effect is just the same. If a corporation distributes 50 percent of its net income, the taxes under the House bill and the Senate bill are exactly the same. Take, for instance, a corporation

making a net income of $100,000. If it distributes $50,000 and retains $50,000, the tax under the House bill is $18,000 and under the Senate bill is $18,000. The difference between the Senate bill and the House bill is determined by the amount of distribution that is made by the corporation.

Taking the $100,000 net income as the basis, if the corporation distributed $10,000 it would pay $19,600 in taxes under the House bill, and $18,000 under the Senate bill. The Senate bill would be more favorable to the corporation up to the point of 50-percent distribution, where the amount of tax would be the same.

From a 50-percent distribution to 100-percent distribution the House bill would be more favorable to the corporation than the Senate bill, because regardless of the amount of profits distributed under the Senate bill, the amount of tax would be the same. On $100,000 net income the tax would be $18,000 a year, no matter whether the corporation distributed anything or distributed everything, whereas under the House bill the amount of tax on a corporation having a net income of $100,000 would range from $20,000 down to $16,000 if it distributed everything, because regardless of distribution, the rate on the corporation tax in the House bill is 16 percent.

Mr. BULKLEY. Mr. President——

The PRESIDING OFFICER (Mr. MINTON in the chair). Does the Senator from Kentucky yield to the Senator from Ohio?

Mr. BARKLEY. I yield.

Mr. BULKLEY. Does not the Senator regard the House proposal as a very radical modification of existing law with respect to the undistributed-profits tax?

Mr. BARKLEY. I do.

Mr. BULKLEY. Is it not in effect a repeal of the existing law, with the substitution of only a very moderate encouragement for the distribution of earnings and dividends?

Mr. BARKLEY. The effect of the House bill, as I understand it, is to repeal the undistributed-profits tax, except that those corporations which do not distribute are taxed to the extent of 4 percent on the amount that is undistributed.

The total tax under the House bill is 20 percent, whereas under the Senate bill it is 18 percent, but it may not be more than 16 percent if everything is distributed. It may be 17 percent, or 18 or 19 percent. It fluctuates between 16 and 20 percent, depending upon the amount of surplus profits that are distributed, based upon a 4-percent tax on undistributed profits and the straight rate of 16 percent on the net income.

Mr. BULKLEY. But there is a vast difference between an allowance of 4 percent for profits distributed on the one hand, and a tax of 20 percent on undistributed profits on the other.

Mr. BARKLEY. Oh, yes. The 4 percent in the House bill only applies to undistributed profits. The 16 percent applies just as the 18 percent does in the Senate bill, regardless of distribution. Sixteen percent applies as straight taxes. The 4 percent on undistributed profits in the House bill is really a substitute for the graduated rate, running from 7 percent all the way up to 27 percent.

Mr. BULKLEY. Those of us who voted against the Senate amendment in the committee were voting for the House proposal and not for the retention of the existing law?

Mr. BARKLEY. That is correct. The question rose in the committee, as it would rise here, whether to substitute a straight 18 percent for the House provision, or to retain the House provision, and, of course, that is subject to any modification that the Senate might see fit to make.

Mr. HARRISON. Mr. President, in the course of my remarks I stated that the House bill was a tremendous improvement over the present law, because in the present law the maximum rate is 32 percent plus.

Mr. BARKLEY. That is when other taxes are added to the 20 percent.

Mr. HARRISON. Yes; that is the maximum. In the House bill the maximum is 20 percent. By what I say I do not mean to convey any criticism of the members of the committee who voted the other way. I do not think that any one can get the impression that any member who voted for the 18 percent in the committee and for the 16- to 20-percent plan in the House, can be said to have voted for the present law at all.

Mr. BULKLEY. I wanted to make that clear, because I have always been opposed to the existing law, and voted against it originally. I think the House plan is better than that proposed by the Senate bill.

Mr. BARKLEY. I will say that the Senator from Utah [Mr. KING], who was in charge of the tax bill at the time it was considered, in the absence of the Senator from Mississippi [Mr. HARRISON], who was ill, will agree that one of the most complex things we had to deal with in conference and in committee was trying to adjust this tax on a graduated basis so as to do as little injustice as possible to the small and medium-sized corporations, which in the very nature of their business were required from time to time to have certain reserves, and none of us were really satisfied with the result after we had worked for weeks upon it.

In the interest of simplification, as between the present law and the House bill, the House bill is infinitely better in my judgment than the present law; and as between it and the present law I am for the House bill a thousand percent, not only because it undertakes to work out this backlog that we had so much difficulty with in the beginning, but it is so much simpler to levy a straight 4-percent tax than it is to have a graduated tax from 7 percent up to 27 percent.

Mr. BULKLEY. And also much less burdensome.

Mr. BARKLEY. And also much less burdensome. So, as a matter of fact, in the net result to corporations and the net result to the Treasury, there is not enough difference really between the House and the Senate bills to cause very much of a controversy, except that I have been unable to convince myself that we ought to abandon altogether the principle of the tax on undistributed profits, and it was for that reason that I voted against the amendment in the Senate committee, and for that reason I am expressing my views now on the subject.

I have no doubt as to what the Senate is going to do, and I do not intend to discuss the matter at length, or make any controversy about it, but I feel, in justice to myself and in view of the position I took in the committee, that I ought to make this explanation.

There is no way to work out a tax bill that will result in exact justice to every corporation. In the table printed on page 4 of the committee's report, it will be seen that up to $7,000 net income the Senate bill is more favorable to the corporations than the House bill, while on net incomes between $7,000 and $25,000 the House bill is more favorable to corporations than the Senate bill.

For instance, on a corporation making a net income of $25,000, the House bill levies a total tax of $3,525, while the Senate bill levies a tax of $4,500, making a difference of $975 in the annual tax levied by the Senate bill over and above the House bill. Of course, to a corporation making $25,000 a year net $975 is practically 4 percent of its income for that year. So that there is practically a 4-percent increase in the tax on a corporation of that size in the Senate bill over the figure in the House bill.

I mention that simply to show that however much we may try to adjust a tax bill so as to be exactly just to every corporation, regardless of its income, it is utterly impossible to do so.

Mr. KING. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. KING. I hope the Senator will appreciate the fact, however, that we were attempting, so far as possible, to obtain revenue to meet the mounting expenses of the Government. We have fallen short, of course, because our expenditures, in my judgment, will be at least $2,000,000,000 in excess of the revenue.

I rose for the purpose of calling attention to the fact that when the undistributed-profits tax provision of the present law was considered, the Senate agreed upon 7 percent, and we insisted that a 7-percent undistributed-profits tax was adequate. The Senator will recall, that in conference we were deadlocked for nearly a month, and a compromise was finally effected under the terms of which the aggregate tax was placed at 41 percent.

Mr. BARKLEY. Not the aggregate. The House bill at that time carried a maximum of 32 percent.

Mr. KING. It was around 41 percent.

Mr. BARKLEY. It ranged from somewhere around 5 percent up to 32 percent, and when the normal tax was added it amounted to about 41 percent. We whittled it down in conference to 27-percent maximum and a minimum of 7 percent.

I understand that in the provision with respect to personal-holding companies there has been retained to some extent the principle of the undistributed-profits tax, so as to avoid a possible loophole with respect to closely held corporations which might be able by reason of elimination of the principle altogether, to avoid taxation.

Mr. HARRISON. As the Senator will recall, we went the limit in amending section 102 so as to force distribution where there was a large accumulation of profits, and even went to the extent of putting the burden on the taxpayer to prove, by a clear preponderance of the evidence, that there was no unreasonable accumulation.

Mr. BARKLEY. Is it the Senator's view that to that extent the principle involved in the undistributed-profits tax is retained in the bill?

Mr. HARRISON. It is retained in section 102 in as strong language as the experts could write and the committee could fashion.

Mr. CONNALLY. Mr. President, let me say to the Senator from Kentucky, on the question of the undistributed-profits tax, that I think it ought to be borne in mind that it was the Senate committee and the Senate, when the question was originally presented to us, which kept all the tax from being put on undistributed profits, which would have aggravated many times the complaints we have heard in recent months. Under the original House bill, all corporation taxes were repealed and the whole burden was put upon undistributed profits.

Mr. BARKLEY. The Senator is correct in that statement.

Mr. CONNALLY. The Senate committee modified the House bill and insisted upon the retention of a normal corporation tax. The undistributed-profits tax would be only in the nature of a graduated surtax on a very much lower bracket than in the House bill.

Mr. BARKLEY. The Senator is correct in that statement. An additional reason why the Senate changed the bill so as to let the two systems run along parallel to each other, instead of substituting one for the other as the House bill did, was that nobody could be certain how much revenue would be raised by a substituted undistributed-profits tax in lieu of all other corporate taxation.

Mr. CONNALLY. Let me say further to the Senator that I voted in the committee for the House provisions in this bill with regard to the undistributed-profits tax, not because I wanted to continue the present law—for I think the present law creates confusion, chaos, and uncertainty—but because under the House provisions the only tax on undistributed profits is a flat 4 percent, without any graduation whatever. If the corporation pays out part of its profits in dividends, the taxpayer, if he pays an income tax at all, will have to pay a minimum of 4 percent normal tax on his dividend; so I can see no harm in requiring the corporation to pay the same 4 percent if it retains the dividend and does not pay it out.

It may be said that ultimately, when the stockholder gets the money, if he ever gets it, he will pay the tax; but the theory of retaining profits in the treasury, as a rule, is to provide for expansion, or to pay debts. In either case the stockholder would never get the increased value in the form of a dividend, but he would get it in the future earnings of the property. So I voted to retain the House provision, because by that provision the matter is equalized. We take away from the corporation any inducement to hold the money in the treasury; and, on the other hand, if the corporation does hold it, the corporation pays the same tax which the taxpayer would pay in case the money were distributed in the form of a dividend.

Like the Senator from Kentucky, I see no vice in such a provision. It retains to a limited extent the germ of the undistributed-profits tax, at least to the extent of not offering the corporation a premium for holding the money in its treasury and not distributing it to the stockholders.

Mr. BARKLEY. In that connection, I will say to the Senator that in the case of the $100,000 corporation which has been set up in the report as a criterion, if the corporation distributed $80,000 of the $100,000, and retained in its treasury the $20,000 for debts, for expansion, for rainy day, or for whatever purpose it might wish to retain it, under the House bill the corporation would pay a tax of $16,800. Under the Senate bill it would pay $18,000. Of course, on the $80,000 distributed to the stockholders, presumably a tax would be paid at least equal to the difference between the $16,800 and the $18,000, because the individual stockholder who received the dividend as a part of his income would include it in his income-tax return at whatever the rate was, depending upon the total amount of his income.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. NORRIS. I have been thinking along the lines suggested by the Senator from Texas. I cannot see why a corporation should be allowed to retain something untaxed when the same privilege does not apply to an ordinary individual.

The Senator speaks of a rainy day, or paying debts, or something of the kind. That contingency does not save the individual. When the individual comes to pay his tax, he may say, "I am in debt, and I want to put by something for a rainy day"; but if he has made the profits, he has to pay the tax. Why should not a corporation do the same thing?

Mr. BARKLEY. Under the Senate provision, the corporation would pay a tax of 18 percent. It is not altogether relieved of taxation. The difference between the House bill and the Senate provision, in simple terms, is that if the corporation should retain all of the profit for the purpose of making an accumulation or for the purpose of avoiding taxation, the corporation would pay the normal tax of 18 percent, regardless of what was distributed.

Under the 18 percent rate I do not know that there would be very much to be gained by a small corporation retaining any substantial amount. Under the provisions of the House bill the corporation would pay on $100,000 the same amount of net income, a tax of 16 percent, and then 4 percent on all it retained and did not distribute.

I agree with the Senator from Nebraska and the Senator from Texas. That is one of the reasons why I originally supported the undistributed-profits tax, which we find so difficult to administer in terms of justice.

Mr. NORRIS. I admit, of course, that it is a difficult problem properly to solve from any viewpoint. The corporation, however, pays a tax of 18 percent. The person who owns stock in the corporation, if he pays taxes as an individual under the highest bracket, has to pay 79 percent of his income. It is very profitable to him to let his money stay in the corporation and pay 18 percent instead of 79. If the dividends were distributed, he would pay 79 percent as an individual.

Mr. BARKLEY. That would apply especially to men of large individual incomes in the higher brackets.

Mr. NORRIS. Yes. I can see how the reverse might be true in the case of a man with a very low income. He might have to pay less tax as an individual than the corporation would have to pay. The situation involves an

injustice. It is not fair, logical, or right to use the corporation as an instrumentality or a loophole for men in the higher brackets to escape just taxation.

Mr. BARKLEY. I agree with the Senator about that. There will be stepping stones all the way along in both provisions, whether the House provision or the Senate provision is agreed to, or some compromise between the two. There will be brackets from the lowest to the highest, under either bill, in which somebody is going to be required to pay more tax than is paid by somebody else under the same or similar circumstances, because it is impossible to write a bill which will do exact justice to everybody.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. CONNALLY. Let me say to the Senator from Kentucky and also to the Senator from Nebraska that formerly we did not tax dividends at all, on the theory that the corporation had already paid a normal tax, and the taxpayer took credit for his dividends in his gross income.

Mr. NORRIS. That is a beautiful theory.

Mr. CONNALLY. Under the present law we have done away with that theory, and under the pending bill we not only tax the corporation 18 percent, but when the taxpayer gets his dividend he pays not less than 4 percent, if he pays anything, in the form of a normal tax on his dividend. If he is in the higher brackets he pays a graduated rate on his dividend income. But the trouble about the undistributed-profits tax in the old law, as originally conceived, is that the original theory was that if undistributed profits were taxed, dividends would thereby be forced out into the hands of the stockholders, and the Government would get the tax back in the form of individual income-tax payments.

However, the theory was based on the entire set-up. It was not possible to determine what the results would be in individual cases. For example, one man would pay a higher rate if the dividends were forced out. The stockholder would receive his dividends, and he would pay a tax of 50 percent. A great many other stockholders would not pay anything, because they do not pay any income tax.

So the weakness in the original theory of the undistributed-profits tax was that it merely regarded the whole mass of income taxpayers as an entity, without taking into consideration the possibilities. For that reason it was impossible to determine how much revenue would be raised; whereas under the present bill, with a flat rate, there will be no difficulty about knowing approximately what we shall get. On the other hand, the corporation will know what it is going to pay.

That is the advantage of a flat rate. The corporation, in making up its budget, will have a pretty clear idea as to what it is going to be required to pay. However, I think the retention of the 4-percent tax is a very good way of saving the idea without working any hardship, because the corporation will pay only 4 percent, and the taxpayer will pay 4 percent if he gets his dividend.

Mr. BARKLEY. I appreciate the Senator's views, which are also my own. I am speaking only as an individual Senator and as a member of the Finance Committee, and in no other capacity.

If the amendment as reported by the Committee on Finance should be agreed to, of course that would put the whole matter in conference between the House and the Senate bills. I hope that in the process of the conference it may be possible to work out a solution that will retain, wherever it is necessary to retain—and it ought to be retained—the principle which is involved in the House bill, regardless of whatever the rate may be, because I think it is simple; it avoids complications; it avoids all the tables and logarithms and multiplication and algebraic equations involving the use of X, Y, and Z to find out how much tax one owes or does not owe.

I wish to compliment the subcommittee of the Committee on Ways and Means, which spent 3 or 4 months working on this question, on the very fine job they did in trying to simplify the law and to work it out in justice to business throughout the country. I think they are entitled to be complimented for the fine work they did, for the energy they displayed, for the zeal with which they tried to aid the business community and, at the same time, protect the Government against possible loss of needed and merited revenue.

Mr. HARRISON. Can we not have a division vote on this amendment?

Mr. BARKLEY. Yes; I am perfectly willing to have a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment passed over.

The LEGISLATIVE CLERK. The next amendment passed over is, on page 344, "Sec. 712. Tax on distilled spirits", which was passed over at the instance of Mr. FRAZIER.

Mr. McNARY. I suggest the absence of a quorum.

Mr. HARRISON. Mr. President, will the Senator withhold the request for a moment? Can we not pass over that amendment for the present and take up the next amendment which has been passed over?

Mr. McNARY. No; I think that some of those who are absent should be here, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Donahey	King	Pittman
Austin	Duffy	La Follette	Pope
Bailey	Ellender	Lee	Radcliffe
Bankhead	Frazier	Lodge	Reames
Barkley	George	Logan	Reynolds
Berry	Gerry	Lonergan	Russell
Bilbo	Gibson	Lundeen	Schwartz
Bone	Gillette	McAdoo	Sheppard
Borah	Glass	McCarran	Shipstead
Bridges	Green	McGill	Smathers
Brown, Mich.	Guffey	McKellar	Thomas, Okla.
Bulkley	Hale	McNary	Thomas, Utah
Bulow	Harrison	Maloney	Townsend
Burke	Hatch	Miller	Truman
Byrd	Hayden	Milton	Vandenberg
Byrnes	Herring	Minton	Van Nuys
Capper	Hill	Murray	Wagner
Caraway	Hitchcock	Neely	Walsh
Clark	Holt	Norris	Wheeler
Connally	Hughes	Nye	White
Copeland	Johnson, Calif.	O'Mahoney	
Dieterich	Johnson, Colo.	Overton	

The PRESIDING OFFICER. Eighty-six Senators having answered to their names, a quorum is present.

Mr. VANDENBERG. Mr. President, the Senate has just killed completely the undistributed-profits-tax principle—I hope "for keeps." Instead of presenting what I had intended to offer as argument on the subject, I ask, for the sake of the RECORD, inasmuch as this problem will still be in conference, that there may be printed in connection with these observations the conclusions of the Brookings Institution on the undistributed-profits tax, and also the very brief statement which I made on June 19, 1936, in contemplation of the tax, all of the prophecies having effectively come true.

There being no objection, the matters referred to were ordered to be printed in the RECORD, as follows:

CONCLUSIONS

The tax on undistributed profits was conceived as a measure which would not only yield an increase in Federal revenue but also promote justice and a more smoothly functioning economic system. In the light of our analysis of the theory and practical operation of the tax what conclusions are to be drawn? Has the undistributed-profits tax in fact spread the tax burden more equitably and advanced economic welfare as a whole? Or, if it does not in its present form attain these ends, are its shortcomings due to details of procedure or definition which could readily be remedied by the process of amendment? If so, what changes in the existing law are indicated?

The conclusion reached is unequivocally that the tax should be repealed. The general arguments in its favor pertaining to taxation equity, the distribution of income, and the control of the business cycle do not in the light of analysis weigh heavily as against the adverse effects of the tax in other ways. Its fundamental weakness is that it limits the possibility of prompt and flexible capital developments and handicaps with particular severity a multitude of small and medium sized business enterprises. It bears with particular severity upon new companies or those which are endeavoring to recuperate from a period of misfortune.

[From CONGRESSIONAL RECORD, June 19, 1933, vol. 80, part 10, page 10085]

I desire to register in a few brief sentences my reasons for opposing this tax atrocity. I consider it to be a climax in the unsound, wishful, disruptive economics which have become the national curse. It races toward the further destruction of every real impulse which would encourage recovery, reemployment, and recaptured security. It is at war with the public welfare and will fall like a plague upon many of its victims. It will deserve the thundering rebuke which the American people will register against it when they understand what has been done to them.

In the first place, the conference report brings us essentially a new bill which never has been put to the probe of congressional debate. It is the makeshift product of a star-chamber House and Senate conference, which in sheer desperation has subordinated principle to expediency. It, as is our weary action on it, is precipitated more by an anxiety to adjourn than by any such adequate consideration as ought to precede a new levy of some $700,000,000 upon the already breaking backs of American taxpayers. To pretend that we proceed deliberatively would be the sum total of political hypocrisy, because we do not. This is a blind and sinister speculation in the rights and resources of 125,000,000 people. Irresponsibility will not soon register a greater conquest.

In the second place, this bill reaches for more and ever more revenue without any semblance of corollary effort to economize—to economize even just a little—in Government expenditures. We still linger in the blighting era of the great pay off. Every penny which this new and deadly tax proposes to raise could be obtained out of current economies if there were the remotest disposition to curb the bureaucratic spendthrift system which has attached itself like a vampire to the blood stream of the public credit.

In the third place, this punitive tax on surplus is the latest and the worst of the serial assaults that are being made on thrift and prudence, at a moment when these old-fashioned "horse and buggy" virtues are prerequisite to the restoration of the national character and equilibrium. The amazing idea that "rainy day" precautions have come to be a vice, to be discouraged by law, is no less wanton and suicidal, in my view, than the earlier but kindred spectacle of a government that deliberately destroyed food in the presence of a hungry people.

In the fourth place, this tax on surplus encourages big business and monoply. It crucifies little business and denies it growth. Those who are already fat can keep their fat. Those who are lean must stay lean or pay the heavy penalty for the temerity of their aspirations. Thus it bluntly curtails American opportunity; and thus it blindly circumscribes tomorrow's employment opportunities. As a result it is a blow to those who toil, a blow to labor even as it is a blow to capital. Through tax pressure we substitute the judgments of Federal bureaucrats for the judgments of private ownership in the management of private business; and thus we approach more candidly the Fascist state.

These are but a few of the burning reasons why this legislative crime should not occur, but they suffice.

Oh, yes; we need more revenues; and I am prepared to help you get them whenever the formula is rational, and whenever it includes an honest conservation effort to bring the Budget within sight of balance. But this is not a rational formula. It seeks revenue at the expense of recovery, when recovery is our best assurance of revenue; and it attempts, once more, desperately to hide from the mass of our citizenship that they, and they alone, finally must pay these enormous bills which we contemptuously charge to the next generation. Nor does it encourage hopes of Budget balance when our contemplated expenditures next year, untouched by any semblance of retrenchment, will exceed even those of the present prodigal year by an amount fully equal to the new revenues herein contemplated. We are merely financing our latest spree.

This bill is beyond extenuation or apology. Like many another impetuous experiment which we have suffered, it will create more problems than it solves. It ought to die in an unsung grave. Upon its tombstone should be carved those forgotten words of the present President of the United States, uttered in his first and long-since forsaken message to the Congress:

"Most liberal governments are wrecked on the rocks of loose fiscal policy."

Mr. VANDENBERG. Mr. President, in the same connection, I desire to say that before the former junior Senator from Oregon Mr. Steiwer, left the Senate he conducted an interesting and illuminating inquiry into the whole problem of the operation of the undistributed-profits tax. Under date of June 11, 1937, he sent a questionnaire to some 3,000 typical corporations—omitting banks, railroads, and utilities, but including most of the representative industrial units. He received 1,800 replies. He delivered them to Professor Kendrick, of Cornell, to analyze and tabulate. It is interesting to note, in passing, that Professor Kendrick started his study with the preconceived notion that the principle of the surplus-profits tax of 1936 was sound; but after he devoted 3 months to the subject—and after he assessed the invaluable Steiwer exhibit—he changed his mind. I have studied the Steiwer report. It would be to the advantage of the Treasury to make a similar study. It might change even the Treasury's mind. I refer briefly to the findings.

One question:

Do you believe the imposition of this tax is inconsistent with sound business policies? Ninety-seven and four-tenths percent yes; 1 percent no; 1.6 percent indefinite.

Another question:

If it was not your practice prior to 1936 to distribute substantially all of your current earnings as dividends, was this due to any of the following reasons:

To maintain reserves for use in lean years? Ninety-three and one-tenth percent yes; 5.1 percent no; 0.2 percent indefinite.

To provide for reasonable expansion or development of your business or plant? Ninety and five-tenths percent yes; 8.5 percent no.

There, Mr. President, you have your answer in a nutshell. You may know whether it is sound public policy to put prohibitive tax penalties upon reserves. Do we want American business to "use reserves in lean years"? Do we need "plant expansion and development"? American business tells us that these things are impossible under the punitive theories of the undistributed-profits tax. When we passed this tax we taxed away the "rainy day" reserves. We taxed away plant expansion and development. We taxed away the impulse and the resources which might be our prime reliance in a new depression. We taxed away the natural source of commercial expansion and commercial development. We taxed away the well-springs of reemployment and new employment. We taxed away the private capacity—to say nothing of the private initiative—to combat this economic sag. We made a grievous error which the Senate Finance Committee propose, frankly and courageously, to acknowledge and to correct.

The PRESIDING OFFICER. The clerk will state the next amendment passed over.

The LEGISLATIVE CLERK. On page 334, after line 17, it is proposed to insert:

(j) Sales of produce for future delivery: The tax imposed by subdivision 4 of schedule A of title VIII of the Revenue Act of 1926, as amended, shall not apply to sales, agreements of sale, or agreements to sell made after June 30, 1938. Effective July 1, 1938, section 726 (c) of the Revenue Act of 1932, as amended, is repealed.

Mr. HARRISON. Mr. President, has the Senator from North Dakota [Mr. FRAZIER] returned to the Chamber yet?

Mr. McNARY. Mr. President, I am advised that the Senator from North Dakota is on his way. I should like to have the consideration of this amendment deferred temporarily.

Mr. HARRISON. All right; that is agreeable.

The PRESIDING OFFICER. The clerk will state the next amendment passed over.

The LEGISLATIVE CLERK. The next amendment passed over is, on page 338, after line 7, to strike out:

SEC. 703. Tax on certain meat products.

Section 601 (c) of the Revenue Act of 1932, as amended, is further amended by adding at the end thereof the following new paragraphs:

"(9) Pork, bacon, hams, sides, shoulders, loins, and other pork, including fresh, chilled, frozen, cured or cooked, steamed, prepared, or preserved, 6 cents per pound.

"(10) Pork joints, sweet pickled, fresh, frozen, or cured, 3 cents per pound.

"The tax on the articles described in paragraphs (9) and (10) shall apply only with respect to the importation of such articles after 60 days after the date of the enactment of such paragraphs and shall not be subject to the provisions of subsection (b) (4) of section 601 (prohibiting drawback) or section 629 (relating to expiration of taxes)."

Mr. CAPPER. Mr. President, I desire first to compliment the chairman of the Finance Committee, the senior Senator from Mississippi, upon his handling of the many difficult problems rised in the consideration of this measure. He has been fair to every person and every interest appearing or represented at the hearings, and during the long executive hearings he showed the same patience, fairness, and determination to bring out a good bill. The Senator from Mississippi has performed a patriotic service, and performed it well. It has been a pleasure to me to work with him.

Mr. President, I sincerely hope the Senate will not agree to the committee amendment on page 338 which would strike from the pending tax bill the excise taxes on pork products provided in lines 8 to 23, inclusive.

Before discussing this proposed committee amendment, however, which in my judgment should be defeated to protect the farmers of the United States, I wish to express my general approval of the amendments proposed by the Finance Committee.

The bill, let me say, is a much better bill than when it went to the committee. The bill which came from the House was an improvement on the present act. I am sincerely hopeful that passage of the pending tax bill, which all of us hope to see enacted into law at an early date, will release a flow of capital into productive enterprises, and return the unemployed to remunerative jobs.

But in this particular instance involving a tax on pork products, I believe the committee was wrong. We are not going to produce more employment in this country by taking away the market in this Nation for American farm products.

The House, after full and complete consideration, and by a record vote, amended the measure as drawn in the Committee on Ways and Means to include an excise tax of 6 cents a pound on imports of processed or prepared pork, and 3 cents a pound on unboned, fresh, chilled, or frozen pork.

Mr. President, if we are to continue the national program to control production in this country, which means to hold down production of farm products to meet domestic demands in the case of foods and feeds, I say it is only fair that the American market be reserved for American farms to the limit of the American farmers' ability to meet the demands of the American market.

That is all that the farmers of America are asking in the proposed excise taxes on pork and pork products. These taxes have the approval of national farm organizations—the National Grange, the Farmers' Union, the National Cooperative Council, the American National Livestock Association, the United States Livestock Association, and the National Poultry Producers' Federation—as a statement which I will place in the RECORD shows.

Among those who appeared before our committee in support of the excise taxes on pork were John Vesecky, of Salina, Kans., president of the National Farmers' Union; Fred Brenckman, Washington representative of the National Grange; F. E. Mollin, of Denver, secretary of the American National Livestock Association, and Glenn Stebbins, of Kansas City, executive secretary of the United States Livestock Association. Mr. Vesecky's statement appears on pages 273–276 of the printed hearings; Mr. Brenckman's testimony starts on page 542; Mr. Mollin's testimony begins on page 498, and Mr. Stebbins's testimony starts on page 611. Each of these witnesses made strong appeals for the enactment of this excise tax for the protection of the American producer.

I wish to refer briefly to their testimony.

Mr. Brenckman said:

> I wish to say that the National Grange favors that provision of the revenue bill which places an excise tax of 6 cents a pound on pork and pork products.

Mr. Brenckman also called attention to the fact that importations into this country of pork and pork products have increased from 13,576,987 pounds in 1935 to 91,385,698 pounds in 1937.

Mr. Mollin urged retention of the pork excise taxes, stating frankly, however, that he was more interested in an excise tax on canned beef. I wish to say that I believe that the canned-beef tax also should have been included in the bill.

Mr. Vesecky said, in part:

> You all know that imports of pork products are increasing, and they are increasing continuously to the detriment of the American farmer. We are now starting to put into operation a law which will limit the production of our United States farms, and we certainly do not want that limited production to be replaced by imports from foreign countries. We are very anxious—

And I want particularly to direct the attention of the Senate to this simple statement from Mr. Vesecky—

> We are very anxious that we retain as much of the American market for the American farmer as we possibly can.

Mr. Stebbins pointed out that the pork-producing industry of our country is faced with an extremely serious situation. He said:

> Pork imports, particularly from continental Europe, have increased by leaps and bounds during the past 4 years. The proposed tax will serve the double purpose of providing much-needed revenue to the Government and of equalizing, in part at least, the competitive situation with which our domestic hog producers are confronted.

What Mr. Stebbins means by "increased by leaps and bounds" is that pork imports have increased from 1,647,000 pounds in 1934 to 74,830,000 pounds in 1937.

The imports of Polish hams and bacon alone have increased from 2,673 pounds in 1932 to 38,000,000 pounds in 1937.

These imports—

I am informed by Mr. D. M. Hildebrand, president of the United States Livestock Association—

> during the year just ended, were equivalent to the production of hams from 40 percent of the hogs marketed at Chicago during the year, equalling the ham production of 1,500,000 hogs.

Mr. President, I desire to say in conclusion that I hold that the American farmer is entitled to the American market. I assert that these imports of Polish hams alone have deprived the American farmer of the domestic market for hams from 1,500,000 hogs in the past year.

I believe the pork producers of this country have amply proved the justice of their demand for protection against these imports of pork and pork products. The House, by a record roll call, decided that this item properly can be included in the pending revenue bill, and voted that way by a decisive majority.

I urge the Senate to retain the language of the House bill in this instance, and to reject the Finance Committee amendment.

I ask unanimous consent to have printed in the RECORD, as part of my remarks, the statements in support of this position by the farm organizations I have mentioned. I am about to send these statements to the desk. They are as follows:

Statement of the United States Livestock Association, signed by its president, D. M. Hildebrand, of Seward, Nebr.

Statement of the National Livestock Marketing Association, signed by P. O. Wilson, Chicago, Ill., secretary-manager.

Statement of the National Association of Swine Records, signed by B. R. Evans, Peoria, Ill., secretary-treasurer.

Statement addressed to the members of the Senate Finance Committee, signed by the National Grange, by Fred Brenckman, Washington representative; the American National Livestock Association, by F. E. Mollin, secretary; the Farmers' Union, by E. E. Kennedy, special Washington representative; the National Cooperative Council, by Robin Hood, secretary-treasurer; the United States Livestock Association, by Glenn Stebbins, executive secretary; and the National Poultry Producers' Federation, by F. A. Donnelly.

Statement of the Iowa Swine Producers' Association, signed by Edward J. Morrissey, Valeria, Iowa, president.

I ask unanimous consent to have these statements printed in the RECORD as part of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The statements are as follows:

UNITED STATES LIVE STOCK ASSOCIATION,
Seward, Nebr., February 15, 1938.

Senator ARTHUR CAPPER,
Senate Office Building, Washington, D. C.

DEAR SENATOR CAPPER: My attention has been called to the following recently published article entitled "Polish Authorities Plan for United States Trade":

"The new Polish export organization, controlled by the Polish bacon and ham industry, has been authorized for the express purpose of developing trade between United States and Poland, according to the United States Department of Commerce. Its main functions, apparently, will be to aid Polish ham exporters to maintain and extend their present market in the United States and to obtain a profitable return for ham exports through price control, or profit, on a complimentary export trade.

"Polish authorities are reported to be making a definite effort to connect imports of raw cotton fiber from the United States with Polish hams and bacon exports to this country. They believe cotton-growing States of the southern part of the United States provide a potential market for large quantities of Polish hams."

In 1932 ham imports only amounted to 2,673 pounds. There has been a substantial increase since then, and during 1937 we imported approximately 38,000,000 pounds of canned ham into the United States. This compared with 17,500 pounds in 1936. During the first 14 days of 1938 canned ham and pork products imported into the United States amounted to 815,000 pounds.

Imports during the year just ended were about equivalent to the production of hams from 40 percent of the hogs marketed at Chicago during the year, equaling the ham production of approximately 1,500,000 hogs, as those imported were cooked and ready to serve.

In addition to pork, approximately 90,000 live hogs for slaughter were imported, compared with around 70,000 head a year ago.

Cattle and calves imported for slaughter totaled 500,000 head compared with nearly 400,000 head in 1936. The bulk of these cattle came from Canada or Mexico, Canada furnishing most of those weighing 700 pounds or over, and the imports from Mexico falling in the group weighing under 700 pounds.

The principal imports of beef are in the form of canned beef from South America, which totaled nearly 100,000,000 pounds. About 3,000,000 pounds of fresh beef were imported from Canada, which also furnished approximately 17,500,000 pounds of fresh pork. During the month of October 1937 we imported canned beef in the amount of 7,435,311 pounds, valued at $805,768,000. Bear in mind this covers only 1 month.

During 1937 there were slaughtered in the United States 10,069,550 head of cattle, 31,642,140 hogs, and 17,270,140 sheep.

From these figures you can make your own estimate as to the amount of feed grains it would require to feed the amount of live stock we imported during the past year, and then reduce it to acres.

Since last October beef steer prices have declined nearly 50 percent in one of the most severe and prolonged market breaks in history. During the same period hog and lamb quotations have also suffered extreme downturns. How many millions of dollars of purchasing power has been lost by these terrific declines?

Congressman HARRY COFFEE, of Nebraska, and Congressman CHESTER THOMPSON, of Illinois, have introduced bills in Congress to partially equalize the tariff on pork with the tariff on other commodities. The present tariff on lard is 3 cents, fresh pork 2½ cents, and cured pork 3¼ cents per pound.

We feel the American producers are entitled to first consideration in the American market, and will appreciate your interest in our behalf.

Yours very truly,

D. M. HILDEBRAND, *President.*

NATIONAL LIVE STOCK MARKETING ASSOCIATION,
Chicago, March 31, 1938.

Hon. ARTHUR CAPPER,
Senate Office Building, Washington, D. C.

DEAR SENATOR: Delegates of member associations of the National Live Stock Marketing Association convened in annual meeting at Chicago a few days ago and in the course of their deliberations unanimously adopted the following resolution:

"We approve the action of the lower House of Congress in placing a 6-cent-per-pound excise tax on preserved and fresh pork products, and, further, that we favor a 3-cent-per-pound excise tax on beef and beef products."

The delegates above referred to represent approximately 300,000 livestock growers and feeders who through their 23 cooperative livestock marketing associations handled in 1937 an equivalent to over 124,750 carloads of livestock, having a value of over $184,640,000.

Livestock handled by the member associations come from over 40 States, and an appreciable volume from such States as Alabama, Arkansas, California, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, Utah, Virginia, Washington, and Wisconsin.

According to our information, there was approximately 94,500,000 pounds of fresh, cured, or corned beef and 74,800,000 pounds of fresh, cured, or preserved pork imported into the United States during 1937, which is equivalent to about 600,000 head of cattle and 590,000 head of hogs, respectively.

In view of the fact that these enormous imports of beef and pork directly compete with our domestic meat and meat products, and that they will continue to come in in large volume, it is our belief that such imported products should contribute a more substantial amount of revenue to our National Treasury.

Therefore, we respectfully urge the imposition of excise taxes of 6 cents per pound on all fresh and preserved pork and pork products and a 3-cent per pound excise tax on all beef and beef products.

Yours very truly,

NATIONAL LIVE STOCK MARKETING ASSOCIATION,
By P. O. WILSON, *Secretary-Manager.*

THE NATIONAL ASSOCIATION OF SWINE RECORDS,
Peoria, Ill., January 17, 1938.

Representing more than 50,000 breeders of hogs, we are writing to you with respect to the amendment introduced by Senator CAPPER, its purpose being to increase the excise duties on pork and pork products to a parity with those now effective on beef.

The alarming increase in pork imports now reaching our American markets is exerting such a harmful effect upon the prices of hogs produced by our American farmer that market price levels are far below what is justified in face of the smallest supply in more than 20 years. Just how serious that increase in pork imports has been is shown by the fact that from an annual average of 660,000 pounds for the 10-year period, 1903–12, the volume of pork imports has increased to approximately 75,000,000 pounds in 1937.

We believe that the American hog producer is entitled to the American market for his American-grown product. We believe that he is entitled to whatever tariff protection may be necessary to bring this about—the same protection which is now afforded to industry—the same protection which has already been given to the producers of beef.

We enclose, for your attention, resolutions passed in this connection at the last annual meeting of this association. They represent the definitely formulated opinion of our membership.

The situation of these pork-producing farmers is of vital concern in the prosperity of the entire Nation. The need for action in preserving the American markets for them is urgent. Thus, your cooperation in bringing the matter to immediate and favorable action will be deeply appreciated.

Hopefully yours,

NATIONAL ASSOCIATION OF SWINE RECORDS,
B. R. EVANS, *Secretary.*

RESOLUTIONS PASSED AT ANNUAL MEETING OF NATIONAL ASSOCIATION OF SWINE RECORDS, DECEMBER 1, 1937

I

Whereas, the importation of pork products, principally ham, has increased from an annual average of 660,000 pounds in the 10-year period between 1903–12, to a total which exceeds 75,000,000 pounds for 1937;

Whereas, this is inescapably seriously affecting the domestic price of hogs grown in the United States;

Be it resolved, That Congress be requested to increase the excise duties on imported pork and pork products to at least a parity with the tariffs now in effect on beef products.

II

Be it further resolved, That inasmuch as an unjust processing tax was placed on pork alone of all meat animals in the previous farm program, that Congress be requested to place no processing tax on hogs, either in the new farm program now being developed, or at any time in the future.

III

Be it resolved, That inasmuch as the ratification of the Argentine Sanitary Pact will endanger and be directly detrimental to the entire livestock industry in the United States—that Congress be requested not to ratify this Argentine Sanitary Pact.

WASHINGTON, D. C., *March 24, 1938.*

To the Members of the Senate Finance Committee:

We take this means of advocating that excise taxes on imported pork, canned beef, dried eggs, and tapioca and sago flours be incorporated in the Revenue Act of 1938, which is now in the hands of the Finance Committee.

PORK

As the bill passed the House, it imposes an excise tax of 6 cents per pound on imported pork and pork products. Official figures of the Department of Commerce show that our imports of these products have gone up by leaps and bounds during the past 3 years. The statistics in this connection are as follows:

Pork imports for consumption during the past 3 years

Item	1935	1936	1937
Live swine ..... pounds	3,414,317	17,445,457	16,555,218
Fresh pork ..... do	3,703,375	12,886,150	20,876,569
Hams, shoulders, and bacon ..... do	5,230,766	26,009,706	47,422,022
Pickled, salted, and other ..... do	1,228,529	2,806,787	6,531,889

According to the February issue of Crops and Markets, issued by the United States Department of Agriculture, on January 1, 1936, there were 42,837,000 hogs on the farms of the country, having a farm value of $544,911,000. By way of comparison, on January 1, 1938, the number of hogs on farms had increased to

44,418,000, with a farm value of $498,025,000. It will be seen, therefore, that while the number of hogs on our farms has increased by more than a million and a half during the past 2 years, their value has decreased to the extent of nearly $47,000,000.

The latest index of the Department of Agriculture shows that the average price level of all farm commodities now stands at 102 percent of pre-war. The prices paid by farmers for commodities bought average 126 percent of pre-war, giving the farm dollar a purchasing power of 81 cents.

CANNED BEEF

During the calendar year ending December 31, 1937, our imports of canned beef amounted to more than 88,000,000 pounds. According to our information, for every pound of canned beef produced domestically, we imported 12 pounds. Even this small amount of the domestic product is not available in retail stores except in rare instances. In fairness to domestic producers, we advocate the imposition of an excise tax of 3 cents per pound on imported preserved beef and veal products contained in air-tight containers.

Trusting that our request for the excise taxes herein mentioned may receive favorable consideration on the part of the Finance Committee and the approval of Congress as a whole, we are,

Sincerely yours,

THE NATIONAL GRANGE,
By FRED BRENCKMAN, *Washington Representative.*
AMERICAN NATIONAL LIVE STOCK ASSOCIATION,
By F. E. MOLLIN, *Secretary.*
FARMERS' UNION,
By E. E. KENNEDY,
Special Washington Representative.
NATIONAL COOPERATIVE COUNCIL,
By ROBIN HOOD, *Secretary-Treasurer.*
UNITED STATES LIVE STOCK ASSOCIATION,
By GLENN STEBBINS, *Executive Secretary.*
NATIONAL POULTRY PRODUCERS' FEDERATION,
By F. A. DONNELLY.

IOWA SWINE PRODUCERS' ASSOCIATION,
Valeria, Iowa, March 19, 1938.

Senator ARTHUR CAPPER,
Senate Office Building, Washington, D. C.

DEAR SENATOR CAPPER: Our friends in the House got through a bill raising the tariff on foreign pork products 6 cents a pound. Now we are ready for the fight in the Senate. Will you kindly help us, as you have in the past, to get this bill out on the floor of the Senate?

Very thankfully yours,

EDW. J. MORRISSEY, *President.*

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. CAPPER. I yield.

Mr. COPELAND. What is the Senator proposing—that the rate in the bill be changed?

Mr. CAPPER. The House amended the bill by an amendment adopted on the floor by an overwhelming roll-call vote, providing for a 6-cent excise tax on swine products. The Finance Committee of the Senate struck out the House amendment. I think it is only fair to the farmers of the country that we should approve the action of the House.

Mr. COPELAND. Mr. President, if the Senator will permit me to make the statement, I have been very much distressed by what I am about to relate. Where I live, on a farm in the country, we go to the village, 2 miles away, to the meat market; and I was amazed to find what a large number of Polish hams—hams from Poland—are being brought into the country. If the experience of others is the same as mine, all of us must be impressed with the idea that if we are to protect American agriculture we shall have to give ourselves protection against these importations from abroad. I wish to join the Senator from Kansas in the view he has expressed.

Mr. CAPPER. The Senator is right, and particularly with reference to the competition of the products of Poland. Over 71,000,000 pounds of Polish hams have been imported into this country in the past year.

Mr. COPELAND. I was perfectly amazed. The community to which I refer is a small town, and the man in charge of the meat market told me that he had sold 70 of those hams in that little town that week. If a small community like that can consume so much, in the whole country the consumption must be tremendous. There should certainly be greater protection afforded if we are to protect agriculture as we should.

Mr. WALSH. Mr. President, the House provision with respect to section 702½ would impose a special import tax of 6 cents a pound on imports of pork, bacon, hams, sides, shoulders, loins, and other pork, including fresh, chilled, frozen, cured or cooked, steamed, prepared or preserved pork, and of 3 cents per pound on pork joints—sweet, pickled, fresh, frozen, or cured.

The Secretary of Agriculture and the Secretary of State appeared before the Committee on Finance in opposition to this House provision. After a full and elaborate discussion the committee voted 17 to 4 to remove the House provision from the bill. The Secretary of Agriculture was very strong, almost vehement, in his opposition to the provision. The Secretary of State also took a very strong position.

I do not know how I can better deal with the problem before the Senate than by quoting from a letter written by the Secretary of State to the chairman of the committee. He stated:

> I am, as you know, deeply concerned about the welfare of our corn-hog industry. However, I am firmly of the opinion that this proposal, if adopted, would not benefit the corn-hog industry of this country even temporarily. On the contrary, it is directly and seriously opposed to the immediate, as well as the long-run, interests of both our corn-hog industry and our meat-packing industry. I feel certain that, if this fact were realized, those who supported the provision would be the first to abandon it.

In another portion of the same letter he said:

> The nub of the situation is this: The corn-hog industry of this country is heavily dependent upon export markets. Normally, our imports of corn and of hog products are trifling in relation to domestic production and are exceeded manyfold by our exports, mainly in the form of hog products. The average annual exports from the United States of pork and pork products in the fiscal years 1925–26 to 1929–30 exceeded 1,000,000,000 pounds, whereas imports averaged only 11,000,000 pounds. Even in the depression years 1930–31 to 1933–34 exports of pork and pork products averaged 570,000,000 pounds as compared with imports of 3,100,000 pounds.

Mr. McNARY. Mr. President, whose communication is that?

Mr. WALSH. A letter from Secretary Hull.

Mr. McNARY. To the committee?

Mr. WALSH. To the committee. The testimony of the Secretary of Agriculture it is unnecessary for me to quote. It was to the effect that, in his opinion, the enactment of this provision of the House bill would prove a serious handicap and would work a great injury to the corn and hog products industry. He expressed surprise that any persons from States where hogs are raised and corn is produced should, for a moment, seriously consider the incorporation of a provision of this kind, in view of the likely effect it would have upon our export business.

Mr. President, I think it is unnecessary to say more, because I assume the sentiment of the Senate will be the same as that voiced by the committee.

Mr. CONNALLY. Mr. President, has the Senator from Massachusetts also pointed out that our exports to Poland, from which this ham is supposed to be coming, are much larger than our imports from Poland?

Mr. WALSH. That is true.

Mr. BURKE. Mr. President, I do not see how it can be considered that the importation of pork products is a trivial matter. The evidence shows that for the year 1937 the importation of dressed pork products was the equivalent of one-third of all of the hogs which went through the great Chicago Stockyards. In other words, in the 3 years from 1934 to 1937 the importation of dressed pork products increased from 1,648,000 pounds, in 1934, to 74,682,000 pounds in 1937. That amount of dressed pork is the equivalent of half a million 150-pound hogs, or one-third of the hogs which annually pass through the Chicago stockyards.

While, of course, one can easily say that this amount, large as it is, is only a fractional part of the total production in this country, it is a very serious matter, and I think the Senate Finance Committee has made a serious mistake in eliminating the provision from the bill.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. BURKE I yield.

Mr. BARKLEY. With regard to the number of hogs which went to the Chicago stockyards, the fact is that for the 10-year period up to 1934 we exported an average of 926,000,000 pounds of pork from the United States, while the average imports amounted to only 8,000,000 pounds. It is true that imports jumped after 1934 and 1935 because of the drought in the Middle West, but the peak in the imports of pork was reached in the year 1937, as the direct effect of the drought, when they amounted to only 75,000,000 pounds of all sorts of pork products, compared with an export average for a 10-year period of practically a billion pounds.

Mr. BURKE. Giving the figures for a 10-year period is very misleading. What we are concerned with is the present enormous increase, and, at the rate at which the increase is going forward, we have every reason to believe that for the year 1938 it will run well over a hundred million pounds. It is a matter which needs attention.

Mr. CLARK. Mr. President, before the Senator takes his seat, will he yield?

Mr. BURKE. I yield.

Mr. CLARK. Has the Senator the figures of the increase in the export of pork products from the United States in the last 5 years under the reciprocal-trade agreements?

Mr. BURKE. I have no figures available in reference to exports of pork products.

Mr. CLARK. It was testified before the Committee on Finance by the Secretary of Agriculture and the Secretary of State that the exports of pork products from the United States to Europe in the last few years, under the various reciprocal-trade agreements which have been made, very much exceeded any increase which may have occurred in the importation of pork products in the last year into the United States as a result of drought conditions which existed in the United States.

I represent exactly the same sort of constituency, so far as pork products are concerned, as that represented by the Senator from Nebraska. I believe it is better for the United States to open up an opportunity for the American farmer in Missouri, Nebraska, Iowa, and the other great hog-producing States, to export their products, than it is to take a narrow view. When we have once made a trade agreement with a nation for the advantage of our farmers and our manufacturers and everybody else, then to try to take it away from them with an excise tax is essentially dishonest.

Mr. BURKE. I have great difficulty in understanding the effects of the drought about which we are talking. We had a drought in the hog-producing areas which made it necessary to import a tremendously larger amount of dressed-pork products, and the same drought enabled us to increase our exports of pork products. There is something wrong with the figures.

Mr. CLARK. I spoke of the period of several years.

Mr. BURKE. Oh, yes, if we go back——

Mr. CLARK. There is an opportunity which has been opened up for the export of American pork products, pork being essentially an export commodity, as the Senator well knows. It so happened that in the year 1937, owing to the drought condition, there was a shortage of pork products in the United States, and there was an unusual importation of pork products, and even that unusual importation of pork products amounted to only about 3¼ percent of all the pork consumption of the United States. It seems to me, as one very much concerned with the interests of pork producers in the Mississippi Valley, that it is very much better for us to have an opportunity, through reciprocal-trade agreements or any other means which may be suggested, of exporting our surplus normally than to take advantage, after we have entered into an agreement, of a particular importation in a particular year, due to a pork shortage in the United States, which was due to a drought condition, and dishonestly set up an excise tax, which is essentially in violation of agreements entered into with other nations.

Mr. BURKE. Mr. President, I cannot agree that any plan is helpful to the producers of hogs in this country if it results in the single year 1937 in the importation into this country of the equivalent, in the form of dressed pork, of that which would be produced from five hundred thousand 150-pound hogs. I think there is something wrong with a system which permits that.

Mr. BARKLEY. Leaving out of consideration drought and everything else, and coming down to the month of January 1938, compared to the month of January 1937 our exports of pork products in January 1938 were twice as great as they were in January 1937, while the imports of pork products fell from 5,800,000 pounds in January 1937 to 3,700,000 pounds in January 1938. So that the trend of our export market for pork is on the upgrade and the trend of our import market for pork products is on the downgrade.

Mr. BURKE. We do not know all the circumstances entering into the question of imports and exports during the single months of January 1937 and January 1938. It is just as much an error to take the one month of January and draw a conclusion with respect to it as it is to draw a conclusion from a 10-year average. If we compare the year 1937 with the year 1938 we find that the trend is all toward a tremendous increase of importations of pork products.

Mr. BARKLEY. The month of January is the latest available period which can be considered.

Mr. BURKE. It is not a sufficiently long period.

Mr. BARKLEY. It is not a sufficiently long period for the Senator.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. BURKE. I yield.

Mr. CONNALLY. I think it ought to be said in behalf of the committee, that it was shown in the committee that this particular provision was aimed at Polish pork; that Polish pork is prepared in a way which appeals particularly to the people of Polish extraction and sells on our market for a higher price than our own pork, and, in addition, that our exports to Poland were considerably larger than our imports.

Mr. BURKE. If the product in question is such a fancy product that it sells at a very high price, increasing the rate on it by 3 cents a pound will not have a serious effect on those who are able to pay for a fancy product.

Mr. FRAZIER. Mr. President, it seems to me that this import duty on pork and pork products is very important. The Department of Agriculture, under the A. A. A., paid the farmers good money to reduce the number of their hogs. It was a part of the agricultural program at that time. The number of hogs in our country was reduced materially. Then the drought came on and the number of hogs was still further reduced. The price of pork has gone down to some extent. It was rather high, but it has gone down. Unless we can have a duty which will protect our own farmers who produce hogs, there is little chance of ever putting agriculture on a paying basis.

The American farmers are entitled to the American market, and unless we can be protected from these imports, our farmers might just as well quit, because other countries will continue to send pork into this country.

Mr. KING. Mr. President, will the Senator yield?

Mr. FRAZIER. I yield.

Mr. KING. Suppose the policy of the Government results in finding an export market for millions and millions of pounds more than are imported, and that export market is to the advantage of the American farmers, and would not exist if it were not for the activities of the Department of State and our Government in finding foreign markets for our surplus products.

Mr. BORAH. Mr. President, has any such thing happened?

Mr. KING. Yes.

Mr. BORAH. I should like to have the figures.

Mr. KING. The figures show what has happened with respect to pork.

Mr. BORAH. It will be disclosed that, instead of those of other countries using the benefits they received from the reciprocal-trade agreements to buy our products, they have come here and bought our securities. As is shown by the statement I placed in the CONGRESSIONAL RECORD some time ago, they buy our securities, but not our farm products or our manufactured products.

Mr. KING. Mr. President, I shall not enter into a discussion of that matter with the Senator from Idaho in the time of the Senator from North Dakota, but the evidence shows that our exports have increased, and our imports have decreased in many respects, and the proceeds from the imports into the United States were utilized in buying American products which we exported.

Mr. FRAZIER. Mr. President, the prime purpose of the program contained in the President's farm bill is the reduction of the amount of those products of which we have a surplus. We have not had a surplus of hogs for some time, because of the drought in the hog-producing States, but hogs are again increasing, and we want them to increase until we produce sufficient hogs to feed our own people at reasonable prices. Although the imports of pork products into this country may not be large, yet they are coming in in direct competition with our farmers.

Mr. BARKLEY. Mr. President, if the Senator advocates stopping imports of pork products does he also advocate the stopping of exports? If we are not to let any pork come in, shall we keep all our pork for ourselves and not let any out?

Mr. FRAZIER. That is not the question at all.

Mr. BARKLEY. Why is it not? The Senator talks about the American market for the American pork producer, but we are sending out three times as much pork as we are bringing in. If we are going to stop the imports, how are we going to prevent the stopping of exports?

Mr. FRAZIER. I think there is something entirely wrong with the Senator's reasoning, because from reports we receive from the agricultural communities there is still a shortage of hogs in the United States.

Mr. BARKLEY. Then, we ought to put an embargo on pork and not let any of our pork leave the United States. However, as a matter of fact much more is leaving than is coming in.

Mr. FRAZIER. The House did not agree to that. It made a very thorough study of this matter, and the amendment dealing with pork and pork products was put into the bill by a substantial vote.

Mr. CLARK. Mr. President, will the Senator yield, so that I may ask him one question?

Mr. FRAZIER. I yield.

Mr. CLARK. The proposal that the Senator speaks of was not presented to the House by the committee which considered the bill. It was put in by an amendment presented on the floor, with very scant debate. So, how can the Senator from North Dakota say that it was put in the bill after very serious consideration.

Mr. FRAZIER. It was discussed at great length at least, and, of course, serious consideration was given to it.

Mr. CLARK. As I recall, it was discussed for nearly an hour in the House.

Mr. FRAZIER. It is my understanding that we are still short of hogs in the United States.

Mr. CLARK. Will the Senator yield further?

Mr. FRAZIER. I yield.

Mr. CLARK. It seems to me that it is not possible for the United States as a Nation, or for the hog producers as a class, to be able to eat their cake and keep it too. We have been trying ever since the present administration came into power to open the foreign markets for the benefit of the hog producers, and that has been done to a very exceptional extent. I do not think there is any controversy about that.

Mr. WALSH. Mr. President, will the Senator yield to me at that point?

Mr. FRAZIER. I yield.

Mr. WALSH. The testimony shows that 15 out of 17 trade agreements made by our Government with foreign countries contained concessions in our favor respecting pork and pork products.

Mr. CLARK. Mr. President, will the Senator from North Dakota yield for a moment further?

Mr. FRAZIER. I yield.

Mr. CLARK. I do not think the question is open even to honest debate. By virtue of the reciprocal-trade agreements the European market or the foreign market for hog products has increased very materially. All of us from hog-producing sections, I think, agree that that is a very desirable state of affairs.

It is true that some farm products have trickled into this country from abroad lately, but that is really the first time it has happened. But now that we have opened up the European markets and the foreign markets for the products of our hog producers, I should like to ask the Senator from North Dakota whether he thinks it is fair that we should turn around with the other hand and put on, not a tariff, which would be in violation of the trade agreement, but an excise tax, which has the same effect, to negative the benefits enjoyed by these other countries?

Mr. FRAZIER. It seems to me to be a very strange policy for one department of the Government to pay the farmers for reducing production, and then to have some other department advocate the importation of the same products, in direct competition with the products which our farmers are producing at home, and with respect to which the Government is seeking to cut down production and raise prices.

That, however, is being done. Consumption of pork has decreased greatly in the last few years, because there are so many unemployed who cannot buy it. It is not because there is a shortage of hogs by any means. Any pork products imported into this country come in direct competition with the hogs that are produced in the United States. The same thing is true with respect to beef. We allow a great deal of canned corned beef to come in from South America, and it has the effect of keeping down the price of beef at home.

I do not know whether or not the bill provides for a tax on canned beef, but if it does not, it should.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. FRAZIER. I yield.

Mr. CLARK. Has the Senator ever been able to discover any means by which anyone can eat his cake and keep it too? That is exactly what the Senator is now advocating.

Mr. FRAZIER. No; that is not the proposition at all. We are not talking about cake. It is plain pork we are talking about, and we want to be protected from importation of pork into this country.

Mr. CLARK. Has the Senator ever known of any method by which a man can eat his sausage and keep it, or eat his beefsteak and keep it?

Mr. FRAZIER. That is all right; but there has been a lowering of the consumption of pork products and of beef products during the last few years, when there have been so many millions out of employment, and others have been so hard up that they have not been able to buy pork or any other meat products. The pork that is imported into this country should have a tax on it in order to protect our own farmers, because every pound of pork that comes in has an effect on our home market. I want our American market kept for the American farmer. He is entitled to it.

Mr. CLARK. Mr. President, I desire to detain the Senate for only a moment.

If the proposal of the Senator from North Dakota were adopted, in my opinion many more American farmers would be on the dole than there are today. Many more American farmers producing pork products would be unable to sell them, because, if we were to adopt the proposal advocated by the Senator from North Dakota, no nation in the world would deal with us on a trade agreement. If we were to enter into a trade agreement with several nations on one basis, and then turn around and establish an excise tax

taking it away, we should absolutely destroy the whole effect of all the trade agreements; and the farmers, in whom the Senator from North Dakota has a great interest, and in whom I have a great interest, and in whom many other Senators have a great interest, would be in very much worse case than the unfortunate case in which they are today.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee on page 338, beginning in line 8.

The amendment was, on page 338, beginning in line 8, to strike out:

SEC. 703. Tax on certain meat products.

Section 601 (c) of the Revenue Act of 1932, as amended, is further amended by adding at the end thereof the following new paragraphs:

"(9) Pork, bacon, hams, sides, shoulders, loins, and other pork, including fresh, chilled, frozen, cured or cooked, steamed, prepared, or preserved, 6 cents per pound.

"(10) Pork joints, sweet pickled, fresh, frozen, or cured, 3 cents per pound.

"The tax on the articles described in paragraphs (9) and (10) shall apply only with respect to the importation of such articles after 60 days after the date of the enactment of such paragraphs and shall not be subject to the provisions of subsection (b) (4) of section 601 (prohibiting drawback) or section 629 (relating to expiration of taxes)."

The PRESIDING OFFICER. The question is on agreeing to the amendment as stated. [Putting the question.] The "ayes" seem to have it.

Mr. FRAZIER. I ask for the yeas and nays.

Mr. BURKE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Austin	Connally	King	Overton
Bailey	Copeland	La Follette	Radcliffe
Bankhead	Ellender	Lee	Reames
Barkley	Frazier	Lodge	Reynolds
Berry	George	Lonergan	Russell
Bilbo	Gerry	Lundeen	Schwartz
Bone	Gibson	McCarran	Sheppard
Borah	Green	McGill	Shipstead
Bridges	Guffey	McKellar	Thomas, Utah
Brown, Mich.	Harrison	McNary	Townsend
Bulkley	Hatch	Maloney	Vandenberg
Bulow	Hayden	Miller	Van Nuys
Burke	Herring	Minton	Wagner
Byrd	Hill	Murray	Walsh
Byrnes	Hitchcock	Neely	White
Capper	Holt	Norris	
Caraway	Johnson, Calif.	Nye	
Clark	Johnson, Colo.	O'Mahoney	

The PRESIDING OFFICER. Sixty-nine Senators have answered to their names. A quorum is present. The question is on agreeing to the amendment reported by the committee on page 338, beginning in line 8.

Mr. BURKE. I ask for the yeas and nays.

The yeas and nays were ordered, and the chief clerk proceeded to call the roll.

Mr. SHIPSTEAD (when his name was called). I have a pair with the senior Senator from Virginia [Mr. GLASS]. I understand that if he were present he would vote "yea." If I were at liberty to vote I should vote "nay." I withhold my vote.

The roll call was concluded.

Mr. JOHNSON of Colorado. On this question the senior Senator from Colorado [Mr. ADAMS] is paired with the senior Senator from Illinois [Mr. LEWIS]. If the Senator from Illinois were present I am informed that he would vote "yea." If my colleague [Mr. ADAMS] were present and at liberty to vote, he would vote "nay."

Mr. MINTON. I announce that the Senator from Florida [Mr. ANDREWS], the Senator from Arizona [Mr. ASHURST], and the Senator from Washington [Mr. SCHWELLENBACH] are detained from the Senate because of illness.

The Senator from Colorado [Mr. ADAMS], the Senator from New Hampshire [Mr. BROWN], the Senator from New Mexico [Mr. CHAVEZ], the Senator from Illinois [Mr. DIETERICH], the Senator from Wisconsin [Mr. DUFFY], the Senator from Ohio [Mr. DONAHEY], the Senator from Iowa [Mr. GILLETTE], the Senator from Virginia [Mr. GLASS], the Senator from Kentucky [Mr. LOGAN], the Senator from California [Mr. MCADOO], the Senator from New Jersey [Mr. MILTON], the Senator from Florida [Mr. PEPPER], the Senator from Nevada [Mr. PITTMAN], the Senator from Idaho [Mr. POPE], the Senator from New Jersey [Mr. SMATHERS], the Senator from Oklahoma [Mr. THOMAS], the Senator from Missouri [Mr. TRUMAN], and the Senator from Montana [Mr. WHEELER] are detained on important public business.

The Senator from Delaware [Mr. HUGHES], the Senator from Illinois [Mr. LEWIS], and the Senator from Maryland [Mr. TYDINGS] are unavoidably detained.

The Senator from South Carolina [Mr. SMITH] is detained in his State on official business.

Mr. AUSTIN. I announce the necessary absence of the Senator from Pennsylvania [Mr. DAVIS]. He has a general pair with the Senator from Kentucky [Mr. LOGAN].

The result was announced—yeas 41, nays 27, as follows:

YEAS—41

Austin	Clark	Hill	Reames
Bailey	Connally	King	Reynolds
Bankhead	Ellender	La Follette	Russell
Barkley	George	Lodge	Thomas, Utah
Berry	Gerry	Lonergan	Vandenberg
Bilbo	Gibson	McKellar	Van Nuys
Brown, Mich.	Green	Maloney	Wagner
Bulkley	Guffey	Miller	Walsh
Byrd	Harrison	Minton	
Byrnes	Hayden	Overton	
Caraway	Herring	Radcliffe	

NAYS—27

Bone	Frazier	Lundeen	Nye
Borah	Hatch	McCarran	O'Mahoney
Bridges	Hitchcock	McGill	Schwartz
Bulow	Holt	McNary	Sheppard
Burke	Johnson, Calif.	Murray	Townsend
Capper	Johnson, Colo.	Neely	White
Copeland	Lee	Norris	

NOT VOTING—28

Adams	Donahey	Logan	Shipstead
Andrews	Duffy	McAdoo	Smathers
Ashurst	Gillette	Milton	Smith
Brown, N. H.	Glass	Pepper	Thomas, Okla.
Chavez	Hale	Pittman	Truman
Davis	Hughes	Pope	Tydings
Dieterich	Lewis	Schwellenbach	Wheeler

So the committee amendment was agreed to.

Mr. HARRISON. Mr. President, may we now take up the tax on distilled liquors, on page 344? That amendment was passed over.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. The next amendment passed over is, on page 344, after line 7, to insert the following:

SEC. 712. Tax on distilled spirits.

(a) Section 600 (a) of the Revenue Act of 1918, as amended, is amended by inserting at the end thereof the following:

"(5) On and after July 1, 1938, $2.25 on each proof gallon or wine gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon."

(b) Section 600 (a) (4) of such act, as amended, is amended by inserting after "1934" the following "and prior to July 1, 1938."

(c) Section 600 (c) of such act, as amended, is amended by striking out "$2 per wine gallon" and inserting in lieu thereof "$2.25 per wine gallon."

(d) Section 4 of the Liquor Taxing Act of 1934 is amended by striking out "$2" and inserting in lieu thereof "$2.25."

(e) The amendments made by this section shall not apply to brandy and the rates of tax applicable to such brandy shall be the rates applicable without regard to such amendments.

Mr. McNARY. Mr. President, may I not appeal to the Senator from Mississippi to move a recess at this time?

Mr. HARRISON. Yes; if the Senator appeals to me, I will say that he has my consent to a recess at this time.

Mr. McNARY. The Senator is in charge of the bill, and also of the floor.

Mr. HARRISON. I hope the Senate may meet at 11 o'clock in the morning, so that we may pass the bill tomorrow. There is not much of it left.

Mr. WALSH. Mr. President, I ask to have printed in the RECORD in connection with the debate on the pending tax bill a letter addressed to me by Hon. Henry F. Long, commissioner of corporations and taxation of the Commonwealth of Massachusetts, and a reply thereto from the Under Secretary of the Treasury commenting on the subject matter contained in Mr. Long's letter.

The PRESIDING OFFICER. Without objection, the letters referred to by the Senator from Massachusetts will be printed in the RECORD.

The letters are as follows:

COMMONWEALTH OF MASSACHUSETTS,
Boston, March 28, 1938.

Hon. DAVID I. WALSH,
Senate Office Building, Washington, D. C.

DEAR SENATOR WALSH: Despite my conviction that you have it thoroughly in mind, I am nevertheless because I know you will not object communicating my thought to you in respect to that part of the proposed Federal Revenue Act of 1938 that relates to the Federal estate and gift tax.

The law as proposed seems to me to affect Massachusetts quite seriously and, of course, it is equally bad in relation to other States. The credit allowed the States, purporting to leave them on the same level of sharing in estates as is now true, is not when actually worked out so and, therefore, because this represents another encroachment upon State sources of revenue, I am asking that you permit me to make the following suggestions:

First. The Federal Government should retire from the inheritance-tax field. The States are the only ones that permit by their laws the devolution of property. The inheritance tax has been one of the ancient fields for revenue sources. The Federal Government, when it has gone into this form of tax for the purpose of paying for war expenses, has retired after that period was over. In view of the very definite need for revenue which the States have and their rapidly reducing ability to get revenue it should be recognized by the Federal Government in a withdrawal from this field altogether. It is, therefore, my thought that there should be stricken from the Federal revenue bill all efforts to collect either under the inheritance or gift tax as that is a source that should be left to the States because they give something in return for it which is not true of the Federal Government. In addition, the Federal Government has sources which are strictly Federal in character that the States never can invade. In the event that the Federal Government desires to stay in the estate-tax field and as the amount in proportion to the total need is relatively small it is suggested that they permit a very substantial credit to the States so that they will be in the inheritance-tax field only to the extent of making impossible the escape of wealth from inheritance taxes by preventing States from setting themselves up as havens of refuge from inheritance taxes.

In some way the Federal Government should think in terms of retiring from this field, either by its abolition in the 1938 Federal Revenue Act or in some other way adjusting it so that they will not, as now, be, in fact, taxing the States by diminishing the amount which they can levy on in the estates of those dying, seeking the benefits of the laws of devolution enacted by various States of the Union.

Second. In the event that the Federal Government is of opinion that it cannot retire from the inheritance-tax field despite the fact that it has done that on every other occasion when it has gone into that particular revenue pasture, then the 1938 Federal Revenue Act should permit a very substantial credit to be given the States. The 1938 Federal revenue proposal forces the States to tax wealth in the smaller brackets. It practically denies to the States any substantial amount from the larger accumulations of wealth. The credit permitted in the House bill is, in fact, of no benefit to the State because the difficulties that have been added make the situation so complicated that the States will, in fact, not only lose revenue but in addition will cause the citizens to suffer a tremendous amount of inconvenience in settling estates. It would seem that the Federal Government should have in mind, as the States always must have in mind, that citizens are the ones who pay taxes and that a tax law that causes administrative activities to be such as to harass those who are in substance the taxpayers is extremely bad under our form of government. The House bill as now before the Senate so far as it relates to the inheritance tax is extremely unfair to the States and unfair to the taxpayers so far as it attempts to relate itself between Federal taxation and State taxation.

Third. In the event that the Federal Government will not withdraw from the estate-tax field and in the event that the 1938 Federal Revenue Act cannot be changed so as to give the States a substantial credit so that there can be a restoration of revenue from this source for the States, it is suggested that the 1938 Federal revenue bill reenact what has heretofore been reenacted in the subsequent revenue bills from 1926 on. The present law, while working an injustice to the States is preferable to the proposed law in the 1938 Federal Revenue Act. Even the advantage suggested, accompanied as it is with all of the difficulties that are going to arise both in respect to the administrator and the taxpayer, is not warranted because a continuation of the existing law would be preferable to that proposed in the House bill for the 1938 Federal Revenue Act.

Massachusetts has lost substantially since the 1932 Federal Revenue Act increased the percentages on large estates. Probably the New England States as a whole have contributed more than any other group of States in the entire Nation to the Federal Government because of the encroachment into the inheritance-tax field by the large rates employed since 1932. The States have hoped that the Federal Government would give some consideration to the States in inheritance taxation but each succeeding revenue act has seemingly disregarded them more and more.

The gift tax has prevented Massachusetts from getting substantial revenue because it has encouraged the distribution of fortunes other than by the laws of evolution. The increased rates in the various acts which have been superimposed on the 1926 Revenue Act without permitting any credit have further reduced the amount to which Massachusetts fairly should be entitled under normal workings of the inheritance tax law.

Massachusetts had a substantial revenue from such estates as those of Mr. William A. Gaston, Mr. Charles Sumner Bird, Mr. Earl Charlton, Mr. James J. Storrow, Mr. William A. Paine, and others, who died prior to the present high rates of the Federal Government. If those persons had died subsequent to the recent Federal revenue acts or under the proposed 1938 revenue act, Massachusetts would have lost upwards of $30,000,000 in these estates alone. It would seem that the Federal Government could very well give a little consideration to the States and for Massachusetts I sincerely hope that in the event that the estate tax and gift tax cannot be completely abandoned under the Federal revenue bill or a substantial credit given to Massachusetts from gifts or estates that are taxed by the Federal Government of those who are residents of Massachusetts, the proposal of the 1938 revenue bill be abandoned and the old or present law be substituted in its place, all of which is respectfully submitted for your consideration.

Please accept my apologies for writing you at length but the matter is of grave concern to me and I would be frankly uneasy unless I had written you in this way.

With very high regards,

Cordially yours,

HENRY F. LONG,
Commissioner of Corporations and Taxation.

TREASURY DEPARTMENT,
Washington, April 5, 1938.

MY DEAR SENATOR: I am pleased to comply with your request for comments on the letter sent to you by Henry F. Long, Massachusetts Commissioner of Corporations and Taxation, dated March 28, 1938. Commissioner Long urges (a) that the Federal Government withdraw completely from the estate and gift-tax field, (b) that in the absence of such withdrawal the Federal Government allow a greater credit against Federal taxes for death taxes paid to States, and (c) that, in the event neither of these procedures is possible, the Revenue Act of 1938 retain the crediting provision as originally enacted in 1926.

In support of his contention that the Federal Government should withdraw from the death-tax field, Mr. Long maintains that the power of regulating transfers of property at death rests with the States and that therefore they are the logical agents for imposing transfer taxes; that the Federal Government has encroached upon a field preempted by the States; and, finally, that the States have great need for estate and gift tax revenue.

With reference to the statement that the death taxes can properly be imposed only by the States, attention may be drawn to the fact that the Federal Government has a right under the Constitution to levy taxes on transfers at death and the further fact that estates large enough to be taxable have been accumulated under the protection of and with the benefit of services afforded by the Federal Government. Aside from these considerations, the case for Federal death taxes derives adequate merit from its economic characteristics. The withdrawal of the Federal Government from the death-tax field would not only involve a loss of $300,000,000 or more of annual Federal revenue but also the sacrifice of one of the means for the proper application of the ability-to-pay theory of taxation.

The fact that the Federal Government draws upon some of the same sources of tax revenue as are used by the States is not necessarily undesirable from the point of view of the States; on the contrary, in this instance it is to their advantage. Federal participation in the death-tax field eliminates interstate competition and makes the effective imposition of State death duties actually possible. Prior to the adoption of a Federal estate tax with the crediting feature for State taxes, certain States, by holding forth the prospect of extremely low or nonexistent State death duties to persons of wealth, were bidding fair to seriously undermine State revenue from this source. Following the adoption of the crediting device, State collections from death taxes greatly increased, from $96,000,000 in 1926 to $183,000,000 in 1931. Writers on American taxation frequently point out that were the Federal estate duty to be abolished much of the progress made in the character of State inheritance taxation would be largely lost. The tax commission of the State of New York, for instance, made the following significant observations in its 1926 annual report:

"There is great danger, if not a probability, that, with the Federal Government entirely withdrawn from this field of taxation, the State laws would become so unequal and discriminatory that there would be an irresistible demand for their complete abolition * * * the credit provision of the present Federal law constitutes not an unwarranted interference with, but a guaranty to the States which desire such a system of taxation, that they shall not suffer an unwarranted interference on the part of other States."

To maintain that the Federal Government may properly participate in the death-tax field and do so to the advantage of the States is not to deny that the simultaneous taxation of property transfers at death by the Federal Government and the States requires coordination, or that the distribution of revenue sources between the various governmental levels may require reexamination. The Federal Government, like the States, wishes to diminish Federal-State tax conflict and increase fiscal coordination. These results, however, are not to be achieved simply by unilateral action; nor can the problem be disposed of by reference to the issue as to which level of government occupied a particular field of taxation first. Any reallocation of revenue sources between governmental levels must, in the final analysis, depend upon the distribution of governmental functions between these same governmental levels. This applies to the possible withdrawal of the Federal Government from the death-tax field as well as to the proposal that the amount of death-tax credit for taxes paid to States be increased.

If the trend in the division of governmental functions between governmental levels is placing an increasing functional load upon the Federal Government in relation to State and local governments (as, in fact, it has in recent years), then it would seem that the Federal Government has a more valid case for an increased share in tax collections than have the other governmental levels. However, pending a comprehensive consideration of the complicated fiscal interrelationship between the Federal Government and the States, there is no acceptable basis for disposing of the question of the proper distribution of either property transfer tax revenue or any other tax revenue between the Federal Government and the States.

It was because of these considerations, I believe, that the House Committee on Ways and Means, in its draft of the proposed Revenue Act of 1938, did not undertake to readjust the division of inheritance- and estate-tax revenue between the Federal Government and the States. The revision of the credit allowed against Federal estate taxes for taxes paid to States as proposed in H. R. 9682 would leave the total burden of estate taxes wholly unchanged and would leave the States' aggregate share of revenue little affected.

The proposal to revise the basis of the credit allowed against Federal estate taxes was prompted solely by considerations of administrative simplicity. The present provision of the law is unnecessarily complex in that it requires the computation of estate-tax liability under two separate rate schedules for the sole purpose of determining the amount of credit permitted for taxes paid to States. In view of this consideration, I am unable to appreciate the validity of Commissioner Long's statement to the effect that the proposed credit under H. R. 9682 so complicates the law that it will cause taxpayers to suffer a tremendous amount of inconvenience in settling estates. In allowing the elimination of all references to the Revenue Act of 1926, and in providing a single rate scale where two now exist, it seems quite clear that the proposal would accomplish a simplification rather than a complication of the Federal estate tax.

While the proposal to permit taxpayers a credit against Federal tax liability for taxes paid to States, to the extent of 16.5 percent of the tax imposed under the rates contained in the Revenue Act of 1935, would leave the total amount of such credits unaffected, it would affect estates of different sizes differently. Because of the different character of the rate schedules and the different size of the specific exemptions, as between the Revenue Acts of 1926 and 1935, net estates (before specific exemption of $40,000) of less than 1.2 million dollars would be allowed a larger credit for State death taxes than at present, and estates of more than 1.2 million dollars would receive a lesser credit. Over 98 percent of all taxable estates would thus be allowed a greater credit for State taxes under the proposal than under the present law.

It is not possible to conclude definitely whether Massachusetts will stand to gain or lose from the proposed change (a) because the distribution of estates by size is not available for Massachusetts, and (b) because data are not available, by States, to show separately the credit for State taxes for returns filed under the 1935 act. The combined data available for all returns filed during 1936 show that, in Massachusetts, the credit allowed for State taxes (1.68 million dollars) amounted to 17 percent of total Federal tax liability (9.87 million dollars). If all the Massachusetts returns filed during 1936 had been filed under the Revenue Act of 1935, the result would have been even more favorable to the proposed credit of 16.5 percent contained in H. R. 9682, inasmuch as the credit under the present law is relatively less important under the rate structure of the Revenue Act of 1935 than under that of prior acts.

Sincerely yours,

ROSWELL MAGILL, *Under Secretary.*

Hon. DAVID I. WALSH,
United States Senate, Washington, D. C.

TRANSFER OF ENLISTED MEN OF COAST GUARD TO COAST GUARD RESERVE—MOTION TO RECONSIDER

Mr. KING. Mr. President, I enter a motion to reconsider the vote by which Senate bill 2206, to provide for the transfer of enlisted men of the Coast Guard to the Coast Guard Reserve, was passed. Some points have been brought to my attention of which I was not cognizant, and I therefore enter the motion to reconsider.

The PRESIDING OFFICER. The motion will be entered.

Mr. KING. I also ask that the House be requested to return the bill to the Senate.

The PRESIDING OFFICER. Without objection, the House will be requested to return the bill to the Senate.

THREE HUNDREDTH ANNIVERSARY OF SWEDISH SETTLEMENT OF DELAWARE VALLEY

NEW SWEDEN, 1638–1938

Mr. LUNDEEN. Mr. President, this year, 1938, marks the three hundredth anniversary of the first permanent settlement in the Delaware Valley. This settlement, the colony of New Sweden, embraced parts of present States of Delaware, Pennsylvania, Maryland, and New Jersey.

The two ships—the *Kalmar Nyckel* (Key of Kalmar), a frigate, and the *Fogel Grip* (Bird Griffon), a sloop, landed during March 1638 on the banks of the Minquas Kill (Christina River) on a ledge of rock now within the limits of the city of Wilmington. These ships formed the vanguard of the Swedish settlement in the Delaware Valley. The *Kalmar Nyckel* was the Swedish *Mayflower*, and the Rocks at Wilmington are the "Plymouth Rock" of Delaware.

CONGRESSIONAL NOTICE OF COMMEMORATION

The Congress of the United States has taken official notice of this historical event and the commemoration thereof by a joint resolution of the Seventy-fourth Congress, Public Resolution No. 91, approved May 15, 1936, authorizing the coinage of commemorative half dollars, and the the joint resolution, Public Resolution No. 102, Seventy-fourth Congress, approved June 5, 1936, authorizing and requesting the President of the United States to extend to the Government of Sweden an invitation to join with the Government and the people of the United States in a fitting and appropriate observance of the tercentenary of the first permanent settlement of Swedish colonists in Delaware, Pennsylvania, Maryland, and New Jersey. This resolution also created the United States Delaware Valley Tercentenary Commission for that purpose, which Commission consists of the following:

United States Delaware Valley Tercentenary Commission: Joseph F. Guffey, Senator from Pennsylvania; A. Harry Moore, Senator from New Jersey; John G. Townsend, Jr., Senator from Delaware; James J. Davis, Senator from Pennsylvania; Ernest Lundeen, Senator from Minnesota; Patrick J. Boland, Representative from Pennsylvania; Harry L. Haines, Representative from Pennsylvania; Francis E. Walter, Representative from Pennsylvania; Pehr G. Holmes, Representative from Massachusetts; Harris Samonisky, of Delaware; Carl F. Scheidt, of Pennsylvania; Richard S. Rodney, of Delaware; Alexander B. Geary, of Pennsylvania; Christopher L. Ward, of Delaware.

CROWN PRINCE AND CROWN PRINCESS WILL ATTEND

The Swedish Government has accepted the invitation of the President of the United States. Crown Prince Gustaf Adolphus of Sweden and Crown Princess Louise, the granddaughter of Queen Victoria of Great Britain, will head the royal commission to attend the principal festivities in the United States during the week of June 27.

The vessel bearing the royal commission will arrive at Wilmington, direct from Sweden, on June 27, 1938, and will be escorted up the Delaware River by a Swedish man-of-war, where they will be greeted by the President of the United States and special representatives of the American Government as well as by the officials from the various State tercentenary commissions of the Union. The royal visitors will dedicate a monument at Wilmington which is a gift of the people of Sweden to the United States in commemoration of this historic event. This monument will be placed at the point of landing of the colonists in a newly created State park between the Christina River and Old Swedes Church. The monument, by the noted Swedish sculptor

Carl Milles, will contain a representation, in highly polished black granite, of the *Kalmar Nyckel* under full sail.

DELAWARE TERCENTENARY COMMISSION

The Delaware commission was created by a joint resolution in the 1935 Delaware Legislature, which resolution stated in part:

Whereas the year 1938 will mark the three hundredth anniversary of the first permanent settlement upon Delaware soil, a settlement which was made by the Swedes on the banks of the Christina River on the site of the present city of Wilmington at a placed called "The Rocks," and which was the first settlement of the colony of New Sweden; and

Whereas this settlement was the beginning of a permanent government for the earliest permanent inhabitants of the present State of Delaware as well as the present State of Pennsylvania and of western New Jersey; and

Whereas the people of Delaware have always taken great pride in their history and traditions and have piously preserved for posterity their ancient landmarks; and

Whereas it is proposed that a State, interstate, national, and international celebration be held in 1938 commemorating the first permanent establishment of European civilization in the Delaware River Valley at "The Rocks" on the Christina River—

The legislature therefore created the State Tercentenary Commission to carry into effect the purpose of the resolution.

STATE COMMEMORATIONS AND HISTORICAL GROUPS COOPERATING

Many of the other States have created, by action of their Stae legislature, State tercentenary commissions, including the great State of Minnesota, the majority of whose citizens are of Scandinavian descent. In addition to the State commissions, many historical societies are cooperating, such as the Pennsylvania Federation of Historical Societies, the John Morton Memorial Museum, the Swedish-American Tercentenary Association, the Federal Writers' Project of the W. P. A. in New Jersey, the New Jersey State Board of Education, the John Hanson Society of Maryland, and other historical and educational groups too numerous to mention.

THE HERITAGE OF THE SETTLERS

Before discussing the actual settlement in the middle of March 1638, it is believed that it will be appropriate to briefly summarize the heritage of the settlers, because an understanding of their history and tradition will more readily explain the influences of the settlers on our own history.

A SELF-GOVERNING PEOPLE

They had the heritage of a political government which dates back 1,200 years. The first Swedish Riksdag met in 1435 at Arboga and, next to the Icelandic and the English, it is the oldest national assembly in Europe. In 1611 the Swedish Parliament, which had been established in 1435, was enlarged to admit all classes, including the peasantry.

Sweden is about the size of the State of California. It has retained its freedom from any foreign domination and it has been impelled during its long history to wage war to defend itself from foreign encroachment. Gustaf Vasa, the patriot hero of Sweden, with an army of citizens from Dalarna, led a successful revolution against the last tyrant of Sweden in the fifteenth century.

During the reign of Gustavus the Second the special privileges of the nobility were curtailed and the peasants could hold the crown offices or become officers in the royal army. It will, therefore, be seen that they were imbued with democratic principles and they were trained in the art of democratic self-government.

They have never swerved from that principle and today it is one of the characteristics of that nation.

THE VIKINGS

In the days of antiquity the seafaring men of Sweden joined with other Scandinavians in the Viking expeditions to France, Great Britain, and in far-off Byzantium in the Mediterranean. Scholars of race migration are of the opinion that the Gothic tribe came originally from the southern part of Sweden known as Götaland. The Vikings penetrated eastward, following the routes of trade to the Black Sea and to Asia, and during the ninth century a Swedish Viking chieftain, Rurik, established a dynasty which ruled over Russia for 700 years.

The Swedish political territory at the end of the seventeenth century, including Finland, encircled the Baltic, and Charles the Twelfth projected a plan of union with Prussia, Poland, Turkey, and Ukraine as a buffer between Russia and western Europe.

It is interesting to note that Marshall Foch and Clemenceau endeavored to establish a like barrier at the end of the World War.

MIGRATIONS OF THE RACE

For many centuries the Norsemen had sailed up and down the coast of Europe and the Mediterranean. Tacitus, the Roman historian and geographer, in speaking of the Viking raids, referred to the "Suiones," the Swedes, as a powerful tribe, skilled in the use of weapons and ships. They conquered a whole province in France and settled it and the land was called Normandy, and from Normandy came William the Conqueror, who won the Battle of Hastings in 1066 and established a permanent dynasty in Great Britain. They settled in the British Isles, and gave the name to England. They settled colonies called Estland, Livland, and Engermanland, now part of Finland, Estonia, and Latvia. They also had settlements in Pomerania and Lithuania, and had a colony on the Black Sea. The latter was repatriated only in recent years.

FINLAND AND DELAWARE

Finland was a part of Sweden until 1809 when it became a part of Russia. Therefore at the time of the settlement of New Sweden in Delaware, Finland was a part of the kingdom of Sweden and a number of Swedish Finns were a part of the expedition to New Sweden. The services of these Finns in the Swedish expedition will be given appropriate recognition during the tercentenary and the Government of Finland is participating in the commemorative program.

SETTLEMENT OF DELAWARE 600 YEARS AFTER DISCOVERY OF AMERICA BY LEIF ERICSON

Gustavus Adolphus, 600 years after the discovery of America by Leif Ericson, laid his plans for the settlement on the Delaware in 1625. Almost 13 years before the *Kalmar Nyckel* landed in Wilmington, the Swedish South Co. was organized for the purpose of establishing a colony in America. Sweden, however, was at that time engaged in the Thirty Years War, and the project failed. A similar company was organized in 1629 composed solely of Swedes, but this company, like its predecessor, failed by reason of the fact that the country was engrossed in the continental wars. The plans received a serious blow in 1632 when Sweden was shocked by the news of the death of Gustavus Adolphus in the battle of Lutzen in Germany.

The plans of the hero king, Gustavus Adolphus for a New Sweden in America were therefore postponed. It is interesting to contemplate what would have been the course of American history if his wise and ambitious plans had not been dissipated by the constant warfare of the Swedish battalions on the numerous battlefields of the Continent.

In 1637 the project came under the control of the great Swedish Chancelor Axel Oxenstjerna who served as a regent during the minority of Christina, the daughter of Gustavus.

INSTRUCTIONS TO PETER MINUIT

The services of Peter Minuit, a Walloon, who had many compatriots employed in the iron industry in Sweden, was engaged as the director of the project. Minuit had an intimate knowledge of the Delaware country, having served in New Netherlands (New York). The Swedish Admiral Fleming was also interested in the project with Oxenstjerna.

Detailed instructions were issued to Minuit as the leader of the expedition, advising him as to the route to follow, the policies to be adhered to. Among the instructions to Minuit were that he was to purchase the land from the Indians, that he should see to it that the colonists did no harm to the Indians, and he was also admonished that

prayers were to be conducted morning and evening and that anyone who was absent from religious services should be penalized.

THE SHIPS LEAVE GOTHENBURG

Vessels for the expedition were equipped in November 1637 and in December the vessels were on the high seas. The cargo of the vessels included trinkets and goods of trade for the Indians, the famous Swedish-steel knives and axes, and provisions for the colonists. In addition to the colonists the expedition included 23 soldiers under the command of Capt. Mans Nelsson Kling. After a perilous and difficult voyage sufficient to test the stoutest hearts the *Kalmar Nyckel* and the *Fogel Grip* sailed up the Delaware in March 1638.

LANDING OF THE SHIPS

A temporary landing was effected at Lewes, Del., at a promontory at that place, and the colonists were so delighted at the sight of land following the stormy voyage that they called this promontory "Paradise Point." They sailed up the mouth of the Minquas Kill (Christina River) and the ships cast anchor alongside "The Rocks" which was in the nature of a wharf of stones at a place within the present confines of the city of Wilmington at the foot of Sixth Street.

PURCHASE OF THE LAND

The vessels fired the Swedish salute and Minuit went ashore with his officers and the soldiers. The record shows that he saw no sign of any white people. After the expedition had returned to the ships, an Indian chief with some of his retainers came to the *Kalmar Nyckel* to confer with the leaders of the expedition. They entered into negotiations with the red men for the purchase of the land adjacent to the Christina River and all the territory within several days' journey from that point. The agreement was made and ratified by the consent of the various Indian tribes concerned and the deeds were signed on the 25th day of March 1638.

THE COLORS OF SWEDEN

The colors of Sweden were raised over the land and formal possession was taken in the name of the Kingdom of Sweden.

The colonists erected a fort at the place of landing on the banks of Minquas Kill and here they erected a fort which was named after Queen Christina of Sweden. It was built of earth and wood in the shape of a square with bastions at its four corners. Inside the fort they made two log houses for the quarters for the troops and the colonists and for supplies. On the tenth day May 1638 some of the guns were taken from the *Kalmar Nyckel* and were mounted on the walls of the fort. When the ship sailed away they left the fate of the colony in the hands of Captain Kling and his 23 soldiers, and the Commissary Hendrick Huygen.

FORTY-FOUR YEARS BEFORE WILLIAM PENN

Thus 44 years before William Penn landed in Pennsylvania and 6 years before William Penn was born a permanent Swedish settlement had been founded. Fort Christina was the first capital of the colony of New Sweden, the second was Tinicum (Philadelphia) in Pennsylvania, established in 1643 by Gov. Johan Printz (Bjornsson), a Swedish cavalry leader of great ability. William Penn bought land from three Swedish farmers, the Swensson brothers, for the site of Philadelphia, including the land on which Independence Hall was built and still stands.

After the arrival of Gov. Johan Rising in 1654 the capital was again Fort Christina.

The centers of the first Swedish population were: Fort Christina (now Wilmington); Fort Trefaldighet (now New Castle) in Delaware; Upland (now Chester) and Tinicum (now Philadelphia) in Pennsylvania; Fort Elfsborg (now Salem), Swedesboro in New Jersey and Kent Island in Maryland.

THE DEATH OF PETER MINUIT

The famous leader of the first Swedish expedition of colonists, Peter Minuit, unfortunately did not survive to see the progress of the colony which he had aided in founding. He returned with the *Kalmar Nyckel* in June 1638 and sailed by way of the West Indies with the hope of capturing a large Spanish prize on the return voyage.

He made port at St. Christopher and was invited by the skipper of a Dutch vessel from Rotterdam to be his guest on the latter ship.

Suddenly a hurricane blew up and the Dutch vessel was torn from its anchor and was blown out to sea, and the vessel was never heard from again. Sadly the crew of the *Kalmar Nyckel* returned to Gothenburg without its beloved commander.

SECOND EXPEDITION

Another group of colonists was organized under the leadership of Petter Ridder, and this expedition sailed in the fall of 1639 also on the *Kalmar Nyckel*.

OLDEST PROTESTANT CHURCH IN THE UNITED STATES

Among the passengers was the renowned Reverend Torkillus who was delegated to serve as the first minister of the Lutheran faith in America. He was the first of a distinguished group of spiritual advisers to the Colony. A memorial to these ministers is the old Swede's Church in Wilmington, the oldest Protestant church in the United States continuously used for religious service, the church having been dedicated in 1699. Another famous church is the Gloria Dei Church in Philadelphia which was also established by the Swedes and dedicated in 1700. Other well-known spiritual advisers of the colonists were the Reverend Erick Björk and the Reverend Dr. Nicholas Cóllin, who was the last of a Swedish line of pastors in the former territory of New Sweden, who died in Philadelphia in 1831.

The *Kalmar Nyckel* made three voyages between 1640 and 1642. In all, four voyages, and on each trip carried additional colonists and equipment to Delaware.

GOV. JOHAN PRINTZ

Johan Printz (Bjornsson) was chosen Governor of New Sweden in 1642. He had been a dashing cavalry commander under Gustavus Adolphus. Printz was a colorful and picturesque personality from Småland, Sweden. He weighed close to 400 pounds and his height was almost in proportion. His very appearance was commanding and struck fear into the hearts of his enemies. The Indians had a wholesome respect for the Governor.

The territory of New Sweden under the administration of Johan Printz (Bjornsson) extended from Cape Henlopen, Delaware, to the side opposite Trenton on the Pennsylvania side and from Cape May on the New Jersey side to Racoon Creek at Bridgeport.

The Governor soon decided after he had surveyed the situation in the colony that it was advantageous to consolidate the authority of the Swedish Crown. He therefore paid a visit with his soldiers to the English colony at the mouth of Salem Creek, and the Governor gave this colony the choice of allegiance to the Swedish Crown or returning to their former homes in New England. The English accepted the Governor's offer of allegiance to the Swedish Crown. Governor Printz made the same offer to the Dutch settlers along the Delaware River, which was likewise accepted.

BUILDING OF FORTS

Governor Printz soon became aware of the necessity for further military protection, and near the present city of Salem he constructed Fort Elfsborg on a point jutting into the river. The heaviest artillery available were placed in this fort and it was garrisoned by 16 soldiers. The Governor built an official residence (Printzhof) on Tinicum Island (now Philadelphia), and here he built another fortification, Fort Gothenburg.

This fort was constructed to serve as an outpost against the Dutch who had built fortifications north of Tinicum Island at Fort Nassau. Printzhof was the headquarters of the colonial government of New Sweden.

The residence of the Governor on Tinicum Island was in that day a magnificent dwelling. It was referred to as one of the best residences between Virginia and New Amsterdam. It is stated that 6,000 bricks for fire places and chimneys had been imported from Sweden for this dwelling. Furniture,

windowpanes, and the glassware were likewise imported from Sweden.

ORIGINATORS OF AMERICAN LOG CABIN

The colonists constructed substantial log cabins of a type which were similar to the cabins later built by colonists from other lands. They resembled the log cabins built in their homeland, and it became a distinctive type which was copied in other colonies. They have been referred to as the originators of the American log cabin.

The Swedish settlers were excellent craftsmen and ironworkers and were adept at working with copper and other metals.

Fort Gothenburg was destroyed by the explosion of a powder magazine in November 1645. This fire also destroyed the Governor's dwelling, Printzhof. But the Governor was not to be discouraged by this catastrophe. His residence was rebuilt in an even finer style than the former residence.

MISFORTUNE BEFALLS THE COLONY

Three vessels which subsequently sailed for the colony met with misfortune. The vessel *Katt* was shipwrecked in the West Indies and her passengers were imprisoned by the Spanish. Only 19 of a crew of 70, including men, women, and children, finally survived to be ransomed and returned to their native land.

A further expedition was organized by them and, their vessel being found unseaworthy, they chartered a second vessel, the *Eagle*, which was captured by the British. The vessel was subsequently released and started on the voyage across the Atlantic. A Turkish pirate vessel attacked the ship and in the combat which ensued the *Eagle* escaped destruction only to be struck by the plague. When this vessel finally cast anchor in the Delaware, it is stated that the crew was too weak to leave the vessel. One hundred passengers out of 350 died during the hazardous journey.

HARDSHIPS ENDURED

Another vessel, the *Golden Shark*, by an error of navigation, sailed into the Hudson River and was captured by the Dutch Governor of New Netherlands.

The failure of these latter expeditions did great damage to the colony. Necessary supplies, arms, and munitions and equipment for the struggling colonists were lacking and the expected addition of new colonists failed to materialize. The garrison under Governor Printz was reduced to less than 100 men. The health of the Governor had been undermined by his great efforts to govern the colony under these trying conditions, and finally in 1653 he was recalled to Stockholm.

His son-in-law, Papegoja, was appointed to act in his stead. Papegoja was not an adequate administrator and Stockholm sent Johan Riesing to supersede him. The situation which faced Riesing as the new Governor was desperate.

When the news of the capture of the *Golden Shark* reached the colony the last hope of aid disappeared and Riesing was compelled to surrender to Stuyvesant.

FINNISH COLONISTS ARRIVE

After the Dutch took possession, another expedition from Sweden arrived in Delaware on the vessel *Mercurius*, and the passengers were composed largely of colonists from Finland.

One of the conditions of the surrender of the colony to Stuyvesant was that the Swedes retained full possession of their lands. This condition was respected, and for many years the Dutch and the Swedes lived in complete harmony.

SETTLEMENTS IN MARYLAND AND NEW JERSEY

In the meantime a large number of Swedish and Finnish settlers had moved into New Jersey and into Maryland. A large group moved in stages into southern Maryland by way of Kent. Included in this number which moved into southern Maryland and finally into western Maryland was a part of the famous Hanson family, ancestors of John Hanson, President of the United States in Congress assembled under the Articles of Confederation, our first written Constitution.

THE HANSON FAMILY

In writing of the Hanson family in the Maryland Club Woman, volume VII, No. 2, the historian, W. N. Morell, has called attention to the fact the Hanson family produced one president under the Articles of Confederation, two presidents under the Constitution, two signers of the Declaration of Independence, one signer of the Articles of Confederation, one signer of the Constitution, and five signers of the Maryland Declaration of Freemen, which declaration preceded the Declaration of Independence.

The Dutch rule finally passed into the hands of the English and from that date on the history of Delaware is probably better known, but the preceding years I have but briefly outlined in this discussion.

THE WORK OF THE COLONISTS

Although the great majority of the Swedish settlers on the Delaware became cultivators of the soil, a large number also entered into the mechanical, artistic, and professional fields. They brought the first of European art and culture into the Delaware Valley.

The first organ built in the New World was constructed by a Swede in Philadelphia. The father of American fine arts was a Swede, Gustaf Hesselius. Many of the descendents of Swedish colonists in Delaware fought as officers in the War of the Revolution under the command of George Washington. They established the Christian religion in the whole of the Delaware Valley including Pennsylvania and New Jersey.

JOHN MORTON, SIGNER OF THE DECLARATION OF INDEPENDENCE

A descendant of one of the first settlers in Wilmington, John Morton, was a signer of the Declaration of Independence. He cast the deciding vote for that Declaration.

These same settlers built the first ships and erected the first mills in the Delaware Valley, and also made the first translation of the Bible into the Indian tongue.

TWO NEW STARS IN THE AMERICAN FLAG

The colony of New Sweden became the nucleus of two of the Original Thirteen States, Delaware and Pennsylvania, and it contributed substantially to two other States, New Jersey and Maryland. Sweden, therefore, was one of three European mother countries of the American Union, the other two being England and the Netherlands.

These Swedish colonists founded the first schools, the first churches, and the first law courts in the Delaware Valley, thus laying the foundation for civilization in that territory. Out of this territory were carved two States of the American Union, Delaware and Pennsylvania. They placed two stars in the American flag.

INTERIOR DEPARTMENT APPROPRIATIONS

The PRESIDING OFFICER laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 9621) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1939, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. HAYDEN. I move that the Senate insist upon its amendments, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HAYDEN, Mr. MCKELLAR, Mr. THOMAS of Oklahoma, Mr. ADAMS, and Mr. NYE conferees on the part of the Senate.

PRINTING OF NOTES TO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS OF UNITED STATES

The PRESIDING OFFICER laid before the Senate House Concurrent Resolution 47, which was read, as follows:

Resolved by the House of Representatives (the Senate concurring), That the Notes to the Rules of Civil Procedure for the District Courts of the United States, prepared under the direction of the Advisory Committee on Rules for Civil Procedure, be printed as a House document; and that 26,000 additional copies shall be printed, of which 17,000 copies shall be for the use of the House document room and 9,000 copies shall be for the use of the Senate document room.

Mr. HAYDEN. I move that the Senate concur in the resolution.

The motion was agreed to.

EXECUTIVE SESSION

Mr. BARKLEY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. MINTON in the chair) laid before the Senate a message from the President of the United States submitting the nomination of Charles J. Maxcy, of New Jersey, as Director of Finance and Accounts Division of the United States Housing Authority, which was referred to the Committee on Education and Labor.

EXECUTIVE MESSAGE REFERRED

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters, which were ordered to be placed on the Executive Calendar.

The PRESIDING OFFICER. If there be no further reports of committees, the clerk will state, in order, the nominations on the Executive Calendar.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask that the nominations of postmasters on the Executive Calendar be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations of postmasters are confirmed en bloc.

RECESS

The Senate resumed legislative session.

Mr. BARKLEY. I move that the Senate take a recess until 11 o'clock a. m. tomorrow.

The motion was agreed to; and (at 5 o'clock and 5 minutes p. m.) the Senate took a recess until tomorrow, Friday, April 8, 1938, at 11 o'clock a. m.

NOMINATIONS

Executive nominations received by the Senate April 7 (legislative day of January 5), 1938

UNITED STATES HOUSING AUTHORITY

Charles J. Maxcy, of New Jersey, to be Director of Finance and Accounts Division of the United States Housing Authority.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 7 (legislative day of January 5), 1938

POSTMASTERS

ALABAMA

Samuel J. Sanders, Fayette.
James L. Day, Hartselle.
James R. Moody, Russellville.
Roy G. Carpenter, Winfield.

OKLAHOMA

Mary B. Weathers, Grove.
Laura L. Bennett, Mountain Park.
James T. Norton, Nowata.
James McK. Williams, Walters.

TEXAS

James O. Allen, Arp.
Prentice A. Hayes, Barstow.
Marvin A. Anderson, Cleveland.
Frederick M. Faust, Comfort.
Albert A. Allison, Corsicana.
Jack B. Kerr, Cotulla.
Oscar W. Koym, East Bernard.
Warren C. Fargason, Hermleigh.
Lucie Hill, Hull.
Edwin D. Holchak, Kenedy.
Carl W. Amberg, La Grange.
Willie L. Nelson, Mount Vernon.
Mae Whitley, New Waverly.
Mabel B. McConnico, Port Lavaca.
Mills Awbrey, Presidio.
William P. Lawrence, Quitman.
Theodore M. Herring, San Angelo.
Clyde Griffith, Sanderson.
Edgar F. Bonorden, Sinton.
John L. Brunner, Taylor.

HOUSE OF REPRESENTATIVES

THURSDAY, APRIL 7, 1938

The House met at 12 o'clock noon.

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

Blessed be the name of the Lord our God, who is the inspiration of every good and perfect thought. We pray Thee that the words of our mouth and the meditations of our hearts may be acceptable in Thy sight; bear with us and renew a right spirit within us. We thank Thee for the wisdom and the knowledge which have come down to us from the mighty past. As noble deeds never die, inspire us to thus work and live for the generations to come. We pray Thee to keep us from all misunderstandings and misapprehensions; allow not the din and dust of controversy to retard wise progress. Remind us these days, our Heavenly Father, of the final scenes of our Savior. Let His voice be heard in all hearts: "He that doeth the truth cometh to the light." Almighty God, enable us to speak the brave word, do the brave deed, and live the brave life, and Thine is the praise forever. Through Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Frazier, its legislative clerk, announced that the Senate had passed, with amendments, in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 9621. An act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1939, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2206. An act to provide for the transfer of enlisted men of the Coast Guard to the Coast Guard Reserve.

The message also announced that the Senate had passed, with amendments, in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 9995. An act making appropriations for the Military Establishment for the fiscal year ending June 30, 1939, and for other purposes.

The message also announced that the Senate insists upon its amendments to the foregoing bill, requests a conference with the House thereon and appoints Mr. COPELAND, Mr. HAYDEN, Mr. THOMAS of Oklahoma, Mr. SHEPPARD, and Mr. TOWNSEND to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 112. An act for the relief of O. W. Waddle;

S. 283. An act for the relief of Mrs. J. H. McClary;

S. 2022. An act for the relief of Lt. V. Balletto, and others;

S. 2091. An act for the relief of Ada Saul, Steve Dolack, the estate of Anthony Dolack, and Marie McDonald;

S. 2138. An act for the relief of Nelson W. Apple, George Marsh, and Camille Carmignani;

S. 2261. An act for the relief of Scott Hart;

S. 2378. An act for the relief of Sam Green;

S. 2427. An act for the relief of the estates of Al Cochran, Willis Cochran, and Russell Cochran, and for the relief of Shirley Cochran and Matilda Cochran; and

S. 3130. An act for the relief of W. O. West.

INTERIOR DEPARTMENT APPROPRIATION BILL, 1939

Mr. TAYLOR of Colorado. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 9621) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1939, and for other purposes, with Senate amendments, disagree to the Senate amendments, and request a conference with the Senate.

The Clerk read the title of the bill.

Mr. RICH. Mr. Speaker, reserving the right to object, may I ask my colleague the chairman of the Appropriations Committee, also chairman of the subcommittee, this question: In looking over this appropriation bill this morning as it came from the Senate, I find that out of 106 amendments attached to the bill by the Senate 75 are increases in the amount of appropriation amounting to millions and millions of dollars. There is only one reduction, an item which is reduced from $15,000 to $5,000, an amount that is supposed to be paid to a State, a measly little change. I would like to know whether the conferees to be appointed by the Speaker are going to go into this conference with the idea that we shall try to hold to the House bill?

Mr. TAYLOR of Colorado. I may say in answer to the gentleman from Pennsylvania that I expect to call a meeting of the entire subcommittee on the Interior Department appropriations and go over these amendments before we meet in conference, and I am going to ask the entire membership of the subcommittee to be put on this conference committee so the gentleman from Pennsylvania will be one of the conferees that will handle the matter.

Mr. RICH. I will say to my colleague from Colorado that if you are going to have the eight members of the subcommittee appointed, it does not look to me like a conference—it looks to me like an agreement.

Mr. TAYLOR of Colorado. Oh, no; there is not any agreement or anything of that kind.

Mr. RICH. That is what we had last year when we had up our Interior appropriation bill after we had gone over to the Senate and worked hard and agreed to all the Senate wanted, and if the same thing is going to happen this year, the gentleman can leave me off of the conference committee.

Mr. TAYLOR of Colorado. I am not responsible for what happened last year.

The SPEAKER. Is there objection to the request of the gentleman from Colorado? [After a pause.] The Chair hears none and appoints the following conferees: Messrs. TAYLOR of Colorado, JOHNSON of Oklahoma, SCRUGHAM, O'NEAL of Kentucky, FITZPATRICK, LEAVY, RICH, LAMBERTSON, and CARTER.

EXTENSION OF REMARKS

Mr. COCHRAN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD, and include therein a radio address I delivered last night.

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

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. McLAUGHLIN. 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 Nebraska?

There was no objection.

HON. HATTON W. SUMNERS

Mr. McLAUGHLIN. Mr. Speaker, by unanimous consent of the House my distinguished colleague and fellow member of the Judiciary Committee, Judge HOBBS, of Alabama, was last week granted 30 minutes in which to address the House today.

The gentleman from Alabama thoughtfully requested and secured the allotment of this time for the purpose of commemorating the twenty-fifth aniversary of the coming to this body of the Honorable HATTON W. SUMNERS, chairman of the Judiciary Committee. Judge HOBBS has been called home because of the lamentable death of his mother, and the sympathy of every Member of the House goes out to him in this hour of sadness and grief.

Before leaving Washington the gentleman from Alabama, with his accustomed thoughtfulness and consideration, requested the Speaker to transfer his time to another member of the Judiciary Committee, in order that the tribute which he had planned might be paid to Judge SUMNERS. The Speaker has graciously granted the request and has recognized me for the period of time which was previously allotted to Judge HOBBS.

In view of the parliamentary situation today and after consulting with our Speaker, our leader and my colleagues on the Judiciary Committee, I shall not ask the time allotted to the distinguished gentleman from Alabama, but, instead, Mr. Speaker, I now ask unanimous consent to extend my remarks at this point in the RECORD and to include therein the remarks which Judge HOBBS intended and desired to make, with some additional observations of my own, and also a letter from the Vice President of the United States; and, in addition, Mr. Speaker, I ask unanimous consent that all members of the Judiciary Committee may have the same privilege to extend their remarks at this point in the RECORD.

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

There was no objection.

Mr. HOBBS. Mr. Speaker, today the Honorable HATTON W. SUMNERS completed 25 years of continuous service in this body.

In looking back over those well-filled years, we may not say that he has finished his course, for his star is still in its ascendancy and rising more rapidly than ever, but we may and do, with assurance, unite in testifying that he has kept the faith.

Today he argued before the Supreme Court of the United States in support of the constitutionality of the so-called Municipal Bankruptcy Act. Tonight he is to fly to Louisville to speak before the Kentucky Bar Association. Thus he goes, with the fire and zeal and zest of youth, but in the ripeness of experience and wisdom, doing far more than his duty as a Member of Congress and as chairman of one of the hardest working committees on the Hill—the Committee on the Judiciary. His profound grasp of the wisdom of the past geared to his mighty work toward the solution of the pressing problems of the present and the building for a greater future.

His wide reading and constructive meditation upon the proven truth, which he has made his own, have saturated him with the learning of the ages, yet he is as up-to-date as the latest edition of your favorite newspaper and as forward looking as a prophet.

The only things he does not know about today are that it is his congressional birthday and that we are celebrating it.

In him there is something of the height, rugged grandeur, and permanence of the mountains of his native Tennessee; the breadth of the prairies of Texas, the State which gave him to the Nation, and honored herself by honoring him.

Like the wells gushing black gold, which have not only made Texas rich, but evidence stored riches in reserve, his mind is deep, its output enriching, and its store of riches practically inexhaustible.

Born in Lincoln County, like Lincoln and so many other great minds, his is not the education of the classroom. Few have read more from the printed page, but his profound knowledge of humanity, its behavior, its institutions, and its thought has come not only from his mastery of the books in libraries but also from continuous study of the book of life.

His birthplace was near Fayetteville, Tenn. His father was an officer in the armies of the Confederacy, an upstanding, honored citizen. His mother also was superior and noted for her sweetness, mentality, poise, and character. Before he reached majority financial reverses overtook the family. They moved to Texas and settled in Dallas County. His formal education stopped with less than a year of high school. Working in a store by day, he studied at night.

Reading law in a law office, sleeping in the library, he spent much time therein—not in sleep. With a ravenous appetite for knowledge he ate the principles of the law from those books, digested this diet, and built its contents into a retentive memory. So well did he employ the time he has spent with lawbooks that Chief Justice Taft called him "the best lawyer in the House of Representatives."

Out of his meager earnings in those early days he had to support himself and his family. From this experience he learned at least one priceless lesson, which too many of us never even study, the value of a dollar. While he is generous, he has never become a waster. He is particularly zealous in husbanding funds of others entrusted to him for spending. For instance, since he has been chairman of the Committee on the Judiciary, the House has authorized some eight investigations to be made by that committee and has appropriated $35,000 to cover the cost of these investigations. The investigations have been made, the work well done, but he has turned back into the Treasury more than half of the total amount appropriated.

So marked has been his practice of stringent economy in spending such funds that the members of the committee love to tell this story: An old colored panhandler of his acquaintance stopped him one day and said, "Good mawnin', Mr. Hatton. Sure is glad to see you. Yo' ain't got a quarter for the old nigger, has yo'?" Judge SUMNERS began running his hands through his pockets, and after he had completed his search replied, "I declare I did have a quarter, but I don't seem to be able to find it right now." The Negro rejoined, "Wal, Mr. Hatton, please, suh, look again, 'cause if you had it you still got it!"

He was admitted to the bar and began the practice of law in Dallas, Tex. When he was 24 years old, he was elected prosecuting attorney of Dallas County and served two terms. In 1906 and 1907 he was president of the District and County Attorneys Association of Texas.

He was first elected Representative at Large from the State of Texas in 1912. Two years later, after the State had been redistricted, he was elected to represent the Fifth District, in which service he has continued ever since.

While loyal to his southern heritage, he has never been a professional southerner. On the occasion of the ninety-eighth anniversary of the birth of General Grant, he delivered an address in the House in which he paid tribute to General Grant for his aid and attitude of fairness to the South in those darker days which succeeded the dark and bloody days of the sixties.

Judge SUMNERS was one of the very first men to appreciate and point out that the prosperity of the city man depends upon the prosperity of the farmer. His first important address in the House gave exposition and emphasis to this fact. This speech was made in 1913, but long before then, and ever since, he has been the ardent champion of the cause of agriculture. In 1921 he was made chairman of a congressional committee on cotton, composed of two Senators and himself. It is generally conceded that the work of this committee was instrumental in avoiding a disastrous panic which was then threatening. For years he wrote much and studied broadly upon the problems of agriculture. These studies took him to Europe repeatedly, for the purpose of making comparative studies in this field.

Ever since the first of the so-called antilynching bills was introduced in Congress, Judge SUMNERS has been one of the outstanding opponents of this proposed legislation. Like every enlightened person who knows the problem at first hand, he has always taken the highest ground in his opposition. He has never made any attempt to justify lynching but to the contrary his only thought is to seek to preserve the only force which can possibly prevent it—local community sentiment. His other great emphasis in the discussion of this question has always been:

> That document over in the Congressional Library is not the Constitution of this Nation. It is a body of organic law adopted by the people. However, beneath that document, beneath its words, is the Constitution of a living government. Our Government, by its nature, is built upon the people. Our real Constitution is a living thing. It is rooted in the governmental concepts of the people. Unless it is sustained by their governmental capacity it fails. By its nature our Government is pyramidal in its shape. It starts with the individual and builds up through the community, up through the States, to the capstone, which is the Federal Government. By its nature—I mean by the nature God Almighty gave it—it functions from the bottom upward. Neither can we stand this pyramid on its point. The members who sat in the Constitutional Convention did not try to do it. Of course, they did not write the Constitution in a creative sense. It came through the ages, every provision originating out of necessity, tested and developed by experience among a people peculiarly gifted with the genius of self-government. No political philosopher suggested its provisions. No convention fashioned them. Back in the Germanic forests in the first century Tacitus looked in upon the people who afterward were known as the Angles and the Saxons. He saw the people gathered together to attend to the business of government. A leader submitted a proposition to them. If those people approved the proposition, they brandished their weapons. If they disapproved, they murmured, and that was the end of it. They, the people, spoke the voice of government. It was the voice of authority not from the top downward. It was from the bottom upward. You cannot make a government of a free people, our sort of government, function from the top downward. You cannot establish a great governmental overlord here in Washington, place the hand of superior authority above the voice of the elected representatives of the people, and perpetuate this system of government. It cannot be done. God Almighty in his knowledge and wisdom has devised the plan of teaching people how to do a thing by having them to do it. No people ever preserved the power of self-government except by exercising that power. They must govern or they lose the power to govern. That is fixed by a law of Nature universal in its application. I challenge the history of the ages for an exception. No people in all the history of the ages ever were able to operate a system of self-government who lost the ability to govern. Write it down, statesmen, today. Whoever, after the formative period of a government is finished, moves away from the people the necessity to govern, moves against the best interests of his government. All true progress after that time is in that direction which moves the opportunity and the necessity to govern closer and closer to the people.

Judge SUMNERS has been a member of the Judiciary Committee of the House for nearly 20 years and has been its chairman for the last 6 years.

When the far-reaching act of February 13, 1925, dealing with the jurisdiction of the Supreme Court, was before Congress, the Justices of the Supreme Court had a meeting and directed the Chief Justice, Mr. Taft, to ask Judge SUMNERS to take charge of the measure and put it through to passage. The bill was enacted, and Mr. Taft wrote Judge SUMNERS a letter in which he said:

> Without the time you spent on the bill to familiarize yourself with its provisions, and the influence you exerted among your colleagues to prove its usefulness, I do not think it would have been possible to get the measure through.

Whenever the constitutional rights and powers of the legislative branch of the Government are brought into question his colleagues turn to Judge SUMNERS for counsel. In 1923 a Member of the House refused to obey a subpena to appear before a House committee, and claimed his constitutional privilege of exemption from arrest. Judge SUMNERS wrote a brief holding that the Member possessed no constitutional privilege or other legal excuse which exempted him from obeying the subpena. When a similar case arose in New York a few years later Samuel Seabury, counsel for the joint legislative committee, had the Sumners brief printed in full and filed with the court of appeals as part of his argument, referring to it as "the best review of the subject which we have been able to find."

On four occasions Judge SUMNERS has been called upon to represent the legislative branch of the Government in cases before the Supreme Court dealing with constitutional questions affecting the Congress. These were the Pocket Veto case, the case which upheld the right of the President to sign bills within 10 days after a final adjournment of Congress, the case upholding the right of the Senate to punish for destruction of evidence subpenaed by a Senate committee, and the present case challenging the constitutionality of the municipal bankruptcy law.

Judge SUMNERS is the only man, living or dead, who has represented the House in three impeachment trials before the Senate of the United States. His research on the law of impeachment and his thought on that subject has resulted

in general acceptance of impeachment as a civil ouster proceeding rather than a criminal trial. He is author of a bill, which has passed the House, which would establish a court to try the issue of good behavior with reference to the conduct of United States district judges. This will provide the House with an alternate way of procedure, of course, without changing the impeachment method of removal in the slightest degree.

Judge SUMNERS introduced and put through to final enactment after a 7-years struggle an act changing the method which had been followed since Washington's first administration of bringing to the Capital the returns of Presidential electors. Prior to the passage of this act after each Presidential election special messengers brought these returns to Washington from each State, at a cost of tens of thousands of dollars to the Government. Now, under his act these returns are sent to Washington by registered mail with the utmost safety and at not a cent of cost to the Government.

He is author of the Crime Compact Act, which authorizes States to enter into compacts for cooperative action for suppression of crime, and under which great progress is being made.

Author also is he of the act passed at the first session of the present Congress which provides for the appearance of the Attorney General in cases between private parties in which the constitutionality of an act of Congress is attacked for the purpose of defending the constitutionality of the act, and providing a direct appeal to the Supreme Court in such cases.

The Sumners Act of March 1, 1937, extending the privilege of voluntary retirement to Justices of the Supreme Court, is just another one of his legislative victories.

Early in Judge SUMNERS' legislative career he expressed a wish which he has been enabled to fulfill about as nearly as wishes ever become accomplished facts:

> There are two things I would like to do. I would like to take the strut out of statesmanship, and bring the Constitution within the comprehension of the average person.

That part of his expressed desire to take the strut out of statesmanship has been exemplified by Judge SUMNERS in every step of his daily walk through the shifting scenes, the pomp and circumstance, where his rich life has led. Always modest and retiring, his wit and keen sense of humor making him a delightful companion; he has never struck a pose in his life. Peaceful and peace loving, he is a lion in attack when championing a cause. But like an ocean, his calm, untroubled depths remain unperturbed though storms may rage. He makes friends and holds them, by being a most worthy friend.

One night when he, the late lamented and beloved Randolph Perkins, and I had worked late on the Ritter case, we had a heated argument over some detail of pleading or procedure now forgotten. We were in the committee room overlooking the plaza. It was raining. The argument over, conclusion reached, Judge SUMNERS sat for a moment looking out into the rain. "Boys," he said, "are we not funny, getting all het up over such little things? We are just little microbes strutting around on a clod of dirt and we would be tickled to death to think that they might put us out there in that rain, astride of a bronze horse."

So we bring to a close this sketch with a bit or two of his philosophy, a word or two of his achievements, a few glimpses here and there of the man:

> It matters not how fair the vow,
> How eloquent the spoken creed,
> Their beauty's but a tinsel show,
> Beside the grandeur of a deed!

In memory we stand today and review a quarter of a century packed with deeds. But when the doer of deeds makes good on his every vow and the life he leads is more eloquent of his faith in God and his fellowmen than any creed, yea, verily, there is one whom we should never be too busy to pause and honor. HATTON SUMNERS, once of Tennessee, then of Texas, but now of the Nation, is such a man. Mentally magnificent! Morally as clean as the driven snow! Socially charming! And a friend of friends! Spiritually worshipful and faithful! A foursquare man, conquering and to conquer, not for self but for the people he knows and loves!

Mr. McLAUGHLIN. Mr. Speaker, as a member of the Judiciary Committee I am happy to join with the distinguished gentleman from Alabama and other colleagues on that committee in extending to our most worthy chairman sincere congratulations upon the completion of a quarter of a century of service in this assembly. The period during which Judge SUMNERS has sat as a Member of the House is one of the most colorful and most dramatic in the whole history of the Congress. During that span of years momentous social, economic, and political changes have taken place which have affected vitally the lives of millions of people all over the world. Many of these changes have come about through the unprecedented advances in the arts, the sciences, and as a result of inventions. Unfortunately many of them have come about through force and violence. The latter element has materially changed the political map of the world and may bring about further changes in the not far distant future. During this period democracy has suffered setbacks to a probably greater extent than during any similar period of time in the history of the world, and the rule of the dictator has been substituted for the rule of the people in many quarters of the globe.

In recent years the United States of America has stood out in strong relief against a background of States which have adopted dictatorial rule as a substitute for democracy, and our country today is the laboratory in which is being tested the permanency and feasibility of democracy under present-day economic and social conditions.

It is more than a mere coincidence that through this critical period there has been current in the Congress a dominant sentiment in favor of strict adherence to the democratic institutions provided for in our constitutional charter. It is of more than passing significance, in connection with the maintenance of our democratic institutions and our democratic form of government, that men have served in this body in high positions who have fostered and sustained a spirit of allegiance to our traditional democracy both in form and in substance.

HATTON SUMNERS is an institution in the Congress. He stands for American ideals of government and for adherence to the fundamental principles of self-government enunciated by the framers of the Constitution in the immortal document which is their handiwork. Judge SUMNERS has the habit which commends itself to thoughtful statesmen of applying to every legislative proposal the test of conformity with the plan and system of our Government. With uncanny ability he can reach the heart of a legislative proposal as quickly as any Member of Congress with whom it has been my pleasure and privilege to associate, and discern with a remarkably developed sense of accuracy whether that proposal in its fundamental concept and purpose has the ring of soundness or falsity. I do not mean to indicate that Judge SUMNERS reaches legislative conclusions without deliberation. Quite the contrary. But I have been impressed with the fact that some force within Judge SUMNERS' nature enables him at the outset of consideration of a proposal to discern whether a proposal is fundamentally sound or unsound; whether it is capable of being worked into proper and constructive legislation, or incapable of being transformed in such a way as to fit into the traditional pattern of our national legislative fabric.

One of the outstanding characteristics of Chairman SUMNERS is that which is marked by his faith in the ability of the average citizen to govern himself. This confidence in his fellow men forms the basis of the philosophy of our worthy colleague.

He has often given expression to the though that it is a laudable and eminently desirable practice in the course of study of governmental questions to resort to recorded history and to the written works of qualified men. This practice he follows and heartily approves but he has repeatedly stressed the virtue of the homely practice of the study of humanity and the exercise of deep human sympathy. He has often

stated both in private conversation and in public address and on the floor of this House, that the views and aspirations of the average citizen untrained in the arts and sciences should be studied and considered and given weight by lawmakers in reaching their conclusions on legislation and that these views and sentiments based upon humanitarian and spiritual considerations are often of greater value as a contribution to the welfare of humanity than the cold written words of the eminent logician. Mr. SUMNERS has repeatedly stressed the point that the capacity of the citizen to govern himself is the yardstick by which a true democracy may be measured, and that it is only as the citizen develops a capacity to govern himself that he is able to secure that measure of liberty which it is possible for a democracy to afford to its citizens.

The conduct of the affairs of the Judiciary Committee probably forms the highest tribute which can be paid to HATTON SUMNERS. Entrusted to that committee are legislative proposals of highly controversial character. Many bills submitted to the committee involve considerations which are calculated to arouse fierce controversy. The fact that such matters are considered in the Judiciary Committee without acrimony and without undue partisanship is the result in no small measure of the tolerance and fairness of Chairman SUMNERS. This tolerance enables debate to be conducted on a basis of merit and with a minimum of prejudice. It is further to the credit of Chairman SUMNERS that in spite of fierce debate and clash of opinion in the Committee on the Judiciary, induced perhaps in no small degree by the fact that each member of the committee is a lawyer and of necessity has a background of controversy in his chosen profession, the morale of the Judiciary Committee is outstandingly high and the personal relationship of the members of the committee among themselves and with the their chairman, is marked by cordiality and good fellowship.

With my colleagues on the committee I join in congratulating HATTON SUMNERS upon the completion of 25 years of service in the House, and I congratulate the House upon the fact that it has been privileged to have within its membership during the past 25 years, our esteemed and distinguished colleague whose silver anniversary we are celebrating today. I hope that he may continue for many years to lend his wisdom, philosophy, humanitarianism, and plain common sense to the solution of the problems presented to the House of Representatives of the United States.

THE VICE PRESIDENT'S CHAMBER,
Washington, April 6, 1938.

Judge SAM HOBBS,
The House.

DEAR SAM: You may say for me that HATTON SUMNERS is an honest man, an intelligent man, and an unselfish, hard-working man—it is that kind of a man who is a statesman.

It gives me pleasure to join with his other friends in this celebration and wishing him continued health, happiness, and usefulness.

GARNER.

Mr. HANCOCK of New York. Mr. Speaker, the gentlemen from Alabama [Mr. HOBBS] and from Nebraska [Mr. MCLAUGHLIN] have done a kindly and gracious thing in taking the time of the House, even on this busy day, to pay deserved tributes to the character and attainments of the chairman of the Judiciary Committee of the House [Mr. SUMNERS of Texas] in commemoration of the twenty-fifth anniversary of his entrance into this body.

As a member of the Judiciary Committee for several years, it has been my privilege to sit at his feet and hear his wise and patriotic counsel day after day. He has been patient, tactful, and unfailingly courteous during many trying moments. He has earned and he has the respect and admiration of all of us for the qualities of his great mind and the contributions he has made in the Nation's councils. I regard him with affection as a great statesman, jurist, gentleman, and friend. I congratulate him on his long and useful service and wish him well always.

Mr. TOWEY. Mr. Speaker, there are few men who have had the privilege of serving in the House of Representatives that have not felt that among the greater things of the experience have been the friendships which we have made, not for the hour or the day but for all of our lives yet to come, and of all the men in Congress of whom I have the privilege of calling friend there is none of them for whom I have greater love and respect than the distinguished chairman of the Judiciary Committee of the House, the Honorable HATTON W. SUMNERS.

Having been selected for the Judiciary Committee during my first year in the House, I found that his help and friendliness and unselfishness in the days of my apprenticeship were always an inspiration and a help. Of his personal help, guidance, and friendship outside of the committee I can only say with words of inadequacy my thanks and gratitude, but far beyond the personal I have come to know and respect Judge SUMNERS for the man that he is and to appreciate the constructive and honorable service that he has rendered to his Nation during his 25 years of service in the House of Representatives. Observing his activities as chairman of the Judiciary Committee I can truthfully say that he has but one standard, and that is what will be the effect of the proposed legislation upon America and its institutions; and if it is destructive of those ideals, no one ever has to doubt where Judge SUMNERS stands.

There are few men in the House of Representatives with a broader or more comprehensive understanding of the fundamental problems confronting our Nation today, and there is no man who with greater courage is prepared to face them without regard to personal or political fortunes.

Judge SUMNERS believes in democracy and American institutions with a faith that is inspiring to those who have enjoyed the high privilege of sitting at his feet and listening to his philosophy that has a firm root in the belief that God is the creator of man and that God has laid down the rules that govern the life and destiny of man.

With a love and deep admiration for this truly wonderful character, I hope that God will give him strength and health to continue to serve America in the trying days yet to come. For, after 25 years, in retrospect one can truthfully say that HATTON SUMNERS has been a credit to his God and to his country.

Give us men!
Men who when the tempest gathers
Grasp the standard of their fathers
In the thickest fight;
Men who strike for home and altar,
Let the coward cringe and falter;
God defend the right!
True as truth, though low and lonely,
Tender as the brave are only
Men who tread where saints have trod,
Men for country, home, and God;
Give us men—I say again,
Give us such men!

Mr. GUYER. Mr. Speaker, on this, the twenty-fifth anniversary of the entrance of the Honorable HATTON W. SUMNERS into the House of Representatives, I take peculiar pleasure in adding my humble tribute to the incomparable personal character and the Nation-wide recognition of the superlative statesmanship and legal learning of the chairman of the Committee on the Judiciary.

As the ranking Republican on the Committee on the Judiciary I have the amplest opportunity to judge the learning and wisdom of the great chairman of this powerful committee of the House. The chairman of this committee understands the great power reposed in his hands by reason of his position yet I have never known him to arbitrarily take advantage of his position to determine the policy or action of the committee. On the other hand, he adopts the most liberal attitude possible for the most tolerant expression of the opinion of his committee irrespective of political affiliation or of political opinion. This, I am sure, is the reason that it is universally said of this committee at this time that it is as far as humanly possible without partisan politics, as it should be.

The chairman of this committee is recognized by all who know him as one of the outstanding lawyers of the country—as former Chief Justice Taft asserted—the greatest constitutional lawyer in the Congress; and it is my opinion

that his fame will rest upon his superlative services as a guardian of the Constitution both in the committee and upon the floor of the House. His profound knowledge of the law and its sources in Anglo-Saxon history has preeminently qualified him as a champion of the spirit of Anglo-Saxon institutions and of the sacred rights of the individual as imbedded in our institutions which came from our Anglo-Saxon progenitors. In his great address to the House on July 13, 1937, an address that is comparable to the great addresses of Webster, Calhoun, and Clay in the first half of the nineteenth century, he said:

> We know as a people, as a nation, we are at the cross roads in America. Soon we must determine whether or not we are going to preserve Anglo-Saxon institutions in this country or join the other nations of the earth under a dictator.

Then followed a speech that sounded the death knell of any hopes of controlling the decisions of the Supreme Court through any form of packing its membership. It was a classic defense of the fundamental ideals upon which our American institutions were founded. It was such a speech judged by its excellence and its effect upon the destiny of the country as is not made more than once in a half century.

But in his personal contact with members of the committee he reveals his deep and sincere humanity. Every member of the committee is his devoted friend and each in turn rewards him with unfaltering loyalty and sincere love and friendship.

Personally, there is no member of my own party of whom I would sooner ask a favor, knowing that if within his power he would grant it. I am sure this feeling is shared by every member of the Committee on the Judiciary.

Mr. CHANDLER. Mr. Speaker, permit me to join in the general rejoicing over this happy anniversary. The distinguished chairman of the House Committee on the Judiciary not only holds the affection of the members of the committee over which he presides with skill and suavity but he occupies a unique place in the hearts of all his colleagues in the Congress, and justly possesses the respect and confidence of the people of America. May he continue to serve his congressional district and the Nation and enjoy good health for another quarter century.

Mr. MICHENER. Mr. Speaker, a quarter of a century is a long time. I am happy to felicitate the distinguished chairman of the Committee on the Judiciary, the Honorable HATTON W. SUMNERS, of Texas, on having served in the Congress of the United States continuously for that period. This has been a rich experience, and I am sure the gentleman from Texas has made the most of it. Few similar periods in our history have witnessed so many changes throughout the world; changes in geography, changes in economics, and, I think I am safe in saying, changes in the way men and women think. Always a student, with broad vision and an abundance of ability and tolerance, our friend has so equipped himself that his views and his utterances receive profound respect throughout the entire country. Of the 435 Members in the House, but 4, with continuous service, who entered on April 7, 1913, remain. They are the gentleman from Texas, Mr. SUMNERS; the gentleman from Texas, Mr. RAYBURN; the gentleman from Massachusetts, Mr. TREADWAY; and the gentleman from Michigan, Mr. MAPES. We are proud to hail this group as distinguished colleagues, and the most that I can wish for my chairman and for the other members of the group is that they may be here to receive the plaudits of the House 25 years hence.

Mr. HEALEY. Mr. Speaker, this day marks the twenty-fifth consecutive year of the service in the Congress of the United States of HATTON W. SUMNERS, chairman of the House Committee on the Judiciary.

During my service here for the past 5 years as a member of the House Judiciary Committee, I have been closely associated with him and can readily understand the deep affection his district must bear toward him. His profound knowledge of the law and his intensely human qualities have endeared him to those who have had the privilege of serving with him on that important committee of the House.

Always patient, kindly, and courteous, even under the most trying circumstances he has never allowed himself to be stampeded nor allowed sharpness to enter where calm reason should prevail. Possessed of a rare and refreshing sense of humor, he has expressed in homely idiom the thoughts of a deep and scholarly mind tempered by sound common sense. Whenever he speaks in the House, he can be sure of a generous audience of his colleagues in this House who have so often found delightful his sound treatment of involved and complex matters in simple, picturesque language.

Because of the years of experience which he has had—experience which is so necessary in these critical times—and because he possesses in such abundant measure the attributes that are essential to a legislator and statesman, it is my wish that his service in this body may be continued for many years to come.

EXTENSION OF REMARKS

Mr. FERGUSON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by including the testimony given before the Committee on Reciprocity as a member of a committee of three that was appointed by the Western States to testify before that committee.

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

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. STACK. Mr. Speaker, I ask unanimous consent to proceed for 30 seconds.

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

There was no objection.

Mr. STACK. Mr. Speaker, I understand our friend Charley West is around the Capitol today. Now, I do not know what he is doing, but I do hope he is not doing what they accused me of doing to Jack Kelly—giving him a Mickey Finn, whatever that means. [Laughter.]

EXTENSION OF REMARKS

Mr. MAY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include an address delivered by the Assistant Secretary of War, Mr. Johnson, at the Army Day banquet last night.

The SPEAKER. Is there objection?

There was no objection.

Mr. WENE. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein an editorial from my local paper.

The SPEAKER. Is there objection?

There was no objection.

Mr. VOORHIS. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. DISNEY. Mr. Speaker, when a member of a political party takes a position opposite to the leadership of his party, he usually does so under compelling reasons. That is my situation. Fairness to those with whom he disagrees requires that one taking such a course shall state his reasons.

The vote arises today on the motion to strike out the enacting clause of the Senate bill 3331. This Senate bill is now too universally despised here and in the country for any Member of the House to take chances with it. No one on the floor of this House has defended it, and many Senators who voted for it are making excuses for doing so. The press and the people are up in arms against it. I shall vote for the motion to strike out the enacting clause.

It has been charged that false propaganda has been used to defeat this bill and to discredit the President. I do not beleive that to be true in any great measure. I see no evidence of it. On the contrary, the telegrams that have come to me have been in large part from ardent old-time Democrats. They are not all from the metropolitan centers, but have come from the small townspeople, farmers, and workers.

One of the most reasonable communications which I have received comes from an old-time Tennessee Democrat, who has never voted the Republican ticket. I quote him:

It would be heartening to see the House defeat the bill, not that I consider it nearly as serious as some of the opposition make believe, but to somewhat stimulate the confidence of the people in our Government. I am sure there is a widespread fear throughout the country that we are headed for that degree of centralized government that amounts almost to a dictatorship and it would be of good psychological effect to defeat that bill entirely.

This appears to me to be well-considered judgment.

Then comes a letter from a Democratic county chairman, who said:

At present it seems to me that reform or New Deal measures should be held in abeyance and instead attempt to bring the country out of the present recession—if not brought about the Democratic Party will have to fight in 1940. Attention to certain tax measures would seem highly advisable at the present time. * * *

I feel that politically it was not a wise thing for the Democratic Party to do and I also feel that it was not quite the thing to put so much power in an Executive's hands—even though we all have the highest regard and love for our present Chief Executive. Sometime—sooner or later—he will no longer be President and even now he has to depend on advisers who are very human and as human beings make a great many mistakes. It is giving too great a centralization of power in the executive branch in Washington. I can assure you that any address that Father Coughlin may have made has had no influence with me for I have not listened to any talks made by him. My wire was sent before his address was given and I happen to come from a long line of Protestants and I am a thirty-second degree Mason. I have been a loyal party man and understand the necessity of party allegiance but I also feel that all Democrats have a right to his or her conviction and there are a lot of us in this part of the State who think as I do.

From a farmer and a Democrat comes this message:

It is the general feeling in this section that the depression has lasted too long and our citizens are wondering why something isn't done to restore business confidence and bring back prosperity.

On the floor of the House I have heard the suggestion that dictatorship is involved scoffed at. Who has been discussing dictatorship? It has been on the tongue of every man, woman, and child who reads the newspapers for the last several years. The horrible examples of dictatorship in European affairs and the danger of even such a possibility in America has filled everyone with awe-struck terror. Both friends and foes of the administration have discussed the subject of delegation of power to the Executive. The President himself used the word "dictator" in a disavowal that any such intention existed in his thought. If the germ of this notion, correctly or incorrectly, has pervaded even the White House, how can we blame the people on the farm, in the offices, shops, and homes for thinking of and discussing the dangers involved in too great or further centralization of power?

It has been said that the people are ignorant of what the bill contains. Suppose that is true, which I deny; but they are not ignorant of their desires and instincts in fear of such a strong centralized government being set up, which, by some possibility, might get into the hands of a man or set of men as unscrupulous as the European dictators. That is what our people are afraid of.

In my judgment, this is no fight on the President. If that were the sole and only issue, I would respond and vote for the bill, for I am under the deepest obligation of friendship and respect for him. The personality of every President who ever sat in the White House has been an issue when legislation he desired has been proposed. Naturally the Republicans criticize him, as we Democrats criticized Harding and Hoover, and as they criticized Wilson and Cleveland.

But there is something more important involved here. We are not representatives of the executive department. We represent the people, all the people, not just the Democrats, but every shade of political opinion, and in that representation we should take heed of the thinking of the people at this time and not ignore what should be evident to everyone at this stage; namely, the turning of the thinking of the people against a further centralized government.

It has been said in debate that the proposed amendment would give the legislative branch more power over the Comptroller General's office than now exists. The trouble is that the people do not believe that, because they do not have the details in mind and they are confronted with the history of the Senate bill. Any attempt to amend or place the House bill into the Senate bill, with its defects and weaknesses, which, as I have said before, is now being apologized for by everyone, should be halted. If the Senate bill was good, why offer these palliatives in the form of amendments? Why not drive the thing through in its original form? Nobody dares to do so in the face of the temper of the people; so, in order to pass a bill of some kind, amendments are being offered, one of them admittedly unconstitutional, that the bill in some form may come out of the House and the measure thrown into conference. I ask you, after the conference, then what? Will it emerge with the hateful Senate bill? Who knows? We cannot take chances on that and my judgment is that the bill should be disposed of here and now by its defeat.

Mr. Speaker, my judgment is that this is no time to fly in the face of the people with this legislation. This bill is thoroughly branded with suspicion. Charges and countercharges, criminations and recriminations, the children of asserted misinformation and hate, are adding to the confusion of the public mind and destroying the confidence that is so sorely needed to overcome the economic depression that has overcome us. In my judgment, we should be devoting our time to the economic ills of the country, rather than to such political measures.

Reorganization can wait. What is the hurry? Where is the fire? The right thing done at the wrong time ceases to be the right thing. The instincts of the American people are a safeguard which will enable us to know when and how to move. This is not the time even to hint about giving more power to the Executive, especially when we view the long history of the Anglo-Saxon race to keep within the power of its representatives all the legislative functions of the Government.

In my opinion, pressing this bill is not even good sportsmanship but the sheerest obduracy. After a heated battle over it in the Senate, where it passed by the skin of its teeth, it is immediately catapulted into our midst in the House, which adds to the excitement and the real or imaginary terror of the people, creating confusion worst confounded.

With the world gone mad, is it not time for America to sit steady and exercise wisdom, patience, sobriety, and all those other spiritual qualities that have made the pages of American history brilliant with achievement? Can we not say, in the words of another and greater One, "Suffer it to be so now," and lay aside the thing that is causing bickering, hatred, ill-feeling, and confusion throughout the length and breadth of the land?

Mr. MASON. Mr. Speaker, I have prepared a symposium consisting of excerpts from editorials and newspaper commentators that gives a rather complete picture of the problem presented this House in the reorganization bill now before us. Before presenting this symposium, however, I want to make a few introductory remarks of my own.

I feel assured that the passage of this bill even when modified, as we have been promised it will be, would create "new instruments of power which in the wrong hands would be dangerous." For that reason I am opposed to its passage even in its proposed modified form.

I am convinced that every Member of this House must realize by this time that the crux of the problem before us is whether this Congress is to retain the right by majority vote to veto any action the President may take under the provisions of the bill, or whether it shall require a two-thirds vote of the Congress to check any unwise, impulsive, or unwarranted action that may be taken by the President. The Wheeler amendment to be offered in substance by the gentleman from Wisconsin [Mr. BOILEAU] will settle this particular question in favor of a veto action by a majority of Congress.

However, even then the bill would still have two very bad provisions; one being title III, which emasculates the office of Comptroller General, and the other, title IV, which does irreparable damage to the civil-service system. We must not overlook these bad features that are to remain in the bill.

THE SYMPOSIUM

The first section of the symposium consists of excerpts taken from an editorial carried in last Sunday's New York Herald Tribune:

SIX LOST MONTHS

It is more than 6 months since the New Deal started the country downward in its present disastrous spiral. Every impartial expert agreed from the outset what should be done to save the country from a major depression. A large majority in House and Senate unquestionably agreed with these views.

Yet for 6 months President Roosevelt has halted all action. Too proud to admit error, too politically minded to place the salvation of the country before his prestige in the coming election, he has prevented all tax reform, every measure that might reassure business as to the future. Worse, he tried to start new bonfires of hatred and destruction, including demagogic rantings about monopolies. Finally, as the Roosevelt depression neared its climax, he tried to force his dictatorial reorganization bill through a reluctant Congress * * *. One of the most loyal and consistent of the President's supporters urges Congress to drop its reorganization bill nonsense and get busy to save the country. It avoids blaming the President for the delay. But it courageously admits the gravity of the situation * * *. For 6 months that leadership has selfishly and stupidly played checkers with its Corcorans and its Cohens, with its Jacksons and its Ickeses, while the recession has blazed up and spread into a major depression. Now is the time to notify the President that he is no longer the ruler of American destinies, that Congress intends to resume its rightful place as a coequal representative of the people * * *. The one important point is that Congress shall resume its independence. The Roosevelt depression was utterly unnecessary. It was forced upon a great and powerful nation by a series of measures which gravely alarmed the voters—beginning with the attack on the Supreme Court. It can be ended only by making it certain that Congress has ended the progress of President Roosevelt's drive for power for all time. This decision cannot be taken too soon or expressed too clearly.

The second section of the symposium consists of excerpts from an article in the Washington Star of last Sunday, written by Owen L. Scott:

LET US FACE THE FACTS

Neither the country, the Congress, nor the President is prepared as yet to face the facts and to act accordingly. Many of the Government's principal economists think that this failure to recognize facts underlies today's chaos in Washington and in the Nation. The facts are these:

1. More than 20,000,000 individuals, or about one-sixth of the Nation's population, on the basis of official estimates, are living from Federal, State, and local government relief of one kind or another.

2. More millions of individuals, wanting to work and able to work, are unable to find jobs and yet are not on relief.

3. Another 15,000,000 individuals, or about one-eighth of the population, are supported by the 3,500,000 employees of Federal, State, and local government. Pensioners add to this total.

4. The agricultural industry, supporting 30,000,000 individuals, or about one-quarter of the country's population, now looks to Government rather than to the once free-working economic laws to provide it with over-all controls and a measure of security.

5. A million workers in the railroad industry and their dependents are looking to the Government and not to bankers or industrialists to solve the problems of their industry and to protect their jobs. The same is true of half a million bituminous-coal miners, who have turned their problems and the problems of their industry over to the Government.

This means that at least one-half of the population of the United States now looks to the Government of this Nation rather than to private leadership and private business and finance for a solution to its problems.

6. Government credit, and not private credit, now does the bulk of financing for the farming industry. The Government holds $3,000,000,000 worth of mortgages on city homes through H. O. L. C. and a billion and one-half dollars' worth on farm property through F. C. A. The Government has loans outstanding of approximately $8,500,000,000, as contrasted with a total for all commercial banks in the Nation of $16,000,000,000. These are facts that must be faced.

The third section of the symposium consists of a brief editorial taken from a Wheeling paper 2 weeks ago:

A BOLD GRAB FOR MORE POWER

The American people should understand just what is before them in the administration scheme to reorganize the Government machinery at Washington.

William Green, president of the American Federation of Labor, described the reorganization bill as "a broad and sweeping delegation of congressional authority to the executive branch of the Government", to which Mr. Green, as a spokesman for labor, strongly objects.

In less polite terms, it is a definite step toward one-man control of public affairs.

Senator King of Utah suggests the measure should be labeled: "A bill to weaken the power of the legislature, to augment the power of the President, and to increase the cost of Government."

The first objection to this bill is the proposed grant of authority to Mr. Roosevelt to change most of the bureaus about at will. Instead of making Mr. Roosevelt merely the administrator of a carefully drawn plan of mergers in the interests of substantial economies, Congress would say in effect, "Write your own ticket." As Senators BYRD and WHEELER declare, no Congress has ever gone so far toward abdicating its authority over the governmental system.

The proposed ousting of the bipartisan Civil Service Commission in favor of a single official under Mr. Roosevelt's control is another brazen affront to the Nation. Under this arrangement the Civil Service Commission would lose all independent status and be turned over to the distributors of spoils. No intelligent citizen needs to be told what a travesty would result.

But even more serious from the standpoint of good government, if the administration succeeds with its plan, is the elimination or emasculation of the office of Comptroller General, now the sole check against illegal diversions of public funds. This would mean nothing else than outright surrender of the purse strings of the National Treasury by the elected representatives of the people, something undreamed of during all the years preceding the New Deal.

There is every warrant for killing this bill in its tracks. But what is to be said of a reorganization plan that will actually increase spending? Even Mr. Roosevelt admits that no economies can be expected, and as Senator KING further says, it "will result in the creation of many Federal agencies and add tens of thousands of names to the Federal pay roll." Can anyone doubt this statement in the light of the record of the past 5 years?

Instead of reducing the number of executive departments, this plan would add a new one, a permanent Department of Public Welfare. Is the country ready to accept this defeatist attitude?

Also is the country ready to have Congress further surrender its powers, to see the civil-service system discarded, and to say good-bye to the guardian of the taxpayers' money?

Mr. Speaker, in conclusion, I wish to warn this House that the Kniffin amendment providing for action by concurrent resolution will be adopted. Action by concurrent resolution as a check upon the President will be null and void. I believe the Kniffin amendment will be adopted, will be approved by a conference committee, and the bill with this provision included in it will be signed by the President, because section 428 of the bill, the separability clause in the bill, will protect the constitutionality of all the other provisions of the bill, when and if the Kniffin amendment is declared null and void. For that reason the Kniffin amendment is nothing more than a "come-along", an ear of corn on the end of a stick fastened in front of the nose of a balky mule. We should at least use plain common sense and support the Boileau amendment instead of the Kniffin amendment.

Mr. THOMAS of New Jersey. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a short editorial from the Paterson (N. J.) Call.

The SPEAKER. Is there objection?

There was no objection.

Mr. RUTHERFORD. Mr. Speaker, the people of my congressional district seem to be aroused over the reorganization bill. I have received hundreds of postal cards, letters, and telegrams from all parts of my district from doctors, lawyers, merchants, preachers, farmers, and housewives, demanding that I vote against the measure, and I have received only one suggesting that I vote for it. This is as I expected, because the great majority of the people of my district, whether they be Republicans or Democrats, are real fundamentalists, so far as constitutional government is concerned. They believe in their Constitution as they do in their Bible, and they want no New Deal interpretation of either. They believe that our democratic form of government works best when each branch of the Government performs its own proper function. They are opposed to either branch taking over the functions of any other branch. They still believe in the checks and balances as provided in the three branches of our Government, viz, legislative, executive, and judicial, and they want those checks and balances preserved and not destroyed.

Last spring, when the President attempted to pack the Supreme Court, so as to control it, the people of my district protested vigorously, and now when he desires to take over more of the legislative powers of the Government they protest just as vigorously. In keeping with their requests I will vote against the reorganization bill, no matter how amended. I am still old-fashioned enough to believe in the American system of constitutional government, with its checks and balances. That system has stood us in good stead for 150 years, and I believe it to be our only salvation for the future. After 5 years of the socialistic New Deal I am more convinced than ever that we will never get back to "good times" until we junk all of the theories and experiments that have been foisted upon us by this New Deal administration and get back to fundamentals and allow each branch of the Government to perform its own proper functions.

Let Congress legislate, let the Executive execute the laws enacted by Congress, and let the judiciary pass upon the laws. Each doing its work without interference from the other branches. We became a great country under that system and we can continue to be great only under that system. The reorganization bill is an attempt to change that system and for that reason I am against it. So long as I am in Congress I will never vote for any measure that in my opinion attempts to reduce the powers of Congress and make the powers of the Executive greater. I am in full accord with the gentleman from Texas [Mr. LANHAM] when he says that, "This matter of reorganization is distinctly a legislative and not an executive function." If there is need for a reorganization of some parts of our Government, let Congress assume its proper responsibility and make the necessary changes and not turn the job over to the executive branch of the Government. During the debate on this measure I have heard it stated that Congress could not do the job. That seems a sad admission as to the ability of Congress to properly legislate, but perhaps it is true. The Members of this and the last two Congresses have turned over so much power to the executive branch, that perhaps they have forgotten how to function. However, Congress now has a chance to demonstrate to the country that it is still the legislative branch of the Government; that it is still able to perform the duties required of it under the Constitution; that it is composed of men and not mice. The country will applaud a real exhibition of legislative independence. As the gentleman from New York [Mr. O'CONNOR] said, "The greatest tonic that we could give the country would be the defeat of this reorganization bill." I think that he is correct. Nothing would restore confidence more than a showing by Congress that from now on it was going to perform its proper functions and that it was not going to delegate any more of its powers to the President. If it wanted to do a real job it should take back from the President all the temporary powers it has heretofore granted him and then the country would sit up and take notice.

The day that Congress would pass such a bill over the President's veto would go down in history as a second Fourth of July. It would certainly be a real declaration of independence. The proponents of this measure say that a vote against it is a vote against the President. Well, perhaps that is true. The President has been given more peacetime power than was ever granted to any President, and still he craves more power under the provisions of this bill. He wants what he is not entitled to and what no President is entitled to. It is the principle that I am voting against, not a person. It is said that the President got up in the middle of the night a short time ago to tell an unknown friend that he did not want to be a dictator. I do not know whether the unknown friend slipped down to Warm Springs unbeknown to the rest of the people of the country, and, like the devil of old, took the President in his flowing nightshirt up on the pinnacle of his bungalow and showed him all of the 48 States and the District of Columbia and offered him a dictatorship or not. Be that as it may, the President was a good scout and said that he did not want the job, and we will take him at his word. However, the best way to do is for Congress to play safe and keep to itself all of its powers, and in that way we will know that there never will be a dictator, and we may as well start now by defeating this bill. There was no real need to bring this bill up at this time. There is no emergency. The people of the country are in no mood for this kind of legislation at the present time. The events in Europe during the past few weeks have made them jittery. They have witnessed governments in the past slowly going into dictatorships because the legislative branches from time to time gave up their powers to the executive branch of the government. They see in this bill the Executive grasping for more power. They are beginning to feel that it can happen here. The people are getting worried and are wondering if Congress can still be trusted. Congress can completely shatter such ideas and restore complete confidence by decisively defeating this bill. Now is the time for all good men to come to the aid of their country, not party.

Mr. RICH. Mr. Speaker, I want to read to you a letter I just received from a minister in Pennsylvania who realizes that we are going to lose our form of government and does not wish to have given to the President of the United States any more power. He knows that the President has too much power already. I quote:

> I want to say, kill that reorganization bill, no matter how much it is pared. The man who once preached "That which we should most fear is fear itself" is sowing the seed that has resulted in the most widespread fear. I do not preach politics from my pulpit. I do personally, however, interview men. I asked businessmen, I asked preachers, I asked workingmen, why they do not speak their thoughts, and they have but one answer: Fear; espionage. One said to me, "Do you realize that every person in this town who writes a letter to a Senator or Representative, his name is taken down, and headquarters knows it immediately after it goes into the mail." I have a church of 600 members. What makes me believe the informant is right is but recently every W. P. A. worker in my church has made himself conspicuous by his absence; also the Government employees.
>
> Kill that bill; the people are afraid. Kill it, no matter how much they pare it—fear, fear, fear.

Mr. FORD of California. Mr. Speaker, when a reasonable person analyzes the reorganization bill he wonders what all the hysterical opposition means.

It has long been recognized that there is great need of reorganization of the various agencies of the Federal Government. The major parties have recognized this in their political platforms. President after President has requested Congress for the authority to do this. But partisan opposition, combined with pressure from groups opposed to any change, have prevented action.

President Roosevelt has asked for the authority to group, coordinate, and consolidate Federal agencies in the interest of efficiency and economy.

This effort to eliminate overlapping and duplication of agencies has been seized by the minority and by the unfriendly press, supported by Wall Street, and made to appear as an attempt on the part of the President to seize power that properly belongs to Congress. Many well-meaning but uninformed people who have not read the bill have become honestly alarmed. They are writing to their Congressmen and imploring them to save this country from dictatorship.

Dictatorship! When Congress is not giving up any of its powers, when all that it is proposing to do is to authorize the President to do a needed piece of work by reorganizing the executive departments, when the bill specifically limits the authority to 2 years, and when any change made by the President can be overridden by a simple majority vote of Congress taken within 60 days of the Executive order. When read and understood, it is seen to be a nonpartisan move toward efficiency, with no taint of dictatorship.

WHO ARE THE DICTATORS?

Dictatorship! Yes, there is a danger of dictatorship in this country. The would-be dictators are the minority which has become so determined to block the will of the people as expressed at the polls, that it is resorting to outrageous misrepresentation, to concerted attacks on every suggestion made by the President and to paid propaganda intended to confuse and frighten the people.

In this group of would-be dictators who are determined to rule or ruin are the Power Trust and their bemused followers; the small but powerful group of industrial magnates whose strike against taxation is largely responsible for the recession; the economic royalists, who, having amassed great fortunes along with the financial control of huge corporations that threaten free government, defy Congress to touch them through taxation, regulation, Federal incorporation, or by any other method.

These, my friends, are the dictators. They are dictating right now the course of events in this country. They are opposing not only taxation based on the just principle of ability to pay, but every effort to make the resources of this country available to the people of this country. They oppose all just labor legislation, such as the Federal Labor Relations Act, the wage and hour bill, the abolition of child labor and the sweat shop. They found in 1936 that the people were with President Roosevelt and the New Deal. But being dictators, they refuse to submit to majority rule. Since they could not win at the polls, they resolved to win by trick and device, by propaganda in the controlled newspapers, by a concerted and never-ending series of attacks.

DIE-HARD'S SLOGAN RULE OR RUIN

Every measure the President recommends is opposed by these small but powerful groups, representing the defeated minority.

That explains the attack on the reorganization bill. It was proposed by the President. Therefore it must be defeated. Such a defeat, they think, will be a blow to the prestige of the President, it will encourage all who oppose him, it will with other similar attacks enable the minority—which carried two States in the last national election—to control legislation, to stop the New Deal, to get the power back in their hands.

This drive should fail. We should pass the bill, amended to meet all reasonable objections. The minority is not going to rule Congress and it is not going to control this country. But the fight has been bitter and hard. And it is not ended.

PEOPLE'S VOICE UNHEEDED

Unfortunately, many persons seem to have forgotten the mandate given by the people at the last election.

As a Roosevelt Democrat, believing in the New Deal, I have no hesitation in voting for this bill. Furthermore, I am glad to reaffirm my faith in Roosevelt and my belief in his program to bring opportunity to all the people of this great country.

I am anxious for the opportunity to vote for a wage and hour bill, for increased appropriations for W. P. A., for a liberalization of the Social Security Act that will enable such progressive States as California to pay a $50-a-month old-age pension at the age of 60.

This Congress should not adjourn until the liberal program advocated by the President and by the people is put through.

Let us not run to cover from the attacks of those who opposed the program in 1936 and lost out. Let us stand our ground and do what we were sent here to do.

Thus the victory of 1936 will become a real victory, and the faith of the people will be vindicated.

Mr. JENKS of New Hampshire. Mr. Speaker, I have listened with keen interest to the eloquent arguments presented on the floor of this House for and against this reorganization legislation during the past several days. While I have no power of oratory, I have always felt I have a smattering of common sense and good judgment. It seems to me that the bill itself has been submerged in the clamor of protests that has arisen over it, and it is on that phase of the situation that I want to say just a few words.

The thousands of protests that have poured in on both Houses of Congress attest the fact that a fear has spread throughout the length and breadth of this country that our constitutional system of checks and balances is in danger of being disturbed. The cry of "dictator" became so persistent that the President himself, mistakenly, I think, released a letter to an unknown friend disclaiming any ambition or qualification to assume the role of a dictator. That same President once said that the only thing to fear is fear itself.

What has happened? In the minds of many people the thought of a one-man government has been surging for some time, and this bill, which proposes to transfer additional powers to the President, has simply served as a peg on which to hang their protests.

At a time when the confidence of the people is lagging and when the tide of discouragement is rising, it would seem that the primary concern of this body should be to restore confidence in the Government rather than to further undermine the faith of the citizenry in the stability of their Government.

Why cannot we let first things be first? We now have approximately 11,000,000 unemployed people. The President estimates that one-third of the population is undernourished, poorly clad, and inadequately housed. There are 250,000 men, women, and children in my district, and this means 80,000 of these people have not enough to eat, and this is my great concern.

What have we done since last November 15, when we came into session, to relieve these conditions? Why do not the wheels of commerce and industry gather sufficient momentum to create a demand for these unemployed workers? Largely because of lack of confidence. Does this reorganization legislation help the situation? I say "no." It has no bearing whatever on it except to further depress confidence, instill fear, and make a bad situation worse.

Let the common sense and good judgment of this House express itself in a vote to recommit this bill; such an assertion would, at least in some measure, clear the atmosphere of the doubt and fear with which it is now so heavily charged.

By defeating this bill I believe we have everything to gain and nothing to lose.

Mr. BACON. Mr. Speaker, the House of Representatives is nearing the moment when it must take a vote of vital consequence to the country. I do not believe that the individual Members of the Congress have half begun to realize the extent of the depression that we are now in. The indexes of the Federal Reserve Board today show that we are only a little bit above the extreme low of 1933, and conditions are getting worse every day.

There is nothing in this reorganization bill which will in any way help the economic situation in the country, which is steadily growing worse. Even its proponents admit that there is no economy in the bill, and many think that if its provisions are carried out it will result in greatly increased costs. This point of view has been well stated by my colleague on the Appropriations Committee, Mr. WOODRUM, of Virginia.

It is now nearly 6 months that this Congress has been in session, and yet nothing has been done to reassure the country, to reassure business, or to help the ever greatly increasing unemployment situation. And yet, after 6 months, we find ourselves here today discussing a reorganization bill which will largely increase the executive powers of the President.

This reorganization bill has become an incident in a much larger picture. The people of this country have intuitively sensed this fact. The sensible men and women of America have been viewing with alarm the continued abdication by Congress and the continued granting to the President of increased powers, many of them legislative in type. The people realize that the Congress is their Congress, and they do not like to see the only representatives that they directly vote for give away powers imposed upon them by the Constitution. They view this reorganization bill as the capstone of a series of acts on the part of the Congress abdicating its power. The defeat of the reorganization bill, therefore, has become symbolic; the people feel that if this reorganization bill is defeated that the Congress will have finally called a halt on the building up of the executive at the expense of the legislative branch of the Government. And once this halt

is called the people hope that the Congress will again begin to reassert itself and take back some of the emergency powers already granted to the Chief Executive. They sense the fact that there is involved in this reorganization bill the whole question of constitutional government.

They are reminded that the Constitution provides for a division of powers between three coordinate branches of the Government, each one independent in its own sphere. They have an acute awareness of what Justice Brandeis declared in one of his opinions, that—

> The doctrine of the separation of powers was adopted by the Constitution of 1787, not to promote efficiency, but to preclude the exercise of arbitrary power.

They realize that the wise theory of government set up by the Constitution must not be disturbed if the American form of government is to continue. They do not want their Congress, that they elect every 2 years, to deliberately subordinate itself to the Executive. They are tired of being represented by "rubber stamps" that obey every beck and call of the Chief Executive. They want Congress to reassert itself and to stop, once and for all, the giving away of its powers granted to it under the Constitution.

The American people are viewing with concern the worldwide tendency toward dictatorships. They have seen what can happen in Russia, Germany, Italy, and Japan, where the legislative bodies elected by the people have been completely eliminated from the government set-up in these countries. They realize that with the elimination of the National Legislature the road to dictatorship is open, and they see all over the world dictators on the march. The American people realize that no dictator can set himself up in the United States so long as constitutional government is preserved and safeguarded and is maintained inviolate and as it has been maintained during the past 150 years. But they realize, too, that, once the Congress begins to give away its powers in favor of building up those of the Executive, it is time to stop, look, and listen.

During the discussion of this reorganization bill the country is looking to the Congress as a last hope. The defeat of this bill will have a splendid tonic effect on the country. It will be a big psychological factor in overcoming the present depression.

I do not intend now to discuss the many specific objections that I have to the bill, some of which run to the constitutionality of certain of its phases. In my estimation, this bill cannot be amended to make it acceptable. It goes too deeply to the fundamentals to permit of perfecting or improving amendments. No matter how much it is amended, it still is and always will be an additional, unwarranted grant of power to the Chief Executive. And, therefore, no matter what amendments are adopted, I propose to vote against the bill.

Mr. BIGELOW. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include a short article from a Chicago paper, Lightnin', January 1938, on the request of the Pullman Co. for an increase in rates.

The SPEAKER. Is there objection?

There was no objection.

REORGANIZATION BILL

Mr. COCHRAN. 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 (S. 3331) to provide for reorganizing agencies of the Government, extending the classified civil service, establishing a General Auditing Office and a Department of Welfare, and for other purposes.

Pending that, I ask unanimous consent that in the consideration of the bill (S. 3331) in the Committee of the Whole House on the state of the Union it shall be in order to consider the committee substitute amendment as an original bill for the purpose of amendment, and that such committee substitute shall be read by title for the purpose of amendment, and, further, that it shall be in order for any Member to demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the substitute amendment.

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

There was no objection.

The SPEAKER. The question is on the motion of the gentleman from Missouri 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 S. 3331.

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 S. 3331, with Mr. McCORMACK in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Under the order of the House the bill will be read by title as an original bill for the purpose of amendment. The Clerk will read the first title.

The Clerk read as follows:

TITLE I—REORGANIZATION

PART I—POWER OF THE PRESIDENT

SECTION 1. (a) Title IV of part II of the Legislative Appropriation Act, fiscal year 1933, as amended (U. S. C., 1934 ed., title 5, secs. 124–132), is hereby reenacted and is amended in the following respects:

(1) Section 401, as amended (U. S. C., 1934 ed., title 5, sec. 124), is amended by striking out the first paragraph and the words "Accordingly, the" in the second paragraph and inserting in lieu thereof the word "The."

(2) Section 402, as amended (U. S. C., 1934 ed., title 5, sec. 125), is amended by inserting after the word "establishment," the words "corporation owned or controlled by the United States," and by changing the period at the end of the section to a comma and inserting thereafter the following: "but shall not include, except as to the function of preparing estimates of appropriations, the Interstate Commerce Commission, the Federal Trade Commission, the Federal Power Commission, the Securities and Exchange Commission, the Federal Communications Commission, the National Labor Relations Board, the National Bituminous Coal Commission, the United States Maritime Commission, the Engineer Corps of the United States Army, the Coast Guard, the General Accounting Office, and the United States Tariff Commission."

(3) Section 409, as amended (U. S. C., 1934 ed. title 5, sec. 132), is stricken out.

(b) No Executive order issued by the President under the authority of subsection (a) of this section shall become effective unless transmitted to the Congress within 2 years from the date of the enactment of this act.

PART 2—BUDGETARY CONTROL

SEC. 2. Section 2 of the Budget and Accounting Act, 1921 (U. S. C., 1934 ed., title 31, sec. 2), is amended by inserting after the word "including" the words "any independent regulatory commission or board and".

PART 3—THE DEPARTMENT OF WELFARE

SEC. 3. There shall be at the seat of government an executive department to be known as the Department of Welfare, and a Secretary of Welfare, who shall be the head thereof, and shall be appointed by the President, by and with the advice and consent of the Senate, and have a tenure of office like that of the heads of the other executive departments. Section 158 of the Revised Statutes, as amended (U. S. C., 1934 ed., title 5, sec. 1), is amended to include such Department and the provisions of title IV of the Revised Statutes, including all acts amendatory and supplementary thereto, shall be applicable to such Department.

SEC. 4. There shall be in the Department of Welfare an Under Secretary of Welfare and two Assistant Secretaries of Welfare who shall be appointed by the President, by and with the advice and consent of the Senate, and a Solicitor, who shall be appointed by the Secretary of Welfare, and all of whom shall exercise such functions as may be prescribed by the Secretary of Welfare or required by law.

SEC. 5. The Secretary of Welfare shall promote the public health, safety, and sanitation; the protection of the consumer; the cause of education; the relief of unemployment and of the hardship and suffering caused thereby; the relief of the needy and distressed; the assistance and benefits of the aged and the relief and vocational rehabilitation of the physically disabled; and in general shall coordinate and promote public health, education, and welfare activities.

SEC. 6. The Secretary of Welfare shall cause a seal of office to be made for his Department, of such device as the President shall approve, and judicial notice shall be taken of such seal.

SEC. 7. The Secretary of Welfare shall annually, at the close of each fiscal year, make a report in writing to the Congress, giving an account of all money received and expended by him and his Department and describing the work done by the Department. He shall also from time to time make such special investigations and

reports as he may be required to make by the President, or by the Congress, or as he himself may deem necessary.

PART 4—GENERAL PROVISIONS

SEC. 8. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this title.

Mr. TABER. Mr. Chairman, I make a point of order against the title on the ground that it is a violation of clause 4 of rule XXI of the House rules, in that it contains an appropriation, and that no committee, except the Committee on Appropriations, is authorized to bring into the House a bill carrying an appropriation. For the purpose of arguing this point, I have had run off a copy of section 127 of title 5 of the Code, which I shall send to the desk for the benefit of the Chair, together with a copy of House Resolution 60, providing for the special and select reorganization committee. The Chair will see that by reference to section 1 of title I, of the bill that sections 124 to 132 of title V of the Code are reenacted. Section 127 is the section involved. Section 127 provides:

In any case of a transfer or consolidation under the provisions of this subchapter, the President's order shall also make provision for the transfer of such unexpended balance of appropriations available for use in connection with the function of the agency transferred or consolidated as he deems necessary by reason of the transferred or consolidated function for use in connection with the transferred or consolidated function.

I would like to have the Chair pay special attention to the rest of the matter which I have underlined in the copy I forwarded to the desk:

Or for the use of the agency to which the transfer is made or of the agency resulting from such consolidation. For instance, if the Veterans' Bureau were consolidated with the Department of Welfare.

The CHAIRMAN. Will the gentleman from New York permit the Chair to inquire as to which section of the title the gentleman is addressing his point of order?

Mr. TABER. I am making my point of order to the whole title, but I am referring to this particular section, part I of section 1 of title I as the section which is out of order. If, of course, any part of a title is out of order the whole of the title is out of order.

It is perfectly clear that those words that I have read constitute an appropriation beyond any question. For instance, the way the bill now reads the Veterans' Bureau might be transferred to the department of welfare. The whole Veterans' Bureau appropriation, containing $700,000,000, would be available for the use of that entire department of welfare. It is clearly an appropriation.

Now, may I read to the Chair clause 4 of rule XXI:

No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

The Chair will note that this has been construed.

The term "appropriation" in the rule means the payment of funds from the Treasury, and the words "warranted and make available for expenditure for payments" are equivalent to "is hereby appropriated," and therefore not in order. The words "available until expended," making an appropriation already made for 1 year available for ensuing years, are not in order. Language reappropriating, making available, or diverting an appropriation or a portion of an appropriation already made for one purpose to another—

And that is this particular case—

is not in order.

May I read that again:

Language reappropriating, making available, or diverting an appropriation or a portion of an appropriation already made for one purpose to another is not in order.

That is a decision that was rendered on August 11, 1921, in the first session of the Sixty-seventh Congress, page 4891 of the RECORD.

On March 29, 1933, in the Seventy-third Congress, a direction to a departmental officer to pay a certain sum out of unexpended balances was held to be the equivalent to an appropriation and not in order.

At the bottom of page 397 of the House Rules and Manual appears the following statement:

A direction to a departmental officer to pay a certain sum out of unexpended balances is equivalent to an appropriation and not in order.

Let me repeat that, if the Chair please:

A direction to a departmental officer to pay a certain sum out of unexpended balances is equivalent to an appropriation and not in order.

That was a decision of November 9, 1921.

Language authorizing the use of funds of the Shipping Board is not in order.

That is a decision of January 31, 1921.

A direction to pay out of Indian trust funds is not in order.

That is a decision of February 3, 1923.

In addition to the items which I have already cited, I desire to call the attention of the Chair to Cannon's Precedents, volume 7, 1936 edition, sections 1735 to 1745, inclusive. I call the Chair's attention particularly to section 1744 on page 719 of that volume:

To provide that an appropriation already made shall be available for a different purpose is an appropriation and exclusively within the jurisdiction of the Committee on Appropriations.

On January 29, 1921, the diplomatic and consular appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read this paragraph:

For the expenses of the arbitration of outstanding pecuniary claims between the United States and Great Britain, in accordance with the special agreement concluded for that purpose August 18, 1910, and the schedules of claims thereunder, to be expended under the direction of the Secretary of State, and to be immediately available as follows:

Mr. Thomas L. Blanton, of Texas, made the point of order that the phrase "to be immediately available" proposed legislation on a general appropriation bill.

In controverting the point of order, Mr. James R. Mann, of Illinois, said:

"It is not new legislation. It is an appropriation. Now, that point of order used to be made on this bill and would have been in order, because the Committee on Foreign Affairs, when it reported this bill, had no authority to report a deficiency appropriation."

It is clear that the language I have cited is an appropriation.

Mr. Chairman, I refer now to section 1745, on page 719 of the volume I have heretofore referred to and this case is particularly important because there another bill from a committee other than the Appropriations Committee was under consideration. I direct the Chair's particular attention to this language:

On August 11, 1921, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 8107) to control importations of dyes and chemicals.

Thereupon, Mr. Joseph Walsh, of Massachusetts, raised a question of order against the following paragraph of the pending bill:

"SEC. 3. That the appropriation 'Collecting the revenue from customs, 1922,' is hereby made available for the payment of salaries and all other expenditures incident to the operation of the Dye and Chemical Section, Division of Customs, Treasury Department, for the fiscal year ending June 30, 1922."

Mr. Walsh submitted that the paragraph provided an appropriation and was therefore not within the jurisdiction of the Committee on Ways and Means reporting the bill.

The Speaker said:

"The Chair will rule.

"Section 3 of the bill reported by the Ways and Means Committee provides that the appropriation for collecting the revenue from customs for 1922 'is hereby made available for the payment of salaries and all other expenditures incident to the operation of the Dye and Chemical Section, Division of Customs, Treasury Department, for the fiscal year ending June 30, 1922.' To that section the gentleman from Massachusetts, Mr. Walsh, makes the point of order that it carries an appropriation reported by the Committee on Ways and Means, and that under the rules of the House that committee has no jurisdiction over appropriations. Clause 4 of rule XXI prohibits any other than the Committee on Appropriations from bringing in or making appropriations.

"The Speaker a few days ago sustained a point of order in the boll-worm case in which it was sought to make an appropriation already made, already available in the Department of Agriculture, available for a new purpose by the Secretary of Agriculture. The

point of order was made that that could not be done in a bill reported by the Committee on Agriculture, and the Speaker sustained the point of order."

Mr. Chairman, that is just exactly this case.

Continuing, the Speaker said:

The gentleman from Ohio [Mr. Longworth] cites a decision made by the present occupant of the chair on the 23d of May of this year. That was an entirely different proposition. In that case an appropriation available for rations was transferred in a deficiency appropriation bill and reported by the appropriating committee to another purpose, and the Chair held that that transfer could be made.

Mr. Chairman, if I may interpolate at this point, that was because the bill which made that transfer came from the Appropriations Committee.

Continuing, the Speaker said:

The committee reporting the deficiency appropriation bill, having full jurisdiction, could have reported an original appropriation for the purpose for which the transfer was made. And in that case the Chair overruled the point of order. In this case it seems clear to the Chair that section 3 is an infringement on the jurisdiction of the Committee on Appropriations, and therefore sustains the point of order.

Mr. Chairman, may I say that a careful examination of Resolution No. 60, which created this Special Select Committee, gives it absolutely no authority whatever over appropriations. There is no provision in there which gives that committee any authority whatever over appropriations.

I have carefully examined the message of the President of the United States of January 12, 1937, referred to in the resolution and there is nothing whatever in the message which would in any way give this committee jurisdiction over anything of that character.

Mr. Chairman, on those decisions and on the rule to which I have referred, which seem absolutely clear, I submit to the Chair my contention that this entire title is not in order, because it reenacts section 127 of the code, giving the authority for and requiring the transfer of appropriations along with a consolidation or a transfer and I therefore ask the Chair to rule that the entire title is not in order.

The CHAIRMAN. The Chair would like to ask the gentleman from New York [Mr. TABER] a question. Does the gentleman contend that the present title gives to the President powers which he does not already possess under existing law?

Mr. TABER. Oh, yes.

The CHAIRMAN. The Chair wants to distinctly understand the point of order.

Mr. TABER. Yes; I want that thoroughly understood; because the President at the present time has no power to transfer any agency or to reappropriate any money or to transfer any funds. He would not have that power without the other language which this title carries. There is no question about that situation.

If the Chair would suggest to me any language which gives the President at the present time the power to make a transfer, to which this language would apply, I would be glad to discuss it further; but, frankly, I contend there is no authority in the President to make any transfer, and this language is absolutely ineffective without the entire title to which I have just made the point of order. It is a whole entity.

The CHAIRMAN. The Chair would like to ask if it is the gentleman's contention that no present law exists which authorizes the carrying out of the provisions of title I and if the gentleman bases his argument on the ground that section 127, title V, to which he has referred, under the provisions of section 132 were to continue for a period of 2 years after the enactment of the act of March 20, 1933?

Mr. TABER. That is part of it, but at the present time there is absolutely no authority whatever for the President to make any transfer of any function at all. Only by coupling this whole thing together can a statute be enacted and maintained which would permit the transfer of any appropriation. The power to transfer an appropriation or to use it for a purpose other than that for which it has been appropriated does not now exist as a result of the language that is on the statute books today but it would exist with the language contained in title I, part 1 of this amendment in effect. In other words, we have to consider the whole of this title together. This whole title gives the President the power to transfer, and that power to transfer is created by a requirement that the funds shall be transferred as a result of this statute. Only by considering this entire title together can we get to a position where this bill would carry an appropriation. Not by considering this particular section alone, but by considering the entire title, it appears there is absolutely no question but that this constitutes an appropriation.

Mr. COCHRAN. Mr. Chairman, I concede the point of order is well taken and offer an amendment.

The CHAIRMAN. The point of order is sustained. The gentleman from Missouri offers an amendment, which the Clerk will report.

Mr. O'CONNOR of New York. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. O'CONNOR of New York moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. O'CONNOR of New York. Mr. Chairman, I ask unanimous consent to proceed for 15 minutes.

Mr. COCHRAN. Reserving the right to object, Mr. Chairman, we have had 26½ hours of the time of the House spent on this bill. Everyone in the House knows what the motion of the gentleman from New York is. The gentleman could talk for 5 hours and he could not change a vote either way.

Mr. O'CONNOR of New York. I am not so sure about that, and I should like to explain certain developments on yesterday. I think this is a very important matter and I believe the gentleman ought to consent that I have a little extra time. Ordinarily, only 5 minutes would be allowed. I suggest that 15 minutes is adequate time, and I would be willing to fix the time of debate.

Mr. RAYBURN. I believe we ought to do that.

Mr. O'CONNOR of New York. I believe there ought to be at least 1 hour of debate, and maybe longer.

Mr. COCHRAN. No; I will not agree to that. I have no desire to cut off debate. The debate has run along. I have cooperated with the gentleman from New York and the Members on the other side of the aisle the last few days and I want to cooperate now, but there is absolutely no necessity for extending the debate on this motion to 1 hour.

Mr. O'CONNOR of New York. Will the gentleman make it a half hour?

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

Mr. O'CONNOR of New York. I yield to the gentleman from Texas.

Mr. RAYBURN. Mr. Chairman, I ask unanimous consent that debate on this motion be limited to 20 minutes, 10 minutes to be controlled by the gentleman from New York [Mr. O'CONNOR] and 10 minutes by the gentleman from Missouri [Mr. COCHRAN].

Mr. O'CONNOR of New York. No; I have figured it out. I am sure the gentleman is not going to squabble over 5 minutes. I asked 15 minutes.

Mr. RAYBURN. I may say to the gentleman I have had a terrible squabble over more than 5 minutes. I believe we can get by with 10 minutes on a side, but I do not believe we can get by with 15 minutes. I am talking about getting an agreement.

Mr. O'CONNOR of New York. I hope the gentleman will not object to my having 15 minutes.

The regular order was demanded.

The CHAIRMAN. The gentleman from New York asks unanimous consent that he be permitted to address the Committee for 15 minutes. Is there objection?

Mr. COCHRAN. Mr. Chairman, I will be compelled to object. [Cries of "No."]

Mr. COCHRAN. Mr. Chairman, if it is the desire of the Committee that the gentleman from New York have 15 minutes, I ask unanimous consent that debate on the motion

be limited to 30 minutes, 15 minutes to be controlled by the gentleman from New York [Mr. O'CONNOR] and 15 minutes by myself.

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

There was no objection.

Mr. O'CONNOR of New York. Mr. Chairman, in offering my motion to strike out the enacting clause of this bill I am taking a step which I believe the people of this country desire, and right at this moment. Every letter and every telegram says, "No compromise; no amendments will cure the bill." This universal sentiment is summed up in this editorial comment which runs through the press:

"Only one solution remains, that is, for Congress to vote down the whole bill and abandon its consideration until calmer times. Such a vote would do more to restore the equanimity of the country than any other single event, for it would signify that the voters had at last regained a Congress resolute enough and patriotic enough to stand between the country and a President who had temporarily mislaid his sense of perspective."

Those responsible for bringing this bill in here have realized for sometime that they have a bear by the tail. We are trying to help them let go.

Let us see from where the strongest urge for this bill comes.

I hold in my hand two issues of the Daily Worker, the Communist newspaper in New York. They violently support this bill and denounce its opponents as tories and fascists who are fighting liberalism.

In his column today Benjamin DeCasseres says:

> Words today cannot be accepted at their face value. We are now in the era of corkscrew words—words that have been twisted out of all semblance of their original meaning. As for instance: "Liberalism is now a mask behind which there work Communists, Socialists, and collectivists of all kinds who are either too cowardly to announce their real principles or who are self-deceived into the belief that all is liberal that advances the power of the state and destroys individual initiative."

But the Communists are not content with merely the written word in their issue. Their chief and their leader, Mr. Earl Browder, their Communist candidate for President, just returned from Russia, has been actively lobbying in the House Office Buildings, in the offices of Members, to gain support for this bill.

I cannot just figure out why the Communists are for this bill and what trick they are playing in denouncing the opponents of the bill as Fascists. Our people believe that fascism is with us and that this bill is a further step in that direction. The people of this country fear that this bill will serve as an escalator to a dictatorship. [Applause.]

Please, let us hear no more talk about propaganda. I hold in my hand a printed petition which has been sent to the W. P. A. workers of the country to sign and send to the Congress. I do not know whether it was printed at Government expense, but unless we dispose of this issue today, the hour to strike, there will come in the next few days an avalanche of these petitions, and you will be overwhelmed with this flood of propaganda.

Propaganda? I have had no propaganda against the bill, but I hold in my hand identical printed post cards which have been sent out to the country to be sent in for the bill. So let us stop this talk of propaganda.

Furthermore, the telephone wires are deluged from all over this country, national committeemen, State chairmen, county chairmen, calling their Members to get behind the President on this bill.

Well, the Members know that these bosses are only interested in "pap", only interested in jobs, only interested in the allocation of W. P. A. funds which mean jobs. The Members know that these bosses cannot elect them to this House. The Members know that most of these bosses are intelligently incapable even of making a speech in behalf of them when the people start after them on this issue.

Maybe the Communists hope—and this is the best guess I can make—when the downward plunge from a dictatorship comes they will come into their own. Up to today, however, I have not been able to make up my mind whether, if my choice were limited to a fascist or a communistic government, under which system I should elect to live.

The people of this country fear this bill as a further surrender by Congress of its functions under the Government. Over a century ago Daniel Webster entertained the same fear, when he said:

> I believe the power of the Executive has increased, is increasing, and ought to be brought back within its ancient constitutional limits. I have nothing to do with the motives which have led to those acts which I believe to have transcended the boundaries of the Constitution. Good intentions will always be pleaded for every assumption of power. They cannot justify it even if we are sure that they existed.

I trust the Members will not be so short of memory as to take this floor and say they never voted to strike out the enacting clause of a bill, and I hope they will not say they never voted against consideration of a bill, because looking around I cannot see any Member who has not at sometime voted to strike out the enacting clause or against consideration of a bill.

In striking out the enacting clause of this bill, this House is not doing any more than the special House committee did when it struck out every word of the Senate bill. You will hear about sabotage, but maybe that is what the committee did then.

There is still in the Senate a reorganization bill which, in an idle moment, we passed, and if we summarily dispose of this matter today, we can let the Senate go to work on that bill that is already over there.

The argument will undoubtedly be repeated here that we should continue the consideration of this bill and amendments. Everybody here knows that if the amendments suggested are adopted, as they will be—and I believe many more amendments will be adopted than those conceded by the special committee—there just will not be any bill, especially if the new department of public welfare is stricken from the bill, as it should, and, in my opinion, will be.

All that we are going to be doing from now until sometime next week is to use the time of this great Congress on an unimportant, moot question, so offensive to the people, instead of getting down to real business and relieving unemployment and our business situation. [Applause.]

But suppose you took the attitude of staying here and working out amendments. All your efforts, all the personal glory you may get by offering the amendments, can be undone in conference. And I say, watch that. The danger of that happening is sufficient to act today and strike the enacting clause from this bill. As the country has exclaimed, "no compromise;" we say that a great principle is involved in the fight that we are making, and that you cannot compromise with a principle.

Edmund Burke said:

> Kings will be tyrants from policy when subjects are rebellious from principle.

From all over this land comes this rebel cry, from all of the churches, from all of labor, from all of the veterans, from the leading Democrats of the country, from the businessmen, from the man in the street. In that connection, a pernicious falsehood is being circulated here today that the American Federation of Labor has relinquished its opposition to the bill. Here is a letter I hold in my hand sent out today by Mr. Hushing, their legislative representative, to the effect that they are still against the bill, still for striking out the enacting clause or recommitting the bill at this moment.

The people of this country fear the further breaking down of the equality of the three branches of government, which our forefathers worked out deliberately, and, I say, reluctantly, because, if some of our forefathers had had their way, the Congress would have predominated, as it does in England, where there has been worked out a satisfactory democratic form of government. It never even occurred to those people who founded our country and Constitution that it

would ever be even suggested that the Congress surrender any of its rights to the executive, or yea, even that the executive might infringe upon the power of the other branch, the judiciary.

These are the fears that run through the hearts of our people.

Now is the time to strike; this is the hour.

We who believe that a great principle is involved in this struggle are confident, are happy to go through with it. If we lose, we have nothing to lose; we will still be fighting; and of course, there just never is going to be any reorganization bill in the Seventy-fifth Congress.

Marcus Aurelius said:

> Flinch not, neither give up nor despair, if the achieving of every act in accordance with right principles is not always successful.

Whatever happens, we shall still be there fighting. We shall still be standing at Thermopylae! [Applause.]

Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman from New York has 1½ minutes remaining.

Mr. O'CONNOR of New York. Mr. Chairman, I reserve the remainder of my time.

Mr. WARREN. Mr. Chairman, I suggest to the gentleman we are entitled to close.

Mr. O'CONNOR of New York. Mr. Chairman, I yield 1½ minutes to the gentleman from Indiana [Mr. PETTENGILL].

Mr. PETTENGILL. Mr. Chairman, I think the adoption of the motion made by the gentleman from New York [Mr. O'CONNOR] is the wisest thing this House could do at this time. There is just one thing that is facing this House and this Nation and that is coming up in the primaries and in the elections this year. That is to get men back to work. This bill does not put a man to work and it does not save a dollar. It is going to waste money, and if this House passes it and it goes to conference, for weeks and weeks, while it remains in conference, this country will continue to be disturbed over this bill. Every day it stays here, or in conference the longer this depression will last.

Mr. HOOK. And what would the gentleman suggest to put men back to work?

Mr. PETTENGILL. Mr. Chairman, I hope the remarks of the gentleman from Michigan will not be taken from my time. He did not ask me to yield.

The CHAIRMAN. The Chair will take care of the gentleman from Indiana and of all gentlemen.

Mr. PETTENGILL. I want to say to the gentleman from Michigan that if he were living in one of the big industrial centers of America he would not hear any people from his section asking that this bill be passed. They want jobs; they want confidence; they want courage in this country; they do not care about this bill at this time, except to be against it.

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

Mr. PETTENGILL. I decline to yield.

We have gone along 150 years without this bill, and we can wait a few months more until Congress reassembles under what I hope will be happier times and let us put first things first. Send men back to work, and send this bill back to committee. When the old hen wants to lay an egg is no time for firecrackers. [Applause.]

[Here the gavel fell.]

Mr. COCHRAN. Mr. Chairman, I yield 15 minutes to the gentleman from North Carolina [Mr. WARREN].

Mr. WARREN. Mr. Chairman, by this motion the gentleman from New York [Mr. O'CONNOR] is endeavoring to foist on the House of Representatives some of the same ruthless methods that he has attempted in the past.

The opposition wanted debate; they have had it, 26½ hours of it. The opposition stated that they wanted to amend the bill; this privilege they also will have, but the gentleman from New York seeks by this motion to deny it to you.

The charge was made over the radio the other night and repeated here this morning by way of insinuation that if this bill goes to conference there is some nefarious or sinister scheme in the minds of the conferees to nullify the efforts of the House of Representatives. In the parlance of the gutter, if you please, the gentleman from New York insinuates that the conferees would "sell out" the House of Representatives. If the gentleman from New York thinks that I would betray this House, then I do not speak his language or think his thoughts. [Applause.] I was not raised or nourished on any such doctrine as that, and I have never been trained to stoop to conquer. [Applause.] The papers in North Carolina last week said that for the eighth time I had been renominated to Congress without opposition and was the only man in that State who was a candidate for office for a State or a congressional office that had no opposition from either party. A great district and a great people have shown in every way their confidence in me. I have not yet learned the art of gentle deception and I do not know how to take short cuts, parliamentary or otherwise.

Let me now therefore repeat and reiterate this pledge to to the House of Representatives, and I am authorized to do it in behalf of Messrs. COCHRAN, VINSON, KNIFFIN, ROBINSON, MEAD, BEAM, and myself: If this Committee accepts the amendments offered by our committee to strike out the word "education" as we have heretofore promised; if this committee writes into this bill the concurrent resolution which we have heretofore promised—and in that connection let me say that I frankly admitted a few days ago that a mere concurrent resolution was of doubtful constitutionality; we are prepared to present one here that is so tied up with the standards and with the delegation of authority that I doubt if anyone will have the temerity to challenge its constitutionality. I might also say that we have no objection to the exemption of the Veterans' Administration, and the pledge extends to that; and I will also say that under no condition or circumstance—and I am speaking for all of the Democratic members of our committee—that we will not accept the Senate provision on the Comptroller General. There will be no bill unless those amendments are in the bill that finally goes to the White House. [Applause.]

Ah, the gentleman from New York wound up with an appeal to the prejudice of some by citing something that has appeared in some Communist or Socialist paper. It is not necessary for me again to call attention to where this propaganda comes from. Members from the South and from the far West are receiving just a minimum of mail about this subject. The whole concentration on this has been from the cities, and it is coming from the Republican Party, as everyone knows. [Applause.] The Republican State chairman of Massachusetts urges the Republicans of that State to deluge their Members. I could read into the RECORD here this morning from 50 to 100 letters that I have received, the whole substance of which has been: "We do not know anything about the reorganizaion bill. Perhaps it is a good bill. If it is the best bill on earth, we are opposed to it, because we are opposed to Roosevelt."

You know that same statement is made in letter after letter you have received on it, on account of their hatred of the man in the White House, and I again repeat, their deliberate effort and attempt to destroy him. [Applause.]

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

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

Mr. MICHENER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MICHENER. As I understood the motion before the House it is to strike out the enacting clause. If I understood the gentleman from North Carolina correctly, the committee agrees to strike out everything but the enacting clause; so what is the difference?

The CHAIRMAN. The Chair does not consider that to be the proper subject of a parliamentary inquiry.

Without objection, the Clerk will again report the motion.

There was no objection.

The Clerk read as follows:

Mr. O'CONNOR of New York moves that the Committee do now rise and report the bill to the House with the recommendation that the enacting clause be stricken out.

The CHAIRMAN. The question is on agreeing to the motion offered by the gentleman from New York [Mr. O'CONNOR].

Mr. WARREN. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed Mr. COCHRAN and Mr. O'CONNOR of New York to act as tellers.

The Committee divided; and the tellers reported there were—ayes 169, noes 191.

So the motion was rejected.

Mr. CRAWFORD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CRAWFORD. Is there any way under the present situation whereby we could secure a yea and nay vote on the motion to strike out the enacting clause?

The CHAIRMAN. Not in the Committee of the Whole.

Mr. COCHRAN. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. COCHRAN: Page 42, beginning on line 24, in lieu of the matter contained in title I of the committee substitute stricken out on the point of order, insert the following to precede title II of the committee substitute:

"That this act may be cited as the 'Reorganization Act of 1938.'

"TITLE I—REORGANIZATION

"PART I—POWER OF THE PRESIDENT

"SECTION 1. (a) Title IV of part II of the Legislative Appropriation Act, fiscal year 1933, as amended (U. S. C., 1934 ed., title 5, secs. 124–132), is hereby reenacted and is amended in the following respects:

"(1) Section 401, as amended (U. S. C., 1934 ed., title 5, sec. 124), is amended by striking out the first paragraph and the words 'Accordingly, the' in the second paragraph and inserting in lieu thereof the word 'The';

"(2) Section 402, as amended (U. S. C., 1934 ed., title 5, sec. 125), is amended by inserting after the word 'establishment,' the words 'corporation owned or controlled by the United States,' and by changing the period at the end of the section to a comma and inserting thereafter the following: 'but shall not include, except as to the function of preparing estimates of appropriations, the Interstate Commerce Commission, the Federal Trade Commission, the Federal Power Commission, the Securities and Exchange Commission, the Federal Communications Commission, the National Labor Relations Board, the National Bituminous Coal Commission, the United States Maritime Commission, the Engineer Corps of the United States Army, the Coast Guard, the General Accounting Office, and the United States Tariff Commission.';

"(3) Section 404, as amended (U. S. C., 1934 ed., title 5, sec. 127), is amended by striking out the last sentence thereof;

"(4) Section 409, as amended (U. S. C., 1934 ed., title 5, sec. 132), is stricken out.

"(b) No Executive order issued by the President under the authority of subsection (a) of this section shall become effective unless transmitted to the Congress within 2 years from the date of the enactment of this act.

"PART 2—BUDGETARY CONTROL

"SEC. 2. Section 2 of the Budget and Accounting Act, 1921 (U. S. C., 1934 ed., title 31, sec. 2), is amended by inserting after the word 'including' the words 'any independent regulatory commission or board and'.

"PART 3—THE DEPARTMENT OF WELFARE

"SEC. 3. There shall be at the seat of government an executive department to be known as the Department of Welfare, and a Secretary of Welfare, who shall be the head thereof, and shall be appointed by the President, by and with the advice and consent of the Senate, and have a tenure of office like that of the heads of the other executive departments. Section 158 of the Revised Statutes, as amended (U. S. C., 1934 ed., title 5, sec. 1), is amended to include such Department and the provisions of title IV of the Revised Statutes, including all acts amendatory and supplementary thereto, shall be applicable to such Department.

"SEC. 4. There shall be in the Department of Welfare an Under Secretary of Welfare and two Assistant Secretaries of Welfare who shall be appointed by the President, by and with the advice and consent of the Senate, and a Solicitor, who shall be appointed by the Secretary of Welfare, and all of whom shall exercise such functions as may be prescribed by the Secretary of Welfare or required by law.

"SEC. 5. The Secretary of Welfare shall promote the public health, safety, and sanitation; the protection of the consumer; the cause of education; the relief of unemployment and of the hardship and suffering caused thereby; the relief of the needy and distressed; the assistance and benefits of the aged and the relief and vocational rehabilitation of the physically disabled; and in general shall coordinate and promote public health, education, and welfare activities.

"SEC. 6. The Secretary of Welfare shall cause a seal of office to be made for his Department, of such device as the President shall approve, and judicial notice shall be taken of such seal.

"SEC. 7. The Secretary of Welfare shall annually, at the close of each fiscal year, make a report in writing to the Congress, giving an account of all money received and expended by him and his Department and describing the work done by the Department. He shall also from time to time make such special investigations and reports as he may be required to make by the President, or by the Congress, or as he himself may deem necessary.

"PART 4—GENERAL PROVISIONS

"SEC. 8. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this title."

Mr. TABER. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. TABER. Mr. Chairman, I make the point of order that the amendment just offered is not germane to section 1. The amendment creates a department of welfare and authorizes the expenditure of unlimited funds for relief purposes. It also gives broader powers to the department of welfare in connection with education and the authorization and the appropriation of funds for this purpose within the current law. As I stated, it is not germane to a provision which authorizes (a) the reduction of expenditures to the fullest extent consistent with the efficient operation of the Government; (b) to increase the efficiency of the operations of the Government to the fullest extent practicable within the revenues; (c) to group, coordinate, consolidate, reorganize, and segregate agencies and functions of the Government, or any part thereof, as nearly as may be, according to major purposes; (d) to reduce the number of such agencies by regrouping or consolidating those having similar functions under a single head, and for such purpose to abolish such agencies as may not be necessary for the efficient conduct of the Government; and (e) to eliminate overlapping and duplication of effort.

Mr. Chairman, it is perfectly clear this amendment with the department of welfare included is not germane to the first section of the bill.

The CHAIRMAN. The Chair is ready to rule.

The department of public welfare is contained in the Senate bill. It was also contained in the title which was stricken out on the point of order, and in the opinion of the Chair is germane to the bill under consideration.

Mr. TABER. Mr. Chairman, if the Chair will permit, the welfare department was not contained in title I of the bill that was stricken out.

The CHAIRMAN. The Chair stated that the welfare department is a part of the Senate bill and was in title I that was stricken out by a point of order.

So far as that point of order is concerned, the Chair overrules it.

The objectionable language which was conceded by the chairman of the special committee and to which the Chair sustained the point of order heretofore raised by the gentleman from New York, has been removed in the amendment offered by the gentleman from Missouri, and the Chair therefore overrules the point of order.

Mr. WARREN. Mr. Chairman, I offer a committee amendment to the pending Cochran amendment.

The Clerk read as follows:

Committee amendment: On page 43, line 25, insert after the semicolon the following:

"(3) Section 4030 amended (U. S. C., 1934 ed., title V, sec. 126) is amended by changing the period at the end of the section to a comma and inserting thereafter the following: 'or to abolish or transfer the Office of Education of the Department of the Interior and/or any of the functions thereof.'"

On page 44, line 1, change the (4) to (5).

Mr. WARREN. Mr. Chairman, this is to carry out the first amendment the majority members of the committee agreed upon and assured the House would be presented. This specifically exempts the Office of Education. As the House knows by this time, the mere word "education" in the

standards set up in a part of this bill by no stretch of the imagination could ever have extended to any form of Federal control over education.

In that connection, Mr. Chairman, I am authorized by the President of the United States to read to the House a telegram sent from Chicago, dated today, and received at 12:10 p. m. It is addressed to the President and reads as follows:

As a result of my own investigation gathered from reliable and informed sources I cannot find that the welfare or freedom of the Catholic Church is in any way menaced by the pending reorganization bill. My sole purpoce in stating this to you is because we have been drawn into the discussion and my personal knowledge of your fairness to us would render any such action quite impossible on your part.

CARDINAL MUNDELEIN.

[Applause.]

Mr. Chairman, I ask for a vote on the amendment to the amendment.

Mr. GIFFORD rose.

The CHAIRMAN. For what purpose does the gentleman from Massachusetts, a member of the committee, rise?

Mr. GIFFORD. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. GIFFORD. Mr. Chairman, if the amendment offered by the gentleman from Missouri, as amended by the amendment offered by the gentleman from North Carolina, is adopted, will there be opportunity for other amendments to the amendment to be offered?

The CHAIRMAN. The Chair may state in answer to the inquiry that the adoption of the amendment offered by the gentleman from Missouri [Mr. COCHRAN] would preclude the offer of other amendments to title I. After action upon the amendment offered by the gentleman from North Carolina it will be in order for other Members who so desire to offer amendments to the Cochran amendment.

Mr. STACK rose.

The CHAIRMAN. For what purpose does the gentleman from Pennsylvania rise?

Mr. STACK. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. STACK. Can I be heard on this amendment, Mr. Chairman?

The CHAIRMAN. Is the gentleman opposed to the amendment?

Mr. STACK. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 5 minutes in opposition to the amendment.

Mr. STACK. Mr. Chairman, the debate on this so-called reorganization bill is getting very bitter in some cases to the extent that some of us have been called ugly names—of course, off the record—and some have questioned the motives behind our opposition to this bill. As far as I am concerned, calling me names will have no effect on me, and I am telling the Committee and the Nation that my main motive and reason for my opposition to this bill is that I think that if the bill is passed it will make this country un-American and God knows I did not plow through the mud of France and spill my blood on the soil of Flanders Field to tear down Old Glory and the constitutional government that the early fathers suffered for.

Mr. SABATH. Mr. Chairman, I make the point of order the gentleman is out of order and is not speaking to the amendment.

The CHAIRMAN. The Chair recognizes that in debate the utterances of gentleman should be looked at from a liberal angle. The Chair is confident the gentleman from Pennsylvania will proceed in order.

Mr. STACK. Now, ladies and gentlemen of the Committee, there are other reasons, the soundness of which is self-evident why I am against this bill. The distinguished chairman of the Rules Committee, whom I like to call my friend, the Honorable JOHN O'CONNOR, is against this bill. Surely to God he can have no hidden motive for his vote and his action, because the prudent political thing for him to do would be to keep his 100-percent support of President Roosevelt intact. His motive for being against this bill, as he has stated here in the House, is not because he is anti-Roosevelt but because he does not think the bill should be considered and passed, at least just now.

My distinguished friend, CLIFF WOODRUM, who so well and ably represents his district in Virginia, another stalwart so-called organization man, is against this bill because, I think he said, he did not think his people wanted the bill; and after all, ladies and gentlemen of the Committee, you and I are supposed to be the mouthpieces of the people here in the Halls of Congress, and if Mr. WOODRUM, in line with his conscientious duties, says that he is going to vote against this bill because his people do not want it, that is another added motive why I am going to vote against this bill.

My distinguished friend from the great Lone Star State of Texas, Congressman LANHAM, in whose great committee, the Public Buildings and Grounds Committee, I had the pleasure to serve my first term here in the House, is against this bill. I know FRITZ LANHAM, I respect him, because I know and the people in his district know that his motive for voting for this bill is the motive of mature judgment and that he loves his country and my country above any so-called party-regularity argument.

My distinguished friend, BOB RAMSPECK, is against this bill and I do not know of any keener and analytically legislative mind here in the Halls of Congress. BOB RAMSPECK has the love and esteem of the membership of this House and certainly everybody will say that Bob is intellectually honest and that his vote against this bill will not be governed by any motive, but mainly by service to his country and his district.

Many other distinguished Members on my side of the House are against this bill. You will find their reasons and motives in the CONGRESSIONAL RECORD, but I am going to read part of the remarks of one Congressman who is opposed to this bill because I think he particularly hits the nail on the head. I refer to the remarks on page 4909 of the CONGRESSIONAL RECORD of April 6 of the distinguished gentleman from Michigan, from the City of the Straits, whom I call my very personal friend here in the House, with whom I became acquainted on the very first day when we were both sworn in for the first time as Congressmen, Hon. LOUIS RABAUT, the John McCormack of the Congress, and, of course, I mean the famous singer.

Mr. Chairman, may I have order?

The CHAIRMAN. The Chair is endeavoring to protect the gentleman. The Chair may suggest to the gentleman the Chair is trying to let the gentleman finish the quotation, because the gentleman's time has actually expired.

Mr. STACK. It will take just a half minute.

The regular order was demanded.

Mr. RAYBURN. Mr. Chairman, I ask unanimous consent that the gentleman from Pennsylvania may be permitted to proceed for one-half minute.

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

There was no objection.

Mr. STACK. Mr. RABAUT says, among other things:

This legislation comes as a result of the Brownlow report, is vicious and ruthless in its attempted rape on representative government.

LOUIS RABAUT asked you and me, my colleagues of the House, to stand on our feet and fight this attempted rape on representative government.

Mr. WARREN. Mr. Chairman, I rise merely to make a statement and call the attention of the committee to what we are confronted with from a parliamentary standpoint.

By reason of the fact that the point of order was sustained to title I, the gentleman from Missouri [Mr. COCHRAN] was required to offer an amendment, and therefore it is necessary that an amendment to that amendment be offered and disposed of before anyone else can possibly have a chance to offer another amendment. In the interest of orderly procedure, if we can get a vote now on the amendment which I have offered to the amendment, then we can pass on to the

others; and when the committee is through, those who have amendments that the committee may be opposed to can then offer their amendments, and there can be full discussion on them; but under proper procedure no other amendment to the Cochran amendment can be offered now.

Mr. TABER. Mr. Chairman, will the gentleman yield for a question?

Mr. WARREN. Certainly.

Mr. TABER. This amendment prohibits the transfer of the Office of Education from the Interior Department and directs that it remain there. It does not, however, strike out from section 5——

Mr. WARREN. O Mr. Chairman, I have another amendment on that. The gentleman knows it has to be offered separately. I have the amendment right here waiting to offer it; and if the gentleman will permit a vote on this amendment, I shall then offer it.

Mr. KNUTSON. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, things are moving pretty fast these days.

Mr. HARLAN. Mr. Chairman, a parliamentary inquiry.

Mr. KNUTSON. Mr. Chairman, I do not yield for a parliamentary inquiry.

Mr. HARLAN. I make a point of order, then, Mr. Chairman.

The CHAIRMAN. The gentleman will state his point of order.

Mr. HARLAN. The point of order is, this is an amendment in the third degree being to an amendment that is now pending in committee.

Mr. KNUTSON. The gentleman's point of order comes too late.

The CHAIRMAN. The Chair has recognized the gentleman from Minnesota.

Mr. HARLAN. I make the point of order that the gentleman has the floor out of order.

The CHAIRMAN. The gentleman had already proceeded and the point of the gentleman from Ohio was advanced too late, and for that reason the Chair overrules the point of order.

Mr. KNUTSON. Mr. Chairman, little did any of us ever expect to see the day when a prominent prelate and a communistic comrade would march on to Washington arm in arm. I do not know that they are barefoot and alone, but they should be. On yesterday Comrade Browder was hoofing it around the office buildings calling on the more radical left-wingers.

Mr. HOUSTON. Did he call on you?

Mr. KNUTSON. He did not, thank God.

He was here in an attempt to line Members up for this reorganization bill. Today we have a prelate wiring the President of the United States in behalf of the measure. This bill seems to appeal to both the Communist and to the prelate, but I am sure the prelate does not speak for his church.

Mr. KELLER. Mr. Chairman, will the gentleman yield for a question?

Mr. KNUTSON. No; I do not yield to the gentleman from Illinois because he is just stalling and trying to obstruct orderly procedure.

Mr. KELLER. I just wanted to ask who the gentleman means, that is all.

Mr. KNUTSON. One of the particular objections that we on this side have to this legislation is that if it is put into effect it will be administered by Benny Cohen and Tommy Corcoran. We already have seen too much of the handiwork of these gentlemen, and everything that they have touched, everything that they have put out has had a blighting effect upon the country and its activities. These two gentlemen are as much responsible for the present depression as is the President; in fact, the three of them are the men who are primarily responsible for this new depression. I am not going to call it a recession because we are down to 1932 levels, and you called that a depression.

I hope we do not adopt a single amendment to this piece of legislation. Let us bring it to a vote as the committee brought it in and as it reflects the views of those who are trying to overthrow the Government, and then let us vote it down. Remember that 12 votes will change the result of what took place this afternoon.

Mrs. ROGERS of Massachusetts. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentlewoman from Massachusetts will state the parliamentary inquiry.

Mrs. ROGERS of Massachusetts. After this is voted upon, I understand an amendment to exempt the Veterans' Administration from the provisions of the bill will be in order. I understand the gentleman from Indiana [Mr. GRISWOLD] is going to offer that amendment. I shall if the gentleman from Indiana does not. It that in order after this?

The CHAIRMAN. The Chair will state that is not the subject of a parliamentary inquiry.

Mr. BOILEAU. Mr. Chairman, I desire to offer an amendment in the form of a substitute.

Mr. WARREN. Mr. Chairman, I make the point of order that no substitute amendment can be offered for the amendment I have offered.

The CHAIRMAN. Does the gentleman offer the amendment as a substitute for the Cochran amendment?

Mr. BOILEAU. Yes.

The CHAIRMAN. The Clerk will report the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. BOILEAU as a substitute for the committee amendment offered by the gentleman from Missouri: On page 42, beginning in line 24, strike out lines 24 and 25, all of pages 43, 44, and 45, and lines 1 to 8, inclusive, on page 46, and insert in lieu thereof the following:

"That this act may be cited as the 'Reorganization Act of 1938.'

"TITLE I—REORGANIZATION

"PART I—POWER OF THE PRESIDENT

"SECTION 1. (a) Title IV of part II of the Legislative Appropriation Act, fiscal year 1933, as amended (U. S. C., 1934 ed., title 5, secs. 124–132), is hereby reenacted and is amended in the following respects:

"(1) Section 401, as amended (U. S. C., 1934 ed., title 5, sec. 124), is amended by striking out the first paragraph and the words 'Accordingly, the' in the second paragraph and inserting in lieu thereof the word 'The';

"(2) Section 402, as amended (U. S. C., 1934 ed., title 5, sec. 125), is amended by inserting after the word 'establishment,' the words 'corporation owned or controlled by the United States,' and by changing the period at the end of the section to a comma and inserting thereafter the following: 'but shall not include, except as to the function of preparing estimates of appropriations, the Veterans' Administration, the Interstate Commerce Commission, the Federal Trade Commission, the Federal Power Commission, the Securities and Exchange Commission, the Federal Communications Commission, the National Labor Relations Board, the National Bituminous Coal Commission, the United States Maritime Commission, the Engineer Corps of the United States Army, the Coast Guard, the General Accounting Office, and the United States Tariff Commission.'

"(3) Section 409, as amended (U. S. C., 1934 ed., title 5, sec. 132), is stricken out.

"(4) Section 407, as amended (U. S. C., 1934 ed., title 5, sec. 130), is amended by striking out all of said section and inserting in lieu thereof the following: 'Whenever the President makes an Executive order under the provisions of this chapter, such Executive order shall be submitted to the Congress while in session and shall not become effective unless within 60 calendar days after such transmission, Congress shall by joint resolution approve such Executive order or orders.'

"(b) No Executive order issued by the President under the authority of subsection (a) of this section shall become effective unless transmitted to the Congress within 2 years from the date of the enactment of this act.

"PART 2—BUDGETARY CONTROL

"SEC. 2. Section 2 of the Budget and Accounting Act, 1921 (U. S. C., 1934 ed., title 31, sec. 2), is amended by inserting after the word 'including' the words 'any independent regulatory commission or board and.'

"PART 3—THE DEPARTMENT OF WELFARE

"SEC. 3. There shall be at the seat of government an executive department to be known as the Department of Welfare, and a Secretary of Welfare, who shall be the head thereof, and shall be appointed by the President, by and with the advice and consent of the Senate, and have a tenure of office like that of the heads

of the other executive departments. Section 158 of the Revised Statutes, as amended (U. S. C., 1934 ed., title 5, sec. 1), is amended to include such Department and the provisions of title IV of the Revised Statutes, including all acts amendatory and supplementary thereto, shall be applicable to such Department.

"SEC. 4. There shall be in the Department of Welfare an Under Secretary of Welfare and two Assistant Secretaries of Welfare who shall be appointed by the President, by and with the advice and consent of the Senate, and a Solicitor, who shall be appointed by the Secretary of Welfare, and all of whom shall exercise such functions as may be prescribed by the Secretary of Welfare or required by law.

"SEC. 5. The Secretary of Welfare shall promote the public health, safety, and sanitation; the protection of the consumer; the relief of unemployment and of the hardship and suffering caused thereby; the relief of the needy and distressed; the assistance and benefits of the aged and the relief and vocational rehabilitation of the physically disabled; and in general shall coordinate and promote public health, and welfare activities.

"SEC. 6. The Secretary of Welfare shall cause a seal of office to be made for his department, of such devise as the President shall approve, and judicial notice shall be taken of such seal.

"SEC. 7. The Secretary of Welfare shall annually, at the close of each fiscal year, make a report in writing to the Congress, giving an account of all money received and expended by him and his department and describing the work done by the Department. He shall also from time to time make such special investigations and reports as he may be required to make by the President, or by the Congress, or as he himself may deem necessary.

"PART 4—GENERAL PROVISIONS

"SEC. 8. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this title."

Mr. TABER. Mr. Chairman, I make the point of order.

The CHAIRMAN. The gentleman will state it.

Mr. TABER. Mr. Chairman, as I understand the amendment just read, it reenacts section 127 of section 404 of the old legislative act, to which the point of order was sustained.

Mr. BOILEAU. Mr. Chairman, in my hurry to get the amendment in at this time I omitted to put section 3 of the Cochran amendment into this amendment. I want now to offer it in an amended form. I concede the point of order at the present time and offer another substitute in place of what I offered a moment ago.

The CHAIRMAN. The Chair understands that the gentleman asks unanimous consent that so much of the Cochran amendment as was left out of the gentleman's amendment be included in his amendment.

Mr. BOILEAU. That is correct.

The CHAIRMAN. Is there objection?

Mr. MURDOCK of Utah. Mr. Chairman, I object.

Mr. BOILEAU. Then I offer it again, and it will have to be read over again.

The CHAIRMAN. Does the gentleman from New York insist upon the point of order?

Mr. MURDOCK of Utah. Mr. Chairman, I reserve the point of order if the gentleman does not.

Mr. BOILEAU. Mr. Chairman, I ask unanimous consent in the substitute amendment that I have offered, on the second page thereof, to insert a paragraph 3 in the proper place, to read as follows, together with paragraph (2) of subsection (a):

(3) Section 404, as amended (U. S. C., 1934 ed., title 5, sec. 127), is amended by striking out the last sentence thereof.

Also, to change the next paragraph on the top to paragraph "(4)" instead of "(3)" and make the next one "(5)" instead of "(4)."

The CHAIRMAN. Is there objection?

Mr. MURDOCK of Utah. Mr. Chairman, I object.

Mr. BOILEAU. Then I offer the amendment.

Mr. TABER. Mr. Chairman, I insist upon the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. BOILEAU. Mr. Chairman, I offer the following amendment, which I send to the desk.

Mr. HARLAN. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. Does the gentleman offer his amendment in a perfected form?

Mr. BOILEAU. I offer it as a substitute for the Cochran amendment.

Mr. HARLAN. I make the point of order to the Boileau amendment as attempted to be amended.

The CHAIRMAN. As yet there is no amendment before the Committee, except the Cochran amendment and the Warren amendment. The gentleman from Wisconsin offers an amendment, which the Clerk will report.

Mr. WARREN. Mr. Chairman, I make the point of order that that is an amendment in the third degree.

Mr. BOILEAU. I am offering my amendment as a substitute.

The CHAIRMAN. The Clerk will report the substitute amendment offered by the gentleman from Wisconsin.

The Clerk read as follows:

Modified amendment offered by Mr. BOILEAU as a substitute for the committee amendment offered by the gentleman from Missouri: Page 42, beginning in line 24, strike out lines 24 and 25, and all of pages 43, 44, and 45, and lines 1 to 8, inclusive, on page 46 and insert in lieu thereof the following:

"That this act may be cited as the 'Reorganization Act of 1938.'

"TITLE I—REORGANIZATION

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"SECTION 1. (a) Title IV of part II of the Legislative Appropriation Act, fiscal year 1933, as amended (U. S. C., 1934 ed., title 5, secs. 124–132), is hereby reenacted and is amended in the following respects:

"(1) Section 401, as amended (U. S. C., 1934 ed., title 5, sec. 124), is amended by striking out the first paragraph and the words 'Accordingly, the' in the second paragraph and inserting in lieu thereof the word 'The.'

"(2) Section 402, as amended (U. S. C., 1934 ed., title 5, sec. 125), is amended by inserting, after the word 'establishment,' the words 'corporation owned or controlled by the United States,' and by changing the period at the end of the section to a comma and inserting thereafter the following: 'but shall not include, except as to the function of preparing estimates of appropriations, the Veterans' Administration, the Interstate Commerce Commission, the Federal Trade Commission, the Federal Power Commission, the Securities and Exchange Commission, the Federal Communications Commission, the National Labor Relations Board, the National Bituminous Coal Commission, the United States Maritime Commission, the Engineer Corps of the United States Army, the Coast Guard, the General Accounting Office, and the United States Tariff Commission.'

"(3) Section 404, as amended (U. S. C., 1934 ed., title 5, sec. 127), is amended by striking out the last sentence thereof.

"(4) Section 407, as amended (1934 ed., title 5, sec. 130), is amended by striking out all of said section and inserting in lieu thereof the following:

"Whenever the President makes an Executive order under the provisions of this chapter, such Executive order shall be submitted to the Congress while in session and shall not become effective unless within 60 calendar days after such transmission the Congress shall by joint resolution approve such Executive order or orders.

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"SEC. 3. There shall be at the seat of government an executive department to be known as the Department of Welfare, and a Secretary of Welfare, who shall be the head thereof, and shall be appointed by the President, by and with the advice and consent of the Senate, and have a tenure of office like that of the heads of the other executive departments. Section 158 of the Revised Statutes, as amended (U. S. C., 1934 ed., title 5, sec. 1), is amended to include such Department and the provisions of title IV of the Revised Statutes, including all acts amendatory and supplementary thereto, shall be applicable to such Department.

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"SEC. 5. The Secretary of Welfare shall promote the public health, safety, and sanitation; the protection of the consumer; the relief of unemployment and of the hardship and suffering caused thereby; the relief of the needy and distressed; the assistance and benefits of the aged and the relief and vocational rehabilitation of the physically disabled; and in general shall coordinate and promote public health and welfare activities.

"SEC. 6. The Secretary of Welfare shall cause a seal of office to be made for his Department, of such device as the President shall approve, and judicial notice shall be taken of such seal.

"SEC. 7. The Secretary of Welfare shall annually, at the close of each fiscal year, make a report in writing to the Congress, giving

an account of all money received and expended by him and his Department and describing the work done by the Department. He shall also from time to time make such special investigations and reports as he may be required to make by the President, or by the Congress, or as he himself may deem necessary.

"PART 4—GENERAL PROVISIONS

"SEC. 8. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this title."

Mr. MURDOCK of Utah. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MURDOCK of Utah. As I understand it, the amendment just read is offered by the gentleman from Wisconsin as an amendment to his substitute; is that right?

Mr. BOILEAU. My first amendment was withdrawn.

The CHAIRMAN. It is offered as a substitute for the Cochran amendment.

The gentleman from Wisconsin is recognized for 5 minutes.

Mr. BOILEAU. Mr. Chairman, I regret that it is necessary to offer this amendment in this way, but in view of the fact that title I of the committee amendment was stricken from the bill on a point of order the amendment offered by the gentleman from Missouri [Mr. COCHRAN], became an amendment to the bill, and I am sure that I would not be able to get recognition to amend the Cochran amendment in view of the parliamentary situation, because the gentleman from Ohio [Mr. KNIFFEN], being a member of the committee, would get recognition to offer an amendment to the Cochran amendment and I would not then have an opportunity to offer an amendment to that amendment; and I am fearful I would not have an opportunity to present this matter to the House without using this means.

For the information of the House I may state that I have taken title I of the original committee amendment after adding that one paragraph struck out, section 404, because of the point of order made by the gentleman from New York; then I included the Veteran's Administration among the exemptions along with the Interstate Commerce Commission, the Federal Trade Commission, and others. Then, I have stricken from section 5 of the original draft which you have in your hands the words "the cause of education," and I have stricken out also in the same section in the last line thereof the word "education" to conform to the spirit of the committtee amendment.

The gentleman from North Carolina offered an amendment to the committee amendment on education. I do not know what it means. I suppose it is all right; I do not know. I defy any Member of this House, except members of the committee, to tell me, and they can tell me in my own time, what it means. I do not know; you do not know. Then, after all these days of debate, we have been trying to get a copy of what amendment the committee intended to propose on the matter of the concurrent resolution provision. I have been trying day after day to get it, but have not been able to get it. I had not even seen it until a few minutes ago I was given the opportunity to look at it. It is so complicated that I have not been able to figure out what it means. I do not mean to criticize the gentleman from Ohio, for I know he has had a hard time trying to work out something they think is constitutional. I do not know what is in it, and I submit that you do not know. No copies have been available to those interested to study to find out what it does mean. I urge you to vote down any proposition that sends this back to the Congress for a negative veto through a concurrent resolution. I do not care how they try to work it out, it cannot be worked out so as to be constitutional.

[Here the gavel fell.]

Mr. BOILEAU. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

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

There was no objection.

Mr. BOILEAU. They provide for a concurrent resolution. I want to quote the words of the President of the United States in this letter written to the "unknown soldier" on the 29th of March. Here is what he said:

But there are two cogent reasons why the bill should go through as it is now drawn.

That was before the committee started working on it, started this operation; it should go through as it was then drawn, he said, because some of us here in the House have pointed out that that as the bill was drawn it would require the affirmative vote of two-thirds of the Members of both Houses to prevent the matter from going into operation. The committee has brought in some kind of concession. I feel very keenly about this matter, Mr. Chairman, and I submit that if we take the President's word we cannot vote for this proposal that will be offered by the committee in a little while because it still provides for a concurrent resolution. This is what the President of the United States said on March 29:

The first is the constitutional question involved in the passage of a concurrent resolution—

Listen to this—

which is only an expression of congressional sentiment.

I do not care how you sugar-coat it, I do not care if you put a chocolate covering on it, it is still a concurrent resolution; and the President of the United States says that such concurrent resolution is only an expression of the opinion of the House.

Here is what the President says in the next sentence:

Such a resolution—

Meaning a concurrent resolution—

cannot repeal Executive action taken in pursuance of a law.

That is straightforward language. I made the point the other day that whether this concurrent resolution is constitutional or unconstitutional is not of as great importance as is the fact that the President of the United States believes it to be unconstitutional; therefore he must do one of two things. He must admit that the statement made on the 29th of March was ill-advised and ill-considered and made at a time when an attempt was being made to force certain legislation upon this Congress, or else he must admit it is just as unconstitutional today as it was then.

Mr. Chairman, I say that in all fairness the President of the United States must withhold his signature from this reorganization bill, if passed.

My proposal provides that the Executive order reorganizing the departments of government should be transmitted to the Congress of the United States; that that Executive order shall not become operative, it shall not become effective, unless Congress by affirmative vote of a majority of both the House and Senate approves the Executive order. In that case it will be effective and become law. If the House or Senate should withhold approval or if they failed to act affirmatively and give approval, then the Executive order is worthless, meaningless, and does not go into effect. In other words, Mr. Chairman, it retains to the House and to the Senate the supreme authority and the supreme right to determine whether or not those Executive orders shall go into effect.

In reference to this concurrent resolution proposal, I confess that I am at a great disadvantage in discussing the committee's proposal because the members of that committee have been working so hard all these days trying to get something sugar-coated enough to fool us that they have not had it prepared in time to give the Members an opportunity to examine the amendment. We are helpless. We do not know what is in the proposal. Therefore, it is a little difficult for me to analyze it.

I do say, however, if the proposal provides for a concurrent resolution that will prevent the matter going into effect, the President of the United States can send an Executive order over to the Congress and, by unanimous vote of the Members of the House, we could disapprove that Executive order. It would go to the Senate, and if two, three, or four Senators over there were so disposed and were able to filibuster for a sufficient time to have 60 days elapse, then the reorganization

Executive order would go into effect, although it did not have the approval of more than three, four, or five Members of the other body.

Mr. LEAVY. Will the gentleman yield?

Mr. BOILEAU. I yield to the gentleman from Washington.

Mr. LEAVY. I am very much interested in the Forest Service that has grown up in the Department of Agriculture. Under the gentleman's amendment, that could not be shifted, even though it is not excepted here, unless Congress took affirmative action?

Mr. BOILEAU. By both the House and Senate, by a majority vote, not a two-thirds vote.

Mr. GAVAGAN. Will the gentleman yield?

Mr. BOILEAU. I yield to the gentleman from New York.

Mr. GAVAGAN. Does the gentleman's amendment provide for a joint resolution or a concurrent resolution?

Mr. BOILEAU. A joint resolution. Bear in mind that we cannot have any fear of a Presidential veto, because he submits his proposal and he will certainly support his own proposal. If we approve the proposal it goes to him.

[Here the gavel fell.]

Mr. LAMNECK. Mr. Chairman, I ask unanimous consent that the gentleman may be permitted to proceed for 5 additional minutes.

The CHAIRMAN (Mr. COOPER). Is there objection to the request of the gentleman from Ohio?

Mr. LESINSKI. Mr. Chairman, I object.

Mr. WARREN. Mr. Chairman, I rise in opposition to the substitute amendment offered by the gentleman from Wisconsin.

Mr. Chairman, the gentleman from Wisconsin [Mr. BOILEAU] is a very able and courageous Member of the House. I am proud to be one of his friends, and on many occasions he has shown me courtesies and has been of great help on legislation in which the people of my section were greatly interested. To show you what I think of him, after this thing is all over, I am going to take him fishing with me.

Mr. Chairman, a strange change has come over our friend from Wisconsin. It has been all arranged and understood by those on the Republican side that he would front for them on this proposition. I will tell you what is the matter with our friend from Wisconsin. He has got the Senate itch, and whenever a Member of the House of Representatives thinks about that body over there and how to get there, he then begins to lose all sense of proportion. [Laughter and applause.]

The strange part of this whole proposition is that the gentleman from Wisconsin on August 13 last year was an enthusiastic supporter of title I of this bill.

Mr. BOILEAU. Will the gentleman yield?

Mr. WARREN. I yield to the gentleman from Wisconsin.

Mr. BOILEAU. The gentleman himself will offer amendments and thereby admits that since last August things have changed so that they have to be corrected. The gentleman himself is going to offer amendments.

Mr. WARREN. But not the kind of amendments the gentleman is offering, which would tear the very heart and soul out of the bill.

Mr. MICHENER. Will the gentleman yield?

Mr. WARREN. I refuse to yield. I only have 5 minutes.

Mr. Chairman, here is the proposal in a nutshell. Section 3, article II, of the Constitution of the United States provides that he, the President, shall from time to time give to the Congress information on the state of the Union and recommend for their consideration such measures as he shall judge necessary and expedient. That is the constitutional duty of the President of the United States. If the amendment offered by the gentleman from Wisconsin is agreed to, he actually seeks by statute to limit what the Constitution already gives to the President. Any such attempt to provide a limitation of that kind is in itself unconstitutional.

The Kniffin amendment will be offered after there is a vote on this proposition. The Kniffin amendment provides that if Congress so desires it may stop any Executive order by concurrent resolution within a 60-day period. I assure the House, as you will be told later in this debate, that amendment has been so prepared, so carefully drawn, so expertly drawn, if you please, that it has tied up this delegation of power and made it one of the standards of the bill by which the President of the United States is to act in these consolidations. The right to disapprove by concurrent resolution is a part of the grant of power, a condition on which the exercise of the power depends.

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

Mr. WARREN. No; I have only a minute more.

Mr. TABER. I will ask that the gentleman's time be extended.

Mr. WARREN. I decline to yield now.

Adopt the Boileau amendment and you have destroyed the bill. There is no use mincing any words about that. The President has today all the power the Boileau amendment seeks to give him. The President can send here of his own volition and accord any form of consolidation or reorganization he sees fit to recommend, under the power granted him by the Constitution. The gentleman from Wisconsin not only attempts to forestall that, but tries to place a limitation itself on the power already held by the President.

We will offer as a committee amendment, with all the argument and force of law behind it, an amendment that meets every reasonable objection that has been raised in this House on that particular point. [Applause.]

[Here the gavel fell.]

Mr. TABER. Mr. Chairman, I offer an amendment to the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. TABER to the substitute amendment offered by Mr. BOILEAU: On page 45, line 11, strike out "the relief of unemployment and of the hardship and suffering caused thereby; the relief of the needy and distressed", in line 13.

Mr. TABER. Mr. Chairman, I have offered this amendment to the substitute amendment so we may get out of this bill the permanent authorization of appropriations for relief. A year ago the President of the United States was in favor of keeping that sort of thing down. We have nothing whatever to indicate the President has changed his mind. Even the Senate bill was so drawn that it did not authorize additional appropriations. It simply concentrated in the welfare department activities that were already authorized by law. However, this bill is so broad that it carries with it a permanent authorization of appropriations for relief.

We ought not to embark on that kind of a policy at this time. It is dangerous. It will get us into a situation where anyone may offer an amendment for any amount on any appropriation bill, and where it will be germane to call for appropriations for relief without consideration by any committee of Congress. I do not believe the House wants to abdicate in that way its function of authorizing things that are to be done. Such a provision will throw the bars down and will encourage and promote the continuance of that activity beyond its need and beyond the necessity of meeting the requirements of the Government.

Mr. KELLER. Mr. Chairman, will the gentleman yield for a question?

Mr. TABER. I cannot yield at this time. I do not have the time.

It is absolutely necessary that we get to an end of that activity, Federal relief, whenever we can. I do not oppose honest, legitimate appropriations for relief, but let us authorize them when they are needed instead of giving here a blanket authorization which permits any Member to offer such an amendment on the floor of the House. I hope this committee will adopt this amendment to the substitute and put a stop to letting the bars down and throwing the thing wide open. I hope the Committee will adopt this amendment and give us at least some kind of help in this situation.

Mr. MEAD. Mr. Chairman, I rise in opposition to the amendment to the substitute amendment.

Mr. Chairman, my distinguished colleague, the gentleman from New York, has just proposed an amendment which will cut the very heart out of the proposed department of welfare. Your affirmation of his effort will have a very decided effect upon certain functions and social activities in which we are all concerned. He would make it impossible for us to aid in the social services stricken from the bill by his amendment. We would not be able to take care of the needy, the unemployed, and those in need of relief.

May I read the language contained in the amendment which has been presented by the gentleman from North Carolina [Mr. WARREN]? The language of this amendment is understandable. There is nothing difficult about it and nothing is hidden in this language. We believe it is superior to the language contained in the bill, because it does not advocate the promotion of education and the promotion of various other activities that would be centralized in this department. This amendment merely calls upon the head of that department to administer the law rather than to promote the cause of this, that, or the other activity.

Here is the language of the Warren amendment:

The secretary of welfare shall administer the laws regulating to any agency or function transferred to, or brought within the jurisdiction and control of, the department of welfare pursuant to law—

Leaving the implication that no promotion is expected on the part of the department, but that the department is to carry out and administer the law as enacted by the Congress of the United States.

Then the amendment goes on to explain that those laws—

Relate to public health and sanitation, the protection of the consumer, the relief of unemployment and of the hardship and suffering caused thereby, the relief of the needy and distressed, the assistance of the aged, and the relief and vocational rehabilitation of the physically disabled: *Provided*—

And this is important—

That nothing in this section shall be construed to authorize the continuation of any temporary agency or function beyond the period authorized by law.

I now want to say to you as one interested in the development of these very necessary and essential functions of government, as one believing in their proper housing within a proper department, as one who believes this country must make some progress along this line in following the trend, and the age, and the progress of other nations of the world, I believe the language proposed by the gentleman from North Carolina [Mr. WARREN], to be superior. I believe his amendment should meet with your approval. I believe it is orderly and rational and will not tie the hands of the Congress as would the proposal offered by my colleague the gentleman from New York [Mr. TABER]. So I plead with you to stand by the committee in this connection. [Applause.]

[Here the gavel fell.]

The CHAIRMAN (Mr. COOPER). All time has expired——

Mr. FISH. Mr. Chairman, I rise in favor of the Boileau amendment.

The CHAIRMAN. All time has expired on the amendments now pending.

The question is on the amendment offered by the gentleman from North Carolina [Mr. WARREN] to the amendment offered by the gentleman from Missouri [Mr. COCHRAN].

Mr. FISH. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FISH. When was it agreed upon to limit debate?

The CHAIRMAN. We are proceeding under the rules of the House and the time for debate on all the pending amendments has been exhausted.

Mr. SNELL. Mr. Chairman, if I may be heard for one-half minute, there was a definite understanding that they would be liberal and that they would not move to cut off debate until Members having legitimate arguments had an opportunity to be heard on each one of these amendments, and I insist on that agreement being carried out.

Mr. WARREN. Mr. Chairman, there is no desire to cut off debate. We merely want to vote on the amendment because they are the only amendments that can be pending at one time.

Mr. SNELL. I call upon the chairman of the committee who made that agreement in public session here, that we would have ample debate and that anybody who wanted to legitimately argue on any question would have an opportunity to do so.

Mr. COCHRAN. Does the gentleman deny the fact that there has been ample debate here today?

Mr. SNELL. Yes, I do; because Members want to discuss the Boileau amendment.

Mr. COCHRAN. If the rules permit them to be recognized, I am willing to have them heard.

Mr. SNELL. They will be heard unless you give orders to have them cut off.

Mr. COCHRAN. The gentleman from Missouri cannot override the rules of the House.

Mr. SNELL. Well, I know something about the rules of the House myself.

Mr. PATMAN. The regular order, Mr. Chairman.

The CHAIRMAN. The regular order has been demanded.

Mr. SNELL. We have continually gone beyond the regular order under the 5-minute rule, and the Chairman knows that has been a precedent in this House, certainly to my knowledge, for many years.

The CHAIRMAN. And the Chair knows that the gentleman from New York fully understands how that might be accomplished if it were sought to be done.

Mr. SNELL. I do understand that and I know it has always been within the province of the Chair to so rule, and it was definitely understood yesterday we were not going to be shut off from debate.

Mr. POWERS. Mr. Chairman, will the gentleman from New York yield for me to point out to him what the Chairman of the Committee said on April 5?

Mr. SNELL. Yes; I know what the Chairman of the Committee said.

The regular order was demanded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. WARREN] to the amendment offered by the gentleman from Missouri [Mr. COCHRAN]. Those in favor of the amendment will say "aye" and those opposed "no."

Mr. TABER. Mr. Chairman, a point of order—that is not the question before the Committee.

The CHAIRMAN. The ayes appear to have it.

Mr. TABER. Mr. Chairman, I appeal from the decision of the Chair. My amendment has not been put and that is first in order.

The CHAIRMAN (Mr. COOPER). If the gentleman will kindly indulge the Chair a moment, the rules provide that the first vote shall be on the amendment to the amendment. After that is disposed of, any other amendments that may be offered to the amendment will be disposed of. After those are disposed of, then the question recurs on amendments to the substitute, seriatim, in the same way.

In order that there may be no doubt about it, if the Chair may be indulged a moment, the Chair will invite attention to page 2 of Cannon's Precedents of the House. At the top of that page appears a diagram pointing in unmistakable terms to the parliamentary situation now before the committee.

Amendments to the amendment are disposed of before the substitute is taken up. Only one amendment to the amendment is in order at this time, but as rapidly as one is disposed of, by rejection or incorporation as a part of the amendment, another is in order as long as any Member desires to offer one. Amendments to the substitute are next voted on and may be offered seriatim as fast as disposed of until the substitute is perfected, and so on.

Mr. SNELL. Mr. Chairman, I ask unanimous consent that the amendment that we are about to vote on be again reported to the House.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from North Carolina [Mr. WARREN],

to the amendment offered by the gentleman from Missouri [Mr. COCHRAN] will be reported by the Clerk.

The Clerk again reported the Warren amendment.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KNIFFIN. Mr. Chairman, I offer the following amendment, which I send to the desk, to the Cochran amendment, and ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for 5 additional minutes. Is there objection?

Mr. WADSWORTH. Mr. Chairman, I reserve the right to object, in view of the request, and personally under no other circumstances would I ever object, but may I call the attention of the gentlemen of the Committee, and especially the gentleman from Missouri [Mr. COCHRAN] to what he said day before yesterday on page 4775 of the RECORD:

> I hope there will be no effort to shut anyone off under the 5-minute rule.

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

Mr. WADSWORTH. Yes.

Mr. COCHRAN. Does the gentleman say that in any way I have attempted to shut anybody off?

Mr. WADSWORTH. The gentleman from Missouri knows perfectly well that he and his colleagues on this committee are leading the majority of the House with respect to the procedure here, and that he made it perfectly evident that he would not object to motions to strike out the last word or the last two words, as has been customary for years, and that the Chairman presiding over the Committee would not invoke the technical rule.

Mr. COCHRAN. Mr. Chairman, I really wish that the gentleman from New York were correct, that our Committee is leading those on the majority side at the present time. I cannot in any instance change the rules of the House myself, and the gentleman from New York knows that as well as anybody else.

Mr. TABER. Mr. Chairman, further reserving the right to object, the application on the part of the gentleman from Wisconsin [Mr. BOILEAU] to have a little more time was denied, when he had a very important subject under discussion. The rule ought to work both ways. If one extension is granted then when somebody has an amendment contrary to the ideas of the committee, and wants an extension, that extension should be granted. It ought to work both ways. I am quite willing to have the gentleman from Ohio [Mr. KNIFFIN] have the extra time, but I would like to have an understanding on the subject with the chairman of the committee.

The CHAIRMAN. The Chair will not hesitate to submit an amendment or any request for unanimous consent. The Chair does invite attention to the provision of the rule:

> Pro forma amendments are not in order on amendments to the amendment or amendments to the substitute, as they would in either case constitute amendments of the third degree.

Mr. TABER. But that was not the question that I raised.

The request was made that the gentleman from Wisconsin [Mr. BOILEAU] have 5 additional minutes.

The CHAIRMAN. If the gentleman will permit, the gentleman from Wisconsin had 5 additional minutes, and later requested 5 more.

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

Mr. TABER. Yes.

Mr. COCHRAN. The gentleman from Wisconsin [Mr. BOILEAU] had 10 minutes. I did not object, and whoever did object to a further request certainly did not object at my request. I was perfectly willing that the gentleman should have 5 additional minutes.

Mr. GIFFORD. Mr. Chairman, I reserve the right to object. The gentleman has a very important matter to discuss. I ask unanimous consent that the gentleman's amendment may be discussed for 40 minutes, 20 minutes on a side.

Mr. SABATH. Mr. Chairman, I demand the regular order.

Mr. SNELL. Mr. Chairman, if we cannot have a discussion here, I shall object. We might as well have an understanding here as to going on further, of whether there will be a reasonable debate allowed on each one of these propositions. The Chairman of the Committee assured me yesterday that we would have that.

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

Mr. SNELL. If I had the floor.

The CHAIRMAN. If the gentleman will permit, the Chair inquires of the gentleman from Ohio [Mr. KNIFFIN] whether he yields to the gentleman from Massachusetts [Mr. GIFFORD] to submit the unanimous-consent request stated by him?

Mr. SNELL. I think we ought to have a definite understanding. [Cries of "Regular order!"] Oh, never mind your "regular order." You will get plenty of that.

The CHAIRMAN. The regular order is demanded by the gentleman from Ohio [Mr. LAMNECK]. The regular order is, Is there objection to the request of the gentleman from Ohio [Mr. KNIFFIN]?

Mr. LAMNECK. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. LAMNECK. I make the point of order, Mr. Chairman, that the gentleman from Ohio has not been recognized; his amendment has not even been read. It was not, therefore, out of order to yield to somebody over here to ask a question.

The CHAIRMAN. The gentleman from Ohio had been recognized to submit a request, which he has submitted and which the Chair in turn has submitted to the House.

Mr. COCHRAN. Mr. Chairman, will the gentleman from Ohio yield to permit me to submit a unanimous-consent request?

Mr. KNIFFIN. I yield.

Mr. COCHRAN. Mr. Chairman, this is a very important amendment. I ask unanimous consent that debate on this amendment may extend for 40 minutes, 20 minutes to be controlled by the gentleman from Ohio [Mr. KNIFFIN] and 20 minutes by the gentleman from New York [Mr. TABER].

Mr. SABATH. That is 20 minutes a side.

Mr. COCHRAN. Yes.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent that debate on the pending amendment to the amendment be confined to 40 minutes, one-half of the time to be controlled by the gentleman from Ohio [Mr. KNIFFIN], the author of the amendment, and the other half to be controlled by the gentleman from New York [Mr. TABER]. Is there objection?

Mr. CROSSER. Mr. Chairman, reserving the right to object, I think this is one of the most important subjects in this whole bill. Twenty minutes is not enough time in which to discuss the matter fully.

The CHAIRMAN. If the regular rules are to be followed, of course, there will be but 10 minutes' debate.

Mr. CROSSER. I was just making an appeal for more liberal time.

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

Mr. PETTENGILL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. PETTENGILL. Mr. Chairman, will the gentleman yield to permit me to submit a unanimous consent request?

The regular order was called for.

The CHAIRMAN. The regular order is called for. The regular order is: The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. KNIFFIN: On page 43, line 25, insert after the semicolon the following:
>
> "(3) Section 403, as amended (U. S. C., 1934 ed., title 5, sec. 126), is amended by striking out the present section and inserting in lieu thereof the following:
>
> "'SEC. 403. Whenever the President, after investigation, shall find and declare that any regrouping, consolidation, transfer, or abolition of any executive agency or agencies and/or the functions thereof is necessary to accomplish any of the purposes set forth in section 401 of this title, he may by Executive order, unless such Executive order is disapproved within 60 days by concurrent resolution of the Congress as provided in section 407 of this title.

"'(a) Transfer the whole or any part of any executive agency and/or the functions thereof to the jurisdiction and control of any other executive agency;

"'(b) Consolidate the functions vested in any executive agency; or

"'(c) Abolish the whole or any part of any executive agency and/or the functions thereof; and

"'(d) Designate and fix the name and functions of any consolidated activity or executive agency and the title, powers, and duties of its executive head; except that the President shall not have authority under this title to abolish or transfer an executive department and/or all of the functions thereof.'

"(4) Section 407, as amended (U. S. C., 1934 ed., title 5, sec. 130), is amended by striking out all of the section and inserting in lieu thereof the following:

"'SEC. 407. Whenever the President makes an Executive order under the provisions of this title, such Executive order shall be submitted to the Congress while in session and shall become effective upon the expiration of 60 calendar days after the date of such transmission unless the Congress shall by law provide for an earlier effective date: *Provided*, That if the Congress shall adjourn prior to the expiration of 60 calendar days after the date of such transmission such Executive order shall not become effective until the expiration of 60 calendar days from the opening day of the next succeeding regular or special session: *Provided further*, That if the Congress prior to the expiration of such 60-day period shall, by concurrent resolution, find that such Executive order or any part thereof is not in the public interest, such Executive order shall, to the extent of such finding, not become effective.'"

And on page 44, line 1, change "(3)" to "(5)."

The CHAIRMAN. The gentleman from Ohio [Mr. KNIFFIN], is recognized for 5 minutes.

Mr. PETTENGILL. Mr. Chairman, will the gentleman yield to permit me to submit a unanimous-consent request?

Mr. KNIFFIN. I yield for that purpose.

Mr. PETTENGILL. Mr. Chairman, I ask unanimous consent that time for debate on the amendment offered by my distinguished friend from Ohio be extended to 60 minutes, 30 minutes to be controlled by himself and 30 minutes to be controlled by the gentleman from New York [Mr. TABER].

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

Mr. SCHULTE. Mr. Chairman, I object.

Mr. PETTENGILL. Mr. Chairman, the gentleman from Ohio having yielded to me, I now move that time for debate on the Kniffin amendment be extended to 1 hour, of which 30 minutes shall be controlled by the gentleman from Ohio [Mr. KNIFFIN] and 30 minutes by the gentleman from New York [Mr. TABER].

Mr. BOILEAU. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. BOILEAU. Mr. Chairman, I make the point of order that such a motion is not in order. I do not object to there being additional time for debate, but I like to see the rules followed.

The CHAIRMAN. The Chair sustains the point of order.

Mr. KNIFFIN. Mr. Chairman, the Select Committee on Government Reorganization, of which I have the honor to be a member, has authorized me to offer this amendment.

Mr. Chairman, in offering this amendment I am actuated by the conviction that the Congress cannot delegate its legislative authority and that the vast majority of American citizens are opposed to an attempt to absolutely vest legislative authority in the President. Fortunately, however, the aims and purposes of title I as set forth in the pending measure can be accomplished without vesting such authority.

A dozen Presidents perhaps have warned against encroachment upon the three spheres of power. That many Presidents have strongly urged reorganization. The purposes set forth in title I of this measure can be carried forward without violating any of the boundaries fixed by the Constitution between the three branches of our Government. Moreover, I am persuaded that effective reorganization can only be had if we vest in the President, subject to proper safeguards, the right to regroup, investigate, transfer, and abolish executive agencies and parts of or all of the functions thereof, for the reason that the President of the United States is eminently better informed as to the work of the executive branch than any other person.

The question of constitutionality has been brought up. That question has become the storm center of the controversy over title I of this measure. It presents a profoundly interesting question, but one which to my mind is perfectly clear, because the Congress has the right to delegate to its agent the power to regulate any subject matter which the Congress itself may regulate by legislative enactment, provided it declares a policy and lays down a definite standard to be followed by such agent in the exercise of that delegated authority. This amendment does that very thing, and prevents our agent, in this instance the President of the United States, from substituting his will for the will of the Congress, and I submit it is constitutional.

[Here the gavel fell.]

Mr. MEAD. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for 15 additional minutes.

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

Mr. GIFFORD. Mr. Chairman, reserving the right to object, and I shall object unless there is some other understanding about how the time will be divided.

Mr. MEAD. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio [Mr. KNIFFIN] may proceed for 15 additional minutes and that 20 minutes be allotted to the gentleman from New York [Mr. TABER] in opposition to the amendment.

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

There was no objection.

Mr. SNELL. Will the gentleman yield?

Mr. KNIFFIN. I yield to the gentleman from New York.

Mr. SNELL. Will the gentleman explain to the House how his amendment disagrees with the authority given to President Hoover under the 1932 act?

Mr. KNIFFIN. There was no limitation containing a definite standard in that act.

Mr. SNELL. Where is the limitation of definite standard in this act?

Mr. KNIFFIN. In the second proviso and it is also embodied by reference in the granting clause of section 403. Both sections have been rewritten.

Mr. SNELL. That is very indefinite as far as I am concerned.

Mr. KNIFFIN. Mr. Chairman, in this amendment section 403 is amended so as to enjoin upon the grant of power to the President the limitation contained in the proviso at the end of section 407.

By the adoption of this amendment you will make clear that the President, as the agent of the legislative branch, will exercise legislative rather than executive powers. We appoint the President as our agent to do what Congress alone has the primary right to do, but we put a restraining hand on our agent's shoulder by laying down standards to guide him and by reserving and delegating to the Congress—Senate and House—the right to find, before his acts become effective, whether or not his order is in the public interest. Will anyone seriously contend that when an agent is appointed that the principal cannot reserve the right to find whether or not he violated his power of agency before the effect of his act is signed, sealed, and delivered? There can be no doubt about it, because a limitation is a condition upon the grant of power and is a part of the grant. In this connection assurance has been made doubly sure by amending section 403. The power therefore cannot possibly become effective until the condition is met.

There is a distinction between the term "concurrent resolution" as used as a parliamentary process in the Congress and the term as used in section 403 of this amendment.

I have taken this device known as a concurrent resolution and have used it to define the limitation upon the grant of power.

Mr. Chairman, reference has been made to the President's letter by my distinguished colleague from Wisconsin. I agree with the statement contained in the President's letter insofar as it deals with a concurrent resolution as a par-

liamentary process. To be sure, the Congress cannot by concurrent resolution repeal the Revenue Act of last year, nor void Executive orders issued in pursuance of an unconditional grant of many years ago. I do not contend that. That has reference to past laws and there are other reasons why it might not be constitutional. The President is a part of the lawmaking machinery of the land as well as both Houses of the Congress. This is a law, however, that is in the making, of which a concurrent resolution is an integral part. The power to be drawn by our fact-finding agent from the law flows from no one or more parts of the law but from the whole law, the whole act, including the concurrent-resolution provision.

This condition permeates the proposed law and is so tied into the ribs of the authority conferred that when the power granted breathes due regard must be had for the limitation. It retains in the Congress, where it belongs, the right to find by majority vote of both Houses, without being subject to a Presidential veto, whether the agent acted in the public interest, as appears in the second proviso, which is the definite standard prescribed in this amendment.

I have a number of authorities upon which I will not have time to comment, but this is the leading authority.

In *Hampton & Co.* v. *United States* (276 U. S. 394), a leading case on this question, the Supreme Court quoted with approval the following excerpt from the opinion of Judge Ranney, of my State, in *Cincinnati, Wilmington & Zanesville Railroad Co.* v. *Commissioners* (1 Ohio Stat. 77, 88):

> The true distinction, therefore, is between the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring an authority or discretion as to its execution, to be exercised under and in pursuance of the law. The first cannot be done; to the latter no valid objection can be made.

The point that Judge Ranney makes in this quotation is that the standard prescribed must be sufficiently definite so as to leave no discretion in the officer to whom the power is delegated to determine what the law shall be. The officer becomes nothing more than a fact-finding officer. Upon an announcement of his findings the statute operates automatically, and the legislature, in the final analysis, makes the law.

Thus, under the provisions of the Interstate Commerce Commission Act, Congress has delegated power to the Interstate Commerce Commission to determine and prescribe "just and reasonable" railroad rates. The standard to guide the Commission in the fixing of such rates is the phrase "just and reasonable." The Supreme Court has repeatedly held that this phrase is adequate to guide the Commission in the exercise of its rate-making authority.

On the other hand, in *Schechter Poultry Corporation* v. *United States* (295 U. S. 495), the delegation of authority to the President to approve codes of fair competition—the standard of "fair competition"—embodied in the power and delegated to the President to approve codes of fair competition was held to be so indefinite as to give the President authority to determine what the law should be. No one knew what fair competition meant. It was a term unknown to the common law, and its meaning had not been fixed by statute, usage, or court decisions.

Again, the proposed amendment to the reorganization bill referred to in the recent letter of the President as being unconstitutional is one which would grant authority to a majority of the two Houses of Congress to set aside an Executive order by concurrent resolution. I concede that such a resolution would be unconstitutional, because it would not contain any standard to guide the agent in the exercise of its delegated power. Having delegated authority to the President to reorganize executive agencies, and having prescribed adequate standards to guide the President in the exercise of the delegated power, Executive orders issued by the President would have the force and effect of law and could be set aside only by action having similar force and effect. In authorizing a majority of its Members to disapprove Executive orders by such a concurrent resolution, the Congress would not be reserving to itself any power but would be delegating power to a majority of its Members to disapprove Executive orders. Therefore the delegation of such power to a majority of its Members would be unconstitutional in the absence of an adequate standard to guide the majority in the exercise of the delegated power.

Any resolution designed to accomplish this purpose, be it concurrent, joint, or any other kind, if there be such, without such a standard to guide the fact-finding agency in the exercise of that authority is unconstitutional.

Thus, if a provision is inserted in the reorganization bill that the two Houses may set aside an Executive order by concurrent resolution, only if they find that the orders are not "in the public interest," the authority of the majority to set aside Executive orders could be exercised only within the limits of policy prescribed in the reorganization bill. Without the standard "public interest," the majority of the Members could disapprove Executive orders for any reason whatsoever. Such attempted authority would be a delegation of power by the Congress itself, including the President's participation by the signature of the act, to a majority of its Members to exercise legislative power by means of something less than an act of Congress, which would be unconstitutional. However, by the insertion of the standard "public interest" Congress prescribes a standard to guide the majority in the exercise of the delegated power and therefore is entirely constitutional.

In this connection, it must be remembered that the legislative power is vested by the Constitution, not in the Congress represented by the Senate and the House, but in the legislature represented by the Senate and the House and the President of the United States, who, in the making of law, is a part of the legislature under our Constitution. He becomes a part of the machinery. Thus when Congress attempts to reserve legislative power, it must reserve it not only to the Senate and the House, but also to the President. Therefore, when it delegates it to the two Houses and not to the President, it constitutes an unconstitutional delegation of power unless the Congress has prescribed an adequate standard to guide the two Houses in the exercise of that delegated power.

This is exactly the situation under the concurrent-resolution amendment referred to in the President's letter. There Congress would attempt to reserve the legislative power to the Senate and the House and not the other part of the lawmaking body, which is the President. Obviously, such a delegation would be unconstitutional unless Congress formulates a policy and prescribes an adequate standard, and I call attention to the Radio Commission and its functions, to the Federal Trade Commission, the Interstate Commerce Commission, the Tariff Commission, and I call attention to what the Supreme Court has said with reference to the standards.

The Radio Act of 1927 permits the Federal Radio Commission to grant licenses when public convenience, interest, and necessity require, upheld in the case of Commission against Nelson. In this case it was held, that the standard prescribed in that act, was sufficiently definite to prevent the Commission from substituting its will for that of the Congress as to what the law should be.

The Trading With the Enemy Act, which authorized the President to sell property seized under that act in any manner consistent with the public interest was upheld in *United States* v. *Chemical Foundation* (272 U. S. 1).

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

Mr. KNIFFIN. Yes; I shall be pleased to yield.

Mr. COX. I understand the point the gentleman is undertaking to make is that it is within the power of Congress to delegate authority to its agents to perform a function which is purely legislative, provided the Congress sets up standards which will operate as a guide to its agents?

Mr. KNIFFIN. Exactly.

Mr. COX. The gentleman makes the further point that it is within the power of Congress to impose a limitation upon the grant, such as is proposed in the gentleman's amendment; that is, that the action of the President in the

exercise of this delegated power may be set aside by a concurrent resolution of both Houses.

Mr. KNIFFIN. Provided an adequate standard is laid down to guide.

Mr. COX. But the gentleman is not contending that it is within the power of one Congress to bind a later Congress or that the Congress by the setting up of standards can control the conduct of a later Congress?

Mr. KNIFFIN. Oh, no; and this amendment does not attempt to bind a later Congress. [Applause.]

Mr. Chairman, the point has been raised that the proposed amendment to the reorganization bill authorizing disapproval of Executive orders by concurrent resolution by the two Houses of Congress is unconstitutional on the ground that it vests an executive function in the Members of Congress by authorizing them to participate in executive action.

It is true that the Supreme Court has held that the Legislature or Members thereof cannot be authorized to perform executive duties. Thus, in *Springer* v. *Philippine Islands* (277 U. S. 189), the Court was considering a statute of the Philippine Islands which placed the management of certain Government property under the control of a board consisting of the Governor General of the Philippines, the President of the Philippine Senate, and the speaker of the Philippine House of Representatives. The Philippine Organic Act embodied the doctrine of separation of powers in a manner similar to that of the Federal Constitution and the Court held that the management of governmental property being an executive function, the legislature could not thus "engraft executive duties upon a legislative office, since that would be to usurp the power of appointment" which was vested in the Executive.

In the Springer case, however, the law involved had already been completely made. All the details of the statute had been filled in by the legislature when it passed the law and no details were, therefore, left to the Board to fill in. The Board merely executed the provisions of the law. This is entirely different from the case where Congress in the statute declares its general policy and delegates authority to fill in the details of the statute to another officer. In the latter case the provisions of the law are not complete and the officer to whom the power is delegated consequently is exercising quasi-legislative power in filling in the details.

The principle of the Springer case, therefore, has no application to the question involved in the proposed amendment. My amendment would not confer upon the Congress a power which is executive in the constitutional sense, but would delegate to a majority of the two Houses a quasi-legislative function, namely, the power to pass upon the Executive orders of the President—to participate in filling in the details of the reorganization law as enacted by Congress. This is an entirely different type of power from that involved in the Springer case. The Supreme Court has indicated in *Humphrey's Executor* v. *United States* (295 U. S. 602) that where Congress delegates to an executive or other officer the power to fill in the details of a statute within the limits of the policy prescribed by Congress, that officer is not exercising executive functions but rather those which are quasi-legislative in character. Thus, in the Humphrey's case the Court held that the functions of the Federal Trade Commission were quasi-legislative and not executive. It also indicated that the functions of the Interstate Commerce Commission with respect to the fixing of rates, and so forth, were quasi-legislative and not executive.

Similar principles are laid down in *Morgan* v. *United States* (298 U. S. 468). In the latter case, the Court held that the functions of the Secretary of Agriculture in fixing maximum rates to be charged by market agencies for buying and selling livestock under the Packers and Stockyards Act were quasi-legislative. The Court said:

> It is a proceeding looking to legislative action in the fixing of rates of market agencies. And * * * the order is legislative * * *.

Under the principles of these latter two decisions, therefore, it is apparent that the President under title I of the bill, and likewise the majority of the two Houses of Congress under the proposed amendment, will be exercising quasi-legislative powers which are not of an executive nature in the constitutional sense. Both the President and the majority of the two Houses will be filling in the details in the statute within the limits of the policies prescribed by Congress. Under the amendment, the majority will be acting as an agent of Congress in passing upon Executive orders. [Applause.]

[Here the gavel fell.]

Mr. TABER. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. GIFFORD].

Mr. GIFFORD. Mr. Chairman, this is truly an interesting situation. The President's letter informed us that a concurrent resolution would be clearly unconstitutional. The gentleman from North Carolina who read the President's letter also assured us with certainty that a concurrent resolution would be unconstitutional. Since then it appears that diligent search has been made of the scriptures of legal phraseology to find some way to preserve the concurrent resolution process and try to convince us that by the few added words it would be regarded as constitutional. They want to preserve this back-handed way of legislating on the President's proposals, and resort to their new method of lawmaking.

Legal phraseology and quotations from legal cases do not interest the American people at the moment. Which is the surer or the better way of preserving our rights in this bill? The Boileau amendment is the only amendment that really protects our rights, because it demands affirmative and complete action on what the President may determine. With only a 60-day period to pass a concurrent resolution, under the rules of the other body, they could bicker away 60 days easily and, of course, the recommendations of the President would be rubber-stamped in any Congress such as we have had during the last few years. This preservation of our legislative jurisdiction is the issue in this amendment. The idea that we might disapprove by concurrent resolution of the exercise of the power we freely give the President was clearly shown to be worthless. These added words regarding our disapproval within 60 days is a strained intepretation of limitation of the power to reorganize departments of Government.

Let us kill this back-handed method of protecting ourselves, when there is a direct method, the usual method of affirmative approval, not simply a possible vote of disapproval.

We cannot understand why you insist with so much stubbornness to retain within this bill that which only 2 or 3 days ago you yourselves declared so completely unconstitutional.

There is another thing, Mr. Chairman, that worries me greatly, in spite of your President's letter read on the floor of this House that it would be unthinkable that any President after disapproval of the Congress by a concurrent resolution would proceed further, even though he had the constitutional right to do so. However, I read in the newspapers that the leader of the House on leaving the White House said, "But no matter what the President may have conceded, he will retain all his prerogatives in the matter." This is a reservation that might well be availed of if there were a slight difference of opinion between the two branches of this Congress.

We should be warned that the requirement of a concurrent resolution within 60 days, when many would offer resolutions disapproving of certain parts, would result in such a difference between the two branches that there could be no agreement within the time suggested. This new method is a highly dangerous proposition.

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

Mr. GIFFORD. Yes. The gentleman probably knows much more about this than I do, and I am glad to yield.

Mr. KNIFFIN. I call the gentleman's attention to something that I overlooked in speaking. If the Congress should

adjourn within a period of 59 days or 40 days, this amendment of mine provides that the 60-day period shall begin to run anew on the first day of the next regular or special session.

Mr. GIFFORD. Oh, everybody understands that. We have 60 days, while Congress is in session, to express our disapproval by concurrent action.

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

Mr. TABER. Mr. Chairman, I yield 1 minute more.

Mr. GIFFORD. We have delegated our power on many occasions recently. Take for instance the reciprocal-trade agreements. Was there anything about a concurrent resolution in that act wherein we might express our disapproval? No. This is the first attempt, and we suspect the motive. We do not want this unusual way of referendum. I want to insist, and I hope you do, upon distinct, affirmative action, the same as the Congress has always insisted upon. To my mind it does not smack so much of hidden motive as it smacks of stubbornness in trying to give to the Executive opportunity to get away from the Congress by the back door. This surrender of power is the heart of this bill. Economy would be important, if claimed in this bill, but its importance is not to be compared with this surrender of our sworn duties. I urge you to think carefully and not be led astray by the citation of legal cases to bolster up this contemplated action. We want something affirmative, and results of which there would be no doubt.

The CHAIRMAN. The time of the gentleman from Massachusetts has again expired.

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

Mr. FISH. Mr. Chairman, this is the political bait that is graciously offered by the President to the Congress. This is the political alibi or excuse that Members who vote for this bill will present to their constituents. It is a flimsy alibi, it is a camouflage, it is only a trick and weak attempt to appease the wrath of the voters that is sure to follow against those who support this bill. This bill might change its title and read "The Slaughter of the Innocents," in those congressional districts north of the Mason and Dixon's line. It is all very well from the standpoint of the gentleman from North Carolina [Mr. WARREN] to lead the fight for this bill and further sacrifice and surrender powers of Congress, when he tells you right on the floor of the House that he has no opposition either in the Democratic Party or the Republican Party. It is all very well for the Speaker and the majority leader who have no appreciable opposition in either party, but this amendment is their camouflage and leaves them with an alibi when the people back home realize fully the utter abdication of Congress to the Chief Executive. What does it do? It means that we have to pass a concurrent resolution in both Houses of Congress. If the resolution fails in either House of Congress these reorganizations and consolidations are adopted and go into permanent effect. Every Member of Congress who has served here any length of time knows the difficulty and time required in legislating. He knows, moreover, that we face a difficult situation in this Congress. We have a President with a 4-to-1 majority in the House and a 5-to-1 majority in the Senate, backed by huge patronage, Federal funds, influence, and power. Does anyone really believe that this amendment means anything at all? All that will remain to do is to write above any committee that takes charge of these proposals of the President, "abandon hope all ye who enter here." There is not the slightest chance whatever, if this is put into effect, that any reorganization proposal of the President will ever be turned down. It is nothing but a political bait for those who are to be slaughtered at the polls, offered to them as an excuse or alibi why they voted for this bill, and against representative government.

What should the Congress do? The gentleman from Wisconsin [Mr. BOILEAU] has offered an amendment that would restore representative Government in this Congress and to the people of the country. It would require an affirmative act by the Congress, or approval in both the House and the Senate of any of these reorganization proposals. For the last 4 or 5 years we have been surrendering and delegating away our power, abdicating to the President. The gentleman from Wisconsin has given us our first opportunity to action toward restoring the dignity, the prestige and the power of the House of Representatives. Are we to turn that down and thus admit that we are mere rubber stamps, as has been charged, that we do not believe any more in the three independent branches of the Government—the legislative, the executive, and the judicial? That is the single issue before the House. If we vote for this bill any Member from a district north of the Mason and Dixon's line will have to go back and face the American people and explain why he voted against representative Government and the maintenance of the three independent and separate branches of the Government, and why he voted to continue to surrender the legislative power of Congress to the President. The people of the United States are demanding just one thing. They say the time has come not to give the President of the United States any more power; that the time has come to take back and restore representative government in the Congress of the United States. [Applause.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. TABER. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana [Mr. PETTENGILL].

Mr. PETTENGILL. Mr. Chairman, in the limited time that has been granted, it will be impossible to enter into a discussion of the very serious constitutional question involved in the amendment offered by my highly respected friend from Ohio [Mr. KNIFFIN]. I shall pass the constitutional question although it is my firm conviction that the amendment is unconstitutional for the reason that the resolution disapproving an Executive order is legislative in character and cannot be made a concurrent resolution, without the signature or veto of the Executive. I shall attempt to analyze it for the purpose of showing how this House is abandoning its majority constitutional power in this matter. An Executive order is transmitted to Congress and someone will offer a concurrent resolution that the Congress disapproves of Executive Order No. 100, or whatever it may be.

That resolution necessarily will be referred to its appropriate committee. It may die there, for under the discharge rule you could not get it out of a hostile committee in 60 days if you tried. That is the first thing that prevents this House from acting in the matter, the fact that the resolution of disapproval may be buried in the committee. Let us assume, however, that it is brought out on the floor, a resolution disapproving Executive Order No. 100 as against the public interest. If the House disapproves it by a unanimous vote, 435 Members, that does not end the matter, because the disapproval requires the concurrence of the Senate; and although we have disapproved it by unanimous vote it goes over to the Senate, and if by one more than one-half of the Senate they refuse to disapprove it the Executive order goes into effect.

Mr. KNIFFIN. Mr. Chairman, will the gentleman yield right there?

Mr. PETTENGILL. In just a moment.

If 435 Members of the House disapprove and if 47 Members, or one less than one-half of the Senate also disapprove, a total of 482 votes of the representatives of the people in the House and in the Senate, the resolution of disapproval is not agreed to and the Executive order goes into effect. By 49 votes in the Senate approving the Executive order it goes into effect anyhow. In other words, the Kniffin amendment gives 49 Senators the right to overrule 482 Senators and Representatives. It places a majority at the mercy of a minority—a minority of 1 to 10, or 49 to 482. This is not only an abandonment, Mr. Chairman, of the constitutional majority right of this House to function, it is a possible abandonment of the unanimous right of this House to function.

Mr. MURDOCK of Utah. Mr. Chairman, will the gentleman yield?

Mr. PETTENGILL. I yield.

Mr. MURDOCK of Utah. Does not the same apply to a joint resolution requiring a majority vote of the House and the Senate?

Mr. PETTENGILL. Yes; if it were a resolution of disapproval. That is the difference, and that is the whole difference. This calls for a resolution of disapproval, not a resolution of approval. The resolution will be worded: "*Resolved*, That the House and Senate by concurrent resolution disapprove of the Executive order", we will say to put T. V. A. in some other branch of the Government; or disapprove of an Executive order to abolish the National Labor Relations Board, or any other matter over which the President is given power; and although this House by unanimous vote disapproves, unless it wins the disapproval of a majority of the Senate, the Executive order goes into effect. Again I say that this transfers to 49 men in the Senate the right to prevent this House and one less than a majority of the Senate from making their disapproval effective.

Mr. SABATH. Is not that true of any other legislation we pass?

Mr. PETTENGILL. No, it is not, because this is a resolution of disapproval, not a resolution of approval. This is negation rather than affirmation.

Mr. SABATH. But let us say that 435 Members of the House voted for a bill. If that bill fails to receive a majority vote in the Senate it dies and becomes of no effect. Is not that true?

Mr. PETTENGILL. In that event the legislative act fails to go into effect because a majority is opposed to it but here a legislative act delegated to the President goes into effect although it is unanimously disapproved by the House of Representatives. In one case a majority may act. But here a majority of the people's representatives are powerless to act. This is minority rule, an abandonment of every sound principle of our government.

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

Mr. PETTENGILL. I yield.

Mr. RABAUT. The ordinary bill becomes nothing if it is defeated in one body, but under this bill the Executive order becomes something if disapproval is defeated in one branch of Congress.

Mr. PETTENGILL. That is right. That says it in a nutshell. My friend deserves the thanks of his constituents.

The people are demanding that Congress do not surrender its majority power to legislate. But that is exactly what we do if we adopt the committee amendment. We let the minority handcuff the majority. I apprehend that the country will not stand for it.

[Here the gavel fell.]

Mr. TABER. Mr. Chairman, I yield the balance of my time to the gentleman from Utah [Mr. MURDOCK].

The CHAIRMAN. The gentleman from Utah is recognized for 4 minutes.

Mr. MURDOCK of Utah. Mr. Chairman, I regret that at this particular moment I find myself in disagreement with the Committee on the majority side of the aisle on a constitutional question. I am not presumptuous enough to think that I am an authority on constitutional law, but I want to make this observation, and I believe it is worthy of your attention. Let us concede for the sake of argument that we can make an agent of the Congress out of the Chief Executive of the United States to carry out as such agent the reorganization of the executive department; let us suppose that in order to make that delegation of power to our agent, the Chief Executive, constitutional we set up standards to control the actions of our agent, the President of the United States. The point I raise and the one I want you to think of is that, after we constitute him our agent to carry out the powers we delegate to him, after we set up the standards to guide his actions, have we the right as the legislative department of the Government to exercise the judicial function of passing on whether or not the standards we set up have been properly carried out by the Executive? Or, in other words, judicially interpreting the laws we pass?

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

Mr. MURDOCK of Utah. I yield.

Mr. MOTT. Both the gentleman from Utah now addressing the Committee and the gentleman from Ohio have referred to the President as an agent of the Congress. Where does the gentleman get that idea?

Mr. MURDOCK of Utah. I do not get that idea. I do not think it can be done. I am simply conceding for the sake of argument everything the gentleman from Ohio said in order to get at the right point. Let us admit, for the sake of argument, that under the Constitution we can set him up as our agent.

Mr. MOTT. You cannot admit that under the Constitution.

Mr. MURDOCK of Utah. For the sake of argument, I will admit it, not otherwise. Let us say further that by legislation we set up standards in order to guide his action. Then by what constitutional authority can we as a legislative body reserve to ourselves the judicial function of passing on the question of whether the President has acted within the standards set up by the Congress? This is unquestionably a judicial function which the Legislature does not possess.

Mr. MOTT. You cannot.

Mr. KNIFFIN. Will the gentleman yield?

Mr. MURDOCK of Utah. I yield to the gentleman from Ohio.

Mr. KNIFFIN. I do not say that we could constitute him as our agent to exercise executive powers.

Mr. MURDOCK of Utah. I know you do not; but he is constituted as our agent, according to your explanation of your amendment, as the gentleman says we did with the Tariff Commission and the Interstate Commerce Commission. Would the gentleman take the position that after we constitute those bodies as our agents to carry out our functions, and after we set up the standards, that then we can reserve the judicial function of passing on judicial questions of whether our agent has carried out the powers delegated according to the standards we have set up? In my opinion, Mr. Chairman, it just cannot be done.

[Here the gavel fell.]

Mr. SNELL. Mr. Chairman, I move to strike out the last two words.

The CHAIRMAN. The Chair understands that the time has been fixed by the committee.

Mr. SNELL. Mr. Chairman, I did not so understand. The unanimous-consent request was that the gentleman from Ohio [Mr. KNIFFIN] should have 15 minutes and that a gentleman over here would have 20 minutes. I did not understand it was a unanimous-consent request that debate was to close in that time. The gentleman did not say any such thing, as I understood it. The gentleman from New York [Mr. MEAD] propounded the unanimous-consent request that the gentleman from Ohio should have an additional 15 minutes and the gentleman from New York [Mr. TABER] should have 20 minutes.

Mr. MEAD. That was based upon the suggestion of the gentleman from Massachusetts, who said he would object, as I understood it, unless a time limitation in excess of 10 minutes was fixed.

Mr. SNELL. He was going to object, yes; but there was nothing in the gentleman's request that closed debate on this question.

Mr. MEAD. No. My request was merely to harmonize with the statement made by the gentleman from Massachusetts [Mr. GIFFORD].

Mr. SNELL. Mr. Chairman, I move to strike out the last two words.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. SNELL. Mr. Chairman, may I ask the gentleman from Ohio [Mr. KNIFFIN] to tell me what specific language

there is in his amendment that makes the President of the United States the agent of Congress any more than you may say he is the agent of the Congress when he acts as the Executive in carrying out our legislation?

Mr. KNIFFIN. That is right. He is a fact-finding agent only in the light of certain limitations, through amending section 403 and making this grant of power subject to the proviso in 407. That states if the Congress prior to the expiration of such time shall by concurrent resolution find that he did not act in the public interest, and so forth. That is a standard which has already been approved.

Mr. SNELL. I certainly cannot see any specific language there that would directly make the President the agent of Congress, as the gentleman states, and do not believe there is any such thing in regular legislation.

Let us get back to the other question. The other day when I asked the gentleman from North Carolina why we do not have the same provision protecting Congress in this legislation that we had when the Congress gave the power to Mr. Hoover; the gentleman very specifically stated the reason we did not do that was because it was unconstitutional.

The President of the United States in his nocturnal advice says:

> But there are two direct reasons why this bill should be put through as is now drawn. The first is the constitutional question involved in the passage of a concurrent resolution, which is only an expression of opinion of the Congress.

I agree with the President on the statement made by the gentleman from North Carolina that the original provision was unconstitutional. There is no question about that. But if that was unconstitutional, I do not understand how you are going to be cute enough to write language so that by concurrent resolution you are going to stop any of the activities of the President in carrying out the provisions of this law.

Mr. KNIFFIN. Will the gentleman yield?

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

Mr. KNIFFIN. By using it as a device to describe the limitations.

Mr. SNELL. Yes; it is a device only, but not a very good one after what you said the other day, and you have to do it by concurrent resolution, and the President himself says that a concurrent resolution is only the expression of the will of Congress and is without any effect in law, and he will so consider it, no matter how many concurrent resolutions you pass.

Mr. KNIFFIN. That is true.

Mr. SNELL. It is not law.

Mr. KNIFFIN. That is right.

Mr. SNELL. How are you going to prevent the President from doing anything except by passing a law, or by joint resolution signed by the President, and which is a law of the United States?

Mr. KNIFFIN. The term "concurrent resolution" is used to describe the limitations.

Mr. SNELL. Where is that concurrent resolution going to come from?

Mr. KNIFFIN. It comes from both Houses of Congress.

Mr. SNELL. Yes; it is an ineffective limitation because your own President says so, and you have admitted it in this debate.

Mr. KNIFFIN. A joint resolution could not affect an act already passed.

Mr. SNELL. We could repeal the act by joint resolution, signed by the President, and by no other method. The fact remains you cannot do anything affirmative in that respect by a concurrent resolution, and the President and everybody else say so.

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

Mr. SNELL. I yield to the gentleman from Indiana.

Mr. PETTENGILL. The resolution of disapproval on the ground that it is against the public interest is legislative.

Mr. SNELL. It seems so to me.

Mr. PETTENGILL. It is well settled that all resolutions which are legislative in their character must go to the President for his signature, so even though the concurrent resolution did meet with the approval of both Houses, the President could still veto it.

Mr. SNELL. The gentleman is absolutely correct, according to the President's own statement, and according to the decision of the highest legal authority, the Attorney General of the United States.

[Here the gavel fell.]

Mr. COCHRAN. Mr. Chairman, I rise in opposition to the pro forma amendment.

The CHAIRMAN. The Chair may state that all debate is closed on this amendment.

Mr. HARLAN. Mr. Chairman, a pro forma amendment is pending.

The CHAIRMAN. The Chair may state that the pro forma amendment is in the third degree. The only way any Member can now get the floor is by unanimous consent.

Mr. COCHRAN. Mr. Chairman, in order to even the debate, I ask unanimous consent to address the Committee for 5 minutes.

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

There was no objection.

Mr. COCHRAN. Mr. Chairman, the intent of the committee was to write a concurrent resolution provision that would be constitutional. What have we done? We have delegated power under a limitation. They are joined. If one falls, the other falls. This is just exactly what the Kniffin amendment does. We say to the President, "Mr. President, you can reorganize and so forth, but, if the Congress by a concurrent resolution disapproves the Executive order you have issued, becomes null and void."

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

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

Mr. KNIFFIN. Moreover, we say to him, "Mr. President, if you do a good job we will permit it to stand. If not, we will take it out."

Mr. COCHRAN. That is just exactly the purpose of the Kniffin amentment, and it is different from any other concurrent resolution ever included in a reorganization bill. It is power granted to the Congress to override an act of the President under the authority granted in this title. That is something new.

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

Mr. COCHRAN. I yield to the gentleman from New York.

Mr. SNELL. Does the gentleman admit it takes legislation to give this power to the President?

Mr. COCHRAN. It takes legislation to give power to the President to reorganize. At the same time we reserve and delegate to a majority of the House and Senate as an agent of the law-making body the power to disapprove Executive orders if they find them not to be in the public interest. I submit this is a valid delegation of legislative power.

Mr. SNELL. But the President himself states that a concurrent resolution has no effect on the Executive.

Mr. COCHRAN. If I recall the President's letter correctly, he states he would recognize a concurrent resolution.

Mr. SNELL. The gentleman admits it right there. If he wants to he can, but it is not imperative upon him.

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

Mr. COCHRAN. I yield to the gentleman from Wisconsin.

Mr. BOILEAU. May I suggest that this concurrent resolution, which is merely an expression of opinion, is no more effective than submitting this proposition to the Rotary Club of St. Louis.

Mr. COCHRAN. I may say to the gentleman from Wisconsin that outstanding lawyers who have studied the language submitted in the Kniffin amendment state there is something to the concurrent resolution, and that as drawn it is constitutional.

Mr. BOILEAU. May I say to the gentleman that was stated last Sunday, but we have not had the amendment as prepared until today.

Mr. COCHRAN. When you are doing something never done before it takes time.

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

Mr. COCHRAN. I yield to the gentleman from Georgia.

Mr. COX. I may say I am not particularly enamored with this proposal the gentleman submits to the House, but I do not believe the fears of the opposition are well founded. Whatever it may be, this bill must be construed in its entirety. This limitation of the grant is a part of the act which the President sanctions, if the bill should be passed by the House and go to him. The reservation of the right of Congress to vacate by concurrent resolution any order issued by the President is just as much a part of the law as is the original grant. I believe it is perfectly constitutional and that the fears of the gentlemen in the opposition that it would not be effective are not well founded.

Mr. COCHRAN. I thank the gentleman from Georgia for his contribution. If there is one man in the House whom the House recognizes as an able constitutional lawyer, it is the gentleman from Georgia [Mr. Cox]. [Applause.] You have heard him state that, in his opinion, this is constitutional. I do not ask you to take my word for it, but when a man with not only the ability but the courage of the gentleman from Georgia stands on this floor and expresses his opinion, tells you the concurrent resolution provision before you is constitutional, I believe you ought to take his word for it if there is the least doubt in your mind. [Applause.]

Mr. Chairman, when I said to the gentleman from New York [Mr. SNELL], if I recall the President's letter correctly, that the President would recognize a concurrent resolution, I had in mind that the President would naturally recognize any valid limitation on his power. The concurrent resolution objected to by the President would be a concurrent resolution like the Kniffin resolution, but without the standard "in the public interest" which is embodied in the Kniffin resolution. Such a resolution would be clearly unconstitutional because it would be an attempt by the lawmaking body—which includes not only the Senate and the House, but also the President—to reserve legislative power to the Congress consisting of only the Senate and the House. This would not be a reservation of legislative power to the lawmaking body but a delegation of legislative power from the lawmaking body—the Senate, House, and the President—to the Congress consisting of the Senate and House only. Without the standard "in the public interest" or some other adequate standard to guide the Congress—the Senate and House—in exercising its power to disapprove Executive orders as the legislative agent of the lawmaking body, such a delegation would be invalid and therefore merely amount to an expression of opinion by the Congress—the Senate and House.

Briefly, the basis for the constitutionality of the Kniffin concurrent resolution is that the authority conferred upon the Congress—the Senate and House—by the lawmaking body—the Senate and the House and the President—is limited by a definite standard "in the public interest." This makes the power delegated quasi-legislative power. In exercising this power, that is, in determining that an Executive order is not in the public interest, the Congress—the Senate and the House—will not be exercising executive power in a constitutional sense, but power which can constitutionally be conferred on a legislative agent without violating the doctrine of the separation of powers. One of the leading cases on this point is *Humphrey's Executor* v. *United States* (295 U. S. 602).

Mr. TABER. Mr. Chairman, I ask unanimous consent to address the Committee for 5 minutes.

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

There was no objection.

Mr. TABER. Mr. Chairman, the trouble with this amendment is that not only would the last proviso requiring a concurrent resolution be a nullity from a constitutional standpoint, but it would be nothing but a gesture such as the chairman of the committee has suggested to us. It would be just a suggestion to the President entirely without force and effect.

This amendment provides only that prior to 60 days after such an Executive order is filed with the House, the only way Congress can stop it is by passing a concurrent resolution.

As the gentleman from Indiana pointed out clearly, this would be absolutely unfeasible because you could never get such a concurrent resolution through the House. On the other hand, if you postpone the effective date of the taking effect of the proposal of the President until you can have a joint resolution passed, you have done something that would be effective.

I do not believe that any real, sincere, logical proposal for economy or for consolidation of activities of the Government would be passed up by the Congress. I believe they would pass a law immediately putting such a thing into effect.

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

Mr. TABER. Yes; I yield.

Mr. KNIFFIN. Does the gentleman believe Congress would pass up an opportunity to pass a concurrent resolution if the public interest had not been served?

Mr. TABER. I believe it would be possible, and easily possible, to filibuster in the Senate even with a minority of only one-third against a resolution which was against the public interest.

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

Mr. TABER. I yield to the gentleman from New York.

Mr. SNELL. When the gentleman from Missouri, the chairman of the committee, admitted in his reply to me that he thought the President would give attention to a concurrent resolution, was not that really an admission on his part that he had no real faith in the vitality of a concurrent resolution?

Mr. TABER. I think it was a confession that it would be nothing but a gesture, and we do not want just a gesture. We want to have our legislation so that it will hold water. I hope the House will put something in that will have teeth and will mean something.

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

Mr. TABER. I yield to the gentleman from Oregon.

Mr. MOTT. I would like to ask a question of the gentleman from Georgia [Mr. Cox] if I may have his attention. I was rather intrigued by the statement the gentleman made a few moments ago that in his opinion a concurrent resolution would be constitutionally sufficient to nullify an order made by the President under this act.

Mr. COX. I think it is nothing more than a referendum, pure and simple.

Mr. MOTT. Is that the position the gentleman takes, that a power given to the President by a law of Congress is contingent upon a referendum to the Congress?

Mr. COX. In an act of this kind, I think that the limitation that Congress attaches is valid.

Mr. MOTT. Both the Attorney General and the President have expressed a different view, have they not?

Mr. COX. I do not know. I have not acquainted myself with what the President or the Attorney General said about the proposition.

Mr. MOTT. That appears, I believe, from the letter of the President. The reason I am asking the gentleman this question is because I have such a great deal of respect for his knowledge of the Constitution.

Mr. COX. I very frankly concede——

Mr. TABER. Mr. Chairman, I must decline to yield further.

Mr. MOTT. The gentleman had not concluded his answer, and I would like to have the gentleman yield so that he may complete his reply.

Mr. TABER. I yield.

Mr. COX. Of course, I concede that a joint resolution, which is independent of an act approved by the President, does not have the force of law. But this provision providing for concurrent resolution is a part of the law and will have Presidential sanction if any part of this act is so approved.

Mr. TABER. Mr. Chairman, I must decline to yield further.

I hope the Committee will refuse to adopt this amendment with a provision in it that is not going to be effective, and instead will adopt the kind of provision that provides for a joint resolution postponing the effective date of an order until a joint resolution is passed approving it, because that will be effective, and unquestionably it is constitutional.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. KNIFFIN].

The question was taken; and on a division (demanded by Mr. SNELL) there were—ayes 147, noes 113.

Mr. SNELL and Mr. PETTENGILL demanded tellers.

Tellers were ordered, and the Chair appointed Mr. KNIFFIN and Mr. TABER to act as tellers.

The Committee again divided; and the tellers reported—ayes 151, noes 113.

So the amendment was agreed to.

Mr. MEAD. Mr. Chairman, I offer the following committee amendment, which I send to the desk.

The Clerk read as follows:

Committee amendment offered by Mr. MEAD as an amendment to the amendment offered by Mr. COCHRAN: After subdivision 4 of section 1 (a) insert the following:

"(5) Section 404, as amended (U. S. C., 1934 ed., title 5, sec. 127), is amended by inserting at the end thereof the following:

" 'Whenever the employment of any person is terminated by a reduction of personnel as a result of an order of the President under the authority of this act, such personnel shall thereafter be given preference, when qualified, whenever an appointment is made in any agency, but such preference shall not be in force for a period longer than 12 months from the date of the employment of such person is terminated as a result of such order.' "

Mr. MEAD. Mr. Chairman, I do not believe this amendment will require much explanation. It is offered to take care of employees in the civil service who are furloughed as a result of a consolidation or merging of agencies. In other words, if a number of employees are temporarily furloughed as a result of a consolidation, they will be given preference insofar as reinstatement is concerned within a period of 12 months.

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

Mr. MEAD. Yes.

Mr. SNELL. Will the gentleman amend his amendment limiting it to the civil-service employees?

Mr. MEAD. This is to cover any employee who has been dropped as the result of an order by the President.

Mr. SNELL. Yes; but that might include these 300,000 new employees not yet under civil service, and give them preference over regular civil-service employees.

Mr. MEAD. Not at all.

Mr. SNELL. If it would not, just put it into the amendment, and we will accept it.

Mr. MEAD. We are not giving the President authority to merge temporary agencies. They are not continued or prolonged by this bill. This applies to permanent agencies, and in the permanent agencies of the Government they are in most part under the civil service.

Mr. TABER. Oh, they are not. There are hundreds and thousands of employees in the Treasury Department who are not under civil service.

Mr. MEAD. I am talking about those agencies that may be subject to merging and consolidation, as prescribed in the bill. Agencies which were considered by President Hoover in 1932 and President Roosevelt in 1933.

Mr. SNELL. But it is proposed in what the gentleman has told us to move the Public Health Service, and there are a lot of them there.

Mr. MEAD. This amendment was presented by representatives of a civil-service organization, and it is presented in their behalf.

Mr. SNELL. To relieve all argument, why not put that in there and that will stop the argument. There will be no objection. If the gentleman is honest about it, put it in.

Mr. MEAD. I presented this amendment to the committee, as I said a moment ago, coming as it does from the civil-service employees' spokesman. I believe it applies only to the civil-service employees.

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

Mr. MEAD. Yes.

Mr. HARLAN. How was that similar provision phrased in the Senate bill? That provision was included in the Senate bill.

Mr. MEAD. This is the language of the Senate bill.

Mr. SNELL. Let us write in the law what we mean. That seems to me no more than right.

Mr. MEAD. I cannot see any need for it, and I have not the authority of the committee to offer an amendment to this amendment. I believe there is much ado about nothing. This is an amendment that protects the civil-service employees. It is in the Senate bill, and why it should be amended I really cannot tell.

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

Mr. MEAD. I think the gentleman is unduly alarmed.

Mr. SNELL. But the President may blanket all of these 300,000 employees into the civil service, and then they would all be protected by this amendment.

Mr. MEAD. I cannot see any danger or any harm in it. It is presented by the friends of the civil service. It is the same amendment that was adopted by the Senate. I cannot see where it is going to do any damage or harm.

Mr. SNELL. If it does not do any harm, why not include in the amendment words to make it say what the gentleman means?

Mr. MEAD. I imagine that is what the amendment really does say; and that is what I mean.

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

Mr. MEAD. I yield.

Mr. HARLAN. On page 5, line 15, the language of the bill passed by the Senate reads:

(g) Whenever the employment of any person is terminated by a reduction of personnel as a result of an order of the President under the authority of this title or title III, such person shall thereafter be given preference, where qualified, whenever an appointment is made in any agency; but such preference shall not be in force for a period longer than 12 months from the date the employment of such person is terminated as a result of such order.

Mr. MEAD. It occurs to me that we had the same language in the original economy bill; it is now in the amended bill. For the life of me I cannot see any reason why we ought to amend it at this late moment without knowing more about what we are doing.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The amendment was agreed to.

Mr. WARREN. Mr. Chairman, I offer a committee amendment.

The Clerk read as follows:

Committee amendment offered by Mr. WARREN as an amendment to the amendment offered by Mr. COCHRAN: Strike out section 5, page 45, and insert the following:

"SEC. 5. The Secretary of Welfare shall administer the laws relating to any agency or function transferred to, or brought within the jurisdiction and control of, the Department of Welfare pursuant to law, which relate to public health and sanitation; the protection of the consumer; the relief of unemployment and of the hardship and suffering caused thereby; the relief of the needy and distressed; the assistance and benefits of the aged; and the relief and vocational rehabilitation of the physically disabled: *Provided*, That nothing in this section shall be construed to authorize the continuation of any temporary agency or function beyond the period authorized by law."

Mr. WARREN. Mr. Chairman, this is a rewriting of the standards set up in section 5 of the department of welfare.

We omitted, as we assured the House we would, the word "education" from these standards. Not only that, we have rewritten the standards and have struck out section 5 of the House bill. I think everyone will agree that the standards proposed in the amendment I have just offered are far preferable to the ones contained in section 5.

There has been some criticism of the word "promote" as now contained in section 5; that is, that the secretary of welfare "shall promote the public health, safety", and so forth, of these agencies that might come under him; while, under the terms of the amendment I have just offered, we provide that the secretary of welfare shall administer the laws—catch that—the laws relating to any agency or function transferred to it.

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

Mr. WARREN. I yield.

Mr. WHITTINGTON. If the gentleman's amendment is adopted will we not be in the position of having created a department without any functions whatsoever unless some function is transferred to it from some other department?

Mr. WARREN. That is absolutely correct; and, of course, the whole argument for the department is that we have 26 different and distinct agencies of government handling welfare problems.

Another thing we have done by this revised draft is to include a proviso:

That nothing in this section—

Mark this if you will—

Nothing in this section shall be construed to authorize the continuation of any temporary agency or function beyond the period authorized by law.

Under the standards we now propose to set up, Mr. Chairman, we must, therefore, enact laws to put anything under this department, or some agency already created by law must be transferred to it. I think it is a vast improvement over our present section 5.

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

Mr. WARREN. I yield.

Mr. CASE of South Dakota. What would the gentleman say as to whether under the wording of the section the Office of Indian Affairs and the Farm Security Administration could be transferred to this department under the interpretation that they provided for the relief of the needy?

Mr. WARREN. I do not know, of course, what might be in the mind of the President, nor does anyone else, about the transfer of these agencies; but under no construction could the Farm Security Administration or anything like that be put under the department of welfare.

Mr. CASE of South Dakota. I did not catch the wording of the first part of the amendment. Would it affect the laws relating to any of these agencies, would it necessarily include the Bureau of Indian Affairs?

Mr. WARREN. I do not know whether Indian Affairs would come under this or not. Personally I do not think it would.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina?

The amendment was agreed to.

Mr. COLMER. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. COLMER: Page 43, line 24, after the words "the General Accounting Office" insert a comma and the words "Veterans' Administration."

Mr. FRED M. VINSON. Mr. Chairman, we accept that amendment.

The amendment was agreed to.

Mr. GIFFORD. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. GIFFORD: Page 44, line 6, after the word "act" in subsection (b) of the amendment offered by Mr. COCHRAN, strike out the period, insert a comma and add the words "and accompanied with a reasonably detailed report showing the increase or decrease in expenditures which will result from such order."

Mr. GIFFORD. Mr. Chairman, I will not consume any time if the members of the Committee on that side of the aisle will accept the amendment. While they are considering acceptance, I would remind the House that this is a simple amendment. When the President transmits to the Congress his report, he shall simply send in a reasonably detailed statement as to the decrease or the increase in the expenses of the change proposed. This amendment was debated in another body. At the moment, I cannot say whether this was adopted or not, this being an entirely new measure in the House, but the very first phraseology of the act of 1933 reads as follows:

To reduce expenditures to the fullest extent consistent with the efficient operation of the Government.

I am sure any message from the President recommending transfers and setting up new organizations should be accompanied with a statement to the Congress as to whether there is any economy to be effected or not.

I do not see how anyone could possibly vote against this amendment or oppose it. It merely provides for an estimate which the President should furnish anyway.

I want to picture to you briefly the situation when my State reorganized and put 90 bureaus under 19 department heads. The heads named 19 new positions who were political appointees who knew nothing about the activities of any of the 15 or 20 bureaus under each of them. Therefore they had to have new officers and a new set of advisers to watch over the 90 departments.

I was in that legislative body at the time the act was passed, and many of us have been inquiring diligently ever since concerning the situation which developed. That act was put through with a distinct thing in view; that is, that the heads of the new departments should roll, and they did roll. When the old bureaus were transferred and a new political head put over them there was no economy effected, you may be sure. They still have to have supervisors for the 90 departments which the State had previously and painstakingly set up. In this instance, too, the different agencies will be put under one head who will be under the control of the President in the name of economy you say. I am unwilling that this thing shall be done in the name of economy since economy will not result.

The amendment which I have offered would simply ask the President to say reasonably to us whether or not there will actually be economy in the transaction. Later we will talk about the transfer of functions, where the heads will roll.

Again may I say, Mr. Chairman, the amendment I have offered is simple, and I cannot believe that the Committee will not accept it.

Mr. FRED M. VINSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I feel certain this body does not want to lay the groundwork for opposition to reorganization of the executive agencies embraced herein if it may be determined by a vote of the House and Senate, together with the signature of the Executive, that this proposed legislation should become law. The gentleman from Massachusetts knows, as we all know, that this bill does not give the power to the Chief Executive to increase the functions or to add to statutory law. The appropriations by the House and the Senate, signed by the President, determine whether there will be an increase or decrease in the money spent to carry on the activities of government. In my opinion, this amendment would just simply embarrass and hamstring the Executive in respect of reorganization.

It would be a most difficult matter to prepare such a "detailed statement," particularly if there were consolidations of agencies. Some time necessarily would elapse before the savings, if any, could be effected. If an estimate were made at the time of the presentation of the reorganization program to Congress, and the exact number of dollars were not saved, then they would refer to this "reasonably detailed statement" that the Chief Executive had made upon a former occasion.

In my opinion, efficiency in government cannot mean anything except economy. Of course, figures have not been submitted as to the amount of money that will be saved under

this bill, because the program has not been worked out, but we know from our experience as legislators that if you have efficiency, if you promote efficiency, you must necessarily save money. Even though no money was saved, increased efficiency would spell better government. I therefore ask, Mr. Chairman, that the amendment be defeated.

Mr. WADSWORTH. Will the gentleman yield?

Mr. FRED M. VINSON. I yield to the gentleman from New York.

Mr. WADSWORTH. In view of the fact the committee has just agreed to the proposition that an order of the President may be disapproved by concurrent resolution, which, of course, must be submitted to the Congress, does not the gentleman believe the Congress in that event should have the benefit of this information?

Mr. FRED M. VINSON. The Congress then would make effort to secure this information and much other information; but if we agreed to this amendment, would it make any difference to the gentleman from New York in regard to his attitude on this bill?

Mr. WADSWORTH. No; not as far as this bill is concerned, but it might if I were voting on a concurrent resolution.

[Here the gavel fell.]

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Massachusetts [Mr. GIFFORD].

The question was taken; and on a division (demanded by Mr. GIFFORD), there were—ayes 52, noes 121.

So the amendment was rejected.

Mr. DIES. Mr. Chairman, I move to strike out the last two words.

The CHAIRMAN. The Chair feels constrained at this time to recognize first gentlemen who are offering amendments.

Mr. MURDOCK of Utah. Mr. Chairman, I offer an amendment which is on the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. MURDOCK of Utah to the amendment offered by Mr. COCHRAN: On page 43, line 24, after the comma, following the word "office" insert "the Forest Service of the Department of Agriculture."

Mr. MURDOCK of Utah. Mr. Chairman, the purpose of this amendment is very simple. If adopted, the amendment will simply exempt the Forest Service from the application of this legislation, if and when it is passed and becomes law.

I do not believe in our entire Government there is a department, a bureau, or an agency that has discharged its functions and duties with a higher type of efficiency, fidelity, and integrity than the Forest Service has shown. In the State of Utah it is one of the most important governmental agencies we have. In the control of our watersheds, in the reforestation of our watersheds, in the control of erosion, and in the control of floods, our very existence is absolutely dependent on the functions of the Forest Service of this Government.

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

Mr. MURDOCK of Utah. I yield to the gentleman from Ohio.

Mr. McSWEENEY. Is forestry a distinctly agricultural program?

Mr. MURDOCK of Utah. In answer to the gentleman I may say there is no function performed by the Forest Service that is not absolutely and exclusively agricultural. The Service is under the Department of Agriculture, and that is where it belongs.

My only reason for offering the amendment at this time is that there has been considerable controversy between two of the executive departments over the Forest Service. The Department of Agriculture wants to retain it, while another Department wants to take it over and absorb it. The Senators in favor of this amendment were assured they need have no apprehension about a transfer. We on this side have been assured that the Forest Service would in all probability remain where it is. If this is the attitude of the committee handling this legislation and if it is the attitude of the Senate, why not put this amendment into the bill and relieve the fear and apprehension about the Forest Service being transferred?

Another observation I desire to make is that the Forest Service is one of the most decentralized Federal agencies in the United States Government. Its personnel is of the highest type to be found in any governmental agency. The Forest Service should not be transferred. We should relieve the fear and apprehension of those splendid ladies and gentlemen who make up its personnel and by so doing reward them for their splendid and efficient service by leaving them where they are to continue their efficient and important functions as they have in the past.

Mr. ANDRESEN of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. MURDOCK of Utah. I yield to the gentleman from Minnesota.

Mr. ANDRESEN of Minnesota. Does the gentleman know whether the Secretary of Agriculture favors this amendment?

Mr. MURDOCK of Utah. I am sure he does. I have not been contacted by him. I believe the Department is willing to leave it up to our good judgment.

Mr. COFFEE of Washington. Mr. Chairman, will the gentleman yield?

Mr. MURDOCK of Utah. I yield to the gentleman from Washington.

Mr. COFFEE of Washington. Is it not a fact that all the friends of forest conservation in the United States favor the retention of the Forest Service in the department where it is now?

Mr. MURDOCK of Utah. I was contacted yesterday by the secretary of an association of national importance that has forest conservation in view, and the members of that association are apprehensive that something may be done to destroy or in some way interfere with the efficient functioning of this great governmental agency.

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

Mr. MURDOCK of Utah. I yield to the gentleman from North Carolina.

Mr. WARREN. I hope the gentleman from Utah did not mean to convey the impression the Secretary of Agriculture favors the gentleman's amendment.

Mr. MURDOCK of Utah. I did not say that.

Mr. WARREN. I wish to assure the gentleman that when the Senate struck out of their bill the provision which would have changed the name of the Department of Interior, the Secretary of Agriculture then strongly endorsed the bill.

Mr. MURDOCK of Utah. I may say to the gentleman from North Carolina that in my opinion, if the Secretary of Agriculture deemed it prudent and discreet to come up here and tell you what he wanted, he would tell you he favored my amendment. I have no doubt on that. For the reasons herein referred to and many others which could be mentioned, time permitting, and on account of the splendid work they have done, and because of the controversy that exists today between one department and another over this agency, I believe my amendment should be adopted. (Applause.)

Mr. COCHRAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, when this amendment was offered to the bill last August I opposed it. I pointed out over 20 government agencies are today handling our forest lands. The outstanding lobbyist in the government service today is the Forest Service. I will prove that beyond question with photostatic copies of letters their organizations sent to every State conservation commission in the Union from the day the question of reorganization was mentioned. Only yesterday I received another letter sent to every member of Congress showing they continued their opposition up to the moment we started to read the bill.

Mr. MURDOCK of Utah. Mr. Chairman, will the gentleman yield?

Mr. COCHRAN. I am sorry. Not right now.

At the time our bill was pending last August the Secretary of Agriculture had not spoken but the Forest Service had spoken. It went out into my own State to my governor and others and tried to bring pressure to bear upon me from people interested in conservation. I yield to no man in this House or in this country when it comes to taking an interest in conservation.

On February 22 the Secretary of Agriculture personally issued a statement which I have placed in the RECORD, and it will be found on page 749 of the Appendix of the RECORD. In that statement the Secretary in no uncertain terms said, "Let the bill pass. It will be beneficial rather than harmful to conservation," or words to that effect. That is the position of the Secretary of Agriculture, and no one can deny he is not one of the outstanding conservationists of this country. He openly declared in favor of the bill without the Forest Service being exempted.

Mr. MURDOCK of Utah. Mr. Chairman, will the gentleman yield to me now?

Mr. COCHRAN. I regret I do not have the time.

Mr. MURDOCK of Utah. Will the gentleman yield at all?

Mr. COCHRAN. I have the RECORD of that date here now, and anyone who wants to read the Secretary's statement can read it. I am sorry I do not have time to do so.

May I say that when Government employees spend their time and money—and lots of them are spending the Government's time—in sending propaganda throughout this country in an attempt to undermine an effort to properly reorganize the conservation activities of this Government, they are doing something they should not be permitted to do.

I know that a great majority of the members of this forestry organization are Government employees.

Now, Mr. Chairman, with all the facts in reference to all of the agencies scattered all over Washington handling our conservation activities duplicating efforts, there is absolutely no reason in the world why they should not be under one head. No matter what you do with them, but bring them together and place them under one head. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah [Mr. MURDOCK].

The question was taken; and on a division (demanded by Mr. MURDOCK of Utah) there were—ayes 63, noes 109.

So the amendment was rejected.

Mr. MOTT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MOTT to the amendment offered by Mr. COCHRAN: On page 43, line 24, after the word "office" insert "the Forest Service, the Biological Survey and the Soil Conservation Service, all in the Department of Agriculture."

Mr. MOTT. Mr. Chairman, the amendment of the gentleman from Utah [Mr. MURDOCK] to exempt the Forest Service from the provisions of this bill has been voted down. My amendment includes exemption not only of the Forest Service but also the Bureau of Biological Survey and the Soil Conservation Service. I endorse what the gentleman has said and I wish to make some further observations on that subject, notwithstanding the vote on his amendment.

These are all bureaus of the Department of Agriculture and they are all purely agricultural activities. They should not be transferred to any other Department under any reorganization scheme, and I hope the House may see fit to give them the protection asked for in this amendment.

It was stated here a moment ago that there was no danger of the Forest Service or any of the other services now belonging to the Department of Agriculture being transferred from that Department. That definitely, in my opinion, is not the case. There is very definite danger of such a transfer if this reorganization bill should become law. Everyone who is familiar with the controversy which has existed for years between the Secretary of Agriculture and the Secretary of the Interior knows perfectly well that if the Secretary of the Interior under a reorganization bill has an opportunity to absorb these agencies into the Department of the Interior he is going to do so. Anyone who does not know that does not know the Secretary of the Interior.

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

Mr. MOTT. I yield to the gentleman from Iowa.

Mr. DOWELL. Unless this amendment of the gentleman from Oregon is adopted, this transfer may be made to some other Department?

Mr. MOTT. Unless this amendment is adopted, I think I can say to the gentleman from Iowa that the Forest Service, and possibly these other two services, not only may be but will be transferred to the proposed new department of conservation. The Secretary of the Interior has had a bill introduced to change the name of the Interior Department to the department of conservation.

Everyone from the land-grant States knows this, and everyone who is interested in forestry knows this. It has been the ambition of the Secretary of the Interior for 5 years to do this. He already has the approval of the President, in my opinion. One of his counselors, Mr. Rufus Pool, last year stated this before the Public Lands Committee in the hearings on the Oregon and California land-grant bill. He stated that if the reorganization bill should pass that transfer is going to take place. That, he said, had already been decided upon, and he said this as the representative of the Secretary of the Interior. His statement appears in the printed hearings, and it is definite and unequivocal.

It was also stated on the floor a moment ago that only those Government employees interested in forestry were particularly interested in this matter, and that they were the only ones who were paying very much attention to this bill. I have a list here of nearly 100 organizations throughout the country which are very much interested in this and which are very much opposed to the transfer of the Forest Service, the Soil Conservation Service, and the Biological Survey to the Department of the Interior, and I want to include the names of these organizations as a part of my remarks. They are the following:

ORGANIZATIONS WHICH HAVE TAKEN THE STAND THAT IN ANY REORGANIZATION OF THE GOVERNMENT FORESTRY, WILDLIFE, AND SOIL CONSERVATION SHOULD BE RETAINED IN THE DEPARTMENT OF AGRICULTURE

American Association for the Advancement of Science, Dr. F. R. Moulton, permanent secretary, 327 South LaSalle Street, Chicago, Ill.

American Coalition of Patriotic, Civic, and Fraternal Societies, John B. Trevor, president, Southern Building, Washington, D. C.

American Farm Bureau Federation, Edward A. O'Neal, president, 58 East Washington Street, Chicago, Ill.

American Forestry Association, James G. K. McClure, president, 919 Seventeenth Street NW., Washington, D. C.

American Nature Association, Arthur Newton Pack, president, 1214 Sixteenth Street NW., Washington, D. C.

American Paper & Pulp Association, Charles W. Boyce, executive secretary, 122 East Forty-second Street, New York, N. Y.

American Pulpwood Association, William P. Good, executive secretary, 220 East Forty-second Street, New York, N. Y.

American Wildlife Institute, Henry P. Davis, secretary, Investment Building, Washington, D. C.

Angeles Forest Protective Association, C. E. Groninger, secretary, Glendora, Calif.

Appalachian Mountain Club, Irving Meredith, recording secretary, 5 Joy Street, Boston, Mass.

Appalachian Section of the Society of American Foresters, Norman E. Hawes, secretary, Appalachian Forest Experiment Station, Box 252, Asheville, N. C.

Arkansas State Forestry Commission, Charles A. Gillett, State Forester, Little Rock, Ark.

Blackfoot Forest Protective Association, Roscoe Haines, secretary, Bonner, Mont.

California State Chamber of Commerce, Charles G. Dunwoody, Ferry Building, San Francisco, Calif.

Camp Fire Club of America, William B. Greeley, chairman, Committee on Conservation of Forests and Wildlife, 150 Broadway, New York, N. Y.

Central Association of Science and Mathematics Teachers, Fred Schriever, Boys' Technical High School, 319 West Virginia Street, Milwaukee, Wis.

Colorado Federation of Women's Clubs, Mrs. E. W. Simmons, conservation chairman, 3902 Meade Street, Denver, Colo.

Colorado Game and Fish Commission, Roland G. Parvin, State Capitol, Denver, Colo.

Colorado Junior Chamber of Commerce, James E. McMullen, 1031 United States National Bank Building, Denver, Colo.

Colorado State Forestry Association, P. L. Clarke, secretary, 5059 Osceola Street, Denver, Colo.

Connecticut Forest and Park Association, Edgar L. Heermance, secretary, 215 Church Street, New Haven, Conn.

Conservation Association of Los Angeles County, George H. Cecil, executive secretary, 1151 South Broadway, Los Angeles, Calif.

Contra Costa County (Calif.) Development Association, care of Chamber of Commerce, Berkeley, Calif.

Council for Preservation of Natural Beauty in Pennsylvania, Mrs. A. B. Ross, vice chairman, 447 East Mount Airy Avenue, Philadelphia, Pa.

Dude Ranchers Association, I. H. Larom, president, Valley, Wyo.

Farmers Federation, Inc., James G. K. McClure, president, Asheville, N. C.

Farmers Union, H. W. Thatcher, Washington representative, 423 East Leland Street, Chevy Chase, Md.

General Federation of Women's Clubs, Mrs. Roberta Lawson, president, 1734 N Street NW., Washington, D. C.; Mrs. H. G. Bogert, chairman of conservation, 581 Gibson Street, Akron, Colo.

Georgia Forestry Association, T. G. Woolford, president, Atlanta, Ga.

Illinois State Academy of Science, Theodore H. Frison, chairman, conservation committee, Urbana, Ill.

Iowa Farm Bureau Federation, Francis Johnson, president, Valley Bank Building, Des Moines, Iowa.

Iowa State College Conservation Association, Ray Adolphson, president, Iowa State College, Ames, Iowa.

Izaak Walton League of America, Inc., George W. Wood, president, Waterloo, Iowa; S. B. Locke, conservation director, Merchandise Mart, Chicago, Ill.

Kansas Farm Bureau, Dr. O. O. Wolf, president, Ulrich Building, Manhattan, Kans.

Los Angeles Chamber of Commerce, Dr. George P. Clements, manager, Agricultural Department, Los Angeles, Calif.

Los Angeles County Conservation Association, W. S. Rosecrans, president, Chamber of Commerce Building, Los Angeles, Calif.

Lumber Manufacturers Association of Southern New England, Theodore L. Bristol, secretary, Ansonia, Conn.

Massachusetts Conservation Council, Harris A. Reynolds, secretary-treasurer, 3 Joy Street, Boston, Mass.

Massachusetts Forest and Park Association, Harris A. Reynolds, secretary, 3 Joy Street, Boston, Mass.

Michigan Academy of Science, Art, and Letters, University of Michigan, Ann Arbor, Mich.

Michigan Association of Municipal, County, and Public Utility Foresters, Karl Dressel, secretary, Michigan State College, East Lansing, Mich.

Michigan Audubon Society, Frank L. DuMond, president, Grand Rapids Public Museum, Grand Rapids, Mich.

Michigan Forestry Association, Paul A. Herbert, Michigan State College, East Lansing, Mich.

Michigan State Farm Bureau, C. L. Brody, executive secretary, 221-227 North Cedar Street, Lansing, Mich.

Mississippi Valley Association, Lachlan Macleay, 511 Locust Street, Chamber of Commerce Building, St. Louis, Mo.

Missouri Farm Bureau Federation, R. W. Brown, president, 208-210 East Capitol Avenue, Jefferson City, Mo.

National Cooperative Council, Robin Hood, 1731 I Street NW., Washington, D. C.

National Council of State Garden Clubs, Inc., Mrs. Kemble White, conservation chairman, Stonewall Jackson Hotel, Clarksburg, W. Va.

National Grange, Louis J. Taber, master, 970 College Avenue, Columbus, Ohio.

National Lumber Manufacturers Association, Dr. Wilson Compton, 1337 Connecticut Avenue, Washington, D. C.; James G. McNary, president, 1611 West Copper Avenue, Albuquerque, N. Mex.

National Retail Lumber Dealers Association, Union Trust Building, Washington, D. C.

National Wool Growers Association, F. R. Marshall, secretary, 509 McCormick Building, Salt Lake City, Utah.

National Hardwood Lumber Association, 2408 Buckingham Building, Chicago, Ill.

Natural Science Club of Manchester, N. H., Miss Helen M. Moore, secretary, 196 Lowell Street, Manchester, N. H.

Nederland Fish and Game Club, George A. Goddard, secretary, Nederland, Colo.

New York State Farm Bureau Federation, E. S. Foster, general secretary, Roberts Hall, Cornell University, Ithaca, N. Y.

North Carolina Forestry Association, R. W. Graeber, secretary, State College Station, Raleigh, N. C.

North Idaho Forestry Association, E. C. Rettig, secretary, Lewiston, Idaho.

Ohio Farm Bureau, Perry L. Green, president, 246 North High Street, Columbus, Ohio.

Ohio Forestry Association, Bernard E. Leete, president, Chillicothe, Ohio.

Pacific Forest Industries, Axel H. Oxholm, managing director, Tacoma, Wash.

Pacific Logging Congress, Guarantee Trust Building, Portland, Oreg.

Pennsylvania Forestry Association, H. Gleason Mattoon, president, 306 Commercial Trust Building, Philadelphia, Pa.

Provo (Utah) Conservation Association, Mark Anderson, secretary, Provo, Utah.

Providence Garden Club, Marian White Little, 346 West Baltimore Avenue, Media, Pa.

Railway Tie Association, Roy M. Edmonds, secretary-treasurer, 903 Syndicate Trust Building, St. Louis, Mo.

Restoration and Conservation Federation, E. Sydney Stephens, president, Columbia, Mo.

San Diego Society of Natural History, Dr. Clinton G. Abbott, secretary, Balboa Park, San Diego, Calif.

Santa Barbara County Board of Forestry, courthouse, Santa Barbara, Calif.

Society of American Foresters, Prof. C. F. Korstian, Duke University, Durham, N. C.; Henry Clepper, executive secretary, Mills Building, Washington, D. C.

Society for the Protection of New Hampshire Forests, Allen Hollis, president, Concord, N. H.; Laurance W. Rathbun, forester, 23 School Street, Concord, N. H.

Spokane Chamber of Commerce, E. R. Edgerton, chairman, Timber Products Bureau, Spokane, Wash.

Tahoe Livestock Association, California, Vernon Stoll, Nevada City, Calif.

Tuolumne County Chamber of Commerce, H. H. Sherrard, secretary, Sonora, Calif.

Union of Biological Societies, E. V. Cowdry, Washington University, St. Louis, Mo.

Upper Peninsula Development Bureau, George E. Bishop, secretary-manager, Marquette, Mich.

Utah Federation of Women's Clubs, Mrs. C. J. Sumner, chairman, conservation committee, Richfield, Utah.

Wasatch (Utah) Woolgrowers Association, Jas. A. Hopper, 408 Vermont Building, Salt Lake City, Utah.

Washington State Forestry Conference, Dean Hugo Winkenwerder, president, 949 Henry Building, Seattle, Wash.

West Coast Lumbermen's Association, Col. W. B. Greeley, secretary-manager, 364 Stuart Building, Seattle, Wash.

West Virginia Affiliated Sportsmen's Association, D. E. Dean, president, Richwood, W. Va.

Western Pine Association, Clyde S. Martin, Yeon Building, Portland, Oreg.

Wisconsin Wildlife Federation, Louis Radke, Horicon, Wis.

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

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

Mr. McSWEENEY. Is not that a list compiled by the American Forestry Association?

Mr. MOTT. It was compiled by the American Forestry Association.

Mr. McSWEENEY. And the list is very authentic?

Mr. MOTT. Yes; it is entirely authentic.

Now, in the time remaining, if anyone else has questions he desires to ask on this point, I shall be very glad to try to answer them.

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

Mr. MOTT. I yield to the gentleman from Washington.

Mr. LEAVY. Is there any basis in fact for the statement that the Forest Service employees anywhere in the western region have been given either to propaganda or to getting out and trying to develop a certain line of political activity?

Mr. MOTT. I am quite sure that is not true. The Forestry Service employees are about the best politically minded of all Federal employees. We have even had difficulty in getting the forestry people to come before the Public Lands Committee when the Oregon and California land-grant bill was under consideration, because a controversial question of departmental jurisdiction was involved in those hearings. They would not appear and give testimony before the committee without the permission of their own Department heads, and they were very careful to avoid discussion of departmental politics. I am sure they have never taken any part in any of this alleged propaganda. The anxiety over this transfer comes from the people themselves who are interested in seeing that our forests and wildlife resources are properly protected.

Mr. LEAVY. And is it not a fact that the Forest Service employees represent as high a type of public servant as can be found anywhere in the United States?

Mr. MOTT. I think the Forest Service is the most efficient and competent agency of this Government, with the possible exception of the Corps of Army Engineers.

Mr. McSWEENEY. We who have been in the Congress during the last 10 years had as one of our colleagues a distinguished ranger, Mr. Scott Leavitt, who served here for many years and is a fine example of the type of men we have in this Service.

Mr. MOTT. A very fine example indeed, and a distinguished Member of this body.

Mr. MURDOCK of Arizona. Mr. Chairman, will the gentleman yield?

Mr. MOTT. I yield to the gentleman from Arizona.

Mr. MURDOCK of Arizona. I wish to add to the gentlemen's statement that my State has nine great national forests in it and I have heard of no propaganda from any of those engaged in that Service.

Mr. MOTT. I am sure no propaganda has come from the gentleman's State, nor from my own, nor from any of the States where the great national forests are located.

[Here the gavel fell.]

The CHAIRMAN. The Chair recognizes the gentleman from Missouri for 5 minutes.

Mr. COCHRAN. Mr. Chairman, I am not going to consume 5 minutes. The same argument applies to this amendment that applied to the amendment to exempt the Forest Service; and in that connection let me say the Secretary of Agriculture specifically mentioned the Biological Survey and Soil Conservation as well as the Forest Service when he told the public there was no danger of conservation suffering if this legislation were enacted into law.

I hope the amendment is defeated.

The CHAIRMAN. Time for debate on this amendment has expired.

The question is on the amendment offered by the gentleman from Oregon.

The amendment was rejected.

Mr. WARREN. Mr. Chairman, I desire to propound a unanimous-consent request. Three amendments are now pending, all of which have been debated at considerable length, beginning shortly after we went into the Committee this morning.

I ask unanimous consent that we may now be permitted to vote on the three pending amendments. This would not preclude any Member of the House continuing to offer amendments to the pending bill.

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

Mr. WARREN. Certainly.

Mr. CROSSER. If one of the amendments happens to be adopted, we could not then offer further amendments to it.

Mr. WARREN. Yes; further amendments could be offered.

Mr. CROSSER. I have just been informed they could not.

Mr. WARREN. All I am asking is that we dispose of these three amendments. I will withhold the Cochran amendment from my request.

Mr. CROSSER. I want to offer an amendment to the Kniffin amendment.

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

Mr. WARREN. I yield.

Mr. MOTT. What three amendments are pending?

Mr. WARREN. The Cochran amendment is pending, the Taber amendment is pending, and the Boileau amendment is pending.

Mrs. ROGERS of Massachusetts. Mr. Chairman, will the gentleman from North Carolina yield?

Mr. WARREN. I yield.

Mrs. ROGERS of Massachusetts. If we vote on these amendments could I offer an amendment to the Cochran amendment exempting the Civil Service Commission from the provisions of the bill?

Mr. WARREN. That would not preclude the gentlewoman from Massachusetts in any way. I am asking unanimous consent that we vote now on the Taber amendment and on the Boileau amendment.

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

Mr. WARREN. I yield.

Mr. CROSSER. Would the gentleman be willing to grant unanimous consent that I may offer an amendment to the Kniffin amendment to strike out paragraph (c) so I may have an opportunity to discuss it?

Mr. WARREN. I understand that my request in no way precludes the gentleman from Ohio.

Mr. CROSSER. I would like a ruling from the Chair.

Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CROSSER. We are in some difficulty about this. It is very difficult to amend this bill because you have got to look in the report to see what the bill really is, and with all these amendments one has a good deal of difficulty in following the reading clerk. What I wanted to do was to amend what appears on page 16 of the report as a part of the bill by striking out paragraph (c) of 403 under the title "Power of the President," which is one line; but I want to offer an amendment and to be heard on it.

The CHAIRMAN. The Chair will state that the Chair understands the unanimous-consent request of the gentleman from North Carolina to be that the committee now proceed to vote upon the Boileau substitute and the amendment offered by the gentleman from New York. The Chair calls attention to the fact, however, that if that is done other substitutes may be offered.

Mr. WARREN. I fully understand that, Mr. Chairman.

The CHAIRMAN. If the unanimous-consent request is agreed to that will not preclude the gentleman from Ohio offering amendments to the Cochran amendment.

Mr. BOILEAU. Mr. Chairman, reserving the right to object, I have a desire to cooperate with the gentleman from North Carolina in this respect, but my substitute amendment is rather lengthy and was offered some time ago. A great many Members have asked me in the last couple of hours when my amendment was going to be voted on. I would like 5 minutes in which to explain my amendment and to show wherein it differs from the Cochran amendment. If I may have 5 minutes, not for the purpose of argument but for the purpose of explaining the provisions of the amendment, I shall not object.

Mr. WARREN. I am perfectly willing that the gentleman have 5 minutes if we may have 5 minutes in reply.

Mr. BOILEAU. That is satisfactory to me.

Mr. MARTIN of Massachusetts. Mr. Chairman, reserving the right to object, will the gentleman inform the House how much longer the Committee is going to run tonight?

Mr. WARREN. That depends entirely upon what we can do in the way of reaching a vote on these amendments. I am unable to inform the gentleman at the present time.

Mr. PACE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PACE. The first amendment adopted this afternoon was with reference to education, an amendment to section 403. The second amendment adopted this afternoon struck out section 403 entirely. My parliamentary inquiry is: What is the status of the amendment dealing with the exclusion of education, in which we are all very much interested?

Mr. WARREN. Mr. Chairman, I am fully conversant with the point just made by the gentleman from Georgia. It is my purpose, before we leave title I, to correct that.

Mr. PACE. I understand the gentleman's request was to vote on the three amendments but I wanted to know the status of the amendments.

The CHAIRMAN. The unanimous-consent request of the gentleman from North Carolina was confined to the substitute amendment offered by the gentleman from Wisconsin and the amendment to the substitute offered by the gentleman from New York.

Mr. RAYBURN. And that debate on the amendments be fixed at 10 minutes.

The CHAIRMAN. And that the debate on the substitute and all amendments thereto be limited to 10 minutes. Is there objection?

Mr. PFEIFER. Mr. Chairman, reserving the right to object, I have an amendment pending on the Clerk's desk pertaining to the Cochran amendment.

The CHAIRMAN. The unanimous-consent request, if agreed to, would not disturb the gentleman's right to offer his amendment.

Mr. TARVER. Mr. Chairman, reserving the right to object for the purpose of propounding a parliamentary inquiry of the Chair.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. TARVER. In connection with the vote on the Boileau amendment which contains four parts, I desire to inquire whether or not there can be a division of the question under the rules, so as to permit a separate vote on part 3, which relates entirely to the department of welfare which it is proposed to set up, and which is a separate substitutive proposition dissociated from the other parts of the Boileau amendment, or whether it will be necessary to offer an amendment to the Boileau amendment in order to have that question voted on?

The CHAIRMAN. The Chair wants to be certain that he understands the gentleman's inquiry. The gentleman's inquiry is whether or not on part 3 of the Boileau amendment a separate vote may be demanded?

Mr. TARVER. Whether or not when the Committee of the Whole votes on the Boileau amendment a Member may be entitled as a matter of right to ask for a division of the question, and if part 3 of the Boileau amendment, which relates entirely to the proposed department of welfare, may be voted on separately from the other three portions of the Boileau amendment?

The CHAIRMAN. Specifically, the gentleman's inquiry is whether a separate vote may be had on the department of welfare section of the Boileau amendment?

Mr. TARVER. That is correct.

The CHAIRMAN. The Chair may say that if such a division is demanded under the rules, the Chair, feeling that is distinct in substance from other parts of the amendment, the gentleman would be entitled to a separate vote and the Chair would so rule. When the Chair states that the gentleman would be entitled to a separate vote, what the Chair means was a division of the amendment.

Mr. TARVER. That I understand is what is provided by the rules when the proposition involved is of a substitutive character which may be separated from other portions of the amendment.

The CHAIRMAN. The gentleman's understanding is also the understanding of the Chair.

Mr. BOILEAU. In that same connection, in the event a separate vote is allowed on various parts of my amendment and if part 3 were eliminated, could we still have a vote on the other parts?

The CHAIRMAN. If a division was demanded, the committee would naturally have to vote on the various portions. The Chair is not passing at the present time upon any other part of the gentleman's amendment as to whether or not it is divisible.

Mrs. ROGERS of Massachusetts. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentlewoman will state it.

Mrs. ROGERS of Massachusetts. If the Cochran amendment is agreed to, then may I offer an amendment to that?

The CHAIRMAN. Not after the amendment is agreed to; but the Chair may say the unanimous-consent request does not include the Cochran amendment.

Mrs. ROGERS of Massachusetts. How about the Boileau amendment?

The CHAIRMAN. The Boileau amendment and the Taber amendment thereto.

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

There was no objection.

Mr. BOILEAU. Mr. Chairman, I desire to have the Taber amendment disposed of first.

The CHAIRMAN. The question is on agreeing to the Taber amendment to the substitute offered by the gentleman from Wisconsin.

The question was taken; and on a division (demanded by Mr. TABER) there were—ayes 38, noes 105.

So the amendment to the substitute amendment was rejected.

Mr. FITZPATRICK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FITZPATRICK. Assuming the Boileau amendment is agreed to as a substitute for the Cochran amendment, when we go back into the House the Cochran amendment will not be before us and the amendments added today to the Cochran amendment would not be voted upon. We would only have before us, when we go back into the House, the Cochran amendment substituted by the Boileau amendment?

The CHAIRMAN. The Chair may say that if the substitute offered by the gentleman from Wisconsin is agreed to, the question would then recur on the adoption of the amendment offered by the gentleman from Missouri [Mr. COCHRAN], as amended by the substitute offered by the gentleman from Wisconsin. If that should be agreed to, then what would happen in the House the Chair is unable to state.

Mr. FITZPATRICK. When we go back into the House there will be one vote taken on the Cochran amendment. There will not be a separate vote on all the other amendments. What I am trying to get at is this: Every amendment to the Cochran amendment adopted here this afternoon would be out of the picture insofar as voting on them by the House is concerned.

The CHAIRMAN. If the Boileau substitute is agreed to and the Cochran amendment, as amended by the substitute, is agreed to, the gentleman's inquiry appears to the Chair to be correct.

Mr. BOILEAU. Mr. Chairman, there has been some misunderstanding about the effect of this amendment. I am going to try my very best in the few minutes I have to explain exactly what is in this amendment, so you may not be laboring under a misimpression at the time the vote comes.

My amendment takes along in its entirety the first title of the committee print you have in your hand, as a substitute for the amendment offered by the gentleman from Missouri, with the exception of the corrections, to which I will call your attention. On the first page of the committee bill, where the Federal Trade Commission and these other agencies are excluded, my amendment also excludes the Veterans' Administration. It carries that provision, so that is in my substitute amendment. Then, on the third page, in section 5 of the bill, I strike out the words "the cause of education" and also the word "education", in the last line of that section. This is not exactly the same complicated language contained in the committee's amendment to the amendment, but the sense of it is there, and there is no question but that everyone will know and the conferees will know exactly what we mean. The committee might have refined the language somewhat, but they did not do anything they could not do in conference. I submit that by striking out the words "the cause of education" and the word "education" we have taken care of that situation. My amendment also takes care of the Veterans' Administration.

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

Mr. BOILEAU. Not until I have explained this amendment, and then I shall be pleased to yield if I have time.

Coming back to the principal part of my amendment, which differs from the Kniffin amendment, I may say the Kniffin amendment provides that when the President issues an Executive order it must be transmitted to the Congress and within 60 days both Houses of Congress must pass a concurrent resolution disapproving the Executive order, or else the order goes into effect. My amendment differs from the Kniffin amendment in that it provides in just so many words that the President shall go ahead and work out these Executive orders, just as he does under the provision in the bill and under the Kniffin amendment, and then he shall transmit these Executive orders to the Congress, and then, unless within 60 days Congress affirmatively approves them by a joint resolution, the Executive orders do not go into effect. In other words, the difference is simply that, under the Kniffin amendment, if there is a filibuster or a delay in committee, or if for any other reason Congress does not disapprove the Executive orders within 60 days, they automatically go into effect. Under my amendment the orders do not go

into effect until the Congress votes affirmatively by a majority vote in both Houses to approve the orders. So we keep the matter right in our own hands.

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

Mr. BOILEAU. I yield to the gentleman.

Mr. MAY. The vital difference is that the Kniffin amendment puts the burden on Congress to disapprove an Executive order, whereas the gentleman's amendment lets the order die unless it is approved?

Mr. BOILEAU. Yes. Also the Kniffin amendment provides that both Houses must disapprove of the Executive order. My amendment provides that either House may disapprove an Executive order by a majority vote. This is just as the law is today, when either House can defeat a legislative proposition in that manner. There is a difference between the two amendments, but mine reaches its object in a constitutional way. No question of constitutionality is involved in my amendment at all. I maintain that the President, at least, believes the Kniffin amendment is unconstitutional.

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

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

Mr. KNIFFIN. Does not the gentleman believe that if the President undertakes this monumental task and does a good job his work should be permitted to stand after the Congress looks it over and finds it has been done in the public interest?

Mr. BOILEAU. Yes; I believe so, provided both Houses of Congress say it, and provided you and I as the Representatives of our people by a majority vote say, "Yes; we want that legislation to go into effect." After all, that is what it is. It is legislation. It is legislation that changes the existing law. I submit we do not want to repeal existing law unless a majority of both Houses affirmatively say what they want. The only reason the proponents of the Kniffin amendment do not want my proposition is that they are afraid the President will submit to the Congress something that cannot stand the light of day. They are afraid something will come to us that a majority will not approve. If we are fearful we would not approve by an affirmative vote what might come to us, then we should not give the power in the first place. I appeal to you to set aside prejudices and I appeal to you in the name of democracy and the preservation of the rights of Members of this House to vote for this amendment. [Applause.]

[Here the gavel fell.]

Mr. TABER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair may advise the gentleman from New York that the Committee by unanimous consent has limited debate.

Mr. TABER. I do not care about debate, all I want to do is offer an amendment. The Committee did not limit the offer of amendments. I wish to offer an amendment to the substitute.

The CHAIRMAN. The Chair may say to the gentleman that under the unanimous-consent agreement debate was limited to 10 minutes, and the gentleman from Wisconsin has used 5 minutes of that time.

Mr. TABER. I do not care anything about debate on the amendment.

The CHAIRMAN. The Chair will recognize the gentleman to offer an amendment at the termination of debate.

Mr. DIES. Mr. Chairman, the President has the constitutional right to make a recommendation to Congress regardless of legislation. He can send a recommendation to Congress tomorrow with reference to the entire subject matter covered by this legislation, but when we undertake to limit the subject matter of his recommendation, as the Boileau amendment contemplates, when we undertake to prescribe or circumscribe the matters concerning which he can make his recommendations, then it seems to me we are in the position of trespassing upon the Executive authority. We are doing the same thing that the Senate bill and the original House bill attempted to do with respect to the rights of Congress.

Now, let us be absolutely frank about this matter. When this bill came before the House many of us objected to it because of the fact it deprived the Congress of a right, through majority vote, to disapprove or reject any Executive order that the President might issue. The committee met that objection in a conscientious way. Now we are confronted with a situation whereby we are asked to tell the Executive to make certain recommendations but that those specified recommendations will not go into effect unless the Congress, by affirmative action, approves them.

In other words, we are limiting the constitutional right of the Executive as to the kind of recommendation he can make, and so far as the question of filibustering is concerned, that is true in either case; in other words, if we had to affirmatively approve the Executive orders and an overwhelming majority of both branches wanted to approve an Executive order, still the committees of the Congress could filibuster, still the committees could refuse to report it out. So you have not accomplished anything in that respect even if you adopt this amendment.

Now, we have heard a lot about this bill, and a few Members of Congress have boasted about the fact that they have supported the administration 100 percent. Well, I have not supported the administration 100 percent, and I do not propose to do so when the administration is clearly wrong; but I have said this: I will not support a bill simply because the President wants it, neither will I oppose a bill simply because the President wants it. [Applause.]

I do not find fault with any Member who takes a position in this House either for or against a measure based upon the merits of the bill, but here we have a simple question. Here is the platform of a political party adopted only recently in which it is said:

> Efficiency and economy demand reorganization of Government bureaus. The problem is nonpartisan and must be so treated if it is to be solved. As a result of years of study and personal contact with conflicting activities and wasteful duplication of effort the President is particularly fitted to direct measures to correct the situation. We favor legislation by Congress—

Which will do what?—

> legislation by Congress which will give him the required power.

Whose platform is this? It is the Republican platform [applause], and as a Member of this Congress I voted in 1932 to give Hoover the power, more power than is contemplated in this measure. I voted to give Roosevelt more power in 1933. Why, we swallowed a carload of camels, and are we now going to choke to death over a half-grown gnat? [Laughter and applause.]

If we are opposed to this measure, then the proper course for any Member to pursue is to vote against it and I shall not blame him, because that is his constitutional right, but let me say this in conclusion, when we cry aloud that we do not want our prerogatives trespassed upon, that we want to preserve our rights and our privileges, let us not place ourselves in the inconsistent position of undertaking to limit and circumscribe and violate the rights of the Executive by telling him, "You can make certain recommendations in accordance with our request, but when you make those recommendations they must be in line with our enabling authority, and we reserve the right to reject them."

Let me say this, too, before I conclude. This is making a mountain out of a molehill. We swallowed this legislation last year, hook, line, sinker, bait and all, and not a Member rose in opposition to it. Now when we have gone to the committee and demanded from them concessions, which I demanded the first day and other Members demanded, and the committee has conceded them and in a conscientious way has undertaken to meet valid objections, it seems to me then there is some other issue involved besides the issue of the merits of this bill.

So far as propaganda is concerned, let them propagandize. Have we not been propagandized before? When I go back to my constituency and say to them "Yes, I voted for this measure after the committee had made concessions that Congress demanded, but I likewise voted to give Hoover more power than this and I gave Roosevelt tremendous power in 1933." Now, after having obtained bona fide concessions, can I justify myself upon any legitimate grounds?

I am not willing to place my support or opposition of measures upon any other ground, except upon the merits of each proposal. If Roosevelt is wrong we have a right to oppose him, but we have no right to oppose legislation simply because Members have fallen out with the President. [Applause.]

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Wisconsin [Mr. BOILEAU].

Mr. TARVER. Mr. Chairman, I request a division of the question, so that part 3, which provides for setting up a department of welfare, may be voted on separately from the part of the amendment which relates to part 3.

The CHAIRMAN. The gentleman from Georgia demands a division of the Boileau amendment and the Chair feels that the gentleman is entitled to a division.

The question is on that portion of the Boileau amendment down to part 3.

The question was taken; and on a division (demanded by Mr. BOILEAU) there were—ayes 98, and noes 121.

Mr. BOILEAU. Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. BOILEAU and Mr. MEAD.

The Committee again divided; and the tellers reported that there were—ayes 104, noes 121.

So the first part of the Boileau amendment was rejected.

The CHAIRMAN. The question recurs on part 3 of the Boileau amendment.

Part 3 of the Boileau amendment was rejected.

Mr. WARREN. Mr. Chairman, I desire to submit a unanimous-consent request.

The CHAIRMAN. The gentleman will state it.

Mr. WARREN. Mr. Chairman, I ask that all debate on title I and all amendments thereto close in 30 minutes.

The CHAIRMAN. The gentleman from North Carolina asks consent that all debate on title I and all amendments thereto close in 30 minutes. Is there objection?

Mr. HOLMES. I object.

The CHAIRMAN. Objection is heard.

Mr. WARREN. Mr. Chairman, I ask unanimous consent that all debate on title I and all amendments thereto close in 40 minutes.

Mr. HOLMES. Mr. Chairman, reserving the right to object, I wish to offer an amendment to title I and want 5 minutes on my amendment.

Mr. MAPES. Mr. Chairman, reserving the right to object, may I ask the gentleman from North Carolina what the plan of procedure is for the balance of the day?

Mr. WARREN. The plan is to endeavor to complete title I.

Mr. MAPES. And then rise?

Mr. WARREN. Yes.

Mr. SNELL. I understood we were going to continue along as we have been.

Mr. HOLMES. Mr. Chairman, reserving the right to object, I understand there are very many amendments pending to title I. The reason I objected was because I wanted to get some time on one amendment I shall offer.

Mr. WARREN. Mr. Chairman, I amend my request and ask unanimous consent that all debate on this title and all amendments thereto close in 45 minutes.

Mr. BACON. Mr. Chairman, reserving the right to object, part III of title I creates a brand new department of the Government. Many amendments will be offered to part III including a motion to strike out part III. I do not think we should create a new department and a new Cabinet officer whose activities will cost, as the gentleman from Virginia said, upwards of $2,000,000,000 a year, we should not do this with only 45 minutes of debate.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that all debate on this title and all amendments thereto close in 45 minutes. Is there objection?

Mr. BACON. I object, Mr. Chairman. I reserved the right to object, and I do object.

Mr. WARREN. Mr. Chairman, I now move that all debate on this title and all amendments thereto close in 45 minutes.

Mr. SNELL. Mr. Chairman, we definitely understood that such a move would not be attempted.

Mr. WARREN. No. We have had plenty of debate. We have debated this title all day.

Mr. SNELL. By this part of title I you are setting up a new department of the Government to cost $3,000,000,000.

Mr. SCHULTE. Mr. Chairman, I demand the regular order.

The CHAIRMAN. The gentleman from North Carolina moves that all debate on this title and all amendments thereto close in 45 minutes.

Mr. STACK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. STACK. I understood we had an agreement that no procedure like this would be started.

The CHAIRMAN. The gentleman has not submitted a parliamentary inquiry.

Mr. BEAM. Mr. Chairman, I demand the regular order.

The CHAIRMAN. The regular order is the motion of the gentleman from North Carolina.

The question is on the motion of the gentleman from North Carolina.

The question was taken; and there were on a division (demanded by Mr. SNELL)—ayes 135, noes 78.

So the motion was agreed to.

Mr. PFEIFER. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. PFEIFER to the amendment offered by Mr. COCHRAN: Page 45, line 10, strike out "public health, safety, and sanitation" and in line 16, strike out "public health."

Mr. PFEIFER. Mr. Chairman, I offer this amendment to remove from the jurisdiction of the department of welfare all public-health problems. Nowhere in this country is there an individual in charge of a department that has to do with public-health problems who is not a member of the medical profession. By this part 3 a new department is created called the department of welfare, which will have jurisdiction over a vast, important, and extensive proposition; namely, those matters which pertain to the public health.

Mr. COCHRAN. Will the gentleman yield?

Mr. PFEIFER. No; I cannot yield.

Mr. Chairman, health problems and their solution, no matter whether they may be located in the northern portion of this country, in the smaller hamlets, or in the more thickly populated sections of the country, should not be undertaken by any individual unless he be a member of the medical profession. These are important things.

The protection of the health of all the people of this country is a governmental function. It is a serious proposition. Only the other day in the city of New York there was a convention held by the American College of Physicians. To that group the mayor of that great city, a former Member of this House, stated as follows:

Instead of putting a politician at the head of the health department I went out and got a medical officer.

It is absolutely essential that this be done. It would be very wrong, in my opinion, to put all of the functions pertaining to the public health in a department having to do with a conglomeration of other things. This would mean regimentation, and regimentation means socialization. This is socialization on a large scale. It would eventually mean the socialization of medicine.

Mr. Chairman, the average doctor, no matter where he may be, is absolutely against this provision. The American Medical Association is against it. In my hand I hold a letter addressed to me by the medical society in the county of Kings, the greatest borough in this country, in which it is stated that that society is unalterably opposed to the creation of a department of welfare in which the public health is to be a subservient function.

You and I are well aware of the fact that the President of the United States is not going to appoint a member of the medical profession to head this particular department. I would not want him to appoint a member of the medical profession, because there are other important things involved in this department that a doctor would not know anything about.

Public health is a serious problem. The Nation depends upon the health of its citizens. A national investigation only recently made revealed the inadequacy of medical care so far as the public is concerned. Doctors are not selfish. We like to see the people properly taken care of and we will do anything we possibly can to help the Government. The doctors in the country ask for the removal of public health and its problems from the administration of a lay person who may be in charge of the department of welfare. Should this amendment be agreed to, I will then offer an amendment creating a new executive department—the department of health—in which health problems naturally belong and rightfully so.

[Here the gavel fell.]

Mr. COCHRAN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York.

Mr. Chairman, I am quite sure the distinguished gentleman does not understand the situation in reference to our present set-up. If there is one governmental agency that is out of place today it is the Bureau of Public Health. It is under the Secretary of the Treasury. What business has it there? There is nothing in this bill which changes existing law so far as the Bureau of Public Health is concerned. It will go on just the same. A doctor will remain in charge. May I say further that Mr. Morgenthau, Secretary of the Treasury, is not a doctor. How much attention can he give that Bureau? Very little because he has other things on his mind far more important from his standpoint. If the Bureau of Public Health is ever going to get the recognition the gentleman from New York desires it to have, the best way to accomplish that is to put the bureau under someone other than the Secretary of the Treasury.

Mr Chairman, I hope the amendment will be defeated.

The CHAIRMAN (Mr. COOPER). The question is on the amendment offered by the gentleman from New York [Mr. PFEIFER].

The question was taken; and on a division (demanded by Mr. PFEIFER) there were—ayes 21, noes 68.

So the amendment was rejected.

Mr. WARREN. Mr. Chairman, I ask unanimous consent that the vote whereby my amendment pertaining to the exemption of the Office of Education was agreed to be vacated and that the paragraph (d), section 403, of the Kniffin amendment be amended by striking out the period at the end of said section, inserting a comma and the following:

Or to abolish or to transfer the Office of Education of the Department of the Interior and/or any of the functions thereof.

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

There was no objection.

Mr. HOLMES. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. HOLMES: Page 45, line 10, after the word "safety", insert "including safety against lynching."

Mr. HOLMES. Mr. Chairman, we are setting up here a new department of public welfare. Why the Federal Government has arrived at a point where it has to resort to this kind of a bureau or department is difficult for anyone who has had any experience at all in Federal, State, county, or municipal life in the last 3 or 4 years to understand. Is it an admission on the part of the leaders of this administration that they have come to the end of their rope, that they are a failure insofar as they have tried to solve the economic problems of this country? Is it an admission that our States, our counties, our municipalities, in most cases dominated by the same party that dominates the Federal administration, has also come to a point where they absolutely have to throw up their hands and admit defeat in coping with the economic situation of the country? What this department of welfare is going to do is far beyond my knowledge or conception, but if it is to be a department of public welfare I know of no more humanitarian work they can undertake than to see to it that in this country every human being in any State in the Union is safe from being lynched. This House has gone on record by a large majority that its Members are opposed to lynching, and the House can reassert itself now and make that one of the functions of this department of public welfare, which is going to cost us between $2,000,000,000 and $3,000,000,000 a year to operate. This is one function where the department, if it is necessary to have one, can do some good in some of the States or all of the States, with this all-important subject of lynching.

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

Mr. HOLMES. I refuse to yield, because I have had only 5 minutes in the 5 days of debate on this question.

I offer this amendment in all seriousness, because if you accept this amendment you must determine a definition of safety against lynching, and there you can incorporate the provisions of the antilynching bill which was fought and sponsored through this House by our colleague the gentleman from New York [Mr. GAVAGAN]. In this way you can reassert your interest and reassert your stand and give this new department of public welfare something to do which it does not now have or will not have even after you create it.

The CHAIRMAN. The question is on the amendment of the gentleman from Massachusetts [Mr. HOLMES].

The question was taken; and on a division (demanded by Mr. HOLMES) there were—ayes 14, noes 71.

So the amendment was rejected.

Mr. BACON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BACON to the amendment offered by Mr. COCHRAN: On page 44, line 12, strike out all of part 3.

Mr. WARREN. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. WARREN. The Committee has already voted upon the identical proposition in the severance of the Boileau amendment.

The CHAIRMAN. The vote was taken on a different proposition. That was part of the Boileau amendment. The Chair is of the opinion this is a different matter, and therefore overrules the point of order.

Mr. BACON. Mr. Chairman, the setting up of this new department of welfare presupposes that we will always have a relief problem with us. I was very much impressed with the very eloquent speech made by the gentleman from Virginia [Mr. WOODRUM] on this very point, and I intend to quote part of it. The gentleman from Virginia said:

To my mind, this new Cabinet position is a most serious and far-reaching adventure. Certain it is that this new political Cabinet officer would have under his jurisdiction and control those various agencies of the Government having to deal with welfare or benefit payments. This would mean that the vast relief organization now functioning would have as its head a Cabinet officer. Many of us have been under the illusion that the Federal Government would some day be able to withdraw from the relief business. In fact, the President has expressed such a hope. I find no escape from the conviction that with the secretary of welfare enthroned in a Cabinet position, armed and fortified with all of the influence and prestige that such a position carries, that the Federal Government would be in the relief business for keeps, and instead of being able to gradually withdraw from this field we would have perpetuated an organization that would gradually make for bigger, better, and more relief of all description. Someone has said such a set-up would be "a direct pipe line into the United States Treasury." No one desires to deny help to the needy, but I shudder at the thought of making this a permanent proposition and of putting it under political control.

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

Mr. BACON. I cannot yield to the gentleman, especially in view of the way the gentleman has gagged debate.

The gentleman from Virginia further states:

One does not have to draw very largely upon his imagination to conceive what this new department will amount to in the way of the building of a vast organization of Federal beneficiaries under political control. In my judgment, the creation of this department will increase our financial burdens a billion dollars a year, and it may easily be two or three times that amount. I cannot but feel that it is a grave error, and that it will be a costly experiment.

With those eloquent words of my colleague on the Committee on Appropriations, the gentleman from Virginia [Mr. WOODRUM], I most heartily agree. It seems to me that by setting up this new department we not only make relief permanent but we make it political. It seems to me there is nothing more un-American than to treat the relief of the needy as a permanent political proposition, and that is exactly what this proposal will do.

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

Mr. BACON. I yield to the gentleman from Virginia.

Mr. WOODRUM. The gentleman from North Carolina was about to direct the attention of the gentleman to the fact that he and I both voted for this last August. May I interpolate here that the Good Book says:

A wise man changeth his mind, but a fool never.

Mr. BACON. I agree with the gentleman.

Mr. Chairman, I am not opposed to relief nor to Federal appropriations for relief. I am, however, opposed to a centralized Federal bureaucracy here in Washington administering relief in all 48 States. The overhead alone of the present W. P. A. set-up is over $60,000,000. The W. P. A. was established as an emergency measure only. Under this bill it is continued permanently under a Cabinet officer.

I have always believed that the money necessarily appropriated by the Federal Government for relief should be turned over to the several States and be administered by them. The costly Federal bureaucratic organization here in Washington could then be eliminated and a greater proportion of the relief dollar would reach the man on relief. The adoption of this title in this bill makes this forever impossible.

I have also always believed that partison politics should be eliminated from the relief problem. A centralized relief administration in Washington means partison politics in the administration of relief no matter what party is in power. This bill perpetuates politics in relief, and forever gives the President, whoever he may be, a mighty club to enforce his will on the Congress. If the administration of relief is decentralized in the 48 States, this dictatorial club will be eliminated.

It is the hope of all that the Federal Government may gradually withdraw from relief activities as the emergency draws to an end. This bill, however, keeps the Federal Government in relief activities forever, perpetuates the partnership between relief and partison politics, and increases the power of this President or any other President to make Congress bow to his will or whim.

Mr. MEAD. Mr. Chairman, I do not care to use the 5 minutes in answering the statement made by the distinguished gentleman from New York [Mr. BACON]. I agree with the proverb that has just been quoted. The record indicates that both the gentlemen from New York and the gentleman from Virginia voted for this same proposition last August. About 100 others who voted against this bill today, voted with them on that occasion. I merely want to mention the fact that a remarkable number of wise men have been developed since this bill came before the House.

Mr. Chairman, I yield back the balance of my time and ask for a vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. BACON].

The amendment was rejected.

Mr. CROSSER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CROSSER to the amendment offered by Mr. KNIFFIN: Amend the Kniffin amendment by striking out paragraph (c) of section 403.

Mr. CROSSER. Mr. Chairman, to discuss the reorganization bill as if it were a question of being for or against any person, whether such person be very prominent or a humble citizen, merely shows that the person who so discusses the measure has not given the bill mature thought and consideration. We should discuss the subject before the House on the basis of principle and not of personalities.

This bill is entitled "A bill for reorganizing agencies of the Government, extending the classified civil service, establishing a General Accounting Office and a Department of Welfare, and for other purposes." The House committee's bill, which is printed on pages 43 to 82, inclusive, of the bill S. 3331, does not show the language which would become law if we should pass the measure.

If, however, you will read the fine print on page 16 of the committee's report, you will note that paragraph (c) of section 403 reads as follows:

Abolish the whole or any part of any executive agency and/or the functions thereof.

You might try to justify a proposal to abolish an agency of government provided that some other agency could be designated and required to perform the functions of the agency to be abolished, but, mark you, when by law you authorize one person to abolish functions of government you are giving to such person authority to make laws repealing other laws. More than 120 agencies of the Government and their functions could be abolished by the exercise of the authority proposed in the language of section 403, paragraph (c), which I have quoted.

Take, for example, just two recent examples which I have in mind. About 2 years ago, after a long struggle, we passed the railroad pension law and provided for the Railroad Retirement Board. This was done for the purpose of providing by law for the paying of pensions to aged railroad workers. If the authority proposed by this reorganization bill should be given, not only could the Board be wiped out of existence but the law providing for the payment of pensions to railroad workers could be repealed by an order signed by the Chief Executive of the United States.

The language which I have quoted provides not merely for the shifting of powers and duties from one board or commission to another board or commission but actually would give one person, the Chief Executive, authority to repeal the law providing for the payment of pensions to aged railroad workers. The same thing is true of the Railway Mediation Board. You will remember when I stood here at midnight of the closing day of the session in the summer of 1934 and urged the passage of the bill establishing the Railway Mediation Board when it came back from the Senate with amendments. Congress passed the law. That law for the settlement of labor disputes in the railroad industry has been praised from one end of the country to the other during the last year as a model method of settling disputes between employers and employees. Both of these acts which I have mentioned are less than 4 years old. Is it possible that after such a short time we are in doubt about the wisdom of these two laws which we have passed? If we are not in doubt about the value of these laws, as well as many others, why should we say, as the language of the so-called reorganization bill now before the House does say, that the Chief Executive of the United States may issue an order which would repeal the laws establishing these institutions and wipe out of existence the pension law and labor-disputes law?

Are we so uncertain about the correctness of the laws we pass that we must say, "We hereby authorize and empower one person, if he so desires, to repeal all the laws of the United States providing for executive agencies, excepting what are known as the regular Departments, such as the State, War, and Navy Departments"?

Well, Mr. Chairman, that is exactly what we would be doing if we should pass this so-called reorganization bill in its present form. It is much worse than the bill which passed the Senate.

The bill before the House is entitled "A bill to provide for reorganizing agencies of the Government", and so forth. A careful study of the bill will show that it is not a bill to provide only for reorganizing, but does give power to disorganize. The power to abolish—that is, the power to do away with or wipe out of existence—is the power to disorganize. Just a few moments ago in the library of this House I read in Webster's New International Dictionary the definition of the word "disorganize." Webster's Dictionary gives the meaning of the word "disorganize" as follows:

To destroy the organic structure or regular system of; to deprive of organization; to throw into disorder; to disarrange.

Now, Mr. Chairman, let me again call the attention of the Members of the House to the fact that in section 403, which is printed on page 16 of the committee's report, is found the following language:

He—

The President—

may by Executive order abolish the whole or any part of any executive agency and/or functions thereof.

Webster's Dictionary also explains the meaning of the word "abolish" as follows:

To do away with wholly; to annul; to make void—said of laws * * * governments, etc.

It is entirely clear, then, that the power proposed to be given to one person by this bill "to abolish functions" is not the power to reorganize, as the title of the bill states, but, on the contrary, as I have shown, is the power to do the very opposite of reorganizing, and that is to disorganize, which, as Webster's Dictionary says, is "to do away with wholly."

You might possibly feel that you would be justified in authorizing someone to reorganize which means to rearrange the agencies of government, but let me say again that the power to abolish is the power "to do away with entirely," and that, of course, is the power to repeal laws, the power to wipe off the statute books the laws which the people through their representatives have devoted a great many years and much labor to placing on the statute books.

And yet, Mr. Chairman, notwithstanding that such a great change in our Government is proposed, those who are impatiently pushing for the passage of this bill are trying to make it appear that those who are giving the warning signal are merely showing their disapproval of some person—are against someone. Ah, my friends, a deep concern for the continuance of the American system of government, caused by reading the plain language of this bill, cannot be waived aside and "pooh, poohed" by saying that objections are due to the fact that the objectors are against some person. Principles are a thousand times more important than all persons high or low in all the world. This is a matter of principle, a most important principle, and is not a matter of person, whether such person be the head of the Government or not. Article I, section 1, of the Constitution of the United States reads exactly as follows:

All legislative powers herein granted shall be vested in a Congress of the United States.

That is the exact language which the representatives of the States put into the Constitution of the United States. That is the fundamental law of the United States. That is the language which by the representatives of the people of the United States was placed in the Constitution and was thereby made the basis, the foundation, of all other laws of the United States. "All legislative powers," which, of course, means all lawmaking powers, were vested; that is, were placed in Congress.

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

Mr. CROSSER. I yield.

Mr. BUCK. In order that the members of the Committee may understand which section 403 the gentleman from Ohio is refefring to, may I ask him to make it clear that he refers to the reenactment of section 403 of title IV of the Legislative Appropriation Act of 1933, and not to section 403 that is contained in this bill? In other words, you have to read out of the appropriation act what we are unconsciously enacting at this time.

Mr. CROSSER. The gentleman is absolutely right. You might vote for this provision without ever knowing that it is in the bill at all.

Mr. Chairman, the influence of Thomas Jefferson undoubtedly caused this provision vesting Congress with the lawmaking powers to be made a part of the Constitution. He firmly believed that the power to make the laws, which, of course, is power to determine policies, should, and, indeed, must, be in the representatives elected to Congress by the people. He insisted and urged that Congress must have the sole power to make the laws because the Members of Congress would be closer to the people. Because they would live in districts among the people electing them, Jefferson believed and urged, rightly, that the Members of Congress would learn first what kind of laws the people might desire or approve. There is no answer to Jefferson's reasoning. It is wise and right that—

All legislative powers * * * shall be vested in a Congress of the United States.

It is not necessarily wise and right because such powers are stated in the Constitution, but, rather, is undeniably logically right and necessary that these powers in Congress be set forth as clearly as they are in the Constitution. [Applause.]

Mr. WARREN. Mr. Chairman, I am afraid our friend from Ohio has an entirely wrong conception of this whole matter. In the first place what must the President do before he would attempt to abolish the whole or any part of an executive agency or any of its functions? He must first find according to the standard in this bill which provides that he can only do it to reduce the number of such agencies or consolidate those having similar functions under a similar head, and by abolishing such agencies and such functions thereof as may not be necessary for the efficient conduct of the Government. The President must find that before he operates under the section the gentleman from Ohio has just been talking about. We have 14 agencies of the Government dealing with forestry. If his amendment should prevail the President could not abolish a single, solitary one of them.

It has been charged here, and especially on the Republican side, that there is no economy in this bill. I have always said there was economy, and there is obliged to be, with any efficient coordination of the agencies of the Government. All of the functions that would ever be abolished would be dead functions and functions where there is duplication and overlapping. If you adopt this amendment you prevent those things which I know you want to happen if there is any reorganization of the Government.

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

Mr. WARREN. I yield.

Mr. SABATH. The main purpose of the bill, as I understand it, is to bring about greater efficiency and economy; is that correct?

Mr. WARREN. That is one of the standards set out in the bill, I may say to the gentleman.

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

Mr. WARREN. I yield.

Mr. DEMPSEY. The gentleman says there may be 14 agencies performing similar functions. It is all right to coordinate those agencies, but in the case of an agency like the Bureau of Public Roads, or the Reclamation Service, could they be abolished under this bill?

Mr. WARREN. If they were found to be absolutely useless.

Mr. DEMPSEY. Found by whom?

Mr. WARREN. Found by the President to be absolutely useless, and then the functions that he would abolish would be dead functions.

[Here the gavel fell.]

Mr. SHANNON. Mr. Chairman, I ask unanimous consent that the amendment be again read.

The CHAIRMAN. Without objection, the Clerk will again read the amendment.

There was no objection.

The Clerk again read the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio.

The question was taken; and on a division (demanded by Mr. CROSSER) there were—ayes 36, noes 63.

Mr. SHANNON and Mr. STEFAN demanded tellers.

Tellers were refused.

Mr. CROSSER. Mr. Chairman, I make the point of order there is not a quorum present.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and forty-two Members are present, a quorum.

Mrs. ROGERS of Massachusetts. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mrs. ROGERS of Massachusetts to the amendment offered by Mr. COCHRAN: Page 43, line 24, after the word "Office", insert "Civil Service Commission."

Mrs. ROGERS of Massachusetts. Mr. Chairman, I realize the Members must be extremely tired at this late hour, but the amendment which I have introduced vitally affects the civil-service workers in the district of every Member of this House.

This amendment would exempt the Civil Service Commission from the provisions of the pending bill. There is a civil-service provision later in the bill but unless this is enacted here the civil service would be transferred to another department. The Civil Service Commission with the adoption of the amendment, would remain as it is with a bipartisan board of commissioners at the head of it. In the last few days I have received numerous letters and requests from the women of the country asking that the bipartisan board of commissioners be retained. They tell me that for years they worked to have a woman Civil Service Commissioner appointed and in 1920 they were successful in having this done. Since then a woman has been appointed to the Board. And they are unwilling that their work of many years should be disregarded.

Mr. Chairman, the women workers feel they are entitled to have a woman Commissioner to represent the women civil-service workers all over the country. I feel it is only fair that women be recognized in this regard. I quote from part of circular letter No. 19 written by Mr. Joseph Lawrence of the Department of Justice, Taxes and Penalties Unit.

Mr. Lawrence said that—

It has been brought to my attention that certain employees of the unit have sought congressional pressure to secure petty privileges in their unit and also increases in salary, despite the fact they were only recently advanced through the recommendation of this office. Especially in view of this it is almost inconceivable that such persons should have contacted their Senators and Representatives and solicited their influence for this purpose. Hence I must inform all employees now that these are strictly administrative matters and action should have originated in this unit and department.

Mr. Chairman, it is quite obvious to me that the administration and the Congress are bringing about the passage of more and more measures which will compel us to sell our birthright of liberty and freedom of speech for a mess of pottage. The apparent attempt by the President to make the people of the United States afraid to write their Congressmen in regard to the very bill we have under consideration today is in keeping with the attempt of Mr. Lawrence to frighten his employees in the Department of Justice.

The noose is drawing tighter and tighter around the people of the United States. I feel that the employees of the various departments have a right to appeal to their Congressmen in connection with matters they see fit to take up with their Congressmen. In many instances their Congressmen are the only people who can protect them against injustice and persecution. Our constituents under the Constitution have a right to write to us, to petition us upon any matter. I hope they always will take that right.

Mr. Chairman, I ask unanimous consent to include as a part of my remarks a brief speech and debate which occurred on the floor on the 3d of March 1936, regarding a letter which was written by Joseph Lawrence to his employees telling them that they must not get in touch with their Members of Congress.

If the present form of the Civil Service Commission is abolished, if it is to be governed by one man, whether that Director of the Civil Service Commission be Republican or Democrat, whether it be under a Republican administration or a Democratic administration, it is my belief the Federal employees will not feel safe. They will feel that they are much more apt to be dominated by a partisan administrator, and an administrator appointed by the President and removable at his will would find it hard to withstand political pressure. They will feel that their contact with their own Representatives in Congress will be lessened even more, in fact stopped. Many of them today do not dare even to visit their individual Members of Congress.

The CHAIRMAN. The Chair may say to the gentlewoman that her request will have to be made in the House.

Mrs. ROGERS of Massachusetts. Mr. Chairman, these Federal workers to whom I have just referred were not Republicans. They were Democrats. Even at the present, Federal employees have told me they were afraid to go to the offices of their Congressmen, and if Members insist, I will be glad to give instances and names without mentioning their names on the floor of the Congress.

Mr. KELLER. Will the gentlewoman yield?

Mrs. ROGERS of Massachusetts. I yield to the gentleman from Illinois.

Mr. KELLER. Is there anything in the proposed bill that would prevent the appointment of a woman in place of a man to that job?

Mrs. ROGERS of Massachusetts. No. There is nothing in the bill that would prevent the appointment of a woman, but you and I know that a woman is not likely to be appointed. We have had one woman as a member of the Cabinet, and women have not been recognized very much in Federal administrative positions. I think we all realize if the Civil Service Commission is restricted to one head, that Commissioner will not be a woman. But surely women who are civil-service employees are entitled to have a woman to fight their battles. It seems fair to have a man Commissioner also as well as a woman, and it should be bipartisan to be fair also.

I have received many requests from those working in the Government service to try to keep the Civil Service Commission as it is. I have received suggestions, with which I am in entire accord, that we give the Civil Service Commission more money in order that they may be allowed to function more efficiently. The work of that Commission has increased from 100 to 300 percent from 1932 to 1937, in their major items of work, with a very small increase in pay. These people have worked overtime to the extent of 47,900 hours, and they deserve a great deal of credit. Please give them a larger appropriation and keep them as they are in order that your constituents and my constituents may be protected. Let us keep the civil service a real merit system. Let us not undo the work the civil service has done for 55 years. Do not wreck the civil service.

I hope my amendment will be agreed to. [Applause.]

[Here the gavel fell.]

Mr. MEAD. Mr. Chairman, in view of the fact that we treat with the civil service in a later section of the bill, I can see no reason why the Committee of the Whole should adopt an amendment which has to do with the civil service at this time.

Mr. TABER. Will the gentleman yield?

Mr. MEAD. I yield to the gentleman from New York.

Mr. TABER. Is it not a fact if we do not put this in here the entire civil service set-up can be changed just as the President pleases after the whole bill is passed?

Mr. MEAD. No.

Mr. TABER. There was a provision in reference to the General Accounting Office so that they could not be changed

around. But there is no provision with reference to the civil service.

Mr. MEAD. Mr. Chairman, as I said before, we treat the civil service in a later section of the bill. The President nor any one else will be able to, in any way, amend the language of that section after we are through with it here on the floor.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Massachusetts.

The amendment was rejected.

Mr. CROSSER. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. CROSSER to the amendment offered by Mr. COCHRAN: Insert after the words "General Accounting Office" the words "Mediation Board and Railroad Retirement Board."

Mr. CROSSER. Mr. Chairman, these two statutory children, the Mediation Board and the Railroad Retirement Board included in this amendment, were born but yesterday, so to speak, and surely we should not even consider wiping them out of existence, as would be possible under paragraph 3 of section 403 of the proposed law as shown on page 16 of the committee report. I merely desire to have you consider whether or not you wish to make it possible, by the signing of an order, to wipe out of existence these two agencies which were established by Congress only 2 and 4 years ago, respectively, after long and serious effort to have them established by Congress.

If such an order were issued by the President the Retirement Board and the Mediation Board could only be reestablished after another long and laborious effort on the part of those who believe in them.

Mr. WARREN. Mr. Chairman, I call the attention of the Committee to the fact the railroad brotherhoods in a statement made the latter part of last week strongly endorsed this bill as it is, and are not asking for an exemption. The President has already stated he did not intend to touch these agencies in any way, and the brotherhoods are wholly satisfied with the bill as it is.

The CHAIRMAN. The question is on the amendment of the gentleman from Ohio.

The question was taken; and on a division (demanded by Mr. CROSSER) there were—ayes 27, noes 61.

Mr. CROSSER. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

Mr. ANDERSON of Missouri. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of Missouri to the amendment offered by Mr. COCHRAN: On page 45, lines 10 and 11, strike out the words "the protection of the consumer."

Mr. ANDERSON of Missouri. Mr. Chairman, I have voted all along with the committee, but the provisions of this section are so broad as to regulate everything and anything from the pace of a snail to the way my 5-year-old boy parts his hair.

All of us here know there is a decided business recession in this country. The public feels that one of the main causes of this recession is an uncertainty of the activity of Federal boards and bureaus and governmental interference with the normal operation of business.

The purpose of this amendment, Mr. Chairman, is to prevent this fear from mounting and to prove to the people of our country that this House, in the least, has not lost its equilibrium, and will not approve or condone any further activity which will add to the general unrest existing in the Nation today.

By this amendment, Mr. Chairman, I seek to strike from the bill that broad and general phrase, "the protection of the consumer." In my opinion, this would enable the Secretary of Welfare, even by a conservative interpretation, to take under his protective wing everything and everybody—the birds and the bees—doctor, lawyer, and merchant.

It means simply this, that the Secretary of Welfare, or his assistants or subordinates, under the provision of the term "protection of the consumer," can regulate, investigate, persecute, and coerce, or whatever he may desire, for any cause whatsoever, the corner groceryman in my little village—because the Secretary does not like the way he decorates his window on Christmas or perhaps because he may have offended one of the Federal bureaucrats.

Mr. Chairman, those five little words in this section which I seek to strike give the Secretary of Welfare more power, jurisdiction, and authority over the American people than all the N. R. A.'s, N. L. R. B.'s, A. A. A.'s, and all the others combined.

It is directly opposed to the principle of democratic government.

There is more power wrapped in those innocent-appearing little words than was needed to create the famous Ogpu of the Soviet or the strong-arm secret police of nazi-ism.

Under the provisions of this section, as it is now written, Mr. Chairman, no business, regardless of how small it is, can be free from interference, investigation, and intimidation of this new Federal bureaucracy.

Every small business is looking to you, his duly elected Representative, to protect him from this obnoxious un-American provision, which will cause only further unrest among all business of our country, whether small or large.

This provision, unless this amendment is adopted, can result in a greater organization of offensive snoopers than were permitted by the Volstead law of the National Prohibition Act.

I urge the membership of this House to pass this amendment and not add more fears to the troubled waters of American business.

Mr. WARREN. Mr. Chairman, I call the attention of the gentleman to the fact that Congress has already in days past created three consumers' counsels in different agencies of the Government. Why should they not be coordinated into one?

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. ANDERSON].

The question was taken; and on a division (demanded by Mr. ANDERSON of Missouri) there were—ayes 21, noes 63.

So the amendment was rejected.

Mr. MURDOCK of Arizona. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURDOCK of Arizona to the amendment offered by Mr. COCHRAN: On page 43, line 24, after the word "office" insert "the Bureau of Reclamation."

Mr. MURDOCK of Arizona. Mr. Chairman, the hour is so late, the Members are so worn out with this long debate, and the time limit is so short, I hesitate to offer this amendment. I do so only because of the importance of this work and for the purpose of calling attention to the fact that of all the agencies of government that have been performing effectively for a third of a century, the Bureau of Reclamation is outstanding. I will put it alongside of the Forest Service or any other agency you may mention. This is a service which requires the highest type of engineering skill and one in which rapid shift of personnel or plans would create great havoc. This Bureau requires not only engineering skill but continuity of policy and a long-range, forward-looking policy.

I hope we may continue to carry out the work of the past generation throughout the great West and safeguard it by seeing to it that violent hands are never laid upon this efficient Bureau of the Government. The West still beckons to the youth of our land and the words of Horace Greeley are still pertinent. The wisdom of Greeley's advice depends largely upon the continued functioning of our Reclamation Service with ever-increasing effectiveness:

The CHAIRMAN. The question is on the amendment of the gentleman from Arizona [Mr. MURDOCK].

The amendment was rejected.

The CHAIRMAN. The question is on the committee amendment offered by the gentleman from Missouri [Mr. COCHRAN].

The committee amendment was agreed to.

The Clerk read as follows:

TITLE II—ADMINISTRATIVE ASSISTANTS

SEC. 201. The President is authorized to appoint not to exceed six administrative assistants and to fix the compensation of each at the rate of not more than $10,000 per annum. Each such administrative assistant shall perform such duties as the President may prescribe.

Mr. WARREN. 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. MCCORMACK, Chairman of the Committee of the Whole House on the state of the Union, reported that the Committee, having had under consideration the bill S. 3331, had come to no resolution thereon.

AMENDMENT OF ADMINISTRATIVE PROVISIONS OF TARIFF ACT OF 1930

Mr. CULLEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 8099) to amend certain administrative provisions of the Tariff Act of 1930 and for other purposes, with Senate amendments, disagree to the Senate amendments, and request a conference with the Senate.

The SPEAKER. Is there objection to the request of the gentleman from New York? [After a pause.] The Chair hears none and appoints the following conferees:

Messrs. CULLEN, SANDERS, MCCORMACK, KNUTSON, and REED of New York.

EXTENSION OF REMARKS

Mr. ROBINSON of Utah. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD by including therein a speech I made over the radio last evening.

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

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. CONNERY. Mr. Speaker, I ask unanimous consent that on Monday next, following the disposition of the business on the Speaker's table and the legislative program of the day and any special orders heretofore entered, I may be permitted to address the House for 15 minutes.

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

There was no objection.

EXTENSION OF REMARKS

Mr. HOLMES and Mr. HILDEBRANDT asked and were given permission to revise and extend their own remarks in the RECORD.

Mr. RANDOLPH. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein a radio address delivered by Postmaster General Farley on National Air Mail Week.

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

There was no objection.

ENROLLED BILL SIGNED

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H. R. 7448. An act to provide for experimental air-mail services to further develop safety, efficiency, and economy, and for other purposes.

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 112. An act for the relief of O. W. Waddle;

S. 283. An act for the relief of Mrs. J. H. McClary;

S. 2022. An act for the relief of Lt. V. Balletto, and others;

S. 2091. An act for the relief of Ada Saul, Steve Dolack, the estate of Anthony Dolack, and Marie McDonald;

S. 2138. An act for the relief of Nelson W. Apple, George Marsh, and Camille Carmignani;

S. 2261. An act for the relief of Scott Hart;

S. 2378. An act for the relief of Sam Green;

S. 2427. An act for the relief of the estates of Al Cochran, Willis Cochran, and Russell Cochran, and for the relief of Shirley Cochran and Matilda Cochran; and

S. 3130. An act for the relief of W. O. West.

BILLS PRESENTED TO THE PRESIDENT

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H. R. 7836. An act to amend the Agricultural Adjustment Act, as amended, by including hops as a commodity to which orders under such act are applicable; and

H. R. 9605. An act to provide for a commissioned strength of 14,659 for the Regular Army.

ADJOURNMENT

Mr. COCHRAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 45 minutes p. m.) the House adjourned until tomorrow, Friday, April 8, 1938, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON NAVAL AFFAIRS

There will be a meeting of the full open Committee, Naval Affairs, at 10 a. m. Friday, April 8, 1938; continuation of consideration of H. R. 9315, to regulate the distribution, promotion, and retirement of officers of the line of the Navy, and for other purposes.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

There will be a meeting of Mr. MALONEY's subcommittee of the Committee on Interstate and Foreign Commerce at 10 a. m. Friday, April 8, 1938. Business to be considered: Continuation of hearings on S. 1261—through rates.

There will be a meeting of Mr. EICHER's subcommittee of the Committee on Interstate and Foreign Commerce at 10 a. m. Monday, April 11, 1938. Business to be considered: Hearings on S. 3255, a bill to regulate over-the-counter marketing.

There will be a meeting of the Committee on Interstate and Foreign Commerce at 10 a. m. Tuesday, April 12, 1938. Business to be considered: Hearing on H. R. 9047—control of venereal diseases, and other kindred bills.

COMMITTEE ON FLOOD CONTROL

Set forth below are dates, times of meetings, subjects of hearings, and parties to be heard with respect to a number of hearings scheduled before the Flood Control Committee:

The Committee on Flood Control will continue hearings on Friday, April 8, 1938, at 10 a. m. Local representatives of the Los Angeles area will be heard.

The Committee on Flood Control will continue hearings on Saturday, April 9, 1938, at 10 a. m. Local representatives of other drainage-basin areas will be heard.

The Committee on Flood Control will continue hearings on Monday, April 11, 1938, at 10 a. m. Local representatives of the Red River and tributaries will be heard.

The Committee on Flood Control will continue hearings on Tuesday, April 12, 1938, at 10 a. m. Local representatives of the Arkansas River and tributaries will be heard.

The Committee on Flood Control will continue hearings on Wednesday, April 13, 1938, at 10 a. m. Local representatives of the White River and tributaries will be heard.

The Committee on Flood Control will continue hearings on Thursday, April 14, 1938, at 10 a. m. Local representatives of the Missouri River and tributaries will be heard.

The Committee on Flood Control will continue hearings on Friday, April 15, 1938, at 10 a. m. Local representatives of the lower Mississippi River and other tributaries will be heard.

The Committee on Flood Control will continue hearings on Saturday, April 16, 1938, at 10 a. m. Local representatives of the lower Mississippi River and other tributaries will be heard.

The Committee on Flood Control will continue hearings on Monday, April 18, 1938, at 10 a. m. Senators and Members of Congress will be heard.

COMMITTEE ON MERCHANT MARINE AND FISHERIES

The Merchant Marine and Fisheries Committee will hold hearings at 10 a. m. in room 219, House Office Building, on the following bills on the dates indicated:

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, stream improvements, and stocking operations for these purposes.

Thursday, April 14, 1938:

H. R. 8533. To amend section 4370 of the Revised Statutes of the United States (U. S. C., 1934 ed., 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 operator's 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.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. ENGLEBRIGHT: Committee on the Public Lands. H. R. 8165. A bill to add certain lands to the Trinity National Forest, Calif.; with amendment (Rept. No. 2102). Referred to the Committee of the Whole House on the state of the Union.

Mr. HILL: Committee on the Public Lands. H. R. 9523. A bill to add certain lands to the Ochoco National Forest, Oreg.; with amendment (Rept. No. 2103). Referred to the Committee of the Whole House on the state of the Union.

Mr. FADDIS: Committee on Military Affairs. H. R. 9721. A bill authorizing the disbursement of funds appropriated for compensation of help for care of material, animals, armament, and equipment in the hands of the National Guard of the several States, Territories, and the District of Columbia, and for other purposes; without amendment (Rept. No. 2104). Referred to the Committee of the Whole House on the state of the Union.

Mr. NICHOLS: Committee on the District of Columbia. H. R. 10066. A bill to amend the District of Columbia Revenue Act of 1937, and for other purposes; with amendment (Rept. No. 2105). Referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. JOHNSON of Minnesota: A bill (H. R. 10185) to provide for the creation, promotion, stimulation, and maintenance of employment, the reduction of unemployment, the restoration of purchasing power, the encouragement of long-range planning in the field of public works, and otherwise to promote the general welfare through Federal cooperation in the construction and undertaking of useful Federal and non-Federal projects and public works; to the Committee on Ways and Means.

Also, a bill (H. R. 10186) making appropriations for the purpose of financing the construction and undertaking of useful Federal and non-Federal projects and public works as authorized, defined, and provided in the Public Works Act of 1938 and for carrying out in all other ways which may be necessary the intentions, purposes, and provisions of said act; to the Committee on Appropriations.

By Mr. KING: A bill (H. R. 10187) to make effective in the District Court for the Territory of Hawaii rules promulgated by the Supreme Court of the United States governing pleading, practice, and procedure in the district courts of the United States; to the Committee on the Territories.

By Mr. MARTIN of Massachusetts: A bill (H. R. 10188) to amend section 2 of the act entitled "An act granting pensions to certain soldiers who served in the Indian wars from 1817 to 1898, and for other purposes," approved March 3, 1927; to the Committee on Pensions.

By Mr. MAY (by request): A bill (H. R. 10189) to provide more effectively for the national defense by increasing the authorized enlisted strength of the Air Corps of the Regular Army; to the Committee on Military Affairs.

Also (by request), a bill (H. R. 10190) to equalize certain allowances for quarters and subsistence of enlisted men of the Coast Guard with those of the Army, Navy, and Marine Corps; to the Committee on Military Affairs.

By Mr. TEIGAN: A bill (H. R. 10191) to empower the Reconstruction Finance Corporation to make business loans based on the personal character of the borrower, to prevent discrimination against banks not in the Federal Reserve System, and for other purposes; to the Committee on Banking and Currency.

By Mr. CARTER: A bill (H. R. 10192) authorizing additional negotiations leading to the construction, maintenance, operation, administration, and defense of an interoceanic canal over Nicaraguan territory, and for other purposes; to the Committee on Foreign Affairs.

By Mr. MAY (by request): A bill (H. R. 10193) to authorize the President, when the public interest renders such a course advisable, to detail any civilian employee of the United States Government to temporary duty with the government of any American Republic or the Commonwealth of the Philippine Islands, and for other purposes; to the Committee on Military Affairs.

By Mr. COFFEE of Washington: Resolution (H. Res. 459) authorizing the payment of mileage for one clerk to each Representative and Delegate in Congress during the third session of the Seventy-fifth Congress; to the Committee on Accounts.

By Mr. EICHER: Joint resolution (H. J. Res. 641) authorizing the President to call a conference on international law; to the Committee on Foreign Affairs.

By Mr. COFFEE of Washington: Joint resolution (H. J. Res. 642) to provide for a survey of the narcotic-drug conditions in the United States by the United States Public Health Service; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BIGELOW: A bill (H. R. 10194) for the relief of Betty Jean Dolan, a minor; to the Committee on Claims.

By Mr. BULWINKLE: A bill (H. R. 10195) for the relief of Baxter Cleveland Putnam; to the Committee on Naval Affairs.

By Mr. BURDICK: A bill (H. R. 10196) for the relief of John Haslam; to the Committee on Claims.

By Mr. FLANNERY: A bill (H. R. 10197) for the relief of Earl B. Correll; to the Committee on Military Affairs.

Also, a bill (H. R. 10198) for the relief of David Guiney; to the Committee on Military Affairs.

By Mr. LUCE: A bill (H. R. 10199) for the relief of Alceo Govoni; to the Committee on Claims.

By Mr. McGRANERY: A bill (H. R. 10200) for the relief of Clarence D. Holland, United States Navy, retired; to the Committee on Naval Affairs.

By Mr. McGRATH: A bill (H. R. 10201) for the relief of W. M. Ziegler; 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:

4771. By Mr. BEITER: Petition of Erie County Industrial Union Council, Buffalo, N. Y., urging Congress to appropriate $3,000,000,000 for Works Progress Administration for the next fiscal year; to the Committee on Appropriations.

4772. Also, petition of the New York State Assembly, opposing the enactment of the Parsons bill (H. R. 8327); to the Committee on Rivers and Harbors.

4773. Also, petition of Mr. C. H. Hoffman, secretary of the Genesee-Pine Hill Businessmen's Association of Buffalo, N. Y., opposing the enactment of the Parsons bill (H. R. 8327); to the Committee on Rivers and Harbors.

4774. By Mr. COFFEE of Washington: Resolution of the Ladies' Auxiliary, No. 26, of the I. W. A., of Sultan, Wash., Hazel I. Booth, secretary, endorsing the Coffee fine arts bill (H. R. 9102), and urging its enactment by the Congress; to the Committee on Education.

4775. Also, resolutions of Ladies' Auxiliary, No. 26, of Sultan, Wash., Hazel I. Booth, secretary, opposing the Hill-Sheppard bill and its iniquitous successor, the May bill; condemning the conduct of certain Tory Senators in filibustering against the antilynching bill; demanding the adoption of House Joint Resolution 527, the O'Connell peace bill, distinguishing between aggressors and victims; and urging enactment of House bill 4199 into law immediately; to the Committee on Military Affairs.

4776. Also, resolution of the Tacoma Labor Union Relief Council, of Tacoma, Wash., urging enactment of the Coffee fine arts bill (H. R. 9102); urging enactment of House bill 4199, the General Welfare Act, into law immediately; to the Committee on Education.

4777. By Mr. CULKIN: Petition of the board of managers of the Sons of the Revolution in the State of New York, L. Livingston Sands, New York City, secretary, urging dangerous provisions of the reorganization bill be not enacted into law; to the Committee on Government Organization.

4778. Also, petition of the Monday Luncheon Club, Massena, N. Y., E. B. Fassel, president, protesting against any reduction in the tariff on aluminum as is possible in the trade agreement with Canada now pending; to the Committee on Interstate and Foreign Commerce.

4779. Also, petition of the Lions Club, of Massena, N. Y., protesting against any reduction in the tariff on aluminum as is possible in the trade agreement with Canada now pending; to the Committee on Interstate and Foreign Commerce.

4780. Also, petition of the Loggia Litalia Unita, No. 723, Sons of Italy Grand Lodge, Inc., Rocco Creazzo, president, Massena, N. Y., protesting against any reduction in the tariff on aluminum as is possible in the trade agreement with Canada now pending; to the Committee on Interstate and Foreign Commerce.

4781. Also, petition of the Chamber of Commerce, George F. Burrows, secretary, Rome, N. Y., urging that the reorganization bill be recommitted for further study and amendment; to the Committee on Government Organization.

4782. By Mr. LAMNECK: Petition of the National Warm Air Heating and Air Conditioning Association of Columbus, Ohio, urging the Congress of the United States to enact legislation effective to control, limit, or prohibit the export of iron and steel scrap; to the Committee on Foreign Affairs.

4783. By Mr. PFEIFER: Petition of the New York Association for the Blind, New York City, urging the passage of Senate bill 2819; to the Committee on Expenditures in the Executive Departments.

4784. By Mr. SANDERS: Petition of E. W. Boatman and other citizens of Panola County, Tex., requesting immediate passage of legislation making it a felony to sell, offer for sale, buy, pack, load, ship, or transport for interstate commerce any fresh tomatoes which do not grade U. S. No. 2 or better, and the provision of penalty therefor; to the Committee on Interstate and Foreign Commerce.

SENATE

FRIDAY, APRIL 8, 1938

(Legislative day of Wednesday, January 5, 1938)

The Senate met at 11 o'clock a. m., 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 Thursday, April 7, 1938, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. MINTON. 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:

Ashurst	Dieterich	King	Pittman
Austin	Donahey	La Follette	Pope
Bailey	Duffy	Lee	Radcliffe
Bankhead	Ellender	Lodge	Reames
Barkley	Frazier	Logan	Reynolds
Berry	George	Lonergan	Russell
Bilbo	Gerry	Lundeen	Schwartz
Bone	Gibson	McAdoo	Sheppard
Borah	Gillette	McCarran	Shipstead
Bridges	Glass	McGill	Smathers
Brown, Mich.	Green	McKellar	Thomas, Okla.
Bulkley	Hale	McNary	Thomas, Utah
Bulow	Harrison	Maloney	Townsend
Burke	Hatch	Miller	Truman
Byrd	Hayden	Milton	Tydings
Byrnes	Herring	Minton	Vandenberg
Capper	Hill	Murray	Van Nuys
Caraway	Hitchcock	Neely	Wagner
Clark	Holt	Norris	Walsh
Connally	Hughes	Nye	Wheeler
Copeland	Johnson, Calif.	O'Mahoney	White
Davis	Johnson, Colo.	Overton	

Mr. MINTON. I announce that the Senator from Florida [Mr. ANDREWS] and the Senator from Washington [Mr. SCHWELLENBACH] are absent because of illness.

The Senator from South Carolina [Mr. SMITH] is detained on official business in his State.

The Senator from Colorado [Mr. ADAMS], the Senator from New Hampshire [Mr. BROWN], the Senator from New Mexico [Mr. CHAVEZ], and the Senator from Florida [Mr. PEPPER] are detained on important public business.

The Senator from Illinois [Mr. LEWIS] is unavoidably detained.

The Senator from Pennsylvania [Mr. GUFFEY] is absent, as a member of the Delaware Valley Tercentenary Commission, attending the celebration of the three hundredth anniversary of the landing of the Swedes in the United States.

The VICE PRESIDENT. Eighty-seven Senators have answered to their names. A quorum is present.

PETITIONS AND MEMORIALS

Mr. WALSH presented a paper in the nature of a memorial from John Kumpa, of Massachusetts, remonstrating against certain alleged acts of Poland directed against the independence and territorial integrity of Lithuania, which was referred to the Committee on Foreign Relations.

Mr. TYDINGS presented a petition of sundry citizens of Baltimore, Md., praying for the continuation of strict immigration laws, which was referred to the Committee on Immigration.

Mr. COPELAND presented a resolution adopted by Major Joseph E. Hurley Post, No. 1183, American Legion, New