the assertions of partisan opponents that these programs have hurt American farmers:

	Calendar year—		Percent increase
	1932	1939	
United States farm cash income from marketings, excluding Government payments	$4,682,000,000	$7,733,000,000	65.2
United States average farm price for all products, index (1909-14=100)	65	93	43.1
Ratio of prices farmers receive to prices they pay	61	77	26.2
United States average farm prices received by farmers for—			
Wheat ... cents per bushel	38.8	63.6	63.9
Corn ... do	28.1	47.6	69.4
Beef cattle ... dollars per hundredweight	4.25	7.03	65.4
Hogs ... do	3.34	6.23	86.5
Butterfat ... cents per pound	17.9	23.9	33.5
Wool ... do	8.6	22.3	159.3
Cotton ... do	5.82	8.66	48.8
Tobacco ... do	9.3	15.6	67.7

Not only have farmers' prices and incomes risen, but their average per-acre taxes on farm land have been reduced by nearly one-sixth since 1932.

CONDITIONS IN 1932 NOT BASED ON AVERAGES

Opponents of this administration try desperately to avoid comparisions between 1932 and 1939. A favorite trick is to scramble up some artificial boom years of the late twenties with the terrible years following the collapse of 1929, and thus seek to divert attention from the disastrous conditions in 1932, that were the results of false tariff and other policies. But in 1933 the Roosevelt administration found on its doorstep awful conditions that had to be remedied, not some vague averages with conditions in the booming twenties.

These opponents unhesitatingly resort to distortion and misleading use of facts and figures in attacking the trade-agreements program. The spearhead of a recent and typical attack inserted in the CONGRESSIONAL RECORD is a table purporting to show total imports of certain selected agricultural commodities into the United States during the 7 New Deal years 1933–39.

The primary and wholly false foundation of this argument is that the American farmer is hurt by any and all agricultural imports except of products such as rubber and coffee which cannot be grown in this country. That is not true.

EMBARGO TARIFFS WRECK FARM PROSPERITY

When the United States, on this false theory, tried under the Hawley-Smoot Tariff Act of 1930 to shut out every trace of such imports, American farmers were severely injured. They found that they could not get embargo tariffs on farm products without accepting such tariffs on industrial goods as well. The inevitable result was embargo tariffs all around; collapse of foreign purchasing power for our exportable farm and other surpluses; foreign tariff retaliation against our exports; and, finally, shrunken markets, ruinously low prices, and severe losses to farmers.

The facts are, as Secretary of Agriculture Wallace has pointed out, that if we excluded from this country all the agricultural commodities that we might possibly produce here, we should sacrifice much greater foreign markets for our own crops and leave 4 American acres idle for every 1 we put to work.

OPPONENTS JUGGLE FIGURES

Furthermore, honest examination of the figures themselves as they appear in the RECORD discloses that barely one-twentieth of the total imports there listed have actually entered the United States at tariffs reduced under trade agreements. The makers of the table lumped all forms, types, grades, and classes of agricultural products together in a total which, it is deliberately implied, was imported at tariffs reduced under trade agreements. That implication is 95 percent untruthful.

Sixty percent of the imports on the list in question consist of beef, wool and mohair, hides and skins, barley malt, and flaxseed. No tariff on any of these products has been lowered in any trade agreement.

Again, the list includes all imports of live cattle for 7 years, although in 3 of those years there were no tariff reductions in live cattle and in the remaining 4 years less than half the imports have come in at reduced duties, while prices and incomes to American cattle producers have been rising steadily.

Likewise, all dairy imports for 7 years are added in, although little more than one-fourth of them have entered at trade-agreement rates, none of which were in effect in 3 of the 7 years.

Even the total 7-year imports of corn go to swell the total although these imports, except for a few bushels from Cuba alone, paid the full 1930 tariff rate. The American corn-hog industry is and always has been normally on a heavy export basis so that tariffs on corn and on pork products ordinarily mean nothing.

Such tactics of distortion cannot change the fact that the American farmer is better off under the programs of the democratic New Deal than he was under the indifference and incompetence of the Republican old deal.

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 REPORTS OF COMMITTEES

Mr. HATCH, from the Committee on the Judiciary, reported favorably the nomination of James F. T. O'Connor, of California, to be district judge for the southern district of California, vice William P. James, deceased.

Mr. SHEPPARD, from the Committee on Military Affairs, reported favorably the nominations of several general officers of the National Guard of the States to be brigadiers general in the National Guard of the United States.

He also, from the same committee, reported favorably the nominations of sundry officers for promotion in the Regular Army.

He also, from the same committee, reported favorably the nominations of sundry officers for appointment, by transfer, in the Regular Army.

Mr. WALSH, from the Committee on Naval Affairs, reported favorably the nominations of sundry officers for appointment or promotion in the Navy.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of several postmasters.

The PRESIDENT pro tempore. If there be no further reports of committees, the clerk will state the nominations on the calendar.

THE JUDICIARY

The legislative clerk read the nomination of Marion Speed Boyd to be United States district judge for the western district of Tennessee.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

That concludes the calendar.

RECESS

Mr. BARKLEY. As in legislative session, 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 p. m.) the Senate took a recess until tomorrow, Thursday, September 19, 1940, at 11 o'clock a. m.

CONFIRMATION

Executive nomination confirmed by the Senate September 18, 1940

UNITED STATES DISTRICT JUDGE

Marion Speed Boyd to be United States district judge for the western district of Tennessee.

SENATE

THURSDAY, SEPTEMBER 19, 1940

(Legislative day of Wednesday, September 18, 1940)

The Senate met at 11 o'clock a. m., on the expiration of the recess.

Rev. Bernard Braskamp, D. D., pastor of Gunton Temple Memorial Presbyterian Church, Washington, D. C., offered the following prayer:

Most merciful and gracious God, who art the comrade of our pilgrim way, we desire to begin, to continue, and end this day with Thee. May we enter upon its duties and responsibilities serenely and courageously, for the Lord of hosts is with us and the God of righteousness is our refuge.

Grant that Thy divine spirit may so illumine and clarify our minds that we shall come to know the truth and follow it without fear. Open our eyes that we may see that faith, hope, and love are the mightiest weapons in the shaping of our human world. May these virtues be the guiding light of our lives.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Give us a more kindly understanding of each other and a spirit of good will toward men everywhere. Wilt Thou so warm our hearts that we shall gladly respond to the call of human need? May our sympathy be as wide as the world's horizon and our longing for universal brotherhood as deeply rooted as the passion for life itself. We pray that at eventide, when the shadows fall, we may have Thy benediction of peace. In Christ's name. Amen.

THE JOURNAL

On request of Mr. HARRISON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day of Wednesday, September 18, 1940, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. HARRISON. I make the point that there is not a quorum present.

The PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Frazier	La Follette	Sheppard
Andrews	George	Lee	Shipstead
Ashurst	Gerry	McKellar	Smathers
Austin	Gibson	McNary	Stewart
Bailey	Gillette	Maloney	Taft
Barkley	Glass	Miller	Thomas, Idaho
Bilbo	Green	Minton	Thomas, Okla.
Brown	Guffey	Murray	Thomas, Utah
Bulow	Gurney	Neely	Tobey
Burke	Hale	Norris	Townsend
Byrd	Harrison	Nye	Vandenberg
Byrnes	Hatch	O'Mahoney	Van Nuys
Capper	Hayden	Overton	Wagner
Clark, Idaho	Herring	Pepper	Walsh
Clark, Mo.	Hill	Pittman	Wheeler
Connally	Holt	Radcliffe	White
Danaher	Hughes	Reed	Wiley
Davis	Johnson, Calif.	Russell	
Downey	Johnson, Colo.	Schwartz	
Ellender	King	Schwellenbach	

Mr. MINTON. I announce that the Senator from Washington [Mr. BONE] is absent because of illness.

The Senator from Alabama [Mr. BANKHEAD], the Senator from Arkansas [Mrs. CARAWAY], the Senator from Kentucky [Mr. CHANDLER], the Senator from New Mexico [Mr. CHAVEZ], the Senator from Ohio [Mr. DONAHEY], the Senator from Illinois [Mr. LUCAS], the Senator from Nevada [Mr. MCCARRAN], the Senator from New York [Mr. MEAD], the Senator from Arkansas [Mr. MILLER], the Senator from North Carolina [Mr. REYNOLDS], the Senator from Illinois [Mr. SLATTERY], the Senator from South Carolina [Mr. SMITH], the Senator from Missouri [Mr. TRUMAN], and the Senator from Maryland [Mr. TYDINGS] are necessarily absent.

Mr. AUSTIN. I announce that the Senator from New Jersey [Mr. BARBOUR], the Senator from New Hampshire [Mr. BRIDGES], the Senator from Oregon [Mr. HOLMAN], and the Senator from Massachusetts [Mr. LODGE] are necessarily absent.

The PRESIDENT pro tempore. Seventy-seven Senators have answered to their names. A quorum is present.

REPORTS OF COMMITTEES

Mr. SHEPPARD, from the Committee on Irrigation and Reclamation, to which was referred the bill (S. 4167) to amend an act entitled "An act authorizing construction of water conservation and utilization projects in the Great Plains and arid and semiarid areas of the United States," approved August 11, 1939 (53 Stat. 1418), and an act entitled "An act to promote conservation in the arid and semiarid areas of the United States by aiding in the development of facilities for water storage and utilization, and for other purposes," approved August 28, 1937 (50 Stat. 869), reported it with amendments and submitted a report (No. 2141) thereon.

He also, from the same committee, to which was referred the bill (H. R. 9734) authorizing allocation of funds for the construction of Saco Divide unit, Milk River project, and for other purposes, reported it without amendment and submitted a report (No. 2142) thereon.

Mr. OVERTON, from the Committee on Commerce, to which was referred the bill (S. 4299) to authorize the United States Maritime Commission to furnish suitable vessels for the benefit of certain State nautical schools, and for other purposes, reported it with amendments and submitted a report (No. 2143) thereon.

Mr. MINTON, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 3610) to authorize the use of Tennessee Valley Authority funds for alteration, reconstruction, or relocation of certain highway and railroad bridges, reported it with amendments and submitted a report (No. 2144) thereon.

BILLS INTRODUCED

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

By Mr. BARKLEY:

S. 4359. A bill to change the base period in case of burley and flue-cured tobacco from the period August 1919–July 1929 to the period August 1934–July 1939; to the Committee on Agriculture and Forestry.

S. 4360. A bill to confer jurisdiction upon the United States District Court for the Western District of Kentucky to hear, determine, and render judgment upon the claim of Theodore R. Troendle, sole stockholder of the Dawson Springs Construction Co.; to the Committee on Claims.

By Mr. WALSH:

S. 4361. A bill to establish the minimum permanent authorized enlisted strength of the active list of the Marine Corps; to the Committee on Naval Affairs.

By Mr. MALONEY:

S. 4362. A bill to provide for the completion of certain local protection works at East Hartford, Conn.; to the Committee on Commerce.

By Mr. SHIPSTEAD:

S. 4363. A bill granting the consent of Congress to the department of highways and the county of Big Stone, State of Minnesota, to construct, maintain, and operate a free highway bridge across the Whetstone Diversion Channel at or near Ortonville, Minn.; to the Committee on Commerce.

By Mr. CLARK of Missouri:

S. 4364. A bill to provide for necessary facilities for the District of Columbia National Guard Air Corps Squadron; to the Committee on Commerce.

By Mr. SHEPPARD:

S. 4365. A bill to create the grade of aviation cadet in the Air Corps, Regular Army, and to prescribe the pay and allowances therefor, and for other purposes; and

S. 4366. A bill to provide for an extension of the conditions under which a money allowance for quarters may be paid to certain noncommissioned officers of the Army of the United States; to the Committee on Military Affairs.

RECOMMITTAL OF A BILL

On motion by Mr. SHEPPARD, the bill (S. 4175) to amend section 61 of the National Defense Act of June 3, 1916, by adding a proviso which will permit States to organize military units not a part of the National Guard, and for other purposes, was ordered to be recommitted to the Committee on Military Affairs.

PROVISION FOR NATIONAL-DEFENSE HOUSING—AMENDMENT

Mr. TAFT submitted an amendment intended to be proposed by him to the bill (H. R. 10412) to expedite the provision of housing in connection with national defense, and for other purposes, which was ordered to lie on the table and to be printed.

AMENDMENT TO RIVER AND HARBOR DEFENSE IMPROVEMENT BILL—EAST HARTFORD, CONN.

Mr. MALONEY submitted an amendment intended to be proposed by him to the bill (H. R. 9972) authorizing the improvement of certain rivers and harbors in the interest of the national defense, and for other purposes, which was ordered to lie on the table and to be printed.

CORPORATION INCOME AND EXCESS-PROFITS TAXATION—AMENDMENT PERTAINING TO CREDITS AGAINST UNEMPLOYMENT-COMPENSATION TAXES

Mr. TOWNSEND (for Mr. BARBOUR) submitted an amendment intended to be proposed by Mr. BARBOUR to the bill (H. R. 10413) to provide revenue, and for other purposes, which was ordered to lie on the table and to be printed.

PRINTING OF PRAYERS OFFERED BY CHAPLAIN OF THE SENATE

Mr. NEELY submitted the following resolution (S. Res. 315), which was referred to the Committee on Printing:

Resolved, That 2,500 copies of the prayers offered by the Reverend ZeBarney T. Phillips, D. D., Chaplain of the Senate, at the opening of the daily sessions of the Senate during the Seventieth to the Seventy-sixth Congress, inclusive, be printed and bound for the use of the Senate.

PROGRAM FOR THE CONSTRUCTION OF PUBLIC, UNDERGROUND, BOMB-PROOF SHELTERS

Mr. THOMAS of Oklahoma. Mr. President, I ask unanimous consent to submit a simple Senate resolution. I ask that the resolution be printed in the RECORD and then be printed and lie upon the table.

There being no objection, the resolution (S. Res. 316) was received, and ordered to lie on the table and to be printed, as follows:

Whereas the United States is taking steps to increase and strengthen our several military defense units, and

Whereas in the prosecution of this program it is deemed advisable to give major consideration to defenses against airplanes and airplane warfare, and

Whereas the European war discloses that the major part of the military activities are conducted in the air and take the form of airplane attacks against cities, railways, water supplies, and such military establishments as airplane factories and factories engaged in the production of ammunition and military supplies, and

Whereas in the present attack upon England, planes of a bomber type are used to transport bombs to be released over vital points, and

Whereas in this kind of warfare it is necessary to protect the civilian population against bomb attacks by the construction of bomb retreats consisting of underground rooms and spaces, and

Whereas in order to perfect our military defense program it is deemed advisable to give consideration to the construction of rooms and spaces underground, so that in case of an air attack the civilian population may find places of comparative safety against such attacks: Therefore, be it

Resolved, That it is the sense of the United States Senate that our military authorities and those in charge of developing our defense program should give consideration to the location and construction of adequate public retreats and shelters to accommodate the people: Be it further

Resolved, That our military authorities and those in charge of our military defense program be requested to consult and confer with the constituted legal authorities of the States and cities located along the border of the United States to the end that they may be advised and induced to take proper steps in cooperation with the Government in the establishment of such retreats and shelters: Be it further

Resolved, That in the event legislation and funds are found to be necessary in carrying out this program, the said War Department and those in charge of our defense program be and are hereby requested to prepare and submit to the Congress appropriate recommendations on this subject.

Mr. THOMAS of Oklahoma. Following the printing of the resolution, I ask permission to insert in the RECORD copy of a telegram which I am sending to the mayors of the largest cities on the seaboard. I am asking the mayors a question, and for the information of the Senate I ask that the telegram be read.

The PRESIDENT pro tempore. Is there objection? The Chair hears none.

The telegram was read, as follows:

The MAYOR, *New York City:*

The Congress and administration are developing and strengthening our military defense units. It is obvious that in addition to developing military defense units we should provide air-raid shelters for the public. Please advise if any steps looking toward the construction of such shelters have been taken or are contemplated in your city.

ELMER THOMAS,
United States Senator, Oklahoma.

ADDRESS BY SENATOR MILLER BEFORE ARKANSAS DEMOCRATIC STATE CONVENTION

[Mr. BROWN asked and obtained leave to have printed in the RECORD the address delivered by Senator MILLER before the Arkansas Democratic State Convention at Little Rock, Ark., on September 17, 1940, which appears in the Appendix.]

ADDRESS BY SENATOR HOLT ON PROFITS AND "PAYTRIOTISM"

[Mr. HOLT asked and obtained leave to have printed in the RECORD a radio address delivered by him on September 16, 1940, on the subject Profits and "Paytriotism," which appears in the Appendix.]

STATEMENT BY SENATOR GUFFEY ON WHY I AM FOR ROOSEVELT

[Mr. GUFFEY asked and obtained leave to have printed in the RECORD a statement issued by him under the heading "Why I Am for Roosevelt," which appears in the Appendix.]

ADDRESS BY SECRETARY ICKES ON THE NEW DEAL AND NATIONAL DEFENSE

[Mr. MINTON asked and obtained leave to have printed in the RECORD a radio address on the subject The New Deal and National Defense, delivered on September 15, 1940, by Hon. Harold L. Ickes, Secretary of the Interior, which appears in the Appendix.]

ADDRESS BY CHIEF OF STAFF ON SELECTIVE SERVICE ACT

[Mr. SHEPPARD asked and obtained leave to have printed in the RECORD a radio address delivered by Gen. George C. Marshall, Chief of Staff, on September 16, 1940, with reference to the Selective Service Act, which appears in the Appendix.]

ADDRESS BY GOVERNOR BALDWIN, OF CONNECTICUT, BEFORE NATIONAL TAX ASSOCIATION

[Mr. DANAHER asked and obtained leave to have printed in the RECORD an address delivered by Hon. Raymond E. Baldwin, Governor of Connecticut, at the Governor's dinner of the thirty-third annual conference on taxation of the National Tax Association, held in New York City, September 10, 1940, which appears in the Appendix.]

TERMS OF THE PRESIDENCY—STATEMENT BY JOHN W. DAVIS

[Mr. BURKE asked and obtained leave to have printed in the RECORD a statement by John W. Davis on the issue of a third term for the Presidency, made before the United States Senate Judiciary Committee, which appears in the Appendix.]

ADDRESS BY HON. HENRY T. WICKHAM TO VIRGINIA LEGISLATURE

[Mr. BYRD asked and obtained leave to have printed in the RECORD, an address delivered to the joint assembly of the State Senate and House of Delegates of Virginia, on February 23, 1940, by Hon. Henry T. Wickham, President pro tempore of the Senate of Virginia, which appears in the Appendix.]

TRIBUTE TO THE LATE LILLIAN D. WALD

[Mr. WAGNER asked and obtained leave to have printed in the RECORD an editorial from the East Side News of New York paying tribute to the late Lillian D. Wald, which appears in the Appendix.]

EDITORIAL FROM NEW YORK TIMES ON CHOICE OF A CANDIDATE

[Mr. TOWNSEND asked and obtained leave to have printed in the RECORD an editorial under the heading "The Choice of a Candidate," published in the New York Times of this date, which appears in the Appendix.]

MEMBERSHIP OF COMMITTEE TO DEFEND AMERICA BY AIDING THE ALLIES

[Mr. HOLT asked and obtained leave to have printed in the RECORD a survey of the membership of the Committee to Defend America by Aiding the Allies.]

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 4088) to amend the Commodity Exchange Act, as amended, to extend its provisions to fats and oils, cottonseed, cottonseed meal, and peanuts; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. FULMER, Mr. BEAM, Mr. PACE, Mr. HOPE, and Mr. KINZER were appointed managers on the part of the House at the conference.

The message also announced that the House had passed a joint resolution (H. J. Res. 607) making additional appropriations for the Military Establishments for the fiscal year ending June 30, 1941, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to a concurrent resolution (H. Con. Res. 88), in which it requested the concurrence of the Senate, as follows:

Resolved by the House of Representatives (the Senate concurring), That there be printed 60,000 additional copies of Public Law No. 785, current Congress, entitled "Transportation Act of 1940," of which 10,000 copies shall be for the use of the Senate document room and 50,000 copies shall be for the use of the House document room.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

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

S. 2991. An act to authorize the Secretary of the Navy to accept on behalf of the United States certain lands in the city of National City, Calif.;

H. R. 4031. An act to confer jurisdiction on the Court of Claims to hear, determine, and render judgment upon the claim or claims of the Recording & Computing Machines Co., of Dayton, Ohio;

H. R. 8551. An act for the relief of Xenophon George Panos;

H. R. 10026. An act to provide for the disposition of certain photographed records of the United States Government, and for other purposes;

H. R. 10176. An act authorizing the Secretary of the Interior to issue patents for lands held under color of title;

H. R. 10438. An act to extend the age limits for applicants for appointment as midshipmen at the United States Naval Academy;

H. J. Res. 445. Joint resolution to establish a Commission for the Celebration of the Two Hundredth Anniversary of the Birth of Thomas Jefferson; and

H. J. Res. 596. Joint resolution to authorize Commander Howard L. Vickery to hold the office of a member of the United States Maritime Commission.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H. J. Res. 607) making additional appropriations for the Military Establishment for the fiscal year ending June 30, 1941, was read twice by its title and referred to the Committee on Appropriations.

PRINTING ADDITIONAL COPIES OF TRANSPORTATION ACT OF 1940

The PRESIDENT pro tempore laid before the Senate House Concurrent Resolution 88, which was read, as follows:

Resolved by the House of Representatives (the Senate concurring), That there be printed 60,000 additional copies of Public Law No. 785, current Congress, entitled "Transportation Act of 1940," of which 10,000 copies shall be for the use of the Senate document room, and 50,000 copies shall be for the use of the House document room.

Mr. HAYDEN. I move that the Senate concur in the House resolution.

The motion was agreed to.

CORPORATION INCOME AND EXCESS-PROFITS TAXATION

The Senate resumed the consideration of the bill (H. R. 10413) to provide revenue, and for other purposes.

Mr. ADAMS. Mr. President, at the time of the recess yesterday I was starting a discussion of the pending amendment of the Senator from Michigan [Mr. BROWN]. Today, without going back to the subject of municipal and State bonds, I desire first to make a suggestion or two in reference to the Federal phase of the matter.

Of course no legal or constitutional question is involved in the taxation of Federal bond interest. Only one question is involved, as to whether or not it is an advisable thing to do. I very seriously doubt its advisability. The argument which has been made in favor of the taxation of Federal bond interest has largely been based upon a claim that certain economic injustices are being done; that certain very wealthy men are taking advantage of the immunity afforded by the exemptions to evade the payment of their fair share of taxes—a thing which obviously ought to be stopped if the remedy is not worse than the disease. I am inclined to think that in the effort to reach that evil we may perpetrate a more serious evil on the country.

The determination of the question should be upon the basis of the welfare of the country as a whole. The fact that some individual is deriving a benefit from a particular provision of law does not justify us in taking action which would injure the country as a whole. We had better tolerate the present evil than inflict a greater evil upon the country.

As a matter of fact, the men who have been the basis of the argument are very few in number. They are rather insignificant in their financial consequences. Individuals in the United States, including the wealthy, hold less than 4 percent of the Federal bonds.

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

Mr. ADAMS. Certainly.

Mr. BROWN. The principal cause of this unjust situation is not the Federal bonds; it is the State bonds. The State bonds are totally tax-exempt.

Mr. ADAMS. I am speaking of the Federal bonds at this time.

Mr. BROWN. Municipal bonds are totally exempt, and of those, $20,000,000,000 worth are in the hands of individual investors, who take advantage of the tax exemption.

Mr. ADAMS. I am speaking of the Federal bonds. Individuals in the country hold less than 4 percent of the outstanding Federal bonds. Of that 4 percent, a relatively limited number are held by those who derive great advantage from the exemption features. Men with incomes of over $500,000 receive one-half of 1 percent of the national income. Loose statements have been made from time to time at variance with that, but the statistics furnished me show that men with incomes of over $500,000 receive one-half of 1 percent of the national income. Therefore we should be a little careful in laying down a rule to apply to 99½ percent of the national income in order to cure an evil limited to one-half of 1 percent.

I am entirely in accord with any method which will obviate the unfairness and the injustice now existent; but what is our practical problem? We have today $45,000,000,000 of national indebtedness. At this session Congress has authorized expenditures which will bring the national indebtedness up to at least $65,000,000,000. We will have to sell $20,000,000,000 worth of bonds. We are entering upon a course of procedure which will still further increase our need for purchasers of our bonds. If we increase by one-half of 1 percent the interest which the country must pay on $65,000,000,000 of bonds, the additional cost to the Government on the bonds by way of interest will be between three and four hundred million dollars a year.

It does not sound formidable to say that the interest will be increased only one-half of 1 percent, but that means a 25-percent increase in interest costs. The bonds at the present time are paying about 2 percent. We will increase that certainly to 2½ percent, some experts say to 2.65, some to 2.75, but we will have to assume the increased interest charge, and the interest charge today is eleven hundred million dollars. In other words, of the Nation's income, which today is about $6,000,000,000, we are spending on interest alone $1,100,000,000. If we add a 25-percent increase in the interest rate and figure the inevitable increase in outstanding bonds, we will run the interest charges to $1,400,000,000 a year. I do not believe we would get back from taxes on present tax-exempt bonds enough to counterbalance the increased cost. It is a pure matter of dollars and cents at that point.

Of course, we have to project the whole picture into the future, because we have existing tax-exemption provisions which cannot be taken away. It is rather difficult to carry on the discussion with two things in mind—the immediate situation and the situation when all the tax-exempt features will have been taken away. But I am uneasy about the future financing of the country. As I have said on the floor of the Senate heretofore, I am more apprehensive of danger to our country from internal financial catastrophe than from foreign foes. I think we are in far greater danger from ex-

penditures we have already made and from those we are making.

We will have $20,000,000,000 of bonds to put on the market as a result of authorizations made at this session, we will have other billions to put on the market, and we must have purchasers. The catastrophe comes the day when the bonds of the United States are put on the market and do not sell. Today the credit of the United States is at the peak of all credit in the world, public and private.

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

Mr. ADAMS. Certainly.

Mr. HATCH. When the time comes, if it ever shall come, when the bonds of the United States will not sell, what will be the only course left open to the Government?

Mr. ADAMS. I have a very definite idea as to that, but I do not care to put it in the RECORD.

Mr. HATCH. I withdraw the question. I think I know what the Senator's idea is, and I really thought it would be helpful to have it explained. But I withdraw the question.

Mr. ADAMS. My apprehension is very great. I think the problem which confronts us is tremendously serious. There are in the banks of the United States $18,000,000,000 of bonds of the United States. Insurance companies hold large amounts. If we impose a tax on the interest on Government bonds, we decrease the value of the bonds. In other words, they produce less of a money return, and therefore they have less value. They will be less attractive to the banks, to the insurance companies, and to other investors.

I know the great Senator to whom we all look in banking matters and finance matters, the senior Senator from Virginia [Mr. GLASS], shares the apprehensions I have as to the bond situation. He knows the extent to which the banks have invested their funds in Government securities, $18,000,000,000 today, almost as much money as the banks have out on loans. A decline of a very few points in the market value of the bonds would mean disaster to many banks. I do not go as far as does the Senator from Virginia as to what would come about, but there is the possibility of disaster, and I think the Congress should hesitate to do anything which might jeopardize the safety of the banks, which might jeopardize the securities of the insurance companies, all because approximately 2 percent, or less than 2 percent, of the taxpayers are getting an individual advantage because some man with a large income buys tax-exempt bonds.

We have observed on the floor of the Senate a thing which we all rather enjoy—the shining rapier sunk into the body of the rich man and brought out dripping with his blood. That is a very popular picture, but it is a picture which underlies and supports much of the argument to remove the tax exemption from Government bonds, to make the United States pay more for its money than it now pays, and to make the States pay more for their money than they now pay.

I am not concerned one way or the other with single individuals or groups. I am concerned with 130,000,000 individuals, and it is in the light of their welfare that this matter should be determined.

There are 40,000,000 individual depositors in the banks of the Nation. They are all concerned in the value of the bonds of the United States. The bonds of the United States are worth more with the tax-exempt feature than without it. There is a market for the bonds today. Remove the tax-exempt feature and the bonds must compete with corporate bonds. There have been times in history when the bonds of a nation went down while corporate bonds stood up. Sometimes the industrial, the economic, and the financial structure stands when the national structure falls, and we will find banks and investors choosing between the returns on corporate bonds and Federal bonds, inasmuch as there will be no advantage with respect to the tax feature. I know that many banks and insurance companies are concerned because of the situation.

Let us consider the rich man. In my section of the country a man who has an income of $100,000 is a rich man. In other sections people talk in figures I do not understand, but any man in my State who has an income of $100,000 is rich. If such a rich man in my State invested his money so as to have $100,000 income from Government bonds, what would be the fabulous income from those bonds which would be exempt from taxation? He would get an exemption of $2,000 a year. That is the terrible picture before us—$2,000 of his income of $100,000 would be exempt.

The investor, be he rich or poor, is allowed only 2-percent exemption on income from Government bonds. The outrage of which we hear so much is that 2 percent is exempt, and Senators are told that the 2-percent exempted interest is the equivalent of 10 percent on a taxed bond in the hands of some people. Whether that be true or not is immaterial. The fact is that the investor gets an exemption of about 2 percent. Furthermore, Mr. President, the Government has outstanding a large amount of Treasury notes and Treasury bills, running up toward $10,000,000,000, and what interest does the investor receive upon those securities? He receives upon some of them as much as three-tenths of 1-percent interest. Upon the better of them he receives six-tenths of 1-percent interest. There are from eight to ten billion dollars worth of this kind of short-term Government securities, upon which the interest yield will average less than one-half of 1 percent, and we are desperately worried lest some person receives an exemption of this one-half of 1 percent.

Mr. BROWN. Mr. President, I ask the Senator to yield at this point?

Mr. ADAMS. Certainly. I merely wish to say to the Senator that I have not a great deal of time, and I use it rather recklessly.

Mr. BROWN. The opposition to this measure which appeared before the committee was very intense, very well financed, and I think that it may be safely said that those opposed to it drummed the country to get people to come here and testify against the measure. The Senator seems to be disturbed about the insurance companies and the banks. The American Bankers' Association has a representative in Washington who appears continually before various committees of Congress, and the insurance companies are well represented in Washington. Not one representative of the American Bankers' Association appeared before our committee, the hearings of which were well publicized. Not one representative of the insurance companies appeared before our committee, and its hearings were well publicized and printed in the financial stories of the committee's actions and hearings in the city of New York and Philadelphia. Only two men representing the banking fraternity appeared before the committee. Both of them represented that particular branch of the banking fraternity known as the investment bankers, who are interested in the sale of municipal bonds.

I now ask the Senator, if the insurance companies would be hurt by this measure—and they would not be—and if the banks would be hurt by this measure—and they would not be—will he point out to me or tell me why no representations were made by these two large sectors in our financial picture?

Mr. ADAMS. Mr. President, I could not tell the Senator that any more than I could tell why the Senator from Michigan, able and brilliant as he is, has reached the unsound conclusion he has reached with respect to parts of this measure. I have no contact with those people, and I do not know why they did not appear before the committee, and I would not attempt to hazard a guess. I know that the fact is that if we strike down the tax exemption of Federal bonds we do some damage to the banks, but I am not so much concerned about that. What I am concerned about is the damage it will inflict on the United States. I am only concerned about the fact that the banks may not be as ready purchasers as they now are. I do not care so much about the banks and the insurance companies, but there are 130,000,000 people whose welfare is involved in this question.

Mr. BROWN. Of course, the point is that none of the present investments of large banks and insurance companies at the present time will be affected adversely. It is very easy to argue that they will be affected the other way—that the remaining bonds, which are gradually getting fewer in number as the full effect of this amendment comes closer and closer,

will be more valuable, rather than less valuable, and that a gain will be made rather than a loss.

Mr. ADAMS. As I said to the Senator, we have had the difficulty of discussing at the same time the immediate picture and the ultimate picture, and we cannot help confusing them. We are trying to think of what will happen if the tax-exempt feature of Government bonds disappears. We cannot help considering that. The Senator is quite right in saying that today there are available all the tax-exempt securities the rich men of the country could possibly want. There is no lack of them; we are not depriving them of anything today. But there comes a new issue of bonds, and the question is what will the Government get for them? Those bonds will go onto a market where they are at a disadvantage. In other words, they are less valuable than the bonds that are now outstanding. What we are concerned with is the price at which we shall be able to sell the bonds which will be issued tomorrow and the next day and the next year and the year after that. When those bonds cease to find a ready market, down goes the defense program as well as the economic structure of the country. That is the apprehension I have.

Mr. BROWN. Mr. President, will the Senator again yield on that point?

Mr. ADAMS. I yield.

Mr. BROWN. I assure the Senator I will be as generous in yielding to him later on as he is now to me. Evidently the Treasury Department of the United States does not share the apprehension expressed by the Senator from Colorado. Many times I have taken his opinion in preference to that of the Treasury Department; but I think in this particular instance the Treasury Department has made a more thorough and exhaustive examination into the facts, and the Secretary of the Treasury told the Finance Committee that he was going to finance the defense program with bonds which are fully taxable. He will not issue tax-exempt bonds for that purpose.

Mr. ADAMS. Mr. President, normally, of course, I submerge my individual judgments to those of public officials, provided they are looking at the same thing I am. I am afraid the Treasury officials are looking into a much narrower field than I am trying to look into, and in this matter I am forced to follow what is my own conviction, after such study as I have made, and after reading the testimony adduced before the Senator's committee. It is not the first time I have failed to follow——

Mr. BROWN. The Senator always follows his own conviction.

Mr. ADAMS. I try to.

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

Mr. ADAMS. I yield.

Mr. KING. The views expressed by the Senator from Michigan with respect to the attitude of the Secretary of the Treasury do not greatly impress me. I am receiving many communications from small bondholders, widows and orphans, who have small holdings in bonds, representing perhaps all that was left in the estate of the husband or father, and they are very much concerned, as evidenced by the communications I have received, as to the decline in the price of bonds, which would, of course, materially interfere with and imperil their holdings. They are afraid if the Government issues more bonds the price of their present bonds will go down until finally we have a deluge of bonds, as they had in Germany and Russia.

The PRESIDENT pro tempore. The time of the Senator from Colorado on the amendment has expired.

Mr. ADAMS. I shall take my time on the bill.

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

Mr. ADAMS. I yield.

Mr. GLASS. The Senator from Colorado has stated that we are to sell $20,000,000,000 of bonds. Does not the Senator know that we are not going to sell them at all? We have not been selling them for years. We have been allocating them to the banks, and we have maneuvered the banks into such a position that they are afraid not to take the bonds when they are allocated to them. It has been stated by competent authority that a depreciation of the bonds 10 percent below par would ruin 90 percent of the banks of the country, and that is true.

Mr. ADAMS. I thank the Senator from Virginia. Of course, I know that the oversubscriptions which are reported in the newspapers are slightly——

Mr. GLASS. Oh, it is mere humbug. It is misleading. There is no oversubscription at all. The Senator himself has already indicated that a small percentage of individuals in this country own United States bonds.

Mr. ADAMS. Whenever there is an active market for bonds or securities and there is an oversubscription, this is what happens: A bank decides it wants to get $10,000 of a new issue. It is told that the issue of bonds will probably be oversubscribed 10 to 1, "so you had better apply for $100,000 worth." That is the common thing. The figures are exaggerated, but they all show that the credit of the United States today is most excellent. I am concerned with keeping it in that condition and preserving a market. I am inclined to think that the tax-exempt feature will stimulate the market for our bonds at a time when it will be absolutely needed. That market, in terms of dollars, is far greater than the small amount we could collect by taxing certain individuals.

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

Mr. ADAMS. I yield.

Mr. AUSTIN. I observed the colloquy between the Senator from Michigan [Mr. BROWN] and the Senator from Colorado [Mr. ADAMS], which obviously had for its aim to give the impression that in the study of this matter we have not heard any apprehension expressed by the banks themselves. I call attention to the contrary fact. Representatives of banks which are especially interested in the purchase and sale of securities from municipalities and States did appear and did register their protest. One witness who appeared was Mr. John S. Linen, a vice president of the Chase National Bank. That particular vice president had dealt with municipal bonds for the bank for 18 years. The bank was greatly concerned that the Congress should not undertake to make this change in Government policy without an amendment of the Constitution. If it were to be made at all, the bank insisted that it be made by means of an amendment to the Constitution in order to safeguard against the possibility of Congress, having taken this step, afterward taxing already existing obligations. I call attention to page 159 of the hearings before the Committee on Ways and Means of the House of Representatives, where such testimony appears.

Mr. ADAMS. Mr. President, I wish to discuss what to me is a more vital matter, involving a fundamental principle of our Government. I refer to the proposal in the Brown amendment to tax the securities of the States and their subdivisions.

During the life of our Government a basic immunity has been conceded, namely, that the Federal Government may not tax the instrumentalities of the States, and that the States may not tax the instrumentalities of the Federal Government. That immunity has been reduced by the decision as to salaries, but it has not been changed as to the taxation of the interest on State securities. The argument of the Court in the Helvering case and the O'Keefe case clearly points out that the Court recognizes, and will continue to recognize, the existence of the basic immunity of the borrowing capacity of the States from the imposition of taxes by the Federal Government. It is conceded that if we tax State securities we force the States to pay more in order to obtain their money, a most tangible and obvious interference with the States' basic necessities in obtaining money to do the things which they must do.

Next, we are confronted with the literal interpretation of the sixteenth amendment, to the effect that we may tax income "from whatever source derived." It is said that the words "from whatever source derived" must mean what they say. The Supreme Court of the United States has repeatedly said that that language is to be read in connection with the history of the amendment and the language of the amend-

ment as a whole, saying that there is no longer the requirement of apportionment among the States of income taxes, no matter from what source derived.

The Supreme Court of the United States has definitely taken that position. So, we are confronted with the situation that a law of the Congress which seeks to tax the interest on State bonds defies the present rulings of the Supreme Court of the United States. If we think such a law is valid, we must be placing our confidence in the hope that the Supreme Court will change its rulings. I question whether the Congress should base essential legislation upon the belief that the Supreme Court will reverse a series of cases—not old cases, not obsolete cases, but modern cases. We have a very able committee. I have not read the report of the committee, but I assume that two members take the position that the proposed tax would be unconstitutional. So, we have the Supreme Court and two members of the committee on one side, with three members of the committee against the Court. I have rather felt that notwithstanding my great admiration and respect for the three members of the committee, I should go along with the Supreme Court and the very able minority of the committee.

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

Mr. ADAMS. I yield.

Mr. BARKLEY. Does the Senator take the position that there is a tie vote as between the three Senators on the one hand, and the Supreme Court and two Senators on the other? Does that constitute a tie vote? [Laughter.]

Mr. ADAMS. I leave that question to the judgment of the Senate.

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

Mr. ADAMS. I yield.

Mr. BROWN. I do not think the Senator from Kentucky was present when the earlier part of the constitutional argument took place. The Supreme Court has never passed upon the question raised by this amendment. Certain statements in the opinions of the Court point in one direction, and other statements point in another direction; but any fair examination of all the opinions—and I have them all here; they are printed in the report—will show a great diversity of opinion, but never an instance in which the question raised by this amendment has been presented to the Court. That is obvious from the fact that since the sixteenth amendment was adopted we have never passed an income tax effective on income from municipal bonds.

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

Mr. ADAMS. I yield. I will say to the Senator that my time is running, and I hope he will be lenient with me.

Mr. LEE. I shall be very brief.

The nearest the Supreme Court has come to passing judgment on that point is in the decision with reference to the income of an employee of the Home Owners' Loan Corporation. Judge Stone, speaking for the Supreme Court, said:

> The present tax is a nondiscriminatory tax on income applied to salaries at a specified rate. It is not in form or substance a tax upon the Home Owners' Loan Corporation or its property or income, nor is it paid by the corporation or the Government from their funds. It is laid upon income which becomes the property of the taxpayer when received as compensation for his services; and the tax laid upon the privilege of receiving it is paid from his private funds and not from the funds of the Government, either directly or indirectly. The theory, which once won a qualified approval, that a tax on income is legally or economically a tax on its source is no longer tenable.

Mr. ADAMS. There is no question about that.

Mr. President, how much time have I left?

The PRESIDENT pro tempore. The Chair is informed that the Senator has 15 minutes left.

Mr. ADAMS. I do not mind being interrupted, but I have only 15 minutes left, and I have some additional things to say.

The decisions which have been referred to by the Senator from Oklahoma have to do with the salary situation; and that question has been definitely settled in several cases. The reciprocal immunities which may have existed have been wiped out as to salaries. The reciprocal immunities as to the taxation of securities have not been wiped out. My position goes to this point: If we concede that the sixteenth amendment gives to the Congress power to tax the securities of the States, I think the exercise of that power would be most unwise, most disastrous, and in violation of the fundamentals of this Government. I do not want to rest my views merely upon legal questions or upon legal decisions; but in this land we have two coexisting forms of government—the Federal Government and the governments of the States. It is vital to us to maintain them. The State governments have been tremendously weakened. Conferring upon the Federal Government power to tax State securities and State revenues means breaking down one of the vital essentials which must be maintained if the States are to exist as something more than mere Federal counties.

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

Mr. ADAMS. I yield.

Mr. HILL. I hope the Senator from Colorado will offer an amendment to the amendment of the Senator from Michigan which will take out from under the amendment of the Senator from Michigan and exempt from its operation State securities and securities of subdivisions of the States.

Mr. ADAMS. I thank the Senator.

Mr. President, if the sixteenth amendment is to be used as a basis of this tax, and if under that amendment the interest on State bonds and city bonds can be taxed, it is necessary to give a literal interpretation to the words "from whatever source derived," and when that is done there is given to the Federal Government not only the power to tax the interest on the bonds but to lexy a tax upon the taxes levied by the States for their support; to levy a tax upon license fees and upon every bit of revenue upon which the State depends. In other words, if a literal interpretation is to be given to the sixteenth amendment, not merely individuals and corporate holders but the States, the cities, and the counties themselves become subject to taxation, and the Federal Government is left unrestricted as to the rate. The Federal Government may proceed to enact a statute levying 10 or 20 percent upon the revenues derived by the State from gasoline sales, from taxes upon real and personal property. So and if the sixteenth amendment is to be given its literal meaning, which some seem to desire to give to it, the States and their subdivisions will be placed absolutely at the mercy of the Federal Government.

Mr. BAILEY. Mr. President, what the Senator says suggests to me that it might be timely to remark that there are no limitations with respect to taxation under the sixteenth amendment. In the taxing section of the Constitution proper the taxing power of Congress is specifically limited to purposes set forth, such as the national defense, the public debt, and the general welfare. But in the sixteenth amendment there is not only no limitation as to the rates but there is no limitation as to the application; that is to say, under the broad construction of the sixteenth amendment Congress can tax income from whatever sources derived for whatever purposes the Congress may choose. I do not know that attention has been called to that.

While I am on my feet I should like to make a further remark. None of us ever knows what the present Supreme Court will decide on any subject. That is said respectfully. The Court has abandoned the great historic standards which guided it for 150 years, and it has tied itself to the principle of construing acts of Congress liberally, with a view to enlarging the powers of Congress. I think that is a statement which will not be denied. That being so, it is all the more incumbent upon Members of the Senate of the United States to maintain a very deep and abiding regard for the Constitution itself. The Court seems to be disposed to leave it to us, and the responsibility to maintain the Constitution falls upon us now in greater measure than at any time in the whole history of this Government. If it is not maintained in the Senate, I can give no guaranty that it will be maintained elsewhere.

Mr. ADAMS. Mr. President, I appreciate the very apt suggestion of the Senator from North Carolina.

It is said that there is reciprocity in this provision, that the Federal Government can tax State securities and the

States can tax Federal securities. What is the reciprocity? The Federal Government claims unlimited power both as to time and amount, and the authority of the States is what the Congress sees fit to give them. In other words, the Congress may give them the power today and withdraw it tomorrow. There is no reciprocity.

Let me point out another thing as to reciprocity applied to my own community. I live in a community of workingmen, steel workers, railroad workers, and farmers. There are no accumulations of great wealth in my community. What would be the effect of the adoption of the amendment on that community? We have to borrow money in our community to build our schools and our courthouses; we have to protect our cities from flood. A number of years ago we had a disastrous flood, and we borrowed the money ourselves and expended many million dollars for flood protection. That was before the day when the Federal Government undertook such obligations. As a result the community has a bonded indebtedness. Now if a Federal tax be imposed upon the interest upon the bonds issued in our community, it means we will get less for our bonds. The interest money is raised by taxation. In my community there are 12,000 homes which furnish the larger part of the taxation. They are the homes of steel workers, railroad workers, and clerks. This extra tax would not fall upon the Federal Government; it would fall upon the moderate-circumstanced people in my community, which is now a highly taxed community. There is no reciprocity there. The tax would not fall upon anybody but the local people. As a matter of fact, taxes for local purposes are paid, not by the rich but by the relatively poor. So my community would have to pay a penalty if this amendment were adopted; we would have to pay to the Federal Government doubly. As taxpayers, we would have to pay more money to the Federal Government because the tax rates would go up, and we would have to pay more money to the city, the county, the State, and the school district because the interest on their bonds would go up. I say it will be the homes, it will be the farmers, it will be the little local business that would pay that penalty.

It is not fair; it is not just; and I do not think the Congress, whether it has the authority or not, should exercise the authority.

Why is this tax proposed? It is argued that somewhere there are men or groups of men who are buying these securities in order to avoid taxation. Therefore it is proposed to put more taxes on the home owners in my community because someone, a rich man in New York or Boston or Chicago, is escaping his fair share of taxes. Is it not a fine way to make him pay his share of taxes by making my neighbors pay more than their share? That, it seems to me, is not equitable; it is destructive of the independence of the States.

I think this is not the time nor this bill the place to attempt this form of taxation, which, at best, is of doubtful constitutionality. To give an illustration of the effect on the States, there are, roughly, $20,000,000,000 of outstanding bonds of States and their subdivisions. It is proposed to increase their interest rate. They are now paying on an average 2½ percent interest. Smaller communities, such as the one in which I live, pay more than that but the strong communities are paying 2½ percent, while the Federal Government is paying 2 percent. By this amendment the interest rate would be increased one-half of 1 percent, which is equivalent to an increase of 20 percent, which means States and their subdivisions which are now paying $500,000,000 in interest will have to pay $600,000,000. That is a minimum according to the testimony before the committee. The increase was figured higher than that, but taking the minimum figure a burden of at least $100,000,000 would be imposed upon the States and communities. It is said, "Well, that should not matter, because the Federal Government would get the money." The advocates of the proposal want to balance the income which the Federal Government receives against the increased cost to the States, the cities, and the counties. We have heard generalized statements of that kind, but the fact that they would have to pay more taxes and that somebody else, some place perhaps, would pay less would not afford much comfort to the people of my community.

The PRESIDENT pro tempore. The time of the Senator from Colorado has expired. The question is on the amendment offered by the Senator from Michigan [Mr. BROWN].

Mr. WAGNER. Mr. President, I ask unanimous consent to have printed in the RECORD a number of telegrams I have received from State officials, mayors of cities in the State of New York, and others, opposing the amendment offered by the Senator from Michigan which is now pending.

The PRESIDING OFFICER. Is there objection?

There being no objection, the telegrams were ordered to lie on the table and to be printed in the RECORD, as follows:

ALBANY, N. Y., *September 16, 1940.*

Hon. ROBERT F. WAGNER,
United States Senate:

Respectfully call your attention to my testimony before the Brown Senate Finance Committee opposing taxation of State and municipal bonds on the ground that it would increase State and local financing costs without producing any appreciable revenue to the Federal Government for years to come.

MORRIS S. TREMAINE.

ALBANY, N. Y., *September 16, 1940.*

Hon. ROBERT F. WAGNER,
The Senate:

As 1 of more than 40 attorneys general in the conference on State defense I urge that no action be taken on proposal to tax State and municipal securities this session. Report of special committee of Senate cannot show any immediate need by amending excess-profits tax bill. This important issue should be separately considered and thoroughly debated. Its consequences to New York State and New York City will be serious.

JOHN J. BENNETT, Jr.,
Attorney General, New York State.

POUGHKEEPSIE, N. Y., *September 16, 1940.*

Senator ROBERT F. WAGNER:

The Senate debate on Brown amendment to impose a Federal tax on municipal securities is now before the Senate. I urge that you aggressively oppose any such action. Such a tax will affect the value, interest rates, and ready salability of municipal bonds. Our cities are already heavily burdened, and with the defense program requiring our sharing a larger burden of the general tax burden we must do everything to keep our municipal financing structure liquid. You will be doing your State and its municipalities a great service if you oppose and defeat this class of legislation.

WILLIAM H. SCHRAUTH,
Mayor of City of Poughkeepsie.

ALBANY, N. Y., *September 16, 1940.*

Hon. ROBERT F. WAGNER,
United States Senate:

On behalf of conference on State defense urge that no ill-considered action be taken on precipitate proposal of Senator BROWN for taxation of State and municipal securities. Effect on New York State and New York City would be most harmful. Mayor LaGuardia testimony before Senate confirms this. Urge that you oppose action now pending.

HENRY EPSTEIN, *Chairman.*

ALBANY, N. Y., *September 13, 1940.*

Hon. ROBERT F. WAGNER,
Senate Office Building:

Municipalities of New York State are decidedly opposed to proposed amendment to excess profits tax bill taxing State and municipal securities.

NEW YORK STATE CONFERENCE OF MAYORS,
WILLIAM P. CAPES, *Executive Secretary.*

YONKERS, N. Y., *September 16, 1940.*

Hon. ROBERT F. WAGNER,
United States Senate, Washington, D. C.:

Strongly urge you vote against Brown amendment imposing tax on municipal securities. Such tax would greatly increase interest rate on city bonds and consequence burden on taxpayers and tend to disastrously reduce real-estate value. Yonkers would undoubtedly suffer greatly. Please show your friendship for Yonkers by voting against measure.

JOHN J. CONDON,
Mayor of Yonkers.

ALBANY, N. Y., *September 18, 1940.*

Hon. ROBERT F. WAGNER,
Washington, D. C.:

Albany port district commission protests the amendment to excess tax bill proposed by Senator BROWN, of Michigan. Taxing bonds of the Albany port district would impose unjust burden upon this State agency and the taxpayers supporting it. Imposition of tax on new bonds of the commission would undoubtedly raise interest rates

and render bonds less attractive. Added costs would increase the net deficiency of the commission each year in the cities of Albany and Rensselaer would be called upon to raise the money. We respectfully ask your voting against the Brown amendment.

DWIGHT BLADU.

Mr. LEE. Mr. President, I rise to speak in favor of this amendment.

I was a little surprised—not much, either—to hear the old "widows and orphans" argument dusted off and brought out in opposition to this effort to place taxation on a fair and equitable basis. The "poor widows and orphans" are certainly used for arguments in legislative matters of this kind, particularly if there is a question of placing a fair and equitable tax on the income of somebody who has enough money to buy bonds and have an income from those bonds.

Let us suppose the case of a man working for the Home Owners' Loan Corporation. He has an income of $1,800 from his salary, and has an income of $1,800 from tax-exempt bonds which he perhaps inherited or purchased in some way or other. When he gets that income he has a total income of $3,600. He puts it in the bank. Which part of that income comes from the salary, and which part comes from other sources? What is the earmarking which separates the $1,800 he receives from tax-exempt bonds so that it is in a sacred trust, so to speak, and cannot be taxed? That man has an income of $3,600. He ought to pay an income tax on the basis of an income of $3,600; and yet, as matters stand, he pays an income tax on $1,800. What is right or fair about that?

A man ought to be able to see that. No one would say that man's income was not $3,600; and yet we are going to place a tax on the basis of ability to pay. His ability to pay is in the $3,600 bracket, and yet we place on him an income tax which we say is levied on the basis of ability to pay, and we place it on the basis of $1,800 instead of $3,600.

Take even a better example: Here is a man who is one of these "lily" businessmen. You know what "lily" businessmen are. They toil not, neither do they spin, and yet Solomon in all his glory was not arrayed like one of these. Well, this one has an income of $50,000 from tax-exempt securities. Senators talk about widows. Let us take the example of a poor widow who has a job clerking in a store, supporting a family. She has an income of $2,400. She has to pay an income tax on $2,400; but this "lily" businessman with an income of $50,000 from tax-exempt securities does not pay a thin dime of income tax on it. I may not be able to split and resplit all of the fine hairs that some of these persons who choloform themselves with a constitutional argument can, but I can see the plain, simple fact that that is not fair.

Ever since I was old enough to read I have read that when a man could not argue anything else in the House or in the Senate he uncorked the old chloroform, "It is unconstitutional." Let me read what the Supreme Court has said on that subject:

> The theory which once won a qualified approval that a tax on income is legally or economically a tax on its source is no longer tenable.

Then a tax on the income of this Home Owners' Loan Corporation employee is not a tax on the Home Owners' Loan Corporation. If the other $1,800 of the employee's income comes from tax-exempt securities, after the Supreme Court has said that a tax on the $1,800 which he gets from the Home Owners' Loan Corporation is not a tax on the source, how can it be argued that a tax on the other $1,800 would be a tax on the source?

To me, this is a case of plain fairness and justice. Taxation according to ability to pay is one of the fairest and safest bases of taxation. Taxation according to benefit received is a fair and just basis of taxation. There is one tax that I never have been able to justify in my own mind, and that is the ad valorem tax on property. I do not say that I am ready to remove it entirely because I do not know how to replace it. Many States have removed it to some extent on the home. Oklahoma has a law which exempts homesteads from taxation up to $1,000. Wisconsin has an exemption of homesteads from taxation up to $3,000. Texas has an exemption of homesteads from State tax up to $3,000.

A man has a piece of property. Perhaps it is a vacant lot and it does not earn a thing. Every year he has a tax on that vacant lot of $18. If he does not pay the tax, the tax soon takes the property. In a sense that is a capital levy. It has the same effect as a capital levy because it actually takes part of the capital. If the owner improves the lot and builds a fine building on it, instead of being rewarded for improving the community a heavier tax than ever is laid on it. That is a property tax. Henry George, with his single-tax theory, tried to answer that objection. He never did answer it very satisfactorily, so we will still have that tax, but I know a farmer whose tax on his farm is $114 every year. I know 3 years when he did not make $114 on the farm, and yet he either had to borrow the money and pay the tax or lose the farm. On the other hand, here is another man with an income of $50,000 from tax-exempt securities who goes scot free. I do not see how anybody can say that is fair.

The argument is made that the community loses by taxing bonds of this kind. On the contrary, the community gains by it. I gave an example here the other day showing that the difference between the revenue the Government loses on a tax-exempt bond and the increased interest rate that the Government would have to pay in order to sell the bond if it were wholly taxable is over $385,955.40 on a $1,000,000 bond running for 20 years. Let that be a school bond: Many school bells could be kept ringing for $385,955.40. The school doors could be kept swinging in and out for $385,955.40; and yet that is what the Government loses.

Mr. Hanes, a tax expert who has given his life to studying these problems, came before the committee and testified that it would cost only from one-fourth to one-half of 1 percent more in interest if the bonds were wholly taxable than if they were tax-exempt. It would be necessary to raise the interest rate from one-fourth to one-half of 1 percent in order to make up for the abolition of the tax-exemption privilege.

The tax-exemption privilege means so much more to a rich man than it does to a poor man that we are selling bonds on a two-price basis. To a man with an income of $5,000 the tax-exemption privilege is worth one-tenth of 1 percent. To a man with an income of $500,000 the tax-exemption privilege is worth over 7 percent—7.1 per cent to be exact—because his income is in the higher brackets where the surtax is quite heavy. Therefore the exemption saves him from paying surtaxes whereon the poor man does not have to pay surtaxes. In other words, we have a special privilege for a special class, and the class we are exempting is the class which is best able to pay the tax.

Here we are worrying our heads about getting revenue, while sixty to sixty-six billion dollars of wealth in this country is in a storm cellar of tax exemption which we cannot reach. That imposes all the more burden on those we can tax, and they are the poor people.

Whoever heard of a man with a $5,000 income being able to own any bonds, in the first place? And if he is able to own a few, the tax-exemption privilege is worth nothing to him. Therefore it is a special privilege to a special class, and I say it is wrong.

This is not a tax upon the States or the communities. The Supreme Court has held that. When a man receives his income, it then is separated from the source from which it came. It has lost the identity of the source from which it springs. Take the case of a glass of water: We do not know whether it came from a spring or whether it came from a fountain. Perhaps half of it came from a spring and half from a fountain but it is mixed; it is mingled with itself; it is liquid; it has lost its original identity, and has no more connection with its source than has a man's bank account that he has placed in the bank as a result of his income, no matter whether it is from a bond or from a salary.

Mr. President, until we pass legislation along the line of the pending amendment, which would remove the tax-exemption privilege, we will not have a firm foundation or a

good basis for a taxing program that is fair and equitable and just. I have not heard anyone argue that it is fair, that it is moral, that it is just, to permit a man to escape paying his taxes merely because his income is derived from a certain source. By voting against this amendment it seems to me we would be putting a premium on tax dodging. I hope the amendment will be agreed to.

Mr. NORRIS. Mr. President, I desire to say a few words on the amendment. First without referring to any arguments made pro or con, I wish to consider it in the light of the very language of the sixteenth amendment itself. The amendment to the Constitution reads as follows:

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

As I understand the English language, I do not know how language could be made more emphatic, how any language could be used which would come nearer expressing the opinion that Congress has power to levy taxes on all incomes. That is what the amendment provides. The amendment makes no exception. It leaves the matter entirely in the hands of Congress.

When the amendment was adopted, we were starting out on a program which would permit Congress to levy taxes on incomes from the bonds of States and counties. What language could we use which would be more expressive than the language that was employed in the amendment, namely, that "Congress shall have power to lay and collect taxes on incomes, from whatever source derived." Does that include income derived from what we now know as a tax-exempt bond? Can anyone construe the language employed in any way so as to exclude such bonds, when such power is given?

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

Mr. NORRIS. I yield.

Mr. LEE. That is the language which the States passed on when they ratified the sixteenth amendment, is it not?

Mr. NORRIS. Of course it is.

Mr. LEE. Then how can it be argued that we should not tax such income because the States would not like it, and that it would be infringing on them, when they themselves have given us the power in the sixteenth amendment? I doubt whether the Senator thinks that any of those States believed that the language meant anything except what it says.

Mr. NORRIS. It certainly does not mean anything else. I do not understand how anyone can put any other construction on it. It does not require a lawyer or a court to tell us that the sun is shining when we go out and see it. It does not require an educated man to tell a man who is not so well educated that a big oak tree is standing in front of him, when he is looking at it. As in the case of Galileo, we may compel a man to say the earth does not move, but he knows it does move, no matter how many times he may say it does not. I do not know how we could make language any plainer.

Mr. BROWN. Mr. President, will the Senator from Nebraska yield?

Mr. NORRIS. I yield.

Mr. BROWN. I wish to call the attention of the Senator at this point to the fact that six previous revenue acts, commencing with the Revenue Act of 1861 and continuing down to 1894, contained language almost identical in structure and meaning with that contained in the sixteenth amendment. The language was that incomes from any source whatever should be taxed. That has been construed by the Treasury, it has been construed by the Supreme Court in the Pollock case, and it has been construed by the general public, because they paid that kind of a tax, to include the income from State and municipal bonds. Therefore, under any rule of statutory or constitutional construction, the people must have given to that language the same meaning they had given to almost identical language in the six previous revenue acts which had been in effect since 1861.

Mr. NORRIS. I thank the Senator. I think what he has said is absolutely accurate. I do not know how anyone can by any possible construction put a different meaning on the language.

It was argued very ably yesterday that when the sixteenth amendment was before the Senate for consideration, just prior to its submission, Senator Borah contended that it did not give any new power. Senator Root, of New York, another constitutional lawyer, argued along the same line. They believed that the power existed in Congress before, and that the reason why the law had been held unconstitutional was because of the apportionment feature. I think the general belief was that Congress had the power to levy an income tax before the amendment was adopted.

To demonstrate what these very able constitutional lawyers believed, I have before me on my desk the roll call on the adoption of the joint resolution providing for the submission of the sixteenth amendment, which was passed by the Senate on the 5th day of July 1909. I find among the Senators voting for it Senator Borah, of Idaho, and Senator Root, of New York.

Mr. LEE. Was this the sixteenth amendment?

Mr. NORRIS. The sixteenth amendment, which is now a part of the Constitution, the very amendment we have been discussing. The vote was unanimous. There was not a single dissenting voice raised in this Chamber when the roll was called.

After the joint resolution passed the Senate on the 5th of July, the amendment was submitted to the States under the provision of our Constitution providing for its amendment, and it was approved by the States themselves and became a part of the Constitution.

Everyone thought at that time, as I understand, at least, that the question was settled. We had used language so plain that an eighth-grade student in a country school would be able to see clearly just what the amendment meant.

Very ingenious arguments have been made, by very able men, and by some courts and judges, that we did not mean what we said, and that the States did not mean what the amendment said. It was argued that, after all, while the amendment said in so many words what the power of Congress should be, notwithstanding that delegation of power, the power did not exist.

Mr. BROWN. Mr. President, would the Senator mind a short interruption upon that very point, as to what occurred in the New York State Legislature when the amendment was submitted?

Mr. NORRIS. I yield.

Mr. BROWN. Governor Hughes, of New York, sent a message to the New York State Legislature in which he said that undoubtedly the language, quoting from the constitutional amendment, "income from whatever source derived," would permit the taxing of State and municipal bonds by the Federal Government. Governor Hughes used that as an argument against ratification of the amendment by the New York State Legislature. The three most prominent lawyers, perhaps, of the New York bar, Mr. Choate, Mr. Guthrie, and another whose name I do not recall, were the attorneys who tried the Pollock case, in which the Supreme Court held in 1895, I think it was, that a municipal bond could not be taxed by the Federal Government because of the constitutional provisions.

Those three attorneys went before the New York State Legislature. They were the men who had struck down the power of the Federal Government, through the agency of the Pollock case, to tax municipal and State bonds. They went before the New York State Legislature and said, "If you adopt the sixteenth amendment there is no doubt it will mean that the Federal Government has the power to tax State and municipal bonds."

The result was that the New York State Legislature, under the leadership of Governor Hughes, and basing its opposition upon its desire to prevent ratification of the amendment, struck it down and refused to ratify it.

Immediately thereafter an election occurred. The Democratic platform contained a provision favoring the ratification of the sixteenth amendment. The Republican platform was

silent upon that subject. The matter of ratifying the sixteenth amendment became an issue in that campaign. Governor Dix was elected over the Republican candidate. The legislature met and ratified the sixteenth amendment.

I thought the argument of the Senator from Nebraska would be helped by that bit of legislative history in connection with the ratification of the sixteenth amendment by the largest State in the Union.

Mr. NORRIS. Again I thank the Senator for his contribution.

Mr. President, the illustration given by the Senator from Michigan demonstrates, I think, that the States agreed to and ratified the sixteenth amendment without any misunderstanding. They agreed to it believing it would give the Federal Government the power to tax municipal, county, and State bonds, and they believe it yet, in my judgment, because it is fair, because it is just.

By reason of the fact that Congress has not taken action along that line, much dissatisfaction has arisen, some of it exaggerated probably. The idea that some bonds shall be subject to an income-tax levy and some shall not is to my mind obnoxious. I can conceive of a time when the life of the Nation might be hanging by a thread, when it would be necessary for the Government of the United States to exhaust every avenue of taxation in order to support its own life, in order to continue the existence of the Republic. If we take the view that we cannot levy a tax on the income derived from this sort of securities, it seems to me we are to a great extent interfering with the power of Congress to preserve the life of the Nation itself.

If I receive an income large enough to pay an income tax, why should I be permitted to say that the income I receive from a certain county bond shall be free from taxation, whereas the income derived from this business or that institution shall be taxed? Why would that not be the same as saying that a man engaged in a certain kind of manufacturing business should be free from all taxes, while his neighbor across the street should pay taxes? The income which the individual receives as interest from a county bond is no more sacred than the income he receives from any other kind of property.

It is sometimes argued, probably with a great deal of truthfulness, that if the interest on municipal bonds is taxed it will result in increasing the rate of interest the people of the community will have to pay when they borrow money. If that were always the effect, it would, in my judgment, make no difference whether the bonds were taxed or not. But there is no doubt that the people at large believe that some men of great wealth are making money out of this tax exemption, while others are not able to do so. The evil psychology resulting therefrom was pointed out very clearly by the Senator from Oklahoma [Mr. LEE] just before I took the floor. Such tax exemption does mean something. It means that there is something in favor of the taxpayers who are the best able to pay the tax. If we are levying taxes based upon ability to pay, then certainly it seems to me we should adopt the pending amendment. It would result in removing the evil psychology that exists, whether rightly or wrongly, in the breasts of most American citizens. If there is no favored class, the way to prove it is to levy taxes on all incomes alike.

Mr. BROWN. Mr. President, will the Senator yield for a moment?

Mr. NORRIS. I yield.

Mr. BROWN. How extensive is the evil to which the Senator now is pointing, is well exemplified by the records of the Treasury Department for the last available year, 1938, of estates upon which the Federal Government levies an estate tax. As appears from the returns of the Treasury Department for 1938, 45 percent of the total amount of property held by estates of $5,100,000 and upward is in the form of tax-exempt bonds. I think that is a remarkable figure.

Mr. NORRIS. It is remarkable.

Mr. BROWN. Forty-five percent of the property of estates having a gross total of $5,100,000 and over is in the form of tax-exempt bonds.

Mr. NORRIS. Mr. President, I find no fault with the man who invests his money in tax-exempt bonds. The man who has money to invest in bonds, thinking only of the return he will get from the investment of his money, will do well, I think, to look and see what securities are attractive. He has a right to do that. It is honest to do that. If he finds a certain security that is tax-exempt he will invest his money in it. I do not join in the condemnation sometimes hurled against men who have their money so invested.

I have in mind a Senator for whom I have great respect, who sat in this Chamber for many years, a very wealthy man, whose money was to a great extent invested in municipal securities. I did not think that was any indication that he was not patriotic or honest. I have talked with him many times, and I know that in his home city, when bonds were issued for a public purpose and there was difficulty in selling them, he took the whole issue. He did a remarkably fine, patriotic thing for his immediate vicinity—a perfectly honorable, fair, and open transaction.

So, I am not joining with those who cry out against a man simply because he is rich and has invested his riches in tax-exempt bonds. It is the law that is to blame. It is the law that gives him that opportunity; and the law ought to be amended so that he could not do so. Referring to the Senator about whom I have been speaking, he was always in favor of removing the tax exemption and putting all bonds on the same basis, even though it would mean less income for himself, because his taxes would be increased. He worked and voted in favor of eliminating the tax exemption.

Mr. President, the amendment applies only to bonds which are issued subsequent to its adoption. It cannot be argued under any circumstances that it points in any degree to the nature of an ex post facto law. Investments now made, which are not subject to the income tax, will not be made subject to the income tax if the amendment shall be agreed to. I think the American people almost unanimously believe in such a law. It would not only put a quietus upon many complaints which are made—some of them, I think, unjustly; but it would be satisfactory to the States which adopted the constitutional amendment. This is the result they wanted when they adopted the constitutional amendment.

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

The PRESIDING OFFICER (Mr. SMATHERS in the chair). Does the Senator from Nebraska yield to the Senator from Oklahoma?

Mr. NORRIS. I yield.

Mr. LEE. In other words, the people of the United States have asked for a law which will tax income "from whatever source derived." The President of the United States has asked us to pass a law which will carry out that purpose and stop the exemption privilege. The present Secretary of the Treasury, as well as his predecessor, asked Congress for legislation to end the tax-exemption privilege. It seems that everyone concerned with the question so far has passed it on and said, "Do it." The next move is up to Congress.

Mr. NORRIS. I think so. It is up to us.

Mr. LEE. Starting with the people, everyone concerned has given it the "green light." Now it is up to us.

Mr. NORRIS. The Senate passed the constitutional amendment, as required by the Constitution. The House did the same, and it was submitted to the legislatures, which agreed to it. A constitutional amendment without a law to support it means nothing. It is up to us to pass a law to make effective the very constitutional amendment which the Congress agreed to and which the States have approved. I think such a law would meet the approval of 90 percent of our people. It would be fair and just. It would relieve us and our successors in the Senate, as well as succeeding administrations, of the criticism that we are acting unjustly. It would relieve even the men who are the most wealthy, and who receive the greatest benefit from tax exemption, of criticism which is sometimes unjust; and it would give effect to a constitutional amendment which, after years of agitation and argument, was practically unanimously adopted. It would put a

construction upon language which is now so plain that it does not need anybody to construe it.

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

Mr. NORRIS. I yield.

Mr. LEE. Does the Senator think that a single one of the States which approved the constitutional amendment did not believe when it did so that it was thereby putting its approval on the authority of Congress to tax a man's income, from whatever source derived?

Mr. NORRIS. Of course, the States thought so. I do not see how any intelligent man could think otherwise, because that is just what the language says.

Mr. LEE. No matter whether the income comes from interest on a State bond or municipal bond. Does the Senator still think that the States, when they approved the constitutional amendment, believed they were giving Congress the power to tax such incomes?

Mr. NORRIS. Of course, they thought so.

Mr. LEE. So did I; and, in my opinion, so did everybody else in the United States.

Mr. NORRIS. So did every Senator who passed upon the question. So did the Members of the House of Representatives; and, in my opinion, the people of the United States think so now. I think we made a mistake in not passing a law similar to this years ago. We ought to have given effect to the constitutional amendment immediately upon its adoption. I think it is extremely important that we adopt the pending amendment and bring delayed justice to the people of the United States.

Mr. BURKE. Mr. President, in a dozen sentences or so I can summarize my position in reference to the pending proposal. Let me first state my conclusion, and then the reasons upon which that conclusion rests.

I am unalterably opposed to the exercise of the alleged power of the Federal Government to tax income from State and municipal securities. So strongly do I feel on this question that should this amendment be adopted I should unhesitatingly vote against the passage of the bill. My reasons follow.

We have just listened to a very able discussion of the constitutional question involved. However, I think the conclusions drawn by my colleague [Mr. NORRIS], the Senator from Oklahoma [Mr. LEE], the Senator from Michigan [Mr. BROWN], and others are entirely erroneous in this respect: Of course, taking by itself the language "from whatever source derived," it would appear to indicate that by the constitutional amendment the people were vesting in the Federal Government authority to tax the income from State securities. But what was the reason why an amendment to the Constitution was necessary? Was it because there was a great demand from one end of the country to the other that the Federal Government be given the power to reach out and tax income from State and municipal bonds? Certainly not. Nowhere in the country, so far as I have been able to find—and I have made a careful study—did any public man rise and say, "We must amend the Constitution of the United States in order that the Federal Government may do that which it has heretofore been denied the right to do, and which everyone had held it may not do, and that is to reach out into the States and tax the securities of the States."

What was the reason why it was necessary to amend the Constitution? We all know the answer. It was not feasible for the Federal Government to levy an income tax and apportion it among the States according to population. I say, without any fear of successful contradiction, that that was the sole and only reason why the agitation came about for an amendment to the Constitution, and that that was the only reason in the minds of the members of the State legislatures, of the overwhelmingly majority of the Members of this body and of the House, and of the people of the country.

It is true, as was pointed out, that the Governor of one of the great States, Governor Hughes, of New York, when he read this language, said, "This may go beyond what the proponents of a constitutional amendment want to do. This language says 'from whatever source derived'." The Federal Government was being given authority to tax income; and Mr. Hughes, being meticulous in matters of language, said, "That language might give to the Federal Government the power to go into the States and tax the securities of New York and other States."

What answer was made whenever that point was raised? Not that it was desirable to give the Federal Government that authority, but that Mr. Hughes was being overtechnical; that that result would not follow, and that such power would not exist. I do not believe that when Senator Borah and Senator Root took the position on the floor of the Senate that the proposed constitutional amendment would not give such power to the Federal Government, they did so on the ground that they thought the power had always been present in the Federal Government to do this thing, and therefore that this very broad language would not enlarge it. One reason why I do not think that was in Senator Borah's mind was that I find that even as late as last year, within 4 or 5 months of his death, Senator Borah wrote to the Conference on State Defense, and in the course of his letter said:

> In the first place, I do not think Congress would have the power to tax these securities and instrumentalities of the State without a constitutional amendment.

As I understand, that was the opinion of Senator Borah at the time of his death, and I believe that it was his opinion when he said that it was unnecessary for anyone to oppose the amendment on the theory that it would give the Federal Government the power to reach out and tax the instrumentalities of the States.

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

Mr. BURKE. I am very glad to yield to my colleague.

Mr. NORRIS. Will the Senator tell us, if his theory is correct as to the meaning of the words "from whatever source derived," why they were put in the amendment?

Mr. BURKE. No, I cannot explain that; I do not know why that particular language was used.

Mr. NORRIS. If the only reason for the amendment was to change the apportionment provision of the Constitution so as to avoid that difficulty—if those who adopted the amendment merely wanted to do that which could be done by inserting the words "without apportionment among the several States," why did they use the other language?

Mr. BURKE. It seemed to Governor Hughes at the time if that was all that Congress intended to do, those who framed the amendment would not have used that language. I have no explanation of it; but I ask the Senator: Does he recall from his own experience or through refreshing his memory by going back over the occasion that he or any of his colleagues in Congress or any considerable body of sentiment in the country at that time favored specifically granting the authority to the Federal Government to tax securities of the States?

Mr. NORRIS. Of course, I cannot give the Senator a definite answer, because that was a great many years ago, and I do not remember; but I have always entertained the idea, and entertain it now, that the principal reason for this amendment was to tax the very securities the Senator has mentioned.

Mr. BROWN. Mr. President, will the Senator yield on that point?

Mr. BURKE. I yield.

Mr. BROWN. A very interesting article on the precise point the junior Senator from Nebraska is now discussing was brought out in an article in the Journal of the American Bar Association for December 1920, written by Mr. Harry Hubbard, who was, as I recall, connected with Yale University. It will be recalled that the Supreme Court in the case of Evans against Gore had just decided that the words to which we are referring, "incomes from whatever source derived," had no particular meaning and did not add anything to the power of Congress to tax incomes. Mr. Hubbard had written an article previously upon that subject, which was seen by Senator Knute Nelson, who was then, in 1920 or about that time, the chairman of the Judiciary Committee of the Senate.

Senator Nelson wrote, on May 7, 1920, this letter to Mr. Hubbard:

I thank you very much for sending me a copy of the Harvard Law Review containing your article on the sixteenth amendment, which I have read with much interest. I am glad to see that you concur in my views. The words "from whatever source derived" were inserted in the amendment in the Senate at my instance and on my insistence. I have been very sorry to see that the Supreme Court in its decision—

Referring to the case of Evans against Gore—

has utterly ignored the phrase; in fact, treated the amendment as though this phrase were not a part of it.

In a subsequent letter, dated September 10, 1920, Senator Nelson, referring to the statement in the previous letter:

You have the liberty to use my statement quoted in your letter. The RECORD may not show it, but I introduced the amendment, and the facts are that at the time Mr. Aldrich was chairman of the Finance Committee, and I discussed the matter with him, and insisted on the amendment being inserted, and he concurred with me and reported the bill with the phrase "from whatever source derived" added.

That is the phrase, of course, which is in the constitutional amendment.

Mr. Hubbard then says in his article:

Senator Aldrich was, as everyone knows, the real leader of the Senate, especially in financial matters. He knew what he was doing.

Mr. Hubbard goes on to say:

Here, then, is the history of these words of the amendment. The word "direct" was taken out in order not to limit income taxes to those which were "direct" (and which were held invalid in the Pollock case), and the words "from whatever source derived" were inserted in order to make the power to tax incomes as broad as the incomes themselves could be. Thus the amendment was changed and reported by the Finance Committee, passed by the Senate and House, and ratified by the legislatures in more than three-fourths of the States.

That is the letter in which Senator Nelson, of Minnesota, explained how those words got into the amendment. They were put in there for the purpose of being certain that all income would be taxable.

Mr. BURKE. I am fairly familiar with the Nelson letter, but let me suggest to the Senator from Michigan that he has overlooked the fact that on the day when this matter was under discussion on the floor of the Senate and when Senator Borah arose in his place and said he did not believe that the inclusion of that language would do the thing which was being objected to, namely, give to the Federal Government the power to tax the instrumentalities of the State, and when on that same day or during that same discussion Senator Elihu Root and others arose and took the same position, the RECORD shows that Senator Nelson, who was not only a Member of the Senate but was on the floor of the Senate at the time, said not a word carrying out the idea which some years later he expressed in his letter. So I am forced to the conclusion that Senator Nelson later on, after the argument had arisen and the Supreme Court had rendered a decision, or something else had happened, read back into his original position a great many things that were not there, because, knowing something of Senator Nelson, for I happened, when a young man, to live in his State and had a very slight acquaintance with him, I know that he was frank enough, so that if, when Senator Borah and Senator Root were making their positions clear, Senator Nelson had then in mind the thought he expressed in his letter later on, he would have risen and said, "No, my friends; no; this language is all inclusive. It means that if we submit this amendment to the States and they ratify it, the Federal Government may tax the instrumentalities of the States;" and, in fact, probably he would have said, "That is the very reason why I suggested that the language be used." But he did nothing of the kind. He sat in his seat in complete silence.

Mr. BROWN. Mr. President, will the Senator yield at that point?

Mr. BURKE. I yield.

Mr. BROWN. A very long and, I think, instructive speech could be made upon that incident on the floor of the Senate. After the Hughes message was received, given wide publicity, and reached the ears of Senators, a resolution was introduced in the Senate of the United States to determine what was meant by this language. Senator Borah made a speech, Senator Root made a speech, and Senator Norris Brown, of Nebraska, who was a predecessor of the junior Senator from Nebraska, I presume, and who was the author of the amendment, also made a speech. One cannot read the speeches made by Senator Norris Brown without coming to the conclusion that he did not definitely take one side or the other of this question. Senator Borah and Senator Root took definite positions. The resolution was laid on the table for further discussion, to be taken up at a later time. It was undoubtedly assumed by Senator Nelson and all other Members of the Senate at that time, the matter having been brought to their attention by the speeches of Senators Root and Borah, that opportunity would again be given to consider the resolution when it was brought before the Senate. It was never again brought before the Senate; it died with the session of the Senate, remaining upon the calendar, and was never further discussed.

I may say to the Senator that I do not want to take his time but, in my own time, I will show what were the views of many Members of the Senate, many members of the Ways and Means Committee of the other House, and not of just one Governor, as the Senator from Nebraska has said, but of 15 Governors in connection with the submission of the question of ratification to the various States of the Union. I shall not now further take the Senator's time.

Mr. BURKE. Will the Senator, in his own time, when he is discussing that matter, offer proof to support the statements of the junior Senator from Oklahoma in his colloquy with my colleague a short time ago, in which he drew the conclusion that the legislatures of all the States then in the Union that voted in favor of the adoption of the sixteenth amendment understood that they were voting to give the Federal Government the power to tax State and municipal obligations, and that every one of the legislatures that so voted did so willingly and gladly, as I believe he said, and certainly in such a way as now to estop every one of those States raising any objection.

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

Mr. BURKE. I yield.

Mr. LEE. The Senator made my statement somewhat stronger than I did, but I think I can prove the statement. However, since the power of the Federal Government to tax its own securities was not in question, will the Senator from Nebraska tell us what other reason there could be for adopting the sixteenth amendment?

Mr. BURKE. Certainly; I have already explained that. The one reason, the sole reason, in the minds of those who agitated for the adoption of the sixteenth amendment, was that a Federal income tax was not feasible so long as it had to be apportioned among the States according to population. That was the thing which knocked out the income tax when it was previously enacted, or at least that was the consideration which made it absolutely impossible to have a Federal income tax which would rest with any justice upon the people of the country, if it had to be apportioned according to population. So, from all the study I have made of this question, I have never had any doubt in my mind that practically everyone who favored the passage of the sixteenth amendment wanted to get rid of the necessity of apportioning the tax among the States according to population, and that practically none of them, if any, desired to give to the Federal Government power to tax the instrumentalities of the States.

Mr. NORRIS. Mr. President, will my colleague yield to me?

Mr. BURKE. Yes; I yield to the Senator.

Mr. NORRIS. If that be true, if the Senator's analysis is correct that the only thing the proponents of the amendment wanted to do was to do away with the necessity of apportionment among the States according to population, and they had no idea of extending that authority any further, does not my colleague agree that they did not do in the amendment what they wanted to do, and that they did just what they did not want to do?

Mr. BURKE. No; I would not quite agree to that. They did fully what they wanted to do. They did away with the necessity of apportionment; but if I am correct in thinking that that was all they wanted to do, I have no explanation to offer as to why they put in the words "from whatever source derived." I do not know why that language was put in; but I imagine that in practically every piece of legislation we pass in this body some language is used which goes beyond the particular purpose desired. I know that in the bill which we have just passed, the Selective Training and Service Act, after I had studied it over, even now I can see in it some language which at some future time may cause a great deal of discussion, and it may be said, "What did the Senate mean when they put in this language? If they wanted to accomplish a certain purpose, they did not need to use this general language"; and I suppose that is true of practically every piece of legislation passed.

Mr. NORRIS. Does not the attitude the Senator is taking here in effect mean that the Senator wants to take out of the amendment the words "from whatever source derived"? Is not that the effect of the Senator's position?

Mr. BURKE. No; I will explain my own position on that subject. As I say, I do not know why the language was put in.

Mr. NORRIS. Does the Senator want to take it out?

Mr. BURKE. No.

Mr. NORRIS. Does not the Senator think we ought to give it construction if we can? We ought not to obliterate it unless it becomes absolutely necessary on the record, and not from what somebody thinks.

Mr. BURKE. I will say that I not only think it ought to be taken out but I think it will be taken out if the Brown amendment is enacted into the law and the Supreme Court upholds it. I think there will then start in this country such a movement for repeal of that part of the sixteenth amendment that it will very promptly be taken out, and ought to be taken out.

Mr. NORRIS. I concede that if it is taken out in that way that will be a perfectly legitimate procedure. That will be all right.

Mr. BURKE. I was going on to say that while I cannot give any logical reason why the language was put in, and I am not at all satisfied with this explanation, it is the only thing that is in my mind. I think it was just one of those casual things that happen; but there may be some merit in the contention—I do not know whether there is or not—that having in mind only, as I insist, doing away with the necessity of apportionment among the States according to population, some technician or person with other qualities inserted this language, that it might have been construed to mean that within the broad limits of the powers recognized as belonging to the Federal Government for the taxation of income it should be taxed regardless of the source from which it came; but it having been taken so fully for granted that it was fundamental in our system that the Federal Government should not have the power of striking down the States by taxing their instrumentalities, they did not, or at least enough of them did not, see how dangerous it would be to leave that language in the statute. Governor Hughes saw it, and others saw it.

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

Mr. BURKE. I yield.

Mr. BROWN. How does the Senator account for the fact that there was a Pollock case, in which the question arose of the right of the Federal Government to impose a tax on the interest received by the owner of a municipal bond, unless at some time in our history we taxed municipal bonds? We taxed them in 1861; we taxed them in 1863; we taxed them in 1870; and in six different statutes, ending with 1894, we imposed a tax on municipal bonds. The Pollock case arose because of that situation; and the decision in the Pollock case was based in part upon the argument that the bonds of a municipality were not taxable because of lack of power to attack the source.

The Senator asked me a question, and I want to answer it.

Mr. BURKE. I suggest that the Senator answer it in his own time; but go ahead. I have plenty of time.

Mr. BROWN. The Senator asked me why the Senator from Oklahoma [Mr. LEE] said that the members of the State legislatures who ratified this amendment acted as they did. I think there is no better reason than is contained in the brief which was filed by the representatives of the State attorneys general, which we knew in our committee as "the yellow book." On page 334 of their brief they say—and I should like to have the attention of the Senator from Oklahoma [Mr. LEE] to this—

> It may be true that a man from Mars, or an average uninformed citizen, knowing nothing about the constitutional history of the country, or about the other provisions of the Constitution, upon being handed a slip of paper containing only the sixteenth amendment, would probably say that it constituted a grant of power to tax incomes, and that the words "from whatever source derived" would seem to authorize the taxation of all sorts of incomes, including an income from municipal bonds.

I say that the members of the State legislatures and the common citizenry of the country were just the "uninformed citizens" that the brief speaks about.

What rule should be applied in the construction of a constitutional provision? I have here the language of Mr. Justice Roberts:

> The Constitution was written to be understood by the voters. Its words and phrases were used in their normal and ordinary, as distinguished from technical, meaning. Where the intention is clear, there is no room for construction and no excuse for interpolation or addition.

Again, Chief Justice Marshall said:

> As men, whose intentions require no concealment, generally employ the words which most directly and aptly express the ideas they intend to convey, the enlightened patriots who framed our Constitution and the people who adopted it must be understood to have employed words in their natural sense and to have intended what they said.

So I think the complete answer to the Senator is that the members of the State legislatures read the sixteenth amendment when they ratified it, they knew what it meant, and they adopted it, and the American people today know what it means; and we ought to follow the common, ordinary construction that is put on it by the average citizen of the country.

Mr. BURKE. Mr. President, so far from the quotation given by the Senator from Michigan from the attorneys general being an answer to anything I have said, I think it offers a very complete answer to the argument presented by the Senator from Oklahoma and to the argument of my colleague the senior Senator from Nebraska [Mr. NORRIS], because they are arguing, "Why, just take these words 'from whatever source derived': How can they mean anything else than that the Federal Government may go out and, if it sees fit, tax the States out of existence by taxing their securities?" The attorneys general say, "It might be that a man from Mars, or an uninformed person knowing nothing about the constitutional history of the country or about other provisions of the Constitution," having before him merely the words "from whatever source derived," would think that that is what was meant; but that was not the situation in the State legislatures when they passed on this constitutional amendment. Here was a great question argued all over the country first, then coming to the Senate and the House, considered there in committees and argued on the floor of these bodies, and then going out into the State legislatures—I assume this amendment was adopted by State legislatures and not in the conventions—and argued there and discussed in the newspapers; and no one at that time was in the condition of the man from Mars and was confining himself just to that language, as I see it. But, really, the question which I asked the Senator from Michigan was that I hoped he would, in the time allotted to him, show definitely from the statements of Governors of the other States, or the legislatures of those States, or prominent people at that time, that it was the desire of anyone to invest in the Federal Government authority to tax the instrumentalities of the States, and that that was the controlling reason, or even any part of the reason, why the amendment was adopted.

Mr. LEE. Mr. President——

The PRESIDING OFFICER (Mr. KING in the chair). Does the Senator from Nebraska yield to the Senator from Oklahoma?

Mr. BURKE. I yield.

Mr. LEE. Usually in debate and law the burden of proof is on the opposite side from the presumption. Therefore I think the Senator from Nebraska has the burden of proof to demonstrate that they did not believe that this language said that Congress could tax income from whatsoever source derived, because that was in the document, and the document is its own best evidence.

Mr. BURKE. I will sustain that burden of proof by calling as a witness, as to the necessity of a constitutional amendment before this power can be given, a man whose word on constitutional matters will carry more weight, to me at least, than will the judgment of my good friend, the Senator from Oklahoma. I will call again and refer again to the greatest constitutional lawyer we have had in this body in the last generation or two, our late colleague, Senator Borah, who said, within 4 months of the time of his death, in a letter to the Conference on State Defense:

> In the first place, I do not think Congress would have the power to tax these securities and instrumentalities of the State without a constitutional amendment.

That was what this great student of the Constitution, as well as great student of the English language, said, when he was right here, and went through this whole controversy. He did not believe then, and never believed, that he was voting to give the Federal Government power to tax the instrumentalities of a State. That was his judgment, and if I must sustain the burden of proof in order to overcome some presumption, I will offer the words of this witness, Senator Borah.

The PRESIDING OFFICER. The time of the Senator on the amendment has expired.

Mr. BURKE. I will take my time on the bill.

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

Mr. BURKE. I yield.

Mr. LEE. Let me offer a witness on constitutional law who, I believe, will stand up with the witness offered by the Senator from Nebraska. Was it not true that soon after the ratification of the sixteenth amendment, or about that time, the then Governor of New York, now Chief Justice of the United States, had a debate with Senator Borah on this question, and did not Governor Hughes at that time take the position that this language did mean that the Government could tax the income from State securities?

Mr. BURKE. I do not recall the debate, but the Senator from Oklahoma is entirely correct in saying that prior to the adoption of the amendment the then Governor of New York, Mr. Hughes, had taken the position that the language used might give to the Federal Government the power to do what is now being attempted.

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

Mr. BURKE. I yield.

Mr. AUSTIN. As to the question of a debate, I think that at no time did Governor Hughes definitely express the opinion that that would be the effect of the amendment. He expressed the fear that that claim might be made, nothing more. Since then, as Chief Justice, of course, he has several times held just the opposite view.

Mr. LEE. Mr. President, if the Senator will yield——

Mr. BURKE. I yield.

Mr. LEE. I remember that Senator Borah told me on one occasion, in a conversation, about the debate with the present Chief Justice Hughes. I cannot see how there could be much debate unless one took one position and the other the opposite.

Mr. BURKE. I have no doubt that the RECORD shows that Governor Hughes felt that it was dangerous to adopt the amendment in the way it was worded, because it might place in the hands of the Federal Government the power to do what the Brown amendment would authorize to be done. As I recall it, he was pooh-poohed. People said, "That is like the erudite man Governor Hughes is. He is carried away by the meaning of words. There is no truth or substance in it."

I am very anxious to have the Senator from Michigan, when his time comes, call as witnesses one after another members of the State legislatures, the Governors, and the other prominent people, who, not in some letter they might have written years later when they wanted to put a little different complexion on their attitude, but who at that very time said, "Yes; this amendment will not only do away with the apportionment roll but will enlarge the taxing field of the Federal Government, and specifically will include the power to the Federal Government to tax the interest on securities of States and municipalities. That is what we want and that is the reason why we are ratifying this amendment." I shall listen for that with a great deal of interest. If the Senator from Michigan could present such evidence, I would admit that a good deal of the argument I am making on this point would not be conclusive. I would submit it, then, for what it was worth, if that kind of evidence could be presented.

But, as I started to say, I had intended only to mention the matter of unconstitutionality and quote Senator Borah's opinion on that point, and then proceed to what appears to me to be the more serious aspects of this problem.

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

Mr. BURKE. I yield.

Mr. HILL. I have heard the view advanced that when Congress submitted the so-called income-tax amendment it then felt that the amendment would give it the power to tax State securities through a statute.

Mr. BURKE. The Senator has not heard me venture any opinion of that kind.

Mr. HILL. No; but I say that view has been advanced.

Mr. BURKE. Yes.

Mr. HILL. I recall that one of the first votes I cast when I became a Member of the House of Representatives, some years ago—as I recall, the vote was taken about 1925—was on a proposed constitutional amendment to permit the Federal Government to tax State securities. A majority of the House of Representatives voted to submit the amendment, but it did not receive the necessary two-thirds, therefore the amendment was not submitted. But if the House of Representatives felt that it had the power to pass a statute affecting State securities, why should the House of Representatives have taken the time and trouble and have gone through the unnecessary procedure of discussing and considering the submission of a constitutional amendment to give the Congress power to tax State securities?

Mr. BROWN. Mr. President——

Mr. BURKE. I yield to the Senator from Michigan, who desires to make some comment on the statement just made.

Mr. BROWN. I may say to the Senator from Alabama that in 1918, if I recall the year correctly, at least it was about that time, the House of Representatives did pass a revenue act which levied a tax on municipal bonds. The argument was made then that it was unconstitutional to do so. The bill failed of passage when it went into conference between the Senate and the House.

Shortly thereafter the case of Evans against Gore was decided, in which the author of the majority opinion, Judge Van Devanter, took the position that the sixteenth amendment did not change the power of Congress to tax, that all it did was to remove the necessity for apportionment, just as the Senator from Nebraska has said.

Mr. BURKE. Who was that able judge?

Mr. BROWN. Judge Van Devanter.

Mr. BURKE. I always had a great respect for his opinions.

Mr. BROWN. Justice Holmes and one other Justice dissented from that view. The case was decided upon an argument made by the Attorney General of the United States, in which the Attorney General conceded that the sixteenth amendment did not give the right to the Federal Government to tax the securities of States.

Mr. BURKE. Who was that very able Attorney General? We should have his name in the RECORD also.

Mr. BROWN. I cannot recall the name. We may be able to put it in, if the Senator desires.

Mr. BURKE. I should certainly like to have it in the RECORD.

Mr. BROWN. It was not until a more liberal attitude toward the construction of the amendment began to take hold of the people of the United States that we undertook to examine into the history of the adoption of the sixteenth amendment, and when we did so, many of us felt that there could be little doubt as to what the attitude of the Court would be now if this proposition were presented to it.

Mr. BURKE. When the Senator called attention to the fact that just a few years ago, an Attorney General of the United States gave a reasoned opinion on an important matter of this kind contrary to the position which the Senator is now taking, I hoped he was not holding up to contrast some decisions of later Attorneys General, against whom it is freely charged that they render whatever kind of an opinion the Chief Executive may happen to desire in a particular case, whether it be as to a transfer of destroyers, or on any other subject which may be involved.

Mr. BROWN. I am trying to keep the debate on the plane of legal argument, and I do not care to go into politics, which seems to be the direction in which the Senator is now heading.

Mr. BURKE. Then I will turn around and go the other way.

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

Mr. BURKE. I yield.

Mr. LEE. In order that the Senator may go the other way, let me ask him a question. I am sure the Senator believes in the principle of a graduated income tax, that is, the income being a certain amount, that all people should pay a certain tax, but if the income goes to a level above that, then the rate paid should be increased, on the theory that the first bracket gives them a living, and the next bracket above that is not so necessary for living, and therefore the rate shall be increased; and in the third bracket ahead of that the rate is still further increased.

Mr. BURKE. Let me say that I subscribe heartily to the theory of the graduated income tax.

Mr. LEE. Does not the Senator feel that the tax-exemption privilege nullifies the effect of the progressive or graduated income tax by allowing persons with large incomes to escape paying the higher rate which they would have to pay in the upper brackets?

Mr. BURKE. I will answer the question in this way: I base my opposition to the Brown amendment solely on the ground that I am opposed to the Federal Government attempting to exercise the power to tax the instrumentalities of the States. I know that others have argued against the imposition of a tax upon Federal securities also, and I can see danger in doing that. Of course, it is simply a matter for Congress to decide whether that danger is as great as the interference, we will say, with the operation of the graduated income tax. I can see that it might have rather a serious effect upon the banks of the country which have been inveigled, or I might use the stronger language which the senior Senator from Virginia [Mr. GLASS] used earlier in the day in describing the condition under which the banks have become loaded up with Federal bonds, but that would be a question for Congress to decide.

If we confine the question to the part of the amendment to which I am objecting—of Federal taxation of State and local securities—I do not think there is any such substantial interference with the free working of the doctrine of the graduated income tax as to make it necessary for us to run full front into the very great dangers that would come from the adoption of the amendment.

While I am on that point, let me say that a short time ago the Senator from Michigan, in a colloquy with my colleague the senior Senator from Nebraska, referred to the fact that in all estates above a certain amount, during a certain period, as I recall——

Mr. BROWN. In 1938.

Mr. BURKE. In the one year 1938—that 45 percent of the assets of those estates consisted of tax-exempt securities. But the Senator did not point out—and I hope in his own time, if he has the figures, he will do so—what portion of those tax-exempt securities were obligations of States and municipalities. I think he would find that over a period of years—as I recall, during the last 10 years—in much smaller estates even than the minimum figure expressed by the Senator from Michigan, less than 5 percent of the assets of those estates consisted of tax-exempt securities issued by States and municipalities.

If there is any real interference with the working of the graduated income tax, if there is any real haven for those who desire to do away with the necessity of paying taxes, it is afforded largely, I think, by the practice we have in Congress of permitting the issuance of tax-exempt Federal securities, and, so far as I am concerned, if Congress wants to provide that never again shall Federal tax-exempt securities be issued, I will make no objection, although I realize, as I said, that even that might be a debatable question. However, what I am objecting to, and objecting to strenuously, is that the amendment would repose in the Federal Government the power to reach out into the State of Nebraska or any other State and tax all the instrumentalities of our State governments and their subdivisions.

I desire to discuss for a few moments that aspect of the case. In the same letter from Senator Borah, written in the fall of 1939 to the Conference on State Defense, after he had used that first sentence giving his view on the question of constitutionality, he went on to discuss the other phase of the matter. I will repeat the first sentence as well. Senator Borah said:

> In the first place, I do not think Congress would have the power to tax these securities and instrumentalities of the State without a constitutional amendment.
>
> In the second place—

I am still quoting from Senator Borah's letter—

> aside from the constitutional question, it is unsound and would be a disaster to the States, and I am quite sure also a disappointment to the National Government.

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

Mr. BURKE. I yield.

Mr. LEE. Let us suppose the case of a man who has an income from his salary or his wages as a worker on a State highway and who also has an income from the interest on State bonds. Let us say he receives $2,000 a year from the State as wages and $2,000 a year in interest on State bonds. As the law now stands the Federal Government can tax the $2,000 income he receives from the State pay roll, but the Senator from Nebraska is now arguing that the same Federal Government ought not to have the power to tax the $2,000 income which he receives as interest on bonds, simply because they are State bonds. How does the Senator justify that fine shade of difference?

Mr. BURKE. I am not going to be led off into that discussion, as it has already been elaborated upon here at some length in the last few days, but I think there is a real distinction between taxing the salaries of officials and taxing the instrumentalities issued by the State to provide the revenue by which its existence may be perpetuated.

I realize it may be said that, of course, if the Federal Government were permitted to single out the salaries of State officials, or certain State officials, and tax them exorbitantly, that might accomplish the unfortunate end of taxing the State out of existence. But it cannot do that. The tax must be general on all properties, and so I am reconciled to the doctrine of taxing salaries. But I think there is a very clear distinction between that and the taxing of the instrumentalities of the State.

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

Mr. BURKE. I yield.

Mr. KING. I wonder if there has been placed in the RECORD the statement by Senator Norris Brown, who was the father of the sixteenth amendment to the Constitution? A very clear statement was made by him, which indicates that he interpreted and all others interpreted the sixteenth amendment not to impinge upon the rights of the States.

Mr. BURKE. So far as I know, that statement has not been placed in the RECORD. The Senator from Michigan [Mr. BROWN] referred to the position of Senator Norris Brown, of Nebraska. I should be very glad to have the statement inserted in the RECORD.

Mr. KING. I will hand it to the Senator from Nebraska. I am sure he would be very glad to avail himself of it and have it inserted in the RECORD.

Mr. BURKE. I think I shall take occasion, Mr. President, at this point to read a part of the statement made by Senator Norris Brown, of Nebraska. In April 1910, in the Editorial Review, Senator Brown, of Nebraska, made the following comment with regard to the words "from whatever source derived." This is the language of Senator Brown:

> The sole question, therefore, presented by the amendment, and the sole consideration involved in its ratification or rejection, is whether or not the United States, the foremost nation of the world, shall be clothed with this prerogative of national sovereignty—the power to tax incomes according to their value and without regard to apportionment among the several States according to population.

I have insisted earlier—and my colleague the Senator from Nebraska and the Senator from Oklahoma [Mr. LEE] and the Senator from Michigan [Mr. BROWN] to some extent were questioning my statement—that when the income-tax amendment was submitted by Congress and adopted by the legislatures, the one idea that the people of this country, and Members of the Senate and the House, and members of the State legislatures, and everyone else who favored the amendment had, was that they were going to make a Federal income tax workable by doing away with the court-construed necessity of apportioning such a tax among the States according to population, and I have said that not from my memory or from any research I have been able to make have I found that any of those—there might be some in considerable number, but I do not recall any—that any of those who were urging the sixteenth amendment did so on the ground that they wanted to vest in the Federal Government the authority to reach out and tax the income from all securities issued by States and municipalities and other subdivisions.

My statement on that point was questioned by other Senators, and I have challenged the Senator from Michigan, if he will in his own time, to offer some proof in support of the contention that those who favored the sixteenth amendment did so because they wanted to vest this power in Congress.

I am glad to have the statement of the author of the sixteenth amendment, Senator Norris Brown, who says that the sole purpose was to give—

> The power to tax incomes according to their value and without regard to apportionment among the several States according to population.

He goes on to say:

> Recently the question has been raised by those who are opposed to the ratification of the amendment that with the amendment ratified the powers of the States will in some way be impaired and their strength and vitality, in some way not specified, destroyed.
>
> The objection is not sound. The amendment in no way changes the existing relation between the State and the Federal Government. Whether the amendment is ratified or not, the rights of the State as a State and those of the Federal Government in their relation to each other will remain the same. Each sovereignty is now wholly independent of the other in the exercise of certain governmental functions and the proposed amendment neither adds to nor takes away from the independence now enjoyed by each. But it is the argument of some who oppose its adoption that the amendment will alter that relation by conferring upon the Federal Government the power to tax the incomes arising from investments in State and municipal securities.

It will be remembered that it was in 1910 that the author of the sixteenth amendment was giving this interpretation of it.

> I do not agree with that argument, because the language of the amendment and the occasion for its submission to Congress and the Constitution itself do not warrant that interpretation. Under the existing Constitution, the Federal Government is without the power to tax State or municipal securities. And the State is without the power to tax Federal securities. Each may tax its own securities but neither is subject to the jurisdiction of the other in taxation matters. The proposed amendment in not the remotest degree suggests any change in that regard. Each sovereignty is left the independent and exclusive privilege of taxing its own securities without interference by the other.

I shall now have to rise in defense of the former Senator from my State against what I am sure must have been the unwitting aspersion cast upon him by the author of the pending amendment, because, as I recall, within the past half hour the Senator from Michigan [Mr. BROWN], after reading the Senator Knute Nelson letter, in the colloquy said that he had studied those proceedings, and that he thought Senator Norris Brown, of Nebraska, did not have any very definite opinion one way or the other on the effect of the amendment.

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

Mr. BURKE. I yield.

Mr. BROWN. If we may paraphrase the famous saying by the philosopher Emerson, and also by the distinguished senior Senator from Arizona [Mr. ASHURST], and say, "Inconsistency, thou art a jewel," I should say that Senator Norris Brown, of Nebraska, was a jewel.

Immediately following the remarks which the Senator has read, and in the same speech, Senator Brown said this:

> There is also a somewhat enthusiastic sentiment abroad in our land that the burdens should be borne by everybody in proportion to their ability to bear them, without regard to whether these abilities accrue from investments in farm lands or railroad stocks or State bonds. As a matter of common equity and even-handed justice to the entire citizenship of the country, to exempt one class of incomes and tax another is abhorrent. Under the New York argument—

That is, the Root argument—

> the man who earns an income by his labor is properly taxable; the man who collects dividends from stocks in individual enterprises—railroad, mercantile, and manufacturing—is properly taxable; but the man whose income arises from investments in State or municipal bonds should be exempt from the income tax.

That is what he said Senator Root was saying.

> On its face the proposition does not commend itself. It does not square with the doctrine of equal rights. It is hateful to every sense of justice. It cannot be defended in principle, nor can it be used successfully, in my judgment, to defeat this amendment.

The Senator continued with an argument that if a general income tax were applied to interest derived from State and municipal bonds, the credit of the States would not be impaired.

Mr. BURKE. Does the Senator seriously mean to offer that as being in any way contradictory to what Senator Brown said in the part which I read?

Mr. BROWN. Absolutely. I have read the debates very thoroughly, and I cannot determine from them what Senator Brown believed his amendment meant.

Mr. BURKE. Even from the reading which has been given, it is as clear as the hands on the clock before our eyes. Senator Brown made it indisputably clear that, in his judgment, there was nothing in the amendment, or in the wording used, "from whatever source derived," which would change the power of the Federal Government and give it the power to tax the instrumentalities of the State, or give the States the power to tax the instrumentalities of the Federal Government.

He goes on to say that if we were devising a wholly equitable system of taxation we should do away with all discriminations of this kind. How? By amending the Constitution of the United States in a way specifically to authorize one government to tax the instrumentalities of another. But it was Senator Brown's position, I am sure, as it was that of Senator Borah and others, that it is inherent and implicit in our Constitution that neither of the separate governmental agencies shall have any power to tax the instrumentalities of the other, and that to confer such authority would require not merely the language "from whatever source derived" but specific language covering the matter

before the Federal Government could tax the instrumentalities of the States.

I am sure that was the position of Senator Norris Brown, as it is that of many others who take the same position. We are not arguing about the desirability of having the securities of the State exempt from taxation. I should wholly disagree with Senator Brown in that respect, in saying that we should amend the Constitution to give the Federal Government that power.

Mr. BROWN. He did not say anything like that. The Senator is reading into his speech language which is not there.

Mr. BURKE. Let the Senator put his whole speech in the RECORD at this point if he so desires. The language of Senator Norris Brown is clear in connection with what I have read. He said—and it cannot be disputed—that the adoption of the amendment would not change in any respect the power of the Federal Government to tax the bonds of the States, or of the States to tax the bonds of the Federal Government. Then he said, in effect, "But as for myself, I do not see why the man who holds railroad bonds should be taxed and the man who holds State or municipal bonds of any kind should not be taxed."

Mr. BROWN. He said that any man who takes a contrary position is not squaring with the doctrine of equal rights. He said that such a proposition was hateful to every sense of justice, and that it could not be defended in principle or used to defeat the amendment.

Mr. BURKE. But did he say that such a result would be brought about by the constitutional amendment he was favoring? No. He said exactly the opposite.

Mr. BROWN. I should say that he was gloriously inconsistent.

Mr. BURKE. Considering next the question of policy, it seems to me that the conclusion of Senator Borah is well founded. The most reliable evidence offered to the committee indicates an annual additional burden upon the States and municipalities in the enormous sum of $113,000,000. In a State such as my own, where we have no State income tax and do not intend to have one, our complete share of that loss would have to be borne almost exclusively by an increase in the tax on real property. The small-home owner and the small businessman, struggling to keep their heads above the water, would have tied to them an additional weight.

Even if Congress had the constitutional authority to impose the proposed tax, it is a power which, as a matter of policy, ought not to be exercised. Certainly it would go far in the further weakening of the States. Now is the time when every effort should be made to strengthen the States, throw additional responsibilities upon them, and take governing power away from Washington and give it back to the people. The adoption of the pending amendment would be a long move in the opposite direction.

Mr. President, this is a question of such far-reaching importance that it ought to be settled on its own merits, and not as a rider attached to a bill by amendment on the floor of the Senate. Let it come before Congress with the recommendation of the Ways and Means Committee of the House and of the Senate Committee on Finance. Let it be considered apart from all other questions, and voted up or down on its own merits, if it be determined that Congress has the power without going to the people with a proposed amendment to the Constitution.

In conclusion, I submit the following excerpt from an address delivered last year by the distinguished chairman of the Finance Committee, the Senator from Mississippi [Mr. HARRISON]. He said:

> The effect of taxing the income from Federal, State, or local issues will inevitably make them less attractive to the investor, and therefore make it more difficult for the respective governments to market their obligations. So, while it is difficult to prophesy what the Congress will do, it is my opinion that in the end an opportunity may be afforded the States and the people to pass on this question by constitutional amendment.

That is the request of the attorneys general of almost every State. They are joined by the Governors of many States, by the mayors of most of the cities of the country, by the boards of education of school districts, and by the directors of self-liquidating projects in every section of the Nation. It seems to me to be a reasonable request. I shall support it by voting against the Brown amendment.

The PRESIDING OFFICER. The time of the Senator has expired, both on the amendment and on the bill.

Mr. LEE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Frazier	La Follette	Sheppard
Andrews	George	Lee	Shipstead
Ashurst	Gerry	McKellar	Smathers
Austin	Gibson	McNary	Stewart
Bailey	Gillette	Maloney	Taft
Barkley	Glass	Miller	Thomas, Idaho
Bilbo	Green	Minton	Thomas, Okla.
Brown	Guffey	Murray	Thomas, Utah
Bulow	Gurney	Neely	Tobey
Burke	Hale	Norris	Townsend
Byrd	Harrison	Nye	Vandenberg
Byrnes	Hatch	O'Mahoney	Van Nuys
Capper	Hayden	Overton	Wagner
Clark, Idaho	Herring	Pepper	Walsh
Clark, Mo.	Hill	Pittman	Wheeler
Connally	Holt	Radcliffe	White
Danaher	Hughes	Reed	Wiley
Davis	Johnson, Calif.	Russell	
Downey	Johnson, Colo.	Schwartz	
Ellender	King	Schwellenbach	

The PRESIDING OFFICER (Mr. BILBO in the chair). Seventy-seven Senators having answered to their names, a quorum is present.

AMENDMENT OF THE COMMODITY EXCHANGE ACT

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. 4088) to amend the Commodity Exchange Act, as amended, to extend its provisions to fats and oils, cottonseed, cottonseed meal, and peanuts, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. THOMAS of Oklahoma. 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. THOMAS of Oklahoma, Mr. BULOW, Mr. HATCH, Mr. NORRIS, and Mr. CAPPER conferees on the part of the Senate.

ADDITIONAL MILITARY APPROPRIATIONS—REPORT OF COMMITTEE ON APPROPRIATIONS

Mr. GLASS, from the Committee on Appropriations, to whom was referred the joint resolution (H. J. Res. 607), making additional appropriations for the Military Establishment for the fiscal year ending June 30, 1941, reported it without amendment.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries, who also announced that the President had approved and signed the following acts:

On September 16, 1940:

S. 4008. An act to authorize the Reconstruction Finance Corporation to make loans for the development of deposits of strategic and critical minerals which in the opinion of the Corporation would be of value to the United States in time of war, and to authorize the Reconstruction Finance Corporation to make more adequate loans for mineral developmental purposes; and

S. 4164. An act to provide for the common defense by increasing the personnel of the armed forces of the United States and providing for its training.

On September 18, 1940:

S. 2009. An act to amend the act to regulate commerce, approved February 4, 1887, as amended, so as to provide for unified regulation of carriers by railroad, motor vehicle, and water, and for other purposes; and

S. 4165. An act to authorize the Secretary of the Navy to proceed with the construction of certain public works, and for other purposes.

CORPORATION INCOME AND EXCESS-PROFITS TAXATION

The Senate resumed the consideration of the bill (H. R. 10413) to provide revenue, and for other purposes.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan [Mr. BROWN].

Mr. BROWN. Mr. President, the time I may take upon the pending amendment will be devoted to three general propositions: First, the question of what sort of a burden the amendment would impose, with some incidental discussion of the so-called immunity rule; second, a discussion of the application of the sixteenth amendment to this controversy; and, finally, a discussion, which I hope will be short, of the merits of the general proposition.

Mr. President, I think I ought to answer the question as to why I am pressing this amendment at this time. I am pressing it because I think there is a widespread public sentiment in favor of it. We have endeavored to bring the subject of the elimination of tax-exempt bonds before the Senate on several occasions. As I said the other day, I assisted in preventing its consideration on earlier occasions because the leaders of the Democratic side agreed at that time that it would be unwise to attempt to press it inasmuch as my committee was studying the subject and a full report should be available before taking up the measure. I felt, since the Senate directed the special committee to report before the close of the present session, it was our duty now to report; and we have done so. I consider that the time has come when we must bring this subject to the attention of the Senate, and that is why it is here today.

Mr. President, the great majority of the people of this country, if we are to believe the Gallup poll, are strongly in favor of this measure. The leader of my party, the President of the United States, 2 years ago asked us in a message addressed to that subject, and to that subject solely, to enact this kind of legislation. The last four Presidents of the United States have urged that we adopt this character of legislation. Many of the latest Secretaries of the Treasury, including the present one, have asked that we do so. Of some 700 newspaper editorials upon the subject, which came very largely at the time our committee was first designated in 1938 by the Senate, over 600 editorials were in favor of a measure of this kind, about 40 newspapers opposed it, and most of those on the ground that there ought to be a constitutional amendment relative to the subject submitted rather than a statute enacted.

Finally, I believe that it should be urged upon the Congress at the present time because the platform of my party contains a plank urging the complete elimination of all tax-exempt bonds hereafter issued, be they State bonds or Federal bonds.

Mr. BURKE. Mr. President, will the Senator yield there?

Mr. BROWN. I yield.

Mr. BURKE. Does the plank refer to the method by which it should be done—whether by constitutional amendment or not?

Mr. BROWN. I have the plank before me, and in a short time will present it.

Mr. BURKE. Very well.

Mr. BROWN. The Frank report, which was prepared by the late Glen Frank, and which was the basis for the Republican platform, urged the immediate elimination of all tax-exempt bonds.

Therefore, Mr. President, I do not hesitate to take the time of the Senate in these late days of the session to bring this proposition before us, even if it has caused a few days' delay in the consideration of this tax measure. Those of us who favor this proposition have been put off from time to time, and I think the time has come when we ought to bring it prominently before the highest legislative body in the Nation.

Mr. CLARK of Missouri. Mr. President——

The PRESIDING OFFICER (Mr. SHEPPARD in the chair). Does the Senator from Michigan yield to the Senator from Missouri?

Mr. BROWN. I yield to the Senator.

Mr. CLARK of Missouri. The Senator will recall that 2 years ago, when a tax bill was before the Senate following a declaration of the President of the United States in favor of legislation of this type, I had prepared, and in fact had offered in the Senate, an amendment substantially along the lines of the present amendment. At that time we received assurances—there was no secret about it; the statement was made on the floor of the Senate both by the Senator from Mississippi [Mr. HARRISON] and by myself—from the responsible head of the appropriate committee in the House that a study of the subject would be immediately instituted in the House with a view to reporting a bill on the subject before the expiration of that year.

So far as I know, nothing has ever been done about that; and it is an astonishing thing to find the same objection being made to this amendment now that was made then, that it ought to be postponed until somebody else has a chance to study it some more. The matter has been before the country for many years; and, in view of the argument which has been made before, resulting in postponing it, it seems to me the supporters of this type of legislation cannot afford to do anything except take the present opportunity to put the matter back into conference on this bill.

Mr. BROWN. I agree with the Senator. It is the only method we have, and we are endeavoring to use it at the present time.

I now pass on, Mr. President, to the subject raised by the distinguished Senator from Colorado [Mr. ADAMS], who does me the honor of listening to me at this time. I think more than anyone else in the Senate he has urged that this amendment will be a tax upon the States. He is the protagonist in the Senate of the argument that this amendment violates the so-called immunity rule. As is usual, the question of fact and the question of law are closely intermingled; and I desire to address myself to that subject for a short time.

This is not a tax upon the State governments. It cannot in any way be construed to be a tax upon the State governments unless we take the absurd assumption that because everything a State buys and is taxed by the Federal Government, is a tax upon the State and in violation of the immunity rule.

Mr. President, it must be conceded at the outset of this argument that somewhere between one-fourth and one-half percent additional cost will be laid on the States by reason of the adoption of this amendment. That is the estimate of the Treasury Department. There will be some slight additional burden upon the States. I believe it will not be nearly so great as the income which the States may obtain by the imposition of State income taxes on $50,000,000,000 of Federal bonds which either are outstanding or presently will be outstanding; but I want to get down to the factual and legal situation.

Mr. BURKE. Mr. President, will the Senator yield at that point for just a moment, because I do not know that he will come back to the subject?

Mr. BROWN. I yield.

Mr. BURKE. The Senator believes that the income which the States may receive would offset and leave a balance over the burdens they would have to bear under this amendment?

Mr. BROWN. I do.

Mr. BURKE. What does the Senator say about a State like Nebraska, which never has had a State income tax, does not want one, and has no intention of adopting one? Does the Senator think it is entirely fair and proper to adopt now a Federal system of taxation which will force Nebraska to adopt a kind of taxation which it does not want, in a field which it is willing to leave entirely to the Federal Government?

Mr. BROWN. One cannot cover, in an argument of this kind, the situation in every State of the Union. Thirty-two

States now have State income taxes. Michigan does not have one, and Nebraska does not have one. My State will not be a gainer in that respect; but if this amendment should be adopted, I certainly would urge the people of my State to adopt an income tax because of this very situation and for many other reasons.

Mr. STEWART. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Tennessee?

Mr. BROWN. I yield.

Mr. STEWART. What effect does the Senator think the adoption of this amendment would have in respect to States like my State of Tennessee, which, by reason of constitutional provisions, are unable to enact laws requiring the payment of an income tax?

Mr. BROWN. I think it is very possible that some kind of tax can be devised, to which the consent of the Federal Government may be given, by which the income on Federal bonds may be reached. The Senator from Virginia [Mr. BYRD] has had that problem before our committee and, while it is not contained in this amendment, I think such legislation can be devised. It will take time to perfect this legislation, as is the case with all comprehensive reforms.

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

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Washington?

Mr. BROWN. I yield to the Senator.

Mr. SCHWELLENBACH. The Senator probably does not remember, but when this matter came up and the committee was first appointed we had a conversation in which I indicated my feeling that there should be a cooperative effort upon the part of the Federal Government and the State governments to try to work out a taxing program. I said at that time that I feared that the Federal Government would simply place taxes upon State bonds, and then the States would come back and offset those taxes by more taxes upon Federal bonds, and then the Federal Government would come back and raise the taxes on State bonds. I felt that before we took action there should be some cooperative effort as between the State governments and the Federal Government to work out what would not be a binding agreement, but at least an agreement, so that that situation would not be brought about. I should like to inquire whether any effort along that line has been made in the past few years.

Mr. BROWN. I should have to say frankly to the Senator, no; no such effort has been made. There has been, in my judgment, too little cooperation between the State and the Federal taxing authorities in that respect; but I say to the Senator, as a practical matter, that it is my judgment that the only way in which this matter can be dealt with is for the one authority which, in my judgment, has power to enact this type of legislation to do so.

Mr. ADAMS. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Colorado?

Mr. BROWN. Yes.

Mr. ADAMS. As I understand the present legal situation, the States have a right to tax the salaries of Federal officials?

Mr. BROWN. That is correct.

Mr. ADAMS. That is not a right granted by the Congress, but is a right which the Supreme Court has recognized. In the Senator's judgment, do the States have a right to tax the income on State or municipal bonds without the consent of the Congress?

Mr. BROWN. I must ask the Senator, in the interest of conservation of time, not to compel me to go extensively into that question. I will say that there is great difference of opinion upon it. If the view of the noted and famous Chief Justice Marshall is taken, that authority does not now exist, because he believed in the complete supremacy of the Federal sovereignty over the States. If we adopt the rule which was indicated in the salary-tax cases, such as the O'Keefe case and the Gerhardt case, probably the other conclusion might be reached. That has not been definitely decided.

Mr. ADAMS. I gathered from my discussion the other day with the Senator that he felt that the line which I thought I saw in the O'Keefe case between the right to tax salaries and the right to tax bonds——

Mr. BROWN. I am right up to that question now.

Mr. ADAMS. All right. Then I will indicate to the Senator what I had in mind—that if the view was correct which the Senator indicated he had, that that line was an obscure line and perhaps an unsound line, but that the State might have, regardless of the consent of Congress, the right to tax the interest on Federal bonds, it would follow, then, that the States had the right to tax the bonds themselves.

Mr. BROWN. The Senator comes right to the heart of my present discussion. It must be conceded that a tax of this kind will lay some additional burdens upon the States. Likewise, it must be conceded that a tax of this kind will lay a State burden upon the Federal Government. In other words, there will be some increase in the interest rates. That is not a new or novel proposition. The incidence of taxes on those who deal with a State is not a new or novel proposition for the Court across the way to decide. It has been before them, not on a bond tax but on other intergovernmental relationships.

First, let me say—and that matter has not been discussed here at all—if we are to take at their full force and effect the decisions of the Supreme Court of the United States, the State of Louisiana, if it has an income tax, may tax the income from the bonds of the State of Colorado. I mean by that Louisiana has a right to lay an income tax on the interest obtained by a Louisiana taxpayer from bonds issued by the State of Colorado. That has been definitely decided, and has not been challenged. It is the case of *Bonaparte* v. *Tax Court* (104 U. S. 592 (1881)).

Does the Government of the United States impose burdens upon the State governments through the exercise of its taxing power? It certainly does. There is only one answer to that question.

When the State of Michigan buys a thousand tons of coal, the price of that coal contains in it taxes which have been paid out by the corporation which sold the coal in a multitudinous number of ways—tonnage taxes, gas taxes, even sales taxes, income taxes, and the consumption taxes which are imposed. As Senators can well see, in many forms the price of that coal has been increased by reason of the imposition of various forms of Federal taxes.

Mr. President, that matter has been decided by the Supreme Court of the United States in a much more direct way. In the *Dravo case* (302 U. S. 134), 1937, which is well known in this discussion, the United States imposed a tax upon the profits made by a contractor in constructing a dam for the State of West Virginia. The tax was resisted on the ground that it was an interference with the sovereignty of the State of West Virginia. The tax raised the contract price paid by the State. The Supreme Court of the United States held that the tax was legal and could be collected.

This immunity rule has been used to do great injustice in the United States. Its application should be very limited. It should be limited to cover the case of which the Senator from Colorado spoke this morning; that is, that the Federal Government should not, and I affirm has no right whatsoever, to lay a tax upon the State of Colorado, or upon the municipalities in the State, or upon the incomes from the taxes of those municipalities. But that does not mean that the income tax proposed will not increase taxes.

What have we done with this immunity rule? The Senator from Oklahoma is listening to me. He will remember the Coronado Oil case. The Coronado Oil Co. contended that, under a lease in which they got seven-eighths of the total yield of certain oil wells, which were located upon the primary school lands of the State of Oklahoma, they were entirely exempt from the Federal income tax. The State

under the lease got one-eighth, and no attempt was made to tax the income of the State. The Coronado Oil Co. got seven-eighths of the income, and they resisted the tax.

In 1932 the Supreme Court of the United States in Two hundred and Eighty-fifth United States Reports, page 393, upheld the contention of the Coronado Oil Co. and permitted them complete exemption from Federal taxes, by reason of the imposition of this immunity rule, which I say was carried in that case to great extremities. Four judges dissented from that opinion. The views of those four judges have become the majority views of the Supreme Court of the United States today, and in 1938, in the Mountain States Producing Co. case, the Coronado rule was completely overturned—Three Hundred and Third United States Reports, page 376.

Mr. President, that is what was done with the immunity rule. That was the attitude the Court had taken for many years, and it was the same attitude which permitted the wealthy taxpayer to escape taxation entirely upon the interest on bonds, not bonds which the State held but bonds which he held, his income, not the State income but his income. I say that was the rule which prevented the imposition of a just tax upon that individual. That my measure will raise the State's expenses a slight bit, I readily admit, but so did it raise the State's expenses in the West Virginia dam case, of which I spoke.

The immunity rule must stand. I am for it. I think it is right and proper. But it should not be used as a cloak to enable millions of dollars of tax money which should go into the Treasury of the United States to remain in the hands of the wealthy taxpayers who, by reason of this judicial construction, are enabled to entirely escape that taxation.

Mr. President, I wish to devote the major part of my time to the argument made by the junior Senator from Nebraska [Mr. BURKE] and the senior Senator from Vermont [Mr. AUSTIN] upon the sixteenth amendment and its effect. For some 15 minutes I discussed it a few days ago, and the Senators who were listening then will, I know, pardon me for briefly reviewing the facts which were presented at that time.

In 1861, and on six other occasions, down to as late as 1894, our Federal Government imposed an income tax upon the income from municipal and State bonds. They did so under language in statutes which provided that a tax might be levied upon income from any source whatever.

In 1894 some question arose as to whether or not such a tax was constitutional, particularly in view of the decision in the famous cases of *Collector* v. *Day* (11 Wall. 113) 1870, *McCulloch* v. *Maryland* (4 Wheat. 316) 1819, and other cases.

The matter was brought before the Supreme Court of the United States in what is perhaps the case which has caused the most discussion in the Senate, the *Pollock case* (157 U. S. 429, 158 U. S. 601) 1895. Contrary to what the Senator from Nebraska says the Pollock case involved both propositions which were later covered by the sixteenth amendment, that is, did the tax violate the rule of apportionment of taxes on a per capita basis throughout the country? Second—and this appears in the brief, it appears in the opinion, and it appears in the decision of the case, which, after all, is the important thing——

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

Mr. BROWN. I yield.

Mr. BURKE. I think the Senator is in error in his statement that I argued anything about what the Pollock case held in that respect. It was my contention that the entire demand over the country for the adoption of the sixteenth amendment arose from a desire to get rid of the apportionment rule.

Mr. BROWN. I am coming to that.

Mr. BURKE. But the Senator is now saying that it was my contention that the Court did not deal with the other phase of the matter, and I am correcting him in that respect.

Mr. BROWN. I beg the Senator's pardon. I made a note at the time, and I opened my digest of cases at that particular point because I thought the Senator made the statement which I said he made. Nevertheless, it is in point, just the same.

Not only did the Supreme Court strike down the tax because of the lack of apportionment in the law, but in the opinion of Chief Justice Fuller it also struck down the tax on municipal bonds because it was a tax upon the source of the income. I quote the exact language:

> As to income from municipal bonds, they could not be taxed because of want of power to tax the source, and no reference was made to the nature of the tax as being direct or indirect.

Mr. President, the Pollack case created furor in the United States. A tax which had been imposed from the days of 1861 down to the time when the case was decided was overturned by the Pollock case. Naturally, it aroused resentment and a great deal of discussion, and, as I shall show in a few moments if I have the time, the discussion revolved not alone about apportionment but also touched on the proposition of whether or not the immunity rule was properly applied in a prohibition against income taxation on municipal bonds.

By 1910 the agitation had reached the point where a constitutional amendment was proposed. The amendment was read by the senior Senator from Nebraska. I shall read it again, as it is very short:

> The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

The senior Senator from Nebraska [Mr. NORRIS] has pointed out that there was absolutely no necessity for the words "from whatever source derived" if the object which the junior Senator from Nebraska [Mr. BURKE] and the Senator from Vermont [Mr. AUSTIN] say was the sole object of the submission of the amendment, was desired. The words "from whatever source derived" must have been intended to mean something.

The first person who raised the question was the then Governor of New York. He did not raise it merely as a bugaboo, as the Senator from Texas told me in the Finance Committee when we discussed the question. He did not raise it merely as a means of defeating the proposition. He did not say, as the junior Senator from Nebraska said in his speech, if I recall correctly, that he feared that municipal bonds might be taxed if the amendment were adopted. He positively said that they would be taxed. I read his exact language. This is from an official message from the Governor of the State to the legislature which had before it the proposition of the ratification of the sixteenth amendment:

> It is certainly significant—
>
> Governor Hughes said—
>
> that the words "from whatever source derived" have been introduced into the proposed amendment as if it were the intention to make it impossible for the claim to be urged that the income from any property, even though it consists of the bonds of the State or of a municipality organized by it, will be removed from the reach of the taxing power of the Federal Government.
>
> The immunity from Federal taxation that the State and its instrumentalities of government now enjoy is derived not from any express provision of the Federal Constitution but from what has been deemed to be necessary implication. Who can say that such implication with respect to the proposed tax will survive the adoption of this explicit and comprehensive amendment?
>
> It is to be borne in mind that this is not a mere statute to be construed in the light of constitutional restrictions, express or implied, but a proposed amendment to the Constitution itself, which, if ratified, will be in effect a grant to the Federal Government of the power which it defines.
>
> The comprehensive words "from whatever source derived," if taken in their natural sense, would include not only incomes from ordinary real or personal property, but also incomes derived from State and municipal securities.

The message of Governor Hughes caused the most widespread comment and editorials in the New York newspapers, and also an editorial in the Chicago Tribune, which I will put in the RECORD.

The PRESIDING OFFICER. The Senator's time on the amendment has expired.

Mr. BROWN. I will take time on the bill.

Newspapers throughout the country picked up the question, and the Governors of the various States, contrary to what the Senator from Nebraska evidently thought, discussed the question. The message of Governor Swanson of Virginia is as follows:

No substantial reason exists why our Government should be deprived of the power of imposing a tax so just and fair. It must be presumed that the Federal Government in the exercise of this power will be reasonable and have the utmost regard for the rights and best interests of the States.

It is an unwarranted fright to imagine that Congress (one House of which consists of Representatives elected from districts fixed by the legislatures of the States, and the other consisting of Senators elected directly to represent their respective States, would, in the imposition of taxes under this proposed amendment, permit any burdens or legislation which would be destructive of either the rights or best interests of the States.

He called attention to what Justice Marshall called attention to many years before, that the States are here represented.

Governor Kitchin of North Carolina said:

We should assume that the State bonds and their interest are as safe from burdens in the hands of Congress as are national bonds and their interest.

Which brings me to the point that the Governor of the State of Vermont, who will be here in the United States Senate if the Republican Party is successful in that State, sent a telegram to the committee in which he said:

I am opposed to Federal taxation of income from State bonds unless the States are given the right to tax the income from Federal bonds.

That is the attitude of the present Governor of Vermont in a telegram sent to the committee, which is found in the record.

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

Mr. BROWN. I yield.

Mr. AUSTIN. Was the Senator referring to the construction placed upon the words of the amendment before he went into Vermont and called the present Governor of Vermont as a witness?

Mr. BROWN. No; the Governor was not a witness. He sent me a telegram.

Mr. AUSTIN. Yes; I understand, but the Senator is making him a witness here.

I wish to observe that the then Governor of Vermont was Carroll S. Page, a man who afterward became a Senator of the United States, a distinguished gentleman, who was one of the very few Governors who followed the fears of the Governor of New York at that time, and he told the Legislature of Vermont at that time:

Those who have kept in touch with the recent discussions upon this question in our neighboring State, New York, must have noticed the very pronounced views of ex-Governor (now Justice) Hughes with reference to the proposed amendment. He fully believes that the State should not concede additional power of taxation to the Federal Government, and I most heartily concur in what I believe to be the wise conclusions which he has reached * * *.

That attitude was diametrically opposite to the theory of reciprocal taxation.

Mr. BROWN. Let me say to the Senator that he evidently misunderstood me. I am talking about a telegram from George D. Aiken, who is the present Governor of Vermont, in which he said:

I am opposed to Federal taxation of income from State bonds unless the States are given the right to tax the income from Federal bonds.

That is exactly what this bill does. In other words, we do what the Governor of Vermont wants us to do. But I add that the Legislature of Vermont ratified the amendment on the Hughes construction as stated by Governor Page.

Mr. President, I now proceed. The statement of Governor Kitchen, of North Carolina, in submitting the amendment to his legislature was:

A 2-percent income tax would reduce the net income from a thousand dollars of North Carolina bonds 80 cents a year, this being an interest-rate reduction from 4 percent to 3.92 percent, even if the income from nontaxable bonds, National and State, should by Congress be taxed, which is against the probabilities, it could not reasonably be considered a hardship on those on whom it would be imposed, nor would it seriously impair the market value of these securities.

That was the message to the Legislature of North Carolina, which was determining this question.

Likewise, the message of Governor Baldwin, of Connecticut, which I ask unanimous consent to have printed in the RECORD, called attention to the construction of Judge Hughes, in which he said he inclined to share the opinion of Judge Hughes.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

It is unfortunate that the wording of the proposed amendment is such as to raise upon its face a doubt as to its meaning in respect to a material point. In the view of some lawyers it would authorize Congress to tax the holders of State securities upon the income derived therefrom. If so, it would be possible for Congress thus to impair greatly, and practically to destroy, the power of a State to market its bonds on favorable terms. In the view of other lawyers the amendment would not affect the existing rule, which is that the United States cannot tax State bonds or the income derived from them.

I am inclined to share the opinion of the former. If that be correct, the amendment would also give the United States power to tax the income from salaries or fees of every State official.

Mr. BROWN. The message of Governor Gilchrist, of Florida, took substantially the same position. He was, like Governor Hughes, opposing the ratification of the amendment, and indicated that it clearly would permit a tax upon the income from State and municipal bonds.

Governor Marshall, of Indiana, took the same attitude.

Representative Pattangall, a very noted Democrat from the State of Maine, on the floor of the house of representatives, of which he was then a member, said to the Legislature of Maine before they took up the question of ratification that, in his judgment, Governor Hughes was correct in his interpretation.

To summarize, Mr. President, on the question of ratification, 15 of the messages of Governors of States to their legislatures took cognizance of the views expressed by Governor Hughes. Eight of those messages said that Governor Hughes was correct in his interpretation. In five of the messages the Governors took no position. In only three did they take a position opposite to that taken by the Governor of New York.

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

Mr. BROWN. I yield.

Mr. AUSTIN. I shall detain the Senator but a moment, and I think in view of the rule we are operating under, that it is generous of the Senator to permit me to put in the RECORD, at this point, our claim on that point. It is very brief:

We claim that the weight of gubernatorial opinion at that time did not follow the Hughes construction.

As indicated before, the Department of Justice, whether intentionally or not, creates the inference that the preponderance of the Governors who sent messages to their States in connection with the sixteenth amendment accepted the fears voiced by Governor Hughes, but nevertheless urged ratification. A careful examination of the record, however, shows this inference is not warranted. The Department of Justice found 52 State messages from Governors in which the question of ratification of the sixteenth amendment was mentioned. Of these, 39 of the messages made no reference to Governor Hughes' message, inferentially or otherwise. Thirteen messages did refer to Governor Hughes' fears, but of these only 3 seemed to have agreed, whereas 7 disagreed, and 2 stated both sides of the question without recommending either view. Among those who disagreed with the fears voiced by Governor Hughes were Governor Plaisted, of Maine; Governor Hadley, of Missouri; Governor Fort, of New Jersey; Governor Harmon, of Ohio, and Governor Noel, of Mississippi.

Mr. President, I ask unanimous consent that at some place which suits the convenience of the Senator from Michigan there be inserted in the RECORD, statements taken from other messages from Governors, as set forth in the yellow book on pages 323 to 329. I do not mind if the statements appear at the end of the Senator's remarks.

Mr. BROWN. I hope they will appear somewhere in the RECORD, but not in the body of my speech.

Mr. AUSTIN. No; but I should like to have them in the RECORD.

The PRESIDING OFFICER. Without objection, the statements referred to may be printed in the RECORD.

(See exhibit A.)

Mr. BROWN. Mr. President, I have before me a statement concerning the presentation which was made to the Legislature of the State of New York by the attorneys in the Pollock case, to which I have referred. I ask that the statement be printed in the RECORD as part of my remarks at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

On the question of the construction of the words "from whatever source derived," we have the view of three of the attorneys who fought and won the Pollock Loan & Trust Co. case, Messrs. Joseph F. Choate, William D. Guthrie, and Victor Morowitz. They, with Austin G. Fox and John G. Milbourne submitted the following memorandum to the New York Legislature in opposing ratification. They said:

"The people of the United States are now urged to adopt a constitutional amendment specifically vesting in Congress 'power to lay and collect taxes on incomes, from whatever source derived,' and to take this step after repeated attempts on the part of Congress to tax State and municipal bonds and salaries of State and municipal officials under claim of power to do so, after repeated contentions on the part of the Executive through the Department of Justice that Congress has power to impose such taxes, and after repeated decisions by the Supreme Court that no such power exists under the language of the Constitution as it now stands. If, in the face of these contentions on the part of the legislative and executive branches and of these adjudications by the Supreme Court, the people, who are sovereign, adopt an amendment expressly conferring the power to tax incomes in the broadest terms in our language, namely, 'from whatever source derived,' the courts, under settled rules of construction would, as it seems to us, be constrained to hold that the words 'from whatever source derived' excluded any implied limitation theretofore existing, because otherwise the whole clause would have no meaning or force. We know of no rule that would warrant the courts in holding that the words 'from whatever source derived,' adopted under these circumstances, were wholly meaningless and ineffective."

Choate, Guthrie, and Milbourne were three of the most prominent lawyers in the United States at that time.

Mr. BROWN. Mr. President, in addition to the statements of Governors, which I think were pretty well covered by the statements heretofore made, and which will be inserted in the RECORD, various members of the Ways and Means Committee of the House of Representatives made statements. Representative Payne, chairman of the committee; Representative Shirley, of Kentucky; and Representative Underwood, of Alabama, all made statements indicating plainly that it was intended by the sixteenth amendment to cover the subject matter of the proposition which I am now advocating. I ask that their statements, which I have before me, be printed in the RECORD at this point.

Without objection, the statements were ordered to be printed in the RECORD, as follows:

The views of the members of the Ways and Means Committee of the House who had charge of the legislation show clearly that they accepted the Hughes interpretation:

"The ranking members of the Committee on Ways and Means of the House, in statements to the press, agreed with Governor Hughes' construction but favored the ratification of the amendment.

"Representative Sereno E. Payne, who as chairman of the Ways and Means Committee introduced the amendment into the House, declared:

"'Personally, I am inclined to the opinion that the Governor is right in taking the position that the amendment should have specified that the portions of incomes derived from State, municipal, and Government bonds should be exempt from the income tax. Nevertheless, it might be better to let Congress be the judge of how the tax is to be applied.'

"Representative Shirley, of Kentucky, likewise stated that he agreed with the construction of Governor Hughes, but thought that the amendment should be ratified. Representative Smith of Iowa, in a statement to the press on the message of the New York Governor, declared:

"'I believe that the Central Government should have the power to levy any form of tax that it deemed necessary when the emergency required. * * * Congress ought to have the power to pass [an income tax] without interference whenever real emergencies arise.'

"Representative Oscar W. Underwood, of Alabama, a Democratic member of the Ways and Means Committee, stated that he did not agree with Governor Hughes 'that the power to levy an income tax on incomes derived from any source whatsoever should not be given to Congress. These are emergencies which might arise when it would be necessary to resort to a levy on all forms of income.' Representative Sulzer, of New York, and Bartlett, of Georgia expressed similar views."

Mr. BROWN. I have already referred to the statement which was made by Senator Knute Nelson. I ask that that statement be printed in the RECORD at this point in my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

In the journal of the American Bar Association for December 1920, on pages 202 to 207, inclusive, appears an article by Mr. Harry Hubbard, from which the following is quoted:

"After an article on the sixteenth amendment published in the Harvard Law Review, April 1920, in which the writer set forth reasons for his view that the amendment authorized Congress to levy taxes on all incomes including among others those from bonds and other securities issued by States, cities, and other subdivisions of States, and from salaries and wages paid by them, the writer received a letter from Senator Knute Nelson, who was in 1909 a member of the Judiciary Committee of the Senate, and is now chairman of that committee, dated May 7, 1920, in which Senator Nelson wrote:

"'I thank you very much for sending me a copy of the Harvard Law Review containing your article on the sixteenth amendment, which I have read with much interest. I am glad to see that you concur in my views. The words "from whatever source derived" were inserted in the amendment in the Senate at my instance and on my insistence. I have been very sorry to see that the Supreme Court in its decision, has utterly ignored the phrase; in fact, treated the amendment as though this phrase were not a part of it.'

"In a later letter, September 10, 1920, Senator Nelson wrote (as to the above-quoted statement):

"'You have the liberty to use my statement quoted in your letter. The record may not show it but I introduced the amendment and the facts are that at that time Mr. Aldrich was chairman of the Finance Committee and I discussed the matter with him and insisted on the amendment being inserted and he concurred with me and reported the bill with the phrase "from whatever source derived."'

"Senator Aldrich was, as everyone knows, the real leader of the Senate, especially in all financial matters. He knew what he was doing.

"Here, then, is the history of these words of the amendment. The word 'direct' was taken out, in order not to limit income taxes to those which were 'direct,' (and which were held invalid in the Pollock case), and the words 'from whatever source derived' were inserted, in order to make the power to tax incomes as broad as 'incomes' themselves could possibly be. Thus, the amendment was changed and reported by the Finance Committee, passed by the Senate and House, and ratified by the legislatures in more than three-fourths of the States."

Mr. BROWN. The Senator asked me if there was any general discussion of the subject. An editorial on the subject appeared in the New York Times on March 2, 1910. I ask that the editorial be printed in the RECORD at this point in my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

The question regarding the constitutional amendment enabling the Federal Government to lay a tax on incomes "from whatever source derived" is not a question regarding the conflict of laws, or for the construction of an obscure statute involving difficult question of principle. It is a question addressed to the man in the street regarding the adoption of a new policy as to which his views should and will prevail. It is a question without roots in the past and looking wholly to the future. The Supreme Court perhaps might listen patiently to such an argument as Senator Root's, but the men in the street will pay no attention to it, and should not.

It is not a question for the Supreme Court. One man is theoretically as competent as another under universal suffrage to say whether the proposed constitutional enablement of the taxation of incomes from all sources means that incomes from some sources are not included, because they were not included when the Constitution was worded differently. The votes and the intelligence of the common people will and should settle this question. Indisputably they think, and have a right to think, that the proposition is that Congress may tax all incomes. The 4 words mean the same after the 4,000 words of Senator Root's argument are digested as before, and cannot be made to mean anything different, except by technicalities which cannot only prevail at the cost of defeating the people's will.

* * * * * * *

It is only necessary to find the meaning of a few easy words, and they are to be understood with the same freedom of natural and spontaneous interpretation as would be used in the case of private and personal interest. Only trouble can be made by substituting other words assumed to be equivalent, and arguing as though they were in the act, or that the meaning is otherwise because it ought to be otherwise. Millions will, through their Representatives, vote on the income tax who will never see Senator Root's argument, and who ought not to be troubled with it, their own interpretation of the language being the very thing in question. To argue that some sources of income will not be taxable

because they ought not to be taxable, or because they have not been taxable before, is beside the point.

Mr. BROWN. The editorial is dated March 2, 1910. Speaking of the question raised by Governor Hughes, the editorial said:

It is a question addressed to the man in the street regarding the adoption of a new policy as to which his views should and will prevail. It is a question without roots in the past, and looks wholly to the future. The Supreme Court perhaps might listen patiently to such an argument as Senator Root's, but the men in the street will pay no attention to it, and should not. * * * To argue that some sources of income will not be taxable because they ought not to be taxable, or because they have not been taxable before, is beside the point.

The burden of the editorial, I will say to the Senator from Nebraska, is that clearly the income from municipal bonds would be taxed.

To the same general purport is an editorial from the Chicago Tribune of January 7, 1910, which I ask to have printed in the RECORD at this point in connection with my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

Governor Hughes advises the New York Legislature not to ratify the income-tax amendment. He believes the National Government should have the power it confers, subject to one limitation; that is, it should be stated specifically that Congress could not tax incomes derived from the bonds of a State or of one of its municipalities. Without this qualification the borrowing power of State or its municipalities would, in his opinion, be at the mercy of the Federal Government. It might be impaired. * * *

The threatened dangers he lays so much stress on may influence the Legislature of New York to reject the amendment. They are not likely to affect the legislatures of States less addicted to borrowing.

Mr. BROWN. The editorial from the Chicago Tribune of January 7, 1910, takes the opposite view from that of Governor Hughes. It says:

The threatened dangers he lays so much stress on may influence the Legislature of New York to reject the amendment. They are not likely to affect the legislatures of States less addicted to borrowing.

As the Senator knows, the Chicago Tribune is one of the most prominent newspapers in the Middle West. Like the editorial from the New York Times, the editorial from the Chicago Tribune took the view that clearly the income on municipal and State bonds was covered by the sixteenth amendment.

Mr. President, since my time is drawing to a close, I ask that certain material which I shall send to the desk, setting forth the newspaper controversy of the time, and what was said by various newspapers, be printed at this point in my remarks. It is not very long.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

Governor Hughes' construction of the proposed amendment was widely publicized throughout the Nation by the daily newspapers. The opponents of the amendment quite generally accepted Governor Hughes' construction. One paper "supposed" that this message would "set the popular thought in the right direction," while another observed that he "has placed a shot between wind and water." One newspaper observed that "this (the Governor's reasoning) is perfectly sound so far as it goes * * *" but added other reasons why it was opposed to ratification. Some friends of the amendment were dismayed. One editorial observed that the opponents had been furnished "the one thing they have been seeking—a plausible argument from a highly respectable source." In the same editorial it was insisted that the message would be "hailed with delight by all the interests that oppose an income tax," and that "it (the opposition) will turn Governor Hughes' message, his arguments, his influence, and his great reputation to its own account in every State capital" where there was a chance to defeat ratification. From another State came the declaration that "Governor Hughes' annual message is next in public interest to that of President Taft." From the West it was observed that the Governor has "conjured up a new objection to the income tax." From Vermont it was said that "the announcement will naturally attract wide attention." In the South it was thought that Mr. Hughes' reputation as a lawyer and a high-minded public man is widespread; he bases his objections upon legal and broadly constitutional grounds, so the moral effect must prove considerable. An apparently somewhat neutral observer thought that "this contention may not be sufficient to outweigh the arguments in favor of an income tax but it will test the resources of advocates of that measure."

But many of the friends of the amendment thought that the granting of the power to tax the interest from State and municipal bonds was not objectionable. From the Middle West came the observation that, "The threatened dangers * * * are not likely to affect the legislatures of States less addicted to borrowing."

Mr. BROWN. Mr. William Sulzer, who was afterward Governor of the State of New York, and who at the time of the submission of the sixteenth amendment was a member of the Ways and Means Committee of the House of Representatives, said in a letter written to me as chairman of the committee:

The law says—

Meaning the constitutional provision—

"from whatever source derived." Certainly no words can be plainer. The purpose of the Congress in passing it, and the purpose of the States that ratified it, was that there should be no exemption and that every person should pay a tax on his or her income, from whatever source derived.

That letter applies to the precise question, because it was written to me as chairman of the committee which was proposing the bill.

Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Chair is informed that the Senator has 11 minutes left.

Mr. BROWN. I wish to tie in the revenue statutes of 1861 to 1894, to which I have frequently referred, and the sixteenth amendment. I call attention to the fact that the language under which municipal bonds were taxed was this language:

Income from any source whatever.

I next call attention to the fact that the sixteenth amendment grew out of a controversy over a tax which was levied under a statute which empowered that tax by use of the language "from whatever source derived."

The sixteenth amendment adopted almost the same precise language—"income from whatever source derived." How can there be any reasonable basis for coming to any conclusion other than that the constitutional amendment contained language which must be construed, as was identically the same phrase in the several statutes out of which the controversy arose? That argument has never been presented to the Supreme Court of the United States in any of the tax cases. The Supreme Court has never at any time passed upon the precise question; and when this plain language in the sixteenth amendment is laid down beside the plain language in the Civil War statutes and the 1894 statute, I say that no court can come to any conclusion other than that the language in the sixteenth amendment means exactly what it meant in the statute out of which the controversy arose.

Mr. President, if such a controversy should arise, the Department of Justice, which was of great aid to us, and the Treasury Department, which is familiar with the facts, will adequately present the view of the Government to the Supreme Court of the United States.

Mr. President, I opened my remarks by calling attention to the fact that from all the evidence we can gather the people of the United States want this kind of legislation. They want to eliminate tax-exempt bonds. When the question was presented to the Congress by the message of the President of the United States, the Gallup poll presented that question in the usual manner in which political questions are presented to the people. The question asked was:

Should people who own United States Government bonds or State or municipal bonds have to pay a Federal income tax on the income from these securities?

The answer was: Yes, 75 percent; no, 25 percent. Of 705 newspaper editorials which expressed views upon the subject at that time—1939—77 percent, or 642, of them favored immediate congressional removal of tax immunity. Fourteen percent suggested a constitutional amendment, and only 9 percent were opposed to the ending of tax immunity.

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

Mr. BROWN. I yield.

Mr. BURKE. Will the Senator complete that statement by showing the vote of the attorneys general of the 48 States and the mayors of the cities of the country?

Mr. BROWN. I am sure the Senator will not ask me to gather up that material in the last 3 minutes of my speech. He has a perfect right to put it in the RECORD.

Mr. BURKE. Will the Senator concede that the attorneys general of 45 of the 48 States vigorously protested against the proposal to authorize the Federal Government to tax the bonds of the States?

Mr. BROWN. If the Senator had done me the honor of listening to the first part of my speech, he would have heard that I so stated.

Mr. BURKE. I was not in the city at that time.

Mr. BROWN. Mr. President, the platform of my political party states:

To encourage investment in productive enterprise, the tax-exempt privileges of future Federal, State, and local bonds should be removed.

Mr. President, I know that the chairman of the Finance Committee fears that if this amendment should be agreed to it may have some difficulty in being accepted by the conferees who will meet with him next Monday or Tuesday to consider the differences between the two Houses. I have looked over the list of delegates to the Democratic National Convention, and I have noted the members of the subcommittee who drew the platform, of which the Senator from Michigan was one and the Senator from Mississippi, the chairman of my committee, was another.

I have looked over the list of the delegates, and I find, Mr. President, that the four top members of the Ways and Means Committee of the House of Representatives were delegates to that convention. An examination of the proceedings will disclose not a dissenting vote against the Democratic platform which declared for the removal of the tax-exempt privilege from Federal, State, and local bonds.

Mr. President, if this amendment had not been worked over by the experts, if it had not been carefully considered by the Treasury Department, I would say, perhaps, that we ought to take more time to look into it, but the amendment was prepared by the experts of the Joint Committee on Internal Revenue Taxation and by the experts of the Legislative Counsel's office. They were requested by me to draft the amendment so that I might offer it. So it has been carefully considered and studied. Four ranking members of the Ways and Means Committee have indicated as delegates to the Democratic Convention that they are in favor of this principle.

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

Mr. BROWN. I yield to the Senator from Utah.

Mr. KING. I hope the Senator will not include me in the category of those who asked that this amendment be drafted, for I am opposed to it; I always have been opposed to it, and I hope I always will be, because it is an assault upon our form of government, upon the States and upon their political subdivisions, absolutely at variance with our concept of government.

Mr. BROWN. I know that is the Senator's view.

Mr. AUSTIN. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Vermont?

Mr. BROWN. I yield.

Mr. AUSTIN. I should like to ask whether the plank of the democratic platform advocates this fundamental change without a constitutional amendment?

Mr. BROWN. It does not say anything about the method by which the end is to be accomplished, but the gentleman who was nominated for President of the United States at that convention, in a message to the Congress in 1938, urged immediate enactment of such a statute, and argued ably and well that it could be done without a constitutional amendment.

Mr. AUSTIN. We are familiar with his attitude toward the Constitution. [Laughter.]

Mr. BROWN. Mr. President, I hope that, in the consideration of this matter and in determining how they will vote, Senators will not be overpowered by the very effective campaign which has been carried on against this amendment by the attorneys general of the several States. We are the representatives of the people of our States. I think we know how the people of our States feel. I have tried to give a cross section of public opinion upon the subject.

I am not sanguine, Mr. President, of the final adoption of this amendment at the present session of the Congress. I know with what I am confronted. But, Mr. President, I wanted to bring to the Senate of the United States the conclusions of the majority of my committee. I wanted to make a statement upon the floor of the splendid, historical investigation which has been made by the Department of Justice and by the Treasury Department into the legal and economic aspects of this controversy in the hope that those of the other body and those here who are in charge of matters of taxation will bring this subject before the Congress of the United States, so that there may be enacted appropriate legislation to put an end to the tax-exemption privilege.

Mr. President, I had hoped that the majority leader would take this proposition up when the head of his party, the President, requests it. He was the chairman of the convention that adopted the plank favoring this measure. I think the organization in charge of the Senate of the United States, through its appropriate committee, should give most careful consideration not only to what the leader of our party has said but also to what our party in convention assembled said. I cannot urge this course too strongly. There are many Senators who oppose this amendment vigorously. They have done so, and it is their right to do so, but I believe the majority of this Congress is for it, and I hope that the effort we are making here today will result in bringing the measure before the Congress for a vote so that tax special privilege will not longer exist and that tax justice will prevail in this land.

EXHIBIT A

Governor Plaisted said:

"In approving the proposed amendment we are not conferring any new right on the Nation, nor are we taking away any right now reserved to the State."

Governor Hadley said:

"I do not believe that objection therein urged is likely to arise as a result of this power by the National Congress if conferred, and, if it should arise, it is my opinion that under the decisions of the Supreme Court of the United States, it is not well founded in law. And this is the position that has been taken by some of the most prominent representatives in the National Congress in the discussions of this question."

Governor Fort said:

"Nor am I inclined to accept the statement that the Supreme Court * * * might construe the words 'from whatever source derived' * * * as justifying the taxing of the securities of any other power."

* * * * * * *

"I think the principle thus quoted, which is founded upon public policy, would obtain, in construing a constitutional provision, equally as firmly as in the construction of an act of Congress."

Governor Noel said:

"I do not concur in either the view or the recommendation of Governor Hughes in opposition to the income-tax amendment. I do not believe the courts would hold that authority to tax incomes would authorize any action that would impair any instrumentality of the State or municipal governments."

Governor Harmon said:

"I have recommended ratification of the income-tax amendment. Comity between kindred sovereignties should require the amendment to be taken as applying to incomes from private sources only * * *."

Still other Governors showed doubts as to Governor Hughes' views. Thus, for example, Governor Baldwin, of Connecticut, said:

"It is unfortunate that the wording of the proposed amendment is such as to raise upon its face a doubt as to its meaning in respect to a material point. In the view of some lawyers, it would authorize Congress to tax holders of State securities * * *. In the view of other lawyers, the amendment would not affect the existing rule * * *."

Governor Marshall, of Indiana, said:

"* * * It may be conferring upon the General Government a larger power in the nature of taxation than the States have ever intended to confer, * * *."

Governor Norris, of Montana, said:

"Some objections have been made to the adoption of the amendment on the ground that the words 'from whatever source derived' permit the levy of a tax on incomes received from State * * * indebtedness * * *."

Governor Burke, of North Dakota, said:

"Some of the ablest lawyers in the land object to the broad terms in which the language giving the power to tax is couched. * * * While on the other hand just as able lawyers insist that the Constitution contemplates the independent exercise by the Nation and the States of their constitutional powers and the obligations of the State cannot be impaired by this grant of power."

To sum up, the situation with respect to the ratifying States was this: Mr. Hughes, as Governor of the State of New York, voiced fears that the proposed amendment might be interpreted as possibly opening the door to the taxation of the income from State and municipal bonds. This view, however, was officially controverted by Senators Borah, Root, and Brown. Of these three, Senator Borah was the leading spirit behind the amendment. Senator Brown officially introduced it and Senator Root was credited, by at least one authority, with being the actual author of the amendment; and, moreover, he was one of Governor Hughes' two representatives in the Senate. Following their respective interpretations, no one in the Senate or House rose to challenge their views. John Philip Wenchel, chief counsel, Bureau of Internal Revenue, has inadvertently created the impression that the opposition to the Borah-Root-Brown views was voiced on the floor of the Senate. Thus, in the paper entitled "Legal Discussion," which he filed before the Senate Committee on Intergovernmental Taxation, he quoted language from Senator Edmunds, of Vermont, which would indicate that the latter gentleman disagreed with or challenged the Borah-Root-Brown views on the floor of the Senate. What happened is this: Former Senator Edmunds, of Vermont, addressed a letter to a then Senator. In this letter the former Vermont Senator strongly condemned the possible taxation of State and municipal securities, as well as the whole theory of the income tax. The letter was printed in the RECORD, without discussion. Thus the States can reassert the proposition that the Borah-Root-Brown views of the amendment were not challenged in the Senate or House.

The Department of Justice erroneously and fallaciously concludes that when the States ratified the amendment without referring to either of two diverse schools of thought, the States must have accepted the view most favorable to the contentions urged by the Department of Justice. This is, of course, absurd on its face. And moreover if silence may be regarded as acquiescense (in some circumstances) it is absurd to argue that in this case it amounted to an acceptance of Governor Hughes' fears. If silence gives rise to acquiescence, surely it is acquiescence in the latest views expressed in a controversy. After Governor Hughes voiced his fears, others said they were groundless and unjustified under the language and intent of the amendment. The States submit, therefore, that it cannot be argued with force that because of a State's omission to challenge Governor Hughes' fears, it acquiesced in the surrender of its sovereignty.

It is, of course, absurd to suppose that the States intended—in ratifying the sixteenth amendment—to give up their immunity from tax by the Federal Government without the Federal Governernment in turn giving up its immunity. It is ridiculous to suppose that the States would have intended to ratify the amendment under such circumstances.

The record fails to support any conclusion that the amendment was ratified by the States in acceptance of the view that it was intended to vest Congress with the power to tax State and municipal bonds.

Mr. CONNALLY. Mr. President, the time is rolling along toward the final vote on this measure. I have listened with much interest to the discussion of the Brown amendment. I am strongly opposed to any clause or line in the amendment which would seek to give the Federal Government the power to tax municipal, State, county, or taxing-district bonds within the States.

I shall not undertake to burden the Senate with a constitutional discussion. It seems to me that much of the discussion here has been along the line of establishing the principle that if it is lawful and if it is constitutional, therefore, we ought to do it. There are many things that are lawful that I do not believe a man ought to do. It may be lawful for me to jump from a second-floor window; I know of no law on the statute books that says one cannot jump from a second-story window; but simply because it is not against the law is no reason why I should suddenly take a notion to jump from a second-story window. I do not believe it is constitutional for the Federal Government to tax State, municipal, or city bonds, but a little later I want to assume that it can do so, and then I shall undertake to demonstrate that it would be extremely foolish, uneconomic, unwise, unfair, and unsound for the Federal Government to undertake to do such a thing, even if it should give to the States the so-called reciprocal advantage of taxing Federal issues.

Without going back to the lawbooks, but just talking, as it were, from first impressions, it is absolutely an unsound theory to assume that, under our dual system, one government has the right to tax another government. We have always been taught to believe that the States were supreme within their functions. Whatever those functions are, there is no higher governmental power in the world. As to the Federal jurisdiction and authority within that particular sphere, the Federal Government has no superior. It is the ultima thule of authority. No State, no principality, no kingdom, no empire, no potentate may overrule the action of the Federal Government within its proper sphere, and, by the same token, when the State government operates within its sphere, humble though it may be, whatever its functions may be, the State has no superior governmental authority on this revolving globe. Can a government be supreme, can it be sovereign, when its operations are subject to taxation by some other governmental agency? Is not that very conception repugnant to the thought of sovereignty? How can a State government or a Federal government be a sovereign when another government may come along and say, "I will lay a tax, I will lay a burden upon your operations"?

Mr. TAFT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Texas yield to the Senator from Ohio?

Mr. CONNALLY. I yield.

Mr. TAFT. Does not England remain a sovereignty, although we tax English bonds in this country?

Mr. CONNALLY. England remains sovereign over yonder, but not over here.

Mr. KING. If the Senator will permit me, let me say that England does not attempt to tax the bonds of Canada, Australia, or New Zealand.

Mr. TAFT. I do not see what difference it makes. The taxation of the bonds of a government is not any limitation on its sovereignty in any way that I can see.

Mr. CONNALLY. I am not interpreting the matter for the Senator from Ohio; but I say to him, on the other hand, that when a State government issues its bonds and the Federal Government says to the State government, "We will tell any buyer of those bonds in advance that when he buys them he will not only have to pay the interest which you may exact but he will have to pay to the Federal Government also an income"—we will not call it interest but will call it a tax—when the Federal Government says to a State government, "Before you can issue a bond for a dime we will exact from the man who buys that bond an income to the Federal Government along with the tax which he may pay to the State government," I say that is an infringement of the right and power of the State government. We have no control over Great Britain, have we?

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

Mr. CONNALLY. I will yield in a moment. Let me first answer the Senator from Ohio.

Mr. BROWN. He is not in the Chamber at the moment.

Mr. CONNALLY. The Senator from Ohio must be a sharpshooter, for he fires a blank round and then retires to the woods. [Laughter.] England does not ask our consent and can sell her bonds wherever she pleases on the face of the earth.

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

Mr. CONNALLY. I yield.

Mr. AUSTIN. Of course there is no analogy at all.

Mr. CONNALLY. Certainly not.

Mr. AUSTIN. England does not occupy the same geographical area with the United States, and we have no federalism with England.

Mr. CONNALLY. She is not a part of our governmental system; certainly.

I will say to the Senator from Ohio by remote control—I will speak to him by remote control [laughter]—that I was reminded earlier in the day that somebody said that taxing the income from a State bond is not taxing the State. No; it is not taxing the State by name, but it is taxing the

State in effect. It might be said that you cannot attack me; it is against the law to attack me; but if you let somebody saw off my arm, and then saw off one of my legs, and then saw off another leg, the same result can be obtained without ever attacking me all over at one time. [Laughter.] Whenever the income of State bonds or municipal bonds or taxing-district bonds is taxed, a burden is laid upon the financial operations of the government itself. The courts are full of decisions that no State may lay a burden on interstate commerce. It is so sacred that even little burdens may not be laid on it; and yet these gentlemen say that without an amendment of the Constitution the Federal Government may reach out and grab a State and say, "You will have to pay me tribute. Come up and give to Caesar the things that are Caesar's."

Mr. BROWN. Mr. President——

Mr. CONNALLY. I yield to the Senator from Michigan.

Mr. BROWN. What is the difference in the Senator's contemplation between a tax on the income from a bond issued by the State of Texas and a tax on the income which a contractor makes from constructing a new State house for the State of Texas? Each is a burden on the State. There may be a difference of degree, but they amount to exactly the same thing.

Mr. CONNALLY. I cannot agree with the Senator. I always like to agree with him when I may. My inclination, prompted by affection and things of that kind, frequently tugs mightily at my sense of duty and responsibility; but I cannot agree with the Senator from Michigan at all.

Mr. BROWN. Will not the Senator tell me how he disagrees with me?

Mr. CONNALLY. I can very easily do that.

Mr. AUSTIN. Mr. President, it is evident that the Senator from Michigan is in complete disagreement with the Supreme Court.

Mr. CONNALLY. I was about to say that the Supreme Court held, as I understand, in what is known as the West Virginia case, that this was clearly distinguishable from the bondholder case. The Senators seem to think a great deal of Mr. Chief Justice Hughes when he was Governor, but they do not think much of him when he is Chief Justice. He says:

> There is no ineluctable logic—

Let me commend that word to the Senator from Michigan—

> There is no ineluctable logic which makes the doctrine of immunity with respect to Government bonds applicable to the earnings of an independent contractor rendering services to the Government. That doctrine recognizes the direct effect of a tax which would "operate on the power to borrow before it is exercised" (*Pollock* v. *Farmers' Loan & Trust Co., supra*)—

Although Senators have discredited that decision, let me finish reading from it.

Mr. BROWN. Of course, the tax is not collected until it gets into the hands of the taxpayer.

Mr. CONNALLY. That is true. Let me quote this decision further. That is one of the distinctive points about it—

> and which would directly affect the Government's obligation as a continuing security.

The Supreme Court puts its finger on the question when it says that the exaction of a tax in advance of the borrowing is a limitation on the power of that governmental unit to continue and to have security.

Mr. BROWN. Mr. President, will the Senator yield at that point?

Mr. CONNALLY. I shall be glad to yield.

Mr. BROWN. When a contract is made between the State of Texas and a contractor for the construction of a statehouse, the money necessary to pay the Federal income tax is exacted before the contract is entered into or at the time the contract is entered into in just exactly the same way that the additional interest on a bond is exacted at the time the bond is sold. It is a distinction without a difference.

Mr. CONNALLY. I do not agree with the Senator. I shall not spend much more time answering him. I want to let him and Mr. Chief Justice Hughes argue out this question at some convenient point.

Mr. Chief Justice Hughes further says:

> Vital considerations are there involved respecting the permanent relations of the Government to investors in its securities and its ability to maintain its credit—considerations which are not found in connection with contracts made from time to time for the services of independent contractors.

There are five or six distinctions that Mr. Chief Justice Hughes has raised, and there are possibly still others. The doctrine invoked by the Senator from Michigan would bring within the scope of income taxation every human transaction. Every time a dollar is spent it dribbles down into somebody else's pocket and becomes the subject, if there is any profit, of income taxation.

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

The PRESIDING OFFICER (Mr. SCHWELLENBACH in the chair). Does the Senator from Texas yield to the Senator from Vermont?

Mr. CONNALLY. I yield.

Mr. AUSTIN. The Senator remarked that there might be other distinctions. There are. The Supreme Court has spoken of them; and within the class of contracts which are contracts for labor and service and manufacture, and so on, there are distinctions. If the contract is one which affects a necessary function of the State, it enjoys the same type of immunity as the bond enjoys. That was so decided by Mr. Justice Stone in Helvering against Gerhardt, on page 8, where he says:

> Or to tax the manufacture and sale to a municipal corporation of equipment for its police force (*Indian Motorcycle Co.* v. *United States*, 283 U. S. 570).

Mr. BROWN. Mr. President, how is a State capitol built? It is built with bonds which the State sells, and it is built by a contractor who constructs it. We now tax the contractor's income earned from the job. Under my amendment we will tax the income on the money loaned by the holder. It seems to me the cases are identical in principle.

Mr. CONNALLY. I thank the Senator from Vermont and the Senator from Michigan for their contributions; but, Mr. President, I desire to cite only briefly an old, old decision, and that is the case of McCulloch against Maryland. McCulloch against Maryland points out so clearly the theories of dual jurisdiction of the States and the Federal Government that I feel that a brief reference to that decision ought to be made at this point.

I read only from the headnotes:

> The act of April 10, 1816, chapter 44, to incorporate the subscribers to the Bank of the United States, is a law made in pursuance of the Constitution.
>
> The Bank of the United States has, constitutionally, a right to establish its branches or offices of discount and deposit within any State.
>
> The State within which such branch may be established cannot—

Listen to this; I want all Senators to hear this:

> The State within which such branch may be established cannot, without violating the Constitution, tax that branch.

If Maryland cannot, without an amendment to the Constitution, tax the property of the Bank of the United States located in Baltimore, how can the Congress of the United States, without violating the Constitution, give the State of Maryland the right to tax Federal securities? Because that is what this amendment does. This amendment undertakes to give to the State of Maryland the right to tax the income from Federal securities; but John Marshall says Maryland cannot do that without violating the Constitution. If Maryland cannot do it without violating the Constitution, neither can the Congress of the United States do it without violating the Constitution.

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

Mr. CONNALLY. I yield.

Mr. BROWN. I do not see how the Senator or anybody else can get any comfort for their position out of McCulloch against Maryland, because Chief Justice Marshall went on to say in the same opinion, if the Senator will bear with me:

It has also been insisted that, as the power of taxation in the General and State Governments is acknowledged to be concurrent, every argument which would sustain the right of the General Government to tax banks chartered by the States will equally sustain the right of the States to tax banks chartered by the General Government. But the two cases are not on the same reason. The people of all the States have created the General Government and have conferred upon it the general power of taxation. The people of all the States, and the States themselves, are represented in Congress. * * * When they tax the chartered institutions of the States, they tax their constituents; and these taxes must be uniform. But when a State taxes the operations of the United States, it acts upon institutions created, not by their own constituents, but by people over whom they claim no control. * * * The difference is that which always exists, and always must exist, between the action of the whole on a part and the action of a part on the whole between the laws of a government—

That is, the United States—

declared to be supreme and those of a government which, when in opposition to those laws, is not supreme.

As I said the other day, I do not necessarily agree with the great Chief Justice; but he never assented to the proposition that the States could tax the instrumentalities of the Federal Government. He took exactly the contrary view.

Mr. CONNALLY. The Senator is, by the amendment, asserting a right to give the States the power to tax Federal instrumentalities, is he not?

Mr. BROWN. We are consenting to it, just as we did in the public salary tax matter.

Mr. CONNALLY. No State has ever tried to assert the power. The Senator is not assenting to it, he is undertaking to confer it.

Mr. President, according to the theory of the Senator from Michigan, the Federal Government can tax the States, but the States cannot tax the Federal Government. In either event he is wrong, because he proposes to do both by the amendment; he proposes to tax the income from State and municipal bonds, and then he proposes to confer upon the States the reciprocal power to tax Federal securities.

The Federal Government is supreme within its activity. It has the war power. This may be a far-drawn comparison, but the Federal Government possesses the war power, and is it consistent to allow one of the States to lay a tax, we will say for the sake of the argument, upon war activities, and slow up and impede and hinder the making of war by the Federal Government, which is purely a Federal function? Of course that would not be argued. That is a strong example, but it illustrates what the States might do if they exerted to the limit the authority sought to be conferred.

Mr. LEE. Mr. President, does the Senator mean to say that if a man had an income resulting from war, that income should not be subject to taxation?

Mr. CONNALLY. Oh, no; the Senator from Texas did not mean that, of course. I have before me a bill which, as soon as the pending amendment gets out of the way, I will present as an amendment to the tax bill to jerk all the war profits out of the manufacturers of things used in war, by legal means, by taxation.

Mr. LEE. I was about to say that the Senator could not mean that because he is the author of a bill to do what he has stated.

Mr. CONNALLY. Certainly. The Senator from Oklahoma wholly misconstrues my attitude. I do not see how the Senator could ever get that sort of an idea.

Mr. CLARK of Missouri. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. CLARK of Missouri. Of course the Senator agrees that a State would have authority to levy either a property tax, or an excise tax, or an income tax, on the income from the actual manufacture of munitions.

Mr. CONNALLY. Certainly.

Mr. CLARK of Missouri. At the same time, that would be taxation of war activities.

Mr. CONNALLY. No; there is no comparison there at all, no analogy there. We discussed that before the Senator came into the Chamber, earlier in the afternoon, as it would apply to a contract. The Senator from Michigan brought that to the attention of the Senate.

Mr. President, let us forget all the constitutional arguments and statesmanlike proposals, and let us suppose the Federal Government can tax local, municipal, and city bond issues; why should it do so? Why should it tax them? Are they not a part of our system of government? Do not these governmental subdivisions have to build schoolhouses, and city halls, and roads, and streets, and irrigation ditches, and all sorts of public improvements? How else can they build them except through taxation and the issuance of bonds, and through the sweat and blood and labor and toil of the people?

Mr. LEE. Is anyone advocating taxing such bonds?

Mr. CONNALLY. Yes; the Senator from Oklahoma is.

Mr. LEE. Indeed, I am not.

Mr. CONNALLY. If the Senator will let me demonstrate, I will show him in a few minutes that he is. He is one of the most gallant and one of the most irresistible and one of the most militant Senators on this floor in favor of the Federal Government taxing school districts, road districts, irrigation districts, and I will leave it to a vote of the Senate, if the Senator wants to submit it to this tribunal.

Mr. LEE. The Senator then is claiming that the tax on the income from such bonds is a tax on the bonds?

Mr. CONNALLY. That is correct.

Mr. LEE. Then the Senator is opposing the statement of the Supreme Court. The Court says that a tax on the income is not a tax on the source.

Mr. CONNALLY. That is not the way I construe the action.

Mr. LEE. The Supreme Court does.

Mr. CONNALLY. I desire to demonstrate to the Senator that when we tax the income from a bond we tax the bond.

Mr. LEE. The Senator from Texas should have argued that to the Supreme Court. They held otherwise.

Mr. CONNALLY. If I had had a case there and had argued it, there probably would have been a different decision from the one about which the Senator is talking. [Laughter.] I did not have a case there, and I did not appear before the Court. I desire to demonstrate the point to the Senator from Oklahoma. The Senator from Michigan in his report admits that if the Federal Government taxes the income from State and municipal securities, those issuing authorities will have to pay from one-fourth to one-half of 1 percent in increased interest each year. Is that correct? That is in the report, is it not?

Mr. BROWN. Unquestionably the States will have to pay a little more.

Mr. CONNALLY. Does not the report say from one-fourth to one-half of 1 percent?

Mr. BROWN. Not the report.

Mr. LEE. I think I can clear that up. Mr. Haynes, the Under Secretary, said that the increased cost would not be more than one-quarter or one-half of 1 percent.

Mr. CONNALLY. That is what I had in mind, probably. A similar bill was pending in the House of Representatives as early as 1924; and who was Secretary of the Treasury at that time? Mr. Andrew W. Mellon was Secretary of the Treasury; and Mr. Mellon was urging, not that it be done by statute, but he was urging the adoption of a constitutional amendment, because it was generally admitted then that we did not have the power to do it by statute. That is where a great deal of the enthusiasm for this kind of a plan arises. Mr. Mellon was advocating that it was not fair to industry and was not fair to the great corporations to have to compete in the financial market with the securities of the governments of the States, municipalities, and the Federal Government, because, he said, so long as they were untaxed the buyers could afford to take the bonds at a lower interest rate. But when Mr.

Mellon went before the Committee on Ways and Means he admitted and testified that if the Federal Government taxed State or municipal securities the increased tax rate would be from one-half to 1 percent annually.

I have before me the record. At that time a man by the name of McCoy, a very able statistician, was the chief statistician for the Treasury Department. The Treasury was advocating this amendment, Mr. Mellon was advocating it. It cannot be said that Mr. Mellon was after the great taxpayers, the men who were hiding their earnings in tax-exempt bonds. He was not motivated by that sort of purpose. But Mr. Mellon thought it would be a good thing to have the Federal Government tax State securities so that the States could not issue so many of them. He believed in the authority of the great, centralized Federal Government laying its strong hand on the taxing districts within a State and saying, "We will put a burden on you, we will make it more difficult for you to issue bonds hereafter because you will have to pay a higher interest rate, and every man who buys your bonds will be told in advance that he must not only pay the interest, but that he must pay tribute to the Federal Government." For what? Did the Federal Government create the States? They were here before the Federal Government was. Why should the State of Colorado, or the State of Texas, or the State of Maine, or the State of Vermont, or the State of Oklahoma, be called up to the taxing counter of the Federal Government and be required to pay tribute? For what? Because it exists? The States existed long before there was any Federal Union.

Mr. President, the States were free from taxation when they achieved their independence at Yorktown. One of the chief causes of their revolt had been their assertion of the right to remain free from taxation by another power. For the first time they became free from taxation, and there is nothing in the Constitution of the United States by which the States conferred upon the Federal Government the power to tax either the States, their subdivisions, or their instrumentalities.

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

Mr. CONNALLY. I yield.

Mr. LEE. All other securities than governmental securities have to pay a tax on the same basis. If, then, the governmental securities do not have to pay, they are enjoying a special privilege.

Mr. CONNALLY. Exactly.

Mr. LEE. If that special privilege is removed, the Government has not placed an additional burden on them, it has merely removed a privilege which they have enjoyed and which the others do not possess.

Mr. CONNALLY. Call it what one may, the result is the same. They never have been taxed heretofore. Does the Senator think that the operations of private corporations, their power to finance themselves, and their power to issue bonds, should be placed upon the same level with the public securities of the Nation, the bond issues which a nation might issue to save its life in time of war, or to save its life in any other period of great emergency? Does he think that that purpose is no loftier and no higher and no greater than the desire of some corporation to issue bonds in order that it may make more money and obtain greater profits?

Mr. LEE. I believe that a man who earns his money by the sweat of his brow should not have to pay any more taxes than a man whose income is derived from tax-exempt securities.

Mr. CONNALLY. Of course, the Senator may think he answered the question, but he did not answer it. He evaded it—I do not mean intentionally—but with that intellectual celerity and skill which he possesses in a marked degree, he did not touch the question, side, top, or bottom. [Laughter.]

If a government has any sovereign power at all, it is the sovereign power to maintain itself, and one of the powers by which to maintain itself is the power of taxation.

The PRESIDING OFFICER. The time of the Senator from Texas on the amendment has expired.

Mr. CONNALLY. I have 30 minutes on the bill, have I not?

The PRESIDING OFFICER. Except that the vote is to be taken at 4 o'clock.

Mr. CONNALLY. I shall not take all my time, or I hope not. If not interrupted, I promise I shall not.

I previously said, suppose this power is given to the Federal Government, shall it lay this burden on the States and on the municipalities, when they will get nothing in return? Oh, but it is said, "They have the right to tax Federal bonds in return." How many Federal bonds are there in any little country school district which will have to pay perhaps 1 percent additional interest for 40 years? Some may say, "That is fine. Go ahead and pay that increased interest, and then you will get it back if all the Federal bonds in your locality, in your country school district, are taxed."

If the F. B. I. were sent in search of Federal bondholders in that country district they would not find a man who had enough income from Federal bonds to pay a dime of income tax. The Senator from Georgia knows that to be so in his own State, as it is in the State of the Senator from Texas.

In 1924, Mr. McCoy, in testifying, was asked if levying taxes by the Federal Government on school districts and on State bonds would not increase the interest rate. Mr. McCoy replied—and I quote him literally:

> They would have to pay an increased rate of interest, undoubtedly. They always would. It might be a lesser or a greater amount of rate of interest and might not be higher than the rate now prevailing, but it would be somewhat higher if this exemption were not allowed than with the exemption, naturally, and so would all Government issues.

There is the statement of the greatest statistical authority who has been in our Government within the last quarter of a century, Mr. McCoy, a man well known, I am sure, to the Senator from Utah [Mr. KING]. He said that, of course, it would result in raising the interest rates on all Government securities. If the pending amendment shall be adopted, every State bond, every city bond, every county bond, every school-district bond, every road bond, every drainage-district bond hereafter issued will have to bear a higher interest rate than it otherwise would.

This is what Mr. Mellon himself said. He appeared before the committee, and the following discussion took place:

> Mr. FREAR.—

A member of the committee—

> Mr. FREAR. Does not this question arise there, Mr. Secretary, that there is an assumption that the three and one-half tax-free securities of the Government can be put out at par? Is that true?

It will be remembered that at that time we had the 3½-percent absolutely tax-free bonds, which were issued in 1917. Then we had the 4¼-percent, 4½-percent, and 4¾-percent bonds which were subject simply to the surtax, as most of the Federal bonds now are subject only to the surtax. So Mr. Frear asked whether we could sell 3½-percent bonds at par. Mr. Mellon replied—

> Probably.
>
> Mr. FREAR. That is true today that the Government can issue 3½-percent tax-free securities?
>
> Secretary MELLON. Perhaps. Now, to sell a security at par that is not tax-free—

This is Mr. Mellon speaking—

> The Government would have to pay a rate of interest today of more than 4 percent, of course.

Three and one-halfs were selling at par or above. Mr. Mellon said that if the exemption were removed the Government would have to pay at least 4 percent, not for 1 year, but for every year during which that bond was outstanding.

> Mr. CRISP. More than what?
>
> Secretary MELLON. More than 4 percent. I suppose it would depend upon the length of time they would have to run, but it would be somewhere from 4½ to 5 percent, depending on the length of time they would run.

Further on in the hearings we find a statement by Mr. Mills, who was then a Member of the House, and who afterward became Secretary of the Treasury.

Mr. JOHNSON of Colorado. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. JOHNSON of Colorado. At the time the bonds are purchased the purchaser does not know what is the rate of tax?

Mr. CONNALLY. Exactly.

Mr. JOHNSON of Colorado. He does not know what the rate of tax will be. It may go up. The State tax and the Federal tax may go up. The rate is unknown at the time of purchase. The rate of taxation may become very high in a period of 10 years. So the purchaser, in order to protect himself, must purchase at such a price that he could afford to pay a much higher rate than the present rate.

Mr. CONNALLY. The Senator is exactly correct. If the tax were determinate and certain and fixed and could not exceed a certain sum, the bond buyer then could figure that, and take it into calculation, and make an exact bid on his bond. But so long as the tax is undetermined, so long as it is variable, so long as it may fluctuate up or down according to the will of the Congress, and according to the will of the various State legislatures, how can the bond buyer do anything except add a liberal slice of increased interest to take care of the hazard, of the chance of an increase in the tax rate?

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

Mr. CONNALLY. I yield.

Mr. BROWN. Will the Senator from Texas tell me how that situation differs in the slightest degree from the situation which faces the purchaser of any corporate bond? He is in exactly the same position.

Mr. CONNALLY. That is correct.

Mr. BROWN. The purchaser of bonds of the United States Steel Corporation or of any other corporation that issues bonds would be in exactly the same position as the one who purchased Government or State bonds.

Mr. CONNALLY. That is very true, but I still revert to the point that I regard the matter of Government financing as something more than a mere stock-market operation. I believe the issuance of bonds of the Government with which the sinews are to be obtained with which to operate the Government, by which it shall survive, is the loftiest function the Government can exercise, and I refuse to place it on the same basis as the operations of a utility company or of some gigantic corporation. The corporation may perish tomorrow, or it may go into bankruptcy tomorrow, with very little harm, perhaps, to the country at large, but when the financial operations of the Government of the United States are hindered the operations of a great people are hampered. Whenever the operations of even a little school district in a State are hampered an injury is done to untold generations that are to follow.

Let me quote what Mr. Mills said about increasing the tax rates. This is what Mr. Ogden Mills said in a statement before the committee:

> Mr. Fordney asked a question in which I believe he stated that there was 1 percent difference.

One percent difference, mind you, between the interest rate of a taxable bond and a nontaxable bond. Mr. Mills continued:

> The 3¾-percent bonds—

I should like to have Senators listen to this, because it is very vital. This is what Mr. Mills said in testifying before the House committee:

> The 3¾-percent bonds were selling at 100.5, or did yesterday—

One hundred dollars and fifty cents for a $100 bond.

> and the Victory 4¾-percent, which pay taxes, were selling at exactly the same figure.

There is the test, Senators. Here is Mr. Mills, afterward Secretary of the Treasury, stating that the 3¾-percent tax-free bonds were selling on the market that day at $100.50 per bond, and that the 4¾-percent bonds, bearing an entire 1 percent more interest per year, and subject only to the surtax, were costing the Government 1 percent per annum more interest rate than the tax-free bonds.

Do Senators want anything plainer than that? If that will happen to Federal bonds, will it not happen to school bonds? The chances are that it will increase the interest rate on State securities more than it will on Federal securities, because the State bonds as a rule are not so good as those of the Federal Government, and therefore in the case of the municipalities or school districts and the cities and the counties, if they are made subject to a Federal tax, their interest burden will be increased more than will the interest burden on Federal bonds, because they are not as prime, they are not as gilt-edged now.

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

Mr. CONNALLY. I yield.

Mr. BROWN. The Senator does not want the Senate to believe that the sole consideration in the price of a bond on the market is the interest rate?

Mr. CONNALLY. Oh, no.

Mr. BROWN. There is the question of whether it is callable or not.

Mr. CONNALLY. Oh, yes.

Mr. BROWN. There is the question of how long it runs; what its maturity is.

Mr. CONNALLY. Yes.

Mr. BROWN. And unless we have all those factors it is unfair to compare them.

Mr. CONNALLY. That is very true. There are other factors, but they do not change the fact that the taxation feature is always there. Whether the bond be callable or not callable, the Federal tax will remain. Whether it be for a 10-year period or a 40-year period, the item of a Federal tax on that bond still remains. So the suggestion of the Senator from Michigan as to the other factors is not in point, because the factor of Federal taxation will always be present.

Mr. President, what did Mr. Mills further say?

> And, of course, the Government is getting a full 1-percent benefit here on the reduction in the interest rate. I do not know whether it can be demonstrated mathematically that it is losing more in taxes than it is gaining in the interest rate, but the probabilities are that it is.

Mr. Mills further said:

> It has been estimated that the advantage of tax exemption ranges between one-half percent and 1 percent. The present figures of the 4¾-percent bond and the 3¾ Victory notes do not indicate that. They indicate that it amounts to one whole percent.

That is Ogden Mills speaking. No one will dispute the fact that Mr. Mills knew as much about the financial structure of this Nation, even before he became Secretary of the Treasury, as did any other man of his day and generation.

Do we want to add 1 percent in the interest rate to every bond hereafter issued in the State of Nebraska or in the State of Oklahoma or in the State of Missouri, in every city, every county, every taxing district, every road district, and every school district, and turn over the increase in the interest rate mostly to the bond buyer, with only a little dribble to the Federal Government?

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

Mr. CONNALLY. I yield.

Mr. BROWN. Before the Senator leaves the subject of Mr. Mills, I wish to call attention to the fact that when he became Secretary of the Treasury he evidently changed his mind, because he is one of the several Secretaries of the Treasury who have condemned the further issuance of tax-exempt bonds.

Mr. CONNALLY. I am not quoting him against it. He was then testifying in favor of it; but he was an honest man, and when he was cross-examined he had to admit——

Mr. BROWN. He was a Member of the House at that time.

Mr. CONNALLY. He was; but he was voting for it. There is no contradiction between the two statements. He was a Member of the House, but he afterward became Secretary of the Treasury.

Mr. BROWN. Are all the Senator's witnesses in favor of the proposal?

Mr. CONNALLY. No. I am quoting this witness as a fact witness. I am not quoting him on the law. I am quoting him

on the facts. Mr. Mills said the cost would be 1 percent per annum more interest, even on Federal bonds.

Mr. BROWN. I think that is rather helpful to our side, because we believe that the increase is not more than one-quarter of 1 percent; and yet the Senator's witness, despite the tremendous additional cost, still says we ought not to issue any more tax-exempt bonds.

Mr. CONNALLY. That may be. He may have changed his mind. He was then supporting the proposal, as was Mr. Mellon. Mr. Mills and Mr. Mellon were hunting down rich taxpayers who had tax-exempt securities.

Mr. President, if it is sound to tax State bonds, why is it not sound to tax State courthouses and other State property? All through the States the Federal Government has post offices, Federal jails, and Federal instrumentalities of various kinds. They are all exempt from taxation. States do not undertake to tax post offices, Federal prisons, or Army posts. But if we are to tax everybody on the pretext of equality, the Federal Government ought to pay taxes to the States on all its tangible property. However, Mr. President, neither argument is sound. Each of the governments has the right to enjoy its own activities and its own instrumentalities free from taxation by the other.

There is no real evasion or advantage from the principle of exemption except to the States and to the Federal Government. Securities and values are like water; they seek their own level. If one should go to a bank tomorrow to buy a corporate bond, a Federal bond, or a State bond, he might be told, "The yield on this bond is 2½ percent." What does that mean? He would not be told what the bond would cost him, but what the yield would be, considering that one may have to pay a premium on the bond, and considering the interest rate on the bond. The yield, or net income, would be so much.

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

Mr. CONNALLY. I yield, although my time is about to expire. I wish to hurry along.

Mr. BROWN. I merely wish to point out that if the Senator were a $5,000 taxpayer his yield on a 4-percent municipal bond would be only the interest on the bond, but if he were a $5,000,000 taxpayer the yield would be equivalent to 16 percent.

Mr. CONNALLY. No; I do not agree with that doctrine at all.

As I was saying, when one goes to the bank to buy a tax-exempt bond, he is not receiving a special privilege. He is competing with every other man who would like to buy a tax-exempt bond; and the result is that such bonds pay a very low interest rate. Today many of the Treasury certificates pay less than 1 percent interest, and yet it is proposed to levy a tax on the fraction of 1 percent because of the idea that somebody is getting a great advantage through tax exemption. The man who buys a tax-exempt bond pays his tax when he buys the bond. He foregoes the privilege of receiving 5 percent interest on a bond which may be taxable. Instead of buying a 5-percent corporate bond which may be taxable, he says, "I will take a 2-percent bond which is not taxable." The reason why he is willing to take a 2-percent bond instead of a 5-percent bond is that he knows he will never have to pay a cent of tax on it. He does not have to lie awake nights worrying about the tax bill. He knows that it will never be taxed. But if it is to be taxed, and he does not know how much it may be taxed—because the Federal Government may raise its tax, or the State government may raise its tax—the bond buyer will add a sufficient cushion to take care, insofar as he can, of every hazard and every chance of loss. That is why bonds which are taxable bear a higher rate of interest. How can we say that we are giving a man a benefit when everybody admits that the tax-exempt bonds bear the lowest rate of interest?

We hear much said about tax-exempt bonds being held by the great millionaires. That is a misconception. The estimate in the Treasury Department report shows that in the great estates for which estate-tax returns are filed only 5.63 percent is in tax-exempt bonds. Those are not the small estates but the great estates about which we hear so much. Only 5 percent of them is in tax-exempt bonds—Federal, State, county, and municipal. Shall we punish 95 percent of the people to get at 5 percent? Shall we punish all the people in California by requiring tribute from every little school district, every little road district, and every little irrigation district in an effort to catch the 5 percent?

If we should catch the 5 percent, the result would be that they would simply quit buying such bonds. They would let somebody else buy them. What would happen? The people who do not pay any surtax would buy them. Most of the tax-exempt bonds owned by individuals are held by men with incomes of less than $5,000, and they do not pay any tax at all on those bonds. A large percentage of them are held by men with incomes of less than $5,000. The great bulk of tax-free bonds—State, county, and Federal—are owned by insurance companies, banks, and fiduciaries, which do not pay any surtax. They pay simply a flat corporation tax; so adding the surtaxes to them would not bring another dollar into the Treasury. It is a misconception that the amendment would punish great, rich concerns which have their money in tax-exempt securities. In the first place, most rich men keep their money in their business until they are ready to retire, and when they retire they may buy some tax-exempt bonds. However, it is not long before their estates are being administered. That is how it happens that only 5.63 percent of large estates consist of such bonds.

The junior Senator from Maryland [Mr. RADCLIFFE] knows, because he is a great financial authority and comes from a financial district, that most of the tax-exempt bonds are not owned by individuals with large incomes. Surtaxes are paid on Federal bonds. The pending amendment would not further punish the holders of such bonds. Surtaxes are now paid on most Federal bonds. Therefore the great, rich fortunes do not invest in them.

Let us not fool ourselves. This bill is aimed at the States, at the counties, and at the school districts. They are the ones that would pay the added burden, and they would not get anything comparable in return.

The PRESIDENT pro tempore. The hour of 4 o'clock having arrived, the time of the Senator from Texas has expired, and, under the unanimous-consent agreement, the Senate will proceed to vote on the amendment of the Senator from Michigan [Mr. BROWN].

Mr. CLARK of Missouri. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Frazier	King	Schwartz
Andrews	George	La Follette	Schwellenbach
Austin	Gerry	Lee	Sheppard
Bailey	Gibson	McKellar	Shipstead
Barkley	Gillette	McNary	Smathers
Bilbo	Glass	Maloney	Stewart
Brown	Green	Mead	Taft
Bulow	Guffey	Minton	Thomas, Idaho
Burke	Gurney	Murray	Thomas, Okla.
Byrd	Hale	Neely	Thomas, Utah
Byrnes	Harrison	Norris	Tobey
Capper	Hatch	Nye	Townsend
Clark, Idaho	Hayden	O'Mahoney	Vandenberg
Clark, Mo.	Herring	Overton	Van Nuys
Connally	Hill	Pepper	Wagner
Danaher	Holt	Pittman	Walsh
Davis	Hughes	Radcliffe	Wheeler
Downey	Johnson, Calif.	Reed	White
Ellender	Johnson, Colo.	Russell	Wiley

The PRESIDENT pro tempore. Seventy-six Senators having answered to their names, a quorum is present. The question is on the amendment of the Senator from Michigan [Mr. BROWN].

Mr. LA FOLLETTE. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. McNARY (when his name was called). On this vote I have a pair with the senior Senator from Alabama [Mr. BANKHEAD]. I am advised that, if present, he would vote as I am about to vote. Therefore I am at liberty to vote, and vote "nay."

Mr. THOMAS of Utah (when his name was called). On this question I have a pair with the senior Senator from New Hampshire [Mr. BRIDGES]. Therefore I withhold my vote.

Mr. WILEY (when his name was called). On this vote I have a pair with the junior Senator from North Carolina [Mr. REYNOLDS]. Therefore I withhold my vote.

The roll call was concluded.

Mr. DAVIS (after having voted in the negative). I have a general pair with the junior Senator from Kentucky [Mr. CHANDLER]. I understand that, if present, he would vote as I have already voted. Therefore I permit my vote to stand.

Mr. AUSTIN. I announce the following pairs on this question:

The Senator from New Jersey [Mr. BARBOUR], who would vote "nay," with the Senator from Arkansas [Mr. MILLER], who would vote "yea";

The Senator from Massachusetts [Mr. LODGE], who would vote "yea," with the Senator from Nevada [Mr. MCCARRAN], who would vote "nay"; and

The Senator from Oregon [Mr. HOLMAN], who would vote "yea," with the Senator from Kentucky [Mr. CHANDLER], who would vote "nay."

The Senator from New Hampshire [Mr. BRIDGES], if present, would vote "nay."

Mr. MINTON. I announce that the Senator from Maryland [Mr. TYDINGS] is paired with the Senator from Illinois [Mr. LUCAS]. If the Senator from Maryland were present and voting, he would vote "yea," and the Senator from Illinois, if present, would vote "nay."

I announce that the Senator from Alabama [Mr. BANKHEAD], the Senator from Arkansas [Mrs. CARAWAY], the Senator from Kentucky [Mr. CHANDLER], the Senator from New Mexico [Mr. CHAVEZ], the Senator from Ohio [Mr. DONAHEY], the Senators from Illinois [Mr. LUCAS and Mr. SLATTERY], the Senator from Nevada [Mr. MCCARRAN], the Senator from South Carolina [Mr. SMITH], and the Senator from Missouri [Mr. TRUMAN] are necessarily absent from the Senate. I am advised that, if present and voting, these Senators would vote "nay."

The Senator from Washington [Mr. BONE] is absent because of illness.

The Senator from Arkansas [Mr. MILLER] and the Senator from Maryland [Mr. TYDINGS] are unavoidably detained. I am advised that, if present and voting, these Senators would vote "yea."

The Senator from Arizona [Mr. ASHURST] and the Senator from North Carolina [Mr. REYNOLDS] are necessarily absent.

The result was announced—yeas 30, nays 44, as follows:

YEAS—30

Bilbo	Frazier	Minton	Taft
Brown	Gillette	Murray	Thomas, Idaho
Bulow	Green	Norris	Townsend
Byrd	Holt	Nye	Vandenberg
Capper	LaFollette	Pepper	Walsh
Clark, Idaho	Lee	Reed	Wheeler
Clark, Mo.	Maloney	Russell	
Downey	Mead	Shipstead	

NAYS—44

Adams	George	Hill	Radcliffe
Andrews	Gerry	Hughes	Schwartz
Austin	Gibson	Johnson, Calif.	Schwellenbach
Bailey	Glass	Johnson, Colo.	Sheppard
Barkley	Guffey	King	Smathers
Burke	Gurney	McKellar	Stewart
Byrnes	Hale	McNary	Thomas, Okla.
Connally	Harrison	Neely	Tobey
Danaher	Hatch	O'Mahoney	Van Nuys
Davis	Hayden	Overton	Wagner
Ellender	Herring	Pittman	White

NOT VOTING—21

Ashurst	Chandler	McCarran	Truman
Bankhead	Chavez	Miller	Tydings
Barbour	Donahey	Reynolds	Wiley
Bone	Holman	Slattery	
Bridges	Lodge	Smith	
Caraway	Lucas	Thomas, Utah	

So Mr. BROWN's amendment was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Megill, one of its clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1379) granting the consent of Congress to the Mackinac Straits Bridge Authority to construct, maintain, and operate a toll bridge, or series of bridges, causeways, and approaches thereto, across the Straits of Mackinac at or near a point between St. Ignace, Mich., and the Lower Peninsula of Michigan.

BRIDGE OR BRIDGES ACROSS THE STRAITS OF MACKINAC—CONFERENCE REPORT

Mr. BROWN (for Mr. BAILEY) submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1379) granting the consent of Congress to the Mackinac Straits Bridge Authority to construct, maintain, and operate a toll bridge or series of bridges, causeways, and approaches thereto, across the Straits of Mackinac at or near a point between Saint Ignace, Michigan, and the Lower Peninsula of Michigan, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the House amendments in sections 1 and 2 of the bill and agree thereto.

That the Senate recede from its disagreement to the House amendment of the title and agree thereto.

Both Houses agree to the bill with the amendments adopted by the House as herein cited.

JOSIAH W. BAILEY,
MORRIS SHEPPARD,
A. H. VANDENBERG,
Managers on the part of the Senate.

EDWARD A. KELLY,
PEHR G. HOLMES,
DONALD L. O'TOOLE,
Managers on the part of the House.

Mr. BROWN. Mr. President, on behalf of the Senate conferees, the Senator from North Carolina [Mr. BAILEY], the Senator from Texas [Mr. SHEPPARD], and my colleague [Mr. VANDENBERG], I move the adoption of the conference report.

When the bill passed the Senate, it conferred authority to construct a bridge across the Straits of Mackinac in my State of Michigan upon the Mackinac Straits Bridge Authority, an agency created by the State of Michigan. When my bill went to the House, it was amended to confer the authority on the State of Michigan itself. Some question arose as to whether or not this was done for the purpose of preventing the State from delegating its authority to construct a bridge. Construction by an agency is necessary unless the securities to be issued are to be the securities of the State itself. Having some doubt upon this subject when the bill came back, I decided to ask that the bill be sent to conference. This was done.

At the conference which I was privileged to attend, we were assured by the House conferees, Representative KELLY, of Illinois, and Representative HOLMES, of Massachusetts, who are the members of the Interstate Commerce Committee in charge of the bill as well as conferees, that there was no intention to prevent the State from conferring authority to construct a bridge to any State agency. Inasmuch as this construction of the House measure was entirely satisfactory to me, I requested that we agree to the House bill. I think it best to have the authority conferred upon the State with authority upon the part of the State to delegate the construction to any State agency. That this construction is the construction of the House conferees, is evidenced by the appended letter which was written me by the House conferees. The letter follows:

SEPTEMBER 11, 1940.

Hon. PRENTISS M. BROWN,
United States Senate, Washington, D. C.

DEAR SENATOR BROWN: As a result of the conference participated in by the undersigned and the Senate conferees on S. 1379 on September 11, 1940, we are satisfied that under the terms of the House bill delegating authority to the State of Michigan to construct what is known as the Mackinac Straits Bridge, it will confer upon the State authority to construct the bridge itself or to delegate the authority to construct such bridge to any State agency.

Very truly yours,

EDWARD A. KELLY,
PEHR G. HOLMES,
Conferees on the part of the House.

There can be no question that under these circumstances we have an entirely satisfactory bill which will enable construction of the bridge.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

The report was agreed to.

TRANSPORTATION OF CONVICT-MADE GOODS

Mr. NEELY. Mr. President, last week the Senate by unanimous consent ordered that the conference report on Senate bill 3550, to make unlawful the transportation of convict-made goods in interstate commerce and for other purposes, be disposed of on Tuesday, September 17. But the Senate was not in session on that day and this order of business was automatically annulled.

I now give notice that tomorrow, immediately after the convening of the Senate, I shall renew my efforts in behalf of the adoption of this long-delayed conference report.

Mr. BARKLEY. Mr. President, if the Senator will yield I will say to him that on Monday the Senate, by unanimous consent, agreed to take up the conference report in question immediately following the disposition of the tax bill.

Mr. NEELY. Mr. President, my fear that the debate that is now raging may continue till Christmas and that the tax bill may never be passed will impel me to urge action on the conference report tomorrow.

CORPORATION INCOME AND EXCESS-PROFITS TAXATION

The Senate resumed the consideration of the bill (H. R. 10413) to provide revenue, and for other purposes.

Mr. DOWNEY obtained the floor.

Mr. HARRISON. Mr. President, will the Senator yield so I may offer a clarifying amendment?

Mr. DOWNEY. I yield.

Mr. HARRISON. I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The CHIEF CLERK. On page 153, lines 4 and 5, it is proposed to strike out "sixtieth" and insert "one hundred and twentieth."

Mr. HARRISON. This amendment is offered because we changed the date under the amortization plan from July 10, 1940, to January 1, 1940, and we thought that the certification to be made by the National Defense Council should be extended for 30 days.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from Mississippi.

The amendment was agreed to.

Mr. BARKLEY. Mr. President——

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

Mr. DOWNEY. I yield.

Mr. BARKLEY. I send forward a clarifying amendment, to which I think the Senator from Mississippi will have no objection.

The PRESIDENT pro tempore. The amendment will be stated.

The CHIEF CLERK. On page 94, after line 24, it is proposed to add a new subparagraph——

Mr. BARKLEY. Mr. President, the amendment would simply permit another category of deductions in normal income to apply to the excess-profits tax, so that where the parent company——

Mr. LA FOLLETTE. Mr. President, I inquire if the clerk read the amendment?

The PRESIDENT pro tempore. No. The Chair may say that he understands that the amendment offered by the Senator from Kentucky is to an amendment which has been adopted. Therefore it will be necessary to reconsider the vote by which the amendment was adopted.

Mr. BARKLEY. I ask unanimous consent that the vote by which the committee amendment was adopted be reconsidered.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the vote is reconsidered.

Mr. BARKLEY. Now I offer the amendment.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The CHIEF CLERK. On page 94, after line 24, after the amendments heretofore agreed to, it is proposed to add a new subparagraph reading as follows:

(J) Bad-debt deductions: The deduction under 23 (K) for any taxable year for bad debts shall be decreased by an amount representing unrecovered loans made by a parent corporation to its subsidiary.

Mr. HARRISON. I have no objection to the amendment going to conference.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Kentucky to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. DOWNEY. Mr. President, I shall detain the Senate for a very brief period of time in moving an amendment to the pending measure which in effect would increase the exemption before the computation of excess profits from $10,000 to the sum of $25,000. Specifically, I desire to present an amendment to change the figures "$10,000" on page 86, in line 6, to the figures "$25,000."

Mr. President, in the first place, I desire to state that I do not believe the assertion can be controverted by a single Senator here that by this measure we are laying upon all the small corporations of this Nation a burden of harassment entirely out of proportion to any benefit which may accrue to the American Government in the way of revenue.

During the past decade we have seriously complicated our laws, our governmental bureaus, and particularly our tax system; and by this measure, while we are raising a comparatively small amount of revenue, we are creating large burdens and greater complications for the small corporations.

I am not here speaking for the large corporations. They are well able, by their experts and by their attorneys, to take care of themselves, and this bill to a large measure provides for their relief; but every Senator in this Chamber has in his State literally hundreds, if not thousands, of corporations with comparatively small businesses which will be worried and handicapped by the enactment of this measure.

If the exemption could be increased from $10,000 to $25,000, the amount of revenue which would be lost to the Federal Government would be only $20,000,000. Thus, we are here creating a burdensome tax against thousands of small corporations which will be thereby compelled to employ experts, attorneys, and accountants, and will raise therefrom in this fiscal year the comparatively small sum of $20,000,000, about one-fifth of 1 percent of the amount of money we are appropriating for armament purposes this year. I say to you, Mr. President, that there is absolutely no justification in harassing the small-business men of America by a tax of this kind.

There is a second and more potent reason why this exemption should be allowed. In the first place, I take it all of you will agree with me that any corporation which is making only $25,000 a year is a small corporation. I say to you that this particular tax levied upon the small corporations of America which are expanding and growing will be a burden tending to handicap and prevent their development. You may say to me, "How can any tax levied against excess profits prevent the expansion of a business?"—because necessarily it would appear that if the tax is levied against excess profits, the corporation must be successfully expanding and growing. Let us analyze that for a moment.

In the first place, the normal tax provided in this bill, plus the average State tax on corporation profits, will leave us with about a 30-percent levy against the net profits of corporations. In the case of a small corporation which is profitable and expanding and growing, the excess-profits tax will probably, on an average, take about 20 percent of all of the net profits made by the corporations. Thus, under the bill there will be a total taking of 50 percent of the net profits of small corporations. I should like to point out to the

majority leader of the Senate the fact that if a small corporation is profitable and expanding, a substantial part of its earnings has necessarily to flow into increasing business. If a business is profitable, if it is growing, if it is expanding, there are increasing book accounts; there are increasing inventories; there must be the increasing use of machinery, materials, and factories; and with only 50 percent of the net earnings left, the average small growing corporation, as a matter of fact, probably will not have sufficient earnings left to allow for its expansion, and certainly nothing at all for dividends.

So, Mr. President, what we are doing here is placing such a burden upon small corporations, seizing approximately 50 percent of their total earnings, that they will be unable to carry out the very industrial expansion which we desire to carry on; and I speak now for the small corporations from California, from which I have heard in great number, when I declare that this measure is grossly unfair to them; that it will not only harass and burden them, but will prevent the fair development and growth of their business, the very thing we desire to accomplish in this crisis.

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

The PRESIDING OFFICER (Mr. ELLENDER in the chair). Does the Senator from California yield to the Senator from Kentucky?

Mr. DOWNEY. Yes; I yield.

Mr. BARKLEY. There are in the United States some five-hundred-thousand-odd corporations, as I recall. Under the House bill, which has a $5,000 exemption, only 70,000 of those five-hundred-thousand-odd corporations would pay any excess-profits tax. Under the $10,000 exemption of the Senate bill that number would be reduced to some forty or fifty thousand. Under the Senator's amendment I am informed that there would be only about 10,000 corporations of the five-hundred-thousand-odd that would pay any excess-profits tax at all. Does the fact that there may be 40,000 which can pay a tax out of 500,000 very seriously handicap growing corporations or small corporations in the Senator's view?

Mr. DOWNEY. Let me say to the majority leader that, in my opinion, it certainly does handicap several thousand small corporations which are earning, say, up to and less than $25,000 a year. I think it does.

Mr. BARKLEY. Any tax on a corporation is a handicap of some sort, as it is on all taxpayers. It is a handicap to all of us to pay taxes. But it seems to me that even 40,000 corporations which would pay a tax under the Senate committee bill is a small proportion compared with the over 500,000 which exist in the United States.

Mr. DOWNEY. If the figures stated by the majority leader are correct—and I am willing to assume they are, because the figures I have received are conflicting—if the proposed exemption would decrease from 50,000 to 25,000 the number of corporations which would have to bear the burden of the tax, and if it would reduce the revenue from the proposed law only by $20,000,000, then I say that in my opinion the amendment should immediately be accepted.

Mr. BARKLEY. The $20,000,000 estimated by the Senator is only for 1940, which is nearly gone. His amendment would reduce the income received by the Government next year and during all succeeding years anywhere from $50,000,000 up, depending on the amount of profits.

Mr. DOWNEY. I realize that in the next fiscal year there would be a greater loss, but I would say that certainly so far as small, growing, and expanding corporations are concerned, corporations which will vitally need a substantial amount of their earnings for their own development, the Government could well afford to forego $20,000,000 this year and whatever increasing sums which would occur hereafter.

A word or two more, and I shall have concluded. There are many other arguments which could be offered against the pending measure, which in my opinion is a totally unsatisfactory, complicated, unfair, insufficient, and futile measure, but extensive and exhaustive arguments were made by the distinguished Senators from Michigan and from Wisconsin [Mr. VANDENBERG and Mr. LA FOLLETTE]. I can add nothing to the very imperative reasons they urged why this measure should be defeated. I myself desire to commit myself to their arguments and to the position of those Senators against the bill in its entirety.

Mr. President, I should like to have printed in the RECORD as a part of my remarks the very able statement made by Mr. Leonard E. Read, general manager of the Los Angeles Chamber of Commerce, before the joint committee considering this subject. Mr. Read is an economist of note and highly talented in tax matters.

The PRESIDING OFFICER. Is there objection?

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE EXCESS-PROFITS TAX

(By Leonard E. Read, general manager, Los Angeles Chamber of Commerce)

FOREWORD

The so-called excess profits tax proposal now before Congress should be considered first and last from the standpoint of its effects on the public welfare. How will it affect the execution and financing of the defense program? How will it affect employment and wage levels? How will it affect the system of free enterprise and our representative form of government? These are the questions to be answered in discussing legislative policies today.

At the outset, however, there should be noted certain principles which must be accepted as basic for any discussion of increased profits taxation.

(1) The public credit should not be further jeopardized by large-scale borrowings to finance the defense program. Either by economies in other governmental expenditures or by increased taxation, or both, public revenues and expenditures should be speedily brought into balance.

(2) Private enterprise should continue to be our main reliance, at least in the absence of a declared state of war, both because of its proven superior efficiency in production and because it is the only economic basis for democratic institutions whose present continuance we believe is desired by an overwhelming majority of United States citizens.

(3) A marked expansion of employment in private industry is a goal of primary importance for the United States at the present time both for political and economic reasons.

(4) The financial and other burdens of the defense program should be equitably distributed. Perfect justice is never attainable, but every precaution must be taken to prevent any class of citizens profiting at the expense of the community. Specifically, it is repugnant to every sense of justice that producers behind the lines should grow wealthy while their fellows on the fighting lines risk life and all that makes life worth while.

ARGUMENTS ON BEHALF OF AN EXCESS-PROFITS TAX

(1) The excess-profits tax is proposed at this time as a substitute for the 7 to 8 percent profits limitations imposed by the Vinson-Trammell Act on Government contracts in connection with the defense program. This act was found to prevent the placing of contracts (a) because existing amortization allowances appeared inadequate, (b) because certain necessary expenses could not be included in costs, and (c) because unforeseeable expenses and losses were not sufficiently compensated by the 7 to 8 percent maximum profit set by law. The excess profits tax bill therefore greatly liberalizes the amortization provisions of the income-tax laws for investments certified to be necessary for the defense program and repeals the limitation on the rate of profits.

(2) Some form of limitations on profits from armament making, however, is felt to be necessary to protect the public against profiteering.

(3) Provisions against war profiteering are politically expedient or necessary as an accompaniment to conscription of men. They are a part of the program for maintaining morale.

(4) To finance the defense program increased taxation is necessary. Part of this increased tax burden should fall on corporation profits. This seems especially reasonable in view of the financial benefits accruing to business from the Government's increased expenditures.

ARGUMENTS AGAINST AN EXCESS-PROFITS TAX

(1) The immediate pressing need is for liberalizing amortization provisions of income-tax laws relating to Government contracts. This, however, bears no necessary relation to the Vinson-Trammell limitation on rate of profits or to an excess-profits tax. The new bill proposes that the amortization period on investments necessary for the defense program be made 5 years, or less than 5 years if the President declares the state of emergency ended before that time; that is, in industries essential to the defense program, producers may, for income-tax purposes, set at a higher figure than formerly their annual depreciation charges. This will raise their cost figures and reduce their net earnings subject to corporation income taxes.

Fears have been expressed that, under the new amortization provisions, businessmen may amortize their investments more quickly than the assets lose their economic value. In other words, it is feared that businessmen will charge high prices to cover costs of their investment in a short time, at the same time reducing

their tax assessments by artificially high depreciation charges. Then they would have received back from sale of their products the entire amount of their original investment and yet their equipment would still possess considerable earning power. Excess profits, it is assumed, would then be the result. Therefore, according to this view, an excess-profits tax must accompany any provisions to liberalize the amortization provisions of our income-tax laws.

The above view, however, fails to take into account the position of the enterpriser with regard to taxes and negotiation of Government contracts in case he has amortized his investment during a period shorter than the economic life of his assets. If he maintains his prices and volume of business, income-tax assessments will rise by the amount formerly charged for depreciation. The Treasury would then collect from him as much in total taxes as if he had amortized his investment more slowly. Moreover, future rates of taxation are likely to be higher than those existing now. Therefore, the total taxes paid by such an enterpriser would be higher than if he had charged off his investment more slowly.

It is unlikely, however, that he will be able to maintain his prices in view of the Government's power to modify the terms of his contracts. Army and Navy engineers make their own estimates of reasonable costs for the materials ordered from private business. They are not accustomed to favor business with overgenerous estimates of cost. If they find that business has written off the costs of investments, they can and doubtless will reduce the price offered in Government contracts.

Under conditions of liberal amortization privileges, moreover, competition for Government business will be keener and will act as a further influence to prevent profiteering.

It cannot be too strongly emphasized, however, that the enterpriser cannot escape his fair share of taxes or make increased profits by charging off his investment at abnormally high rates. At most he can merely postpone payment and protect himself against taxes on profits he has never earned. Such excessive taxes are now frequently levied to the detriment of both business and the public when actual obsolescence and depreciation occur at a more rapid rate than recognized by the Treasury Department. Liberalizing amortization provisions of the tax laws in this case only protects against losses from taxation of nonexistent profits. It does not permit excess profits or call for an excess-profits tax.

(2) The chief objections to the excess-profits tax, however, are that it penalizes efficiency, discourages enterprise, and checks needed business expansion.

The firm which uses its capital and labor most efficiently, getting highest output at lowest cost, will earn highest profits on a given capital base. The firm which shows most enterprise in reducing costs, increasing service, and extending its markets will show greatest increases in earnings over the base years. Therefore under an excess-profits tax such firms will pay taxes graduated upward according to their efficiency and enterprise.

Said Prof. E. R. A. Seligman, outstanding tax authority, concerning the principle of excess-profits tax:

"Something can be said for a graduated tax on income; something can even be said for a graduated tax on capital; but it is difficult to say anything in defense of a tax which is graduated on the varying percentage which income bears to capital. To penalize enterprise and ingenuity in a way that is not accomplished by a tax on either capital or income—this is the unique distinction of the law. * * * While it is entirely proper that a share of the profits should go to the community, it is not at all clear that the tax should be graduated according to the degree of inventiveness displayed." (Political Science Quarterly XXXIII, p. 17 ff.)

(3) The burden of the excess-profits tax is especially heavy on new and growing businesses and on small or moderate-sized firms. These are likely to have the highest rate of return on invested capital; they find it most difficult to raise capital unless they can invest sizable amounts of earnings, and it is from the growth of such firms that there is most hope of future industrial progress.

Professor Seligman continues on this point:

"Almost all large businesses have grown from humble beginnings, and it is precisely in these humble beginnings that the percentage of the profits to the capital invested is apt to be the greatest. The criterion selected, therefore, is the one best calculated to repress industry, to check enterprise in its inception, and to confer artificial advantages on large and well-established concerns. Nothing could be devised which would more effectively run counter to the long-established policy of the American Government toward the maintenance of competition."

A good case in point is a Los Angeles firm which has shown unusual courage and public spirit in accepting the so-called educational orders of the War Department. This firm accepted contracts and put in new equipment under conditions of great uncertainty. It could not know in advance what its costs were to be on the new products it was to turn out. It had no guaranty that it would ever receive more than the first order. Yet it went ahead, did a high-quality job of production, and put back its earnings year after year in improved equipment and methods. Today that firm is able to produce in volume and at low cost. Its prices to the Government are continually being reduced on successive orders and standards of specifications being raised. It can meet these new terms because it has never paid a dividend but put back every cent of earnings, beyond the owner's modest salary, in raising its ability to produce large volume at low cost. This thrifty and self-sacrificing policy of reinvesting earnings was the only way this firm could have expanded, for at the outset it could not have borrowed the necessary funds, or could only have borrowed by sacrificing the owner's initiative and introducing more conservative methods which would have prevented acceptance of the risky War Department contracts.

This firm is showing the way to other firms in reducing costs and is having a noticeable effect in getting reduced prices to the Government on current armament contracts. Such a firm of proven enterprise and ability should be encouraged to continue its development. It is still a comparatively small firm, but if permitted can become a leader in its field. We need such industrial leaders as never before, but this particular firm would find its growth seriously checked by an excess-profits tax.

The importance of this point at the present time cannot be too strongly emphasized. The greatest advantage which private enterprise possesses over Fascist or Communist forms of economic organization is its ability to make rapid progress. When it is easy for men with new ideas to expand their operations rapidly, industrial progress is rapid. And this rapid expansion of operations by a new firm can take place only insofar as opportunities for good profits exist and insofar as these profits can be put back into development of the business. It is doubtful if private enterprise has any important advantage in competition between nations except this one of superior capacity for progress. If we are to penalize and prevent progress by the new, small, and growing firms, we might as well at once switch over to a Fascist form of society.

(4) Serious administrative difficulties exist in an excess-profits tax which do not exist in the income tax. Added to the difficulty of measuring income is the much greater difficulty of measuring capital worth. Prof. William Shultz, New York tax authority, says this puts "an impossible auditing task" on the tax administration. The situation with respect to the World War excess-profits tax he terms "a hopeless administrative muddle" (American Public Finance 1939, p. 454). The persistence 20 years later of lawsuits growing out of this tax is supporting evidence of Professor Shultz's opinion.

The difficulty of measuring capital worth puts tremendous power and responsibility in the hands of Treasury officials and adds a most serious factor of uncertainty to every business, whether it is making profits or not.

When rates are moderate, this uncertainty is not serious and the consequences of arbitrary and unfair decisions are not fatal. But when the rates are set at the levels contemplated in the present proposal, and when they are added to taxes which already take over half the profits of the best years and an estimated 65 to 70 percent of profits in a year like 1938, the danger to private business is very great. If business cannot earn enough to build reserves in good years, it cannot survive poor years.

(5) Personal gains from armament making are likely to be moderate in view of existing income-tax rates. Tax rates on the higher income brackets are now higher than in 1918. As recognized by men like Senator LA FOLLETTE, noted for support of the ability principle of taxation, taxes on higher incomes are at or near their limit of peacetime productivity. Federal, State, and local taxes on business, furthermore, in 1937, the year of greatest profits since 1929, took 56 percent of corporation net income, as against 48 percent in 1918, the year of highest war taxes. Corporation dividend policies are now more liberal and taxes on dividends higher than in 1918. State income taxes, moreover, have been added to the load borne by personal incomes.

Profits are not personal income but productive capital until paid out as salaries or dividends. They can only be converted into personal income or tax payments by liquidating productive assets or by reducing purchases of productive equipment. Therefore, as further control of war gains is needed, it should be secured by increased personal income taxes, especially in the middle brackets.

The whole subject of war profits, however, should be reexamined in the light of present conditions. Inflationary policies adopted in the World War caused a rapid rise in price levels and consequent appearance of exceptional profits and wages in certain war industries and losses in other lines. Most of the gains to these war industries, however, were offset by rising taxes and by the deflation which followed the end of the war. In fact, the purchasing power of all persons receiving more than $25,000 a year was decreased by 70 percent or more, according to the figures of Wilford I. King (The National Income and Its Purchasing Power, p. 171), and total net property income and profits in terms of purchasing power actually declined each year from 1917 to 1921, inclusive (W. I. King, p. 112).

Today, in the absence of inflationary policies, there is little or no reason for expecting any important increase in profit levels from the defense program. In fact, the opposite is more likely to be the case. Costs will rise and volume of business decline in the nonessential industries as consumers' purchasing power is reduced by taxation and as labor is taken for the Army and war industries. Even in the war industries, high costs of labor and increased taxation will reduce profit opportunities.

It is true that inflation may occur. But is this the reasoning back of the excess-profits tax? The bill is an administration measure. Is the administration willing to come out openly and say that it is necessitated by the danger of inflation resulting from its own financial policies?

One more point should be noted in connection with the possibilities of "excess profits" resulting from the defense program. Profiteering implies the existence of a degree of monopoly. It is true that in nonnegotiated contracts an element of monopoly exists, but in these cases the degree of monopoly is greater on the side of the

Government than on the side of the businessman. The Government is the sole buyer, or by all odds the biggest customer, whereas the businessman is not likely to have a complete monopoly of the source of supply. As mentioned above, the Government has its own experts for making cost estimates to check the figures presented by businessmen in their bids to Government contracts. The businessman, once he has made his investment in specialized equipment, is at the mercy of his customer—the Government. This is a further check to profiteering.

In any case where monopoly does exist, moreover, the excess-profits tax would not stop profiteering. It would only return a part of the profits to the Government. The best way, therefore, to guard against profiteering is to prevent it by stimulating competition. And the opportunity for high profits to the exceptionally efficient producer is one of the best means of stimulating competition and reducing prices. An occasional high prize is much more effective in getting a large number of competitors to enter the lists than a large number of small prizes even when the total amount of the small prizes is greater than the single prize. Accordingly the Government will find it cheaper to permit a few firms to earn good profits, especially if they are largely reinvested in expanding production than in operating on any cost-plus basis or its equivalent through profits limitations or excess-profits taxation. Under competitive conditions most firms make small profits or actually lose money. They are kept going largely by hopes, never to be realized, of gaining the large profits earned by a few leaders. In this way high profits to the most efficient and successful has proven to be the most effective way of getting increased output at low cost. Any firm which is to stay in business, moreover, must make good profits occasionally to compensate for losses.

(6) In any case the yield of the excess-profits tax will not be significant in comparison with the total Budget. The Treasury estimates lie between $190,000,000 and $400,000,000. But from this should be deducted losses in income-tax yields since dividend payments will be reduced by the excess-profits tax.

CONCLUSION

Wanted: Machines

Men can't build guns, tanks, airplanes, and battleships with their bare hands. If they could, China would be the world's greatest military power.

Only with the help of machines—thousands of them; big, powerful, and complicated—can we produce the great quantities of munitions and huge weapons needed for our military defenses.

Machines are also needed to create jobs at which workers can earn high wages. In other words, machines are needed to turn out the great quantities of cars, radios, electric refrigerators, as well as low-cost food, shoes, and clothing which go to make up a high standard of living and peacetime prosperity for our people.

Until recently we have been losing sight of these facts. Now, however, we see what men with machines can do in crunching along over the bodies and lands of other people less well equipped. This should remind us that mechanical power is the material basis for national strength, security, and prosperity.

How can we best get the machines we need?

Whether in Russia, Germany, or the United States, machines can be secured only by self-denial and thrift. They are bought out of someone's savings. What is spent on machinery by way of money or labor cannot for the time being go to buying or producing goods for immediate enjoyment of consumers.

In Soviet Russia and Nazi Germany these savings have been taken from people chiefly by force; that is, by taxes, rationing of consumers, and forced wage reductions. Whereas under private enterprise we have relied mainly on voluntary saving and investment.

The sources of savings on which private enterprise chiefly relied in the past, however, are being dried up by taxes or closed by bureaucratic control. These sources are the savings of the well-to-do, and profits reinvested (saved) by business firms.

Taxes on the higher incomes seem to have reached nearly their limit. But taxes on profits are likely to be increased considerably in the near future. What effect will this have in checking the modernizing and expansion of plant and equipment, machinery and tools, so sorely needed by America today? What effect will increased-profits taxation have on reducing costs and securing for the taxpayer the most for his money spent on armament building?

Proponents of the excess-profits tax argue that expansion and modernizing of equipment can come out of borrowings. They point to huge excess bank reserves and low interest rates to prove that credit is abundant and cheap.

But can or will business borrow to expand if our tax policies prevent growth from within by reinvestment of earnings?

Reinvested profits—the growth-bud of industry

Reinvestment of profits is a most important factor in industrial growth.

When a firm expands by borrowed funds it must go to the trouble and expense of persuading outsiders that the new investment will be profitable. If it has earnings to reinvest, however, it need persuade only its own management—a much simpler and less expensive task, especially for new firms and for small or medium-sized concerns.

Since 1933, moreover, under the securities acts and new banking regulations, the ambitious firm has also been required to persuade various Government officials before it could borrow for expansion. This persuasion has often involved great expense and trouble even when the company's credit and honesty were of the highest order.

True, the income-tax authorities are now looking more and more suspiciously on the firm which puts back earnings into its business. But it has usually been easier and cheaper to persuade the Treasury Department than the Federal Securities Commission.

Reinvestment of profits improves credit and preserves initiative

New investors, especially purchasers of bonds, prefer to invest in companies which are building up surplus out of earnings. This surplus provides additional security to the creditors and therefore reduces interest charges on new funds.

Furthermore, good financial managers themselves want to provide this security to their creditors. Without such a backlog the creditors will take over control more quickly when earnings temporarily decline or disappear—as earnings frequently do for many firms.

In fact, all businessmen prefer to finance expansion entirely out of earnings if possible. Borrowing or selling of stock to outsiders always means turning over some of the control to the creditors or new stockholders. It means sacrificing a certain amount of initiative and freedom of action.

Therefore many excellent businessmen refuse to borrow funds unless occasionally for short-term purposes. Henry Ford is a well-known example. And no careful businessmen will expand as far or as rapidly on borrowed funds as on reinvested earnings, if the latter are available.

Reinvestment of profits is, therefore, the growth bud of industry. When this reinvestment is made difficult through declining profits, or through taxation and legal obstacles, business expansion is correspondingly checked.

During the past 10 years business as a whole has paid out in taxes and dividends about $30,000,000,000 more than it has earned. During the first part of the depression this was due to reduced earnings. Since 1936 it has been due to rapidly mounting taxes and political pressure. And the drain still continues!

This may explain why private business does not take up the slack in employment and why investment funds stagnate in our banks.

Probable results of the proposed excess-profits tax

If the expansion of private business at the present juncture is stopped or seriously checked by increased profits taxation Government is likely to attempt to supply the deficiency. Either the urgency of the defense program or the employment and wages problems, or both, will drive any administration in this direction.

Experience has shown, however, that Government management is in general uneconomic and inefficient. Aside from the political consequences of a further advance toward socialism there would be a reduction in standards of living and a failure to achieve the defense program of which this Nation is capable.

Alternative proposals

Insofar as increased taxes are necessary to balance the Federal Budget, it is our opinion that they should fall on personal incomes—dividends, interest, salaries, and wages—and on luxury goods. It is by this means that maximum fiscal revenue can be obtained with the least discouragement to necessary industries.

Efficient, low-cost firms should be given greater encouragement and opportunity to expand, not further penalized by new and discriminatory taxation. Even in the production of nonessentials, insofar as consumers are to be left enough income to enjoy them, it is important that the efficient, low-cost firms shall replace those which use more labor and capital to turn out a given product. Existing provisions against tax avoidance through unproductive reinvestment of earnings should be reexamined in the light of the present situation with a view to strengthening them where necessary.

In any modification of existing taxes on business, however, reinvestment of earnings in plant and equipment for essential industries should be given special encouragement by tax exemptions or reduced rates of taxation. Not only will such a policy increase the ability of private enterprise to produce more goods at less cost, but it will also improve business credit. Not only will it stimulate competition and reduce prices, but it will also stimulate the circulation and expansion of credit and buying power. Not only will it give the public more for its money in building our defenses, but it will also increase personal incomes and taxpaying ability. In short, it will stimulate business, not only to produce more goods but to expand and circulate the purchasing medium necessary for taking the goods off the market.

Such stimulation to private enterprise is needed to expand employment, to rebuild confidence in free enterprise, and to restore mutual trust and cooperation between employers and employees, creditors and debtors, political leaders and citizens. This rebuilding of our morale is a vital part of the program for rebuilding the defenses of our Nation and safeguarding our free institutions. It deserves the courageous support of every citizen and every statesman.

Mr. HARRISON and Mr. LEE addressed the Chair.

Mr. HARRISON. Does the Senator from Oklahoma desire to speak on the pending amendment?

Mr. LEE. No; I wish to offer an amendment, when the Senator yields the floor.

Mr. HARRISON. I desire to occupy the floor for a moment.

The PRESIDING OFFICER. An amendment would not be in order until the pending amendment shall be disposed of.

Mr. DOWNEY. I should like to have a vote on the pending amendment.

Mr. HARRISON. Mr. President, the Committee on Finance gave long consideration to the question now presented. When the bill came over from the House, an exemption of $5,000 was given to corporations, and that applied to those which elected either method. The committee on Finance increased the exemption in the bill from $5,000 to $10,000. That would cost the Government some $19,000,000. The pending amendment would cost about $20,000,000 or $25,000,000 more, and there would be only about 10,000 corporations which would have to pay any tax, if the amendment should be agreed to. We feel we have been as fair as possible under the circumstances, and I hope the amendment will be voted down.

The PRESIDING OFFICER. Is there objection to a reconsideration of the vote by which the committee amendment was agreed to? The Chair hears none, and the vote is reconsidered.

The question is on agreeing to the amendment offered by the Senator from California [Mr. DOWNEY] to the amendment of the committee.

The amendment to the amendment was rejected.

The amendment as amended was agreed to.

Mr. LEE. Mr. President, I offer an amendment which I ask to have stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. It is proposed to add at the end of the bill the following new title:

TITLE V—DRAFT OF WEALTH

SEC. 501. Whenever Congress shall declare war, or shall declare that the imminence of war has created an emergency which in the judgment of the President is sufficiently serious to necessitate an increase in the Military Establishment by the drafting of manpower, the President is authorized and requested to cause to be taken a census of the net wealth of the Nation. Such census shall be taken in such manner as the President shall by regulations prescribe and by such agency or agencies of the Government as he may designate or establish for such purpose. Such regulations shall require every citizen of the United States, every resident alien, and every nonresident alien having any wealth in the United States to file with such person or agency as the President may designate a sworn declaration in such form as the President may prescribe with respect to his gross wealth and financial obligations: *Provided*, That such declaration in the case of a nonresident alien shall be only with respect to his gross wealth in the United States and financial obligations therein. For the purposes of this title, an individual shall be deemed to own any property held in trust for him or his benefit. Upon the completion of such census the President shall cause to be computed, and shall prepare a list setting forth, the net wealth of each person covered by such census which is subject to section 502 of this title and the portion of the net wealth of each such person which is subject to the borrowing power of the United States under this title.

SEC. 502. The following portions of the net wealth of every citizen of the United States and of every resident alien, and of that part of the net wealth of every nonresident alien which is located in the United States, shall be subject to the borrowing power of the United States under this title:

In the case of net wealth not in excess of $1,000, none.

In the case of net wealth in excess og $1,000 and not in excess of $10,000, 5 percent of such excess.

$450 in the case of net wealth of $10,000; and in the case of net wealth in excess of $10,000 but not in excess of $100,000, 10 percent in addition of such excess.

$9,450 in the case of net wealth of $100,000; and in the case of net wealth in excess of $100,000 and not in excess of $250,000, 15 percent in addition of such excess.

$31,950 in the case of net wealth of $250,000; and in the case of net wealth in excess of $250,000 and not in excess of $500,000, 20 percent in addition of such excess.

$81,950 in the case of net wealth of $500,000; and in the case of net wealth in excess of $500,000 and not in excess of $1,000,000, 25 percent in addition of such excess.

$206,950 in the case of net wealth of $1,000,000; and in the case of net wealth in excess of $1,000,000 and not in excess of $2,000,000, 30 percent in addition of such excess.

$506,950 in the case of net wealth of $2,000,000; and in the case of net wealth in excess of $2,000,000 and not in excess of $3,000,000, 35 percent in addition of such excess.

$856,950 in the case of net wealth of $3,000,000; and in the case of net wealth in excess of $3,000,000 and not in excess of $4,000,000, 40 percent in addition of such excess.

$1,256,950 in the case of net wealth of $4,000,000; and in the case of net wealth in excess of $4,000,000 and not in excess of $5,000,000, 45 percent in addition of such excess.

$1,706,950 in the case of net wealth of $5,000,000; and in the case of net wealth in excess of $5,000,000 and not in excess of $7,500,000, 50 percent in addition of such excess.

$2,956,950 in the case of net wealth of $7,500,000; and in the case of net wealth in excess of $7,500,000 and not in excess of $10,000,000, 55 percent in addition of such excess.

$4,331,950 in the case of net wealth of $10,000,000; and in the case of net wealth in excess of $10,000,000 and not in excess of $25,000,000, 60 percent in addition of such excess.

$13,331,950 in the case of net wealth of $25,000,000; and in the case of net wealth in excess of $25,000,000 and not in excess of $50,000,000, 65 percent in addition of such excess.

$29,581,950 in the case of net wealth of $50,000,000; and in the case of net wealth in excess of $50,000,000 and not in excess of $100,000,000, 70 percent in addition of such excess.

$64,581,950 in the case of net wealth of $100,000,000; and in the case of net wealth in excess of $100,000,000, 75 percent in addition of such excess.

SEC. 503. (a) The Secretary of the Treasury shall from time to time determine the sums that will be necessary to prosecute to a successful conclusion any war declared by Congress or to provide for such expenditures for the national defense as may be necessary to meet any emergency declared by Congress which in the judgment of the President necessitates an increase in the Military Establishment by the drafting of manpower, and shall issue bonds for such sums. Such bonds shall be issued in convenient sizes and denominations, shall not be transferable, shall bear interest at a rate not in excess of 1 percent per annum, and shall not be tax-exempt either as to principal or interest. The President shall prorate among the persons covered by any census taken pursuant to this title the sums which such persons are required to invest in each separate issue of such bonds so that so far as practicable the percentage of the net wealth subject to the borrowing power of the United States (computed on the basis of the graduated scale set forth in section 502 of this title) which any such person is required to invest will not be larger than the percentage which any other such person is required to invest, and the President shall proclaim the time limit within which such persons are required to purchase such bonds and shall notify each person the amount of such bonds he is required to purchase. Each person shall then purchase such bonds in the amounts so allotted and within the time so prescribed. If the aggregate amount which any such person shall have been required to invest in all the bonds so issued during any one such war or to meet any one such emergency shall have equaled that part of his net wealth which is subject to the borrowing power of the United States under section 502 of this title, such person shall remain subject to the borrowing power of the United States under this title but in computing that part of his net wealth which he may be required to invest there shall be deducted from his total wealth the amount of such bonds previously purchased by him.

(b) The borrowing power of the United States under this title shall not be exercised after the President proclaims the termination of the war or the emergency which has brought such power into existence.

(c) It is hereby declared to be the policy of Congress that, whenever bonds are issued pursuant to the provisions of this title, the proceeds resulting from the levy of any additional taxes or increased rates of taxation imposed by reason of the war or emergency as a result of which such bonds are issued shall, except insofar as they are needed in the immediate interests of national defense, be applied to the retirement of such bonds.

SEC. 504. (a) The President is authorized to establish, in the several States, Territories, and possessions, such number of local boards of wealth appraisers as may be necessary for the purpose of accurately determining the net wealth of the Nation. Each such local board shall be appointed by the President and shall consist of three or more members, none of whom shall be connected with the Military Establishment, to be chosen from citizens residing in the area within the jurisdiction of such board as determined in accordance with rules and regulations prescribed by the President. Such boards shall have power within their respective jurisdictions to hear and determine, subject to review as provided in subsection (b) of this section, all questions arising under this title with respect to the ownership and valuation of wealth.

(b) The President is further authorized to establish in each Federal judicial district of the United States such number of district boards of appraisers as he may find necessary, and each such district board shall consist of such number of citizens of the United States, none of whom shall be connected with the Military Establishment, as the President may determine. The respective jurisdictions of such district boards shall be determined in accordance with rules and regulations prescribed by the President, and each such district board shall have power, under rules and regulations prescribed by the President, to review on appeal, and to affirm, modify, or reverse, any decision of any local board of appraisers having jurisdiction in any area within the jurisdiction of such district board. The decisions of such district boards shall be final except that, in accordance with such rules

and regulations as the President may prescribe, he may affirm, modify, or reverse any such decision.

(c) The district courts of the United States, the United States courts of any Territory, and the District Court of the United States for the District of Columbia shall have jurisdiction of offenses and violations under this title and the rules and regulations prescribed thereunder, and, concurrent with State and Territorial courts, of all suits in equity and actions at law to enforce any liability or duty created by this title; but no question within the jurisdiction of any local board of appraisers shall be litigated in any such court unless the person litigating such question has invested in bonds as provided for by section 503 of this title and until a final decision with respect to such question has been rendered pursuant to subsection (b) of this section. Any such suit or action may be brought in the district wherein the defendant is found, or is an inhabitant, or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant, or wherever the defendant may be found. No judgment or decree rendered by any such court in any proceeding instituted by any such person shall require the United States or any of its agents to make reparation to the plaintiff, other than to repurchase from him such bonds as he was not rightfully compelled to purchase. Judgments and decrees so rendered shall be subject to review as provided in sections 128 and 240 of the Judicial Code, as amended (U. S. C., 1934 edition, title 28, secs. 225 and 347). No case arising under this title and brought in any State court of competent jurisdiction shall be removed to any court of the United States.

SEC. 505. (a) The President is authorized, in his discretion, to provide, under such rules and regulations as he may prescribe, for the acceptance by the United States of property or services which are valuable for the prosecution of war or the improvement of the national defense in payment for the bonds provided for by section 503 of this title. Such rules and regulations shall provide for the method of valuation of any such property or services.

(b) The President is further authorized to provide, under such rules and regulations as he may prescribe, for the acceptance from any person, in payment for the bonds authorized by section 503 of this title, of notes or other obligations of such person, bearing interest at the rate of 6 percent per annum and adequately secured by liens upon specified property.

(c) The President is authorized to issue currency, notes, or other obligations of the United States upon the security of property, notes, or other obligations accepted under subsections (a) or (b) of this section; but the amount of the currency, notes, or other obligations so issued shall not exceed the value of the security held against them and the security so held shall be used or disposed of solely for the purpose of discharging or retiring such currency, notes, or other obligations.

(d) The President is authorized to take such action as may be necessary to enforce any lien accepted under this section and to sell or otherwise dispose of any property acquired under this section. In the event that any person fails to pay the amount of any note or other obligation made by him and accepted under subsection (b), and the property securing such note or obligation is insufficient to discharge the indebtedness in full, a sum sufficient to discharge the balance of such indebtedness shall be withheld in redeeming the bonds issued under this title to such person.

SEC. 506. The President is authorized to make such rules and regulations, in addition to those specifically provided for herein, as may be necessary to carry out the provisions of this title.

SEC. 507. (a) Whoever shall make any false statement in any sworn declaration required to be filed by the first section of this title, and whoever shall violate any provision of any rule or regulation made by the President under this title, shall upon conviction thereof be fined not more than $10,000 or imprisoned not more than 2 years, or both.

(b) Whoever shall fail to purchase the amount of bonds which he is required to purchase under the provisions of this title or shall fail to purchase such bonds within the time prescribed under the provisions of this title shall upon conviction thereof be fined not more than $100,000 or imprisoned not more than 5 years, or both: *Provided*, That the maximum penalties which may be imposed upon any person convicted of failing to purchase the required amount of such bonds shall be reduced in proportion to the extent of his compliance.

SEC. 508. The powers conferred upon the President and the duties and liabilities to which owners of wealth are subjected by this title are declared to be supplementary to and not in limitation of or in substitution for any powers, duties, and liabilities with respect to the national defense under any other title.

SEC. 509. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

Mr. LEE. Mr. President, if I can have the attention of the Senate, I give my colleagues my word as a Senator that I will not delay the Senate long on the amendment.

This matter has been before the Senate on a point of order. The bill provides for the compulsory sale of bonds in an emergency which is of sufficient moment to call for drafting of men and when the Government needs to raise money.

The amendment is not a tax bill. It provides for forced loans. We are facing a situation which will require the Government to borrow fourteen or more billion dollars through the issuance of bonds. The first few billions of those bonds might sell easily. After that, how are we to sell the bonds unless we have a method of borrowing according to ability to lend just as we tax according to ability to pay?

The amendment does not provide for a capital levy. Under a capital levy nothing is repaid. Under the amendment the bonds would be repaid. The amendment merely provides a method of Government borrowing the credit of a man and using it as a backlog for financing national defense.

The amendment provides the same method of financing as was used in the World War, with four major changes. In the first place, instead of the sale being voluntary, it would be mandatory. Second, instead of the amount purchased by each individual being determined by his patriotism, or pressure put on him, or the desire for profit from tax-exempt, high-interest-bearing bonds, the amount would be determined by a schedule based on his net wealth. Third, the bonds would not be profitable from an investment standpoint. They would bear 1-percent interest. Fourth, they would not be transferable. That is an important point, because we would prohibit much profit that is made by virtue of a poor man buying a bond when he is not able to buy the bond, and then not being able to hold it, discounting it, and selling it to someone else, and letting the other person make the profit.

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

Mr. LEE. I yield.

Mr. BAILEY. The Senator gave four characteristics of the bonds. I think there is a fifth. They would be worthless.

Mr. LEE. No; the Government's obligations are not worthless. The bonds would not be sold on the market, if that is what the Senator means, because they would be nontransferable.

Mr. BAILEY. One could not transfer them, he would get only 1-percent interest, and under the Senator's doctrine announced today, we would tax them, and I think we could say they would be absolutely worthless. I could not put them up, I could not sell them, I could not do anything with them.

Mr. LEE. No; the Government promises to pay the bond at the maturity of the bond, and that is a very important point, because during the World War, when money was borrowed at the forks of the creek, the buyer could not hold the bonds; so he sold them, and they went to New York, and at maturity the money went to New York instead of to Oklahoma, and Florida, and Colorado, and North Carolina, and other sections of the country. Instead of expanding buying power, it added to the concentration of wealth, and caused a worse after-the-war slump than would have occurred if the bonds had been nontransferable, and, when they matured and were paid off, the money had gone out to the forks of the creek and to the grass roots, to the original purchasers.

Mr. President, three things are necessary to prosecute a war—men, money, and material. We have provided for the drafting of men and material but we have not provided for the compulsory method of financing war. Unless we turn to some plan of this kind, we will reach the point—mark my words—where we will have to fight a war here at home, as we did in the World War, in order to sell the bonds. The first few will sell easily because the banks are full of money, and then the defense program will swing into action and money will receive attractive offers, and it will be profitable to invest it; but, if the war crisis comes closer to us, money will hide, as it always does, and we shall reach such a point that it will be increasingly more difficult to sell those bonds. Then we will turn to Liberty Loan committees and strong-arm squads, and we will resort to kangaroo-court methods and methods of bludgeoning people into buying bonds beyond their ability to buy.

The method provided by my amendment is a sane and sensible method of doing the same thing in the field of finance that we have already done in the field of industry and insofar as drafting manpower is concerned.

The important thing, if we enter a war, is to win the war. Everything else must be of secondary importance. It is desirable to take the profits out of war. It is desirable to equalize the burdens of war as much as possible, but even those high ideals must take second place to the one prime motive, and that is to win the war.

Money has been called the sinews of war. Every government that has ever depended upon the voluntary method of raising money in time of war, in a major war, has reached the point where the voluntary method broke down, and the Government was forced to turn to the printing presses and issue fiat money, whereby it destroyed itself, when it still had wealth, but had no method of reaching it.

When we think of wealth in this country we must think of land, buildings, plants, physical properties. There is not enough cash in the country to carry forward our defense program, much less to fight a war. We must have some method of translating the country's nonliquid property into liquid cash so the Government may borrow it. My plan provides the machinery.

During the Civil War the South had property, but had no means of translating it into cash, so they turned to the printing press. The North had property, but it had no method for turning it into cash, and Lincoln issued greenbacks. Those greenbacks depreciated. They did not become entirely worthless, but they depreciated in value, and if the war had gone on longer who can say that they would not have become worthless. Yet here were two sections of a great country which had wealth, but no way of reaching it. A nation cannot pay as it fights. That has been proven. Therefore it must have some method, either of borrowing on the future or of using some accumulated savings. My amendment provides the machinery for doing that. It is fair and just that we be able to finance a war if we ask men to serve where they are subject to danger.

We were not in the World War very long. The outcome was never doubted. We knew we would be successful, and yet it became increasingly more difficult to raise the necessary money. I pay tribute to one of our colleagues, the senior Senator from Virginia [Mr. GLASS]. Due to his courage and the courage of those around him the Government was able to raise the necessary money. They went before the people and said, "We must have it." But what a battle it was to raise the money. Four-minute speakers were provided. There were pretty girl revues; there were Boy Scout solicitors; there were Girl Scout solicitors. Captured war material was brought to the United States, and trainloads of it were sent throughout the country in order to excite the people so they would buy Government bonds. Wounded soldiers were called out of hospitals, and they traveled around throughout the country exposing their broken bodies in order to get people to buy war bonds. Posters were made depicting little babies with tiny, chubby hands lifted up begging people to buy Liberty bonds. The Statue of Liberty, with flaming eyes, from posters everywhere shouted, "Buy Liberty Bonds!" It cost the Government $48,000,000 to beg the people to buy the bonds with which to finance the war. Yet here we are faced with the need of having to borrow no telling how many billion dollars, when we had the experience in the World War that it was almost impossible to do it.

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

Mr. LEE. I yield.

Mr. ADAMS. I am somewhat amazed at the statement of cost. I wonder if the Senator knows what the items of cost were? The Senator said $48,000,000 was required for that purpose.

Mr. LEE. Yes. That statement is already in the RECORD. It is in the report of the Secretary of the Treasury. It cost $48,000,000-plus to conduct the campaign to sell the bonds The items of cost were listed. The cost increased with every successive bond issue. The advertising cost alone doubled with every successive bond campaign, and there were five of them.

I will say further, to show that it was increasingly more difficult to sell the bonds as the war proceeded, that it was necessary to increase the interest rates—to step the interest rates up. The first bonds bore 3½-percent interest. The next bonds bore 4-percent interest. The next bonds bore 4¼-percent interest. The last bonds bore 4¾-percent interest. Had we been in a war, as England is today with her back to the wall, there is no telling—perhaps we would have reached such a point that we could not have borrowed money at any rate of interest.

It has been said that each issue of bonds was oversubscribed, but that is very misleading. When one thinks of a bond issue being oversubscribed he thinks of a crowd rushing up to the Treasury waving check-books and money, trying to buy bonds, and the Secretary finally closing the gate in the faces of the prospective buyers, and saying, "The bond issue has been oversubscribed. We do not need any more money."

Instead advertisements were placed in every nook and corner of the country putting the pressure on the people to buy, and when the results were totaled up it was found that there was oversubscription. The rate of oversubscription tells the story. The first bonds were oversubscribed 52 percent. The second bonds were oversubscribed 54 percent. The next bond issue plummeted down to 39 percent. The next bond issue was oversubscribed 16½ percent. The last one was oversubscribed 16⅔ percent. In other words, with all the pressure that could be put on the people by the most flamboyant selling campaign that has ever been staged in the world, the oversubscription slumped from a high of 54 percent to a low of 16½ percent, and all the time the interest rate was going up. So we ought to have a plan of financing. We have provided for drafting men and material. Why not provide for the other requirement, which is money?

Men and money are necessary to win a war. If we have one and do not have the other we shall be defeated.

Mr. President, I shall not longer detain the Senate on the pending question. I appreciate the opportunity to explain this important measure—I think it is important—to the extent I have explained it. Of course, any money question is usually involved, and I could speak a long time on this question because I have made a special study of it. I am very much of the opinion that the amendment ought to be adopted at this time, but I shall not further detain the Senate.

Mr. HARRISON. Mr. President, the Senate is familiar with the question under consideration. It has been before the Senate previously and voted down. I hope the proposal will be voted down at this time also.

The PRESIDING OFFICER (Mr. ELLENDER in the chair). The question is on agreeing to the amendment offered by the Senator from Oklahoma [Mr. LEE].

The amendment was rejected.

Mr. CONNALLY. I offer an amendment which I send to the desk.

The PRESIDING OFFICER. Is the Senator's amendment an amendment to the committee amendment?

Mr. CONNALLY. No. It is an amendment to the bill.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 173, after line 12, it is proposed to insert a new title: "Title V," the War Emergency Act.

Mr. HARRISON. As I understand, this is the war profits tax bill.

Mr. CONNALLY. That is correct.

Mr. HARRISON. I have no objection to the Senate adopting the amendment and letting it go to conference.

Mr. CONNALLY. I thank the Senator from Mississippi very much for his agreement to accept the amendment and have it go to conference. I do not like to have him put an accent on its going to conference, however. I should like to have him accept it. [Laughter.]

Mr. HARRISON. The Senator's hearing must be bad. I did not put any emphasis on its going to conference. For the information of the Senator, I will state that when the amendment goes to conference I shall fight diligently for it. I do not know whether or not I can persuade the House conferees, but I accept the amendment in good faith.

Mr. CONNALLY. I thank the Senator. I should prefer not to have the Senator express any doubt, before going to conference, as to his ability to convince the conferees.

Mr. President, this is a war-profits tax amendment which the Senate adopted in June, I think, by a yea-and-nay vote of 51 yeas and 28 nays. It is a bill which was prepared after many months of diligent work by a subcommittee of the Finance Committee appointed by the senior Senator from Mississippi [Mr. HARRISON]. The bill is the result of the labors of that subcommittee. Afterward it was in substance approved by the full Finance Committee, and it represents a scientific and well-prepared measure. I want it to go to conference, and I want the conferees to fight for it. The House conferees ought to accept it. In view of the fact that the Senate has heretofore voted on it by a yea-and-nay vote of 51 yeas and 28 nays, I shall not insist on a yea-and-nay vote at this time.

I wish to put in the RECORD a brief statement about the bill.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

CONNALLY WAR PROFITS TAX AMENDMENT

WASHINGTON, D. C., September 19.—Senator TOM CONNALLY offered as an amendment to the excess-profits tax the taxation provision of H. R. 4141, known as the Connally war-profits bill.

The amendment is operative only during a state of war declared by Congress. Upon such declaration of a state of war with a foreign government and the declaration by Congress that the existence of such state of war creates a grave national emergency, the terms of the war-tax amendment automatically come into force.

The amendment deals only with individual income taxes and corporation income taxes.

TAX RATES AND EXEMPTIONS—INDIVIDUALS

Exemption

The personal exemptions have been set at $800 and $1,600 in the case of single and married persons, respectively. In the case of dependents the credit is fixed at $250. The subcommittee fully recognizes that during a war period the cost of living may be substantially increased over peacetime. The urgent need for revenue, however, makes it advisable to place the exemption at such a point as will leave free of tax an amount that approximates the cost of the necessities of life.

Rates of tax

The proposed amendment provides for a normal tax of 10 percent and includes a schedule of surtax rates beginning with 6 percent on the first thousand dollars in excess of the exemption and $1,000, and reaching a maximum of 80 percent on surtax net income in excess of $50,000.

Individual income-tax rates vary from $40 on a $2,000 income on a married person with no dependents to $880,510 on an income of $1,000,000 on a married person with no dependents. The rates are graduated from 2 percent on a net income of $2,000 to 88.05 percent on a net income of $1,000,000.

CORPORATION TAXES

In the case of corporation taxes, the flat rate is 35 percent normal tax. The amendment also provides for an excess-profits tax in the case of corporations in which taxable income is in excess of 5 percent of the invested capital for the taxable year. A specific exemption of $3,000 to all corporations is allowed. The excess-profit rates are graduated to 60 percent of the amount of the net income in excess of 25 percent of such invested capital.

The rates carried in the amendment are designed to take the profits out of war by taxing all of the increased income created by a state of war.

Senator CONNALLY in discussing the objectives of the amendment said:

"The Senate Finance Committee, in 1936, appointed a subcommittee, of which I had the honor to be chairman, to study and report on wartime profits legislation pending before the Senate. After months of hard and exhaustive research and hearings, the amendment which I now offer was drafted.

"In its labors, the Finance Committee had the assistance of its own staff of expert tax authorities, and also consulted with and had the advice and counsel of tax experts of the Treasury.

"It is true that the amendment carries heavy rates of taxation both on incomes of individuals and on corporations. However, I believe that in time of war, when millions of our countrymen may be required to render service to the Government at trifling compensation and under circumstances involving sacrifice and personal danger, those citizens who remain at home should likewise bear heavy burdens in the form of taxation to provide the equipment, the supplies, the arms, munitions, artillery, warships, and all of the machinery to enable our armed forces to successfully wage war.

"It is my belief that the people of the United States are willing to bear heavy burdens in the national defense and for the protection of our country and its institutions.

"The public debt of the United States has been substantially increased in recent years. The present session of Congress has authorized the expenditure of about $15,000,000,000 for armaments, navies, airplanes, artillery, tanks, and all of the equipment and mechanism for equipping and arming the Nation for defense. These staggering sums must be met. The Government has no other means than taxation. It is the purpose of the bill, as nearly as possible, to provide for, during the existence of a state of war, a large part of the cost of war through current taxation.

"The Treasury Department in 1936, at the time the original amendment was prepared, estimated that the individual income-tax rate carried in the bill on the basis of income for 1928 would produce annually $7,800,000,000. No estimate at that time was available for the amount to be derived from corporation taxes.

"In short, the amendment which I offered is a real war-profits bill, operative only during a state of war, carrying heavy and high rates with a view to exacting from every citizen and every industry its contribution toward the prosecution of the war, as nearly comparable to the sacrifices to be made by those in the naval and military service as is possible under their different circumstances. The amendment has been carefully and painstakingly drawn to effectuate its purpose."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Texas [Mr. CONNALLY].

The amendment was agreed to, as follows: On page 173, after line 12, to insert:

TITLE VIII

SEC. 801. References in this part to this act shall not be construed to include references to part I; references in part I to this act shall not be construed to include references to this part; and cross references in part I and part II shall be construed to refer to material contained in such parts, respectively.

TABLE OF CONTENTS

TITLE I—INCOME TAX

SUBTITLE A—INTRODUCTORY PROVISIONS

Sec. 1. Application of title.
Sec. 2. Cross references.
Sec. 3. Classification of provisions.
Sec. 4. Special classes of taxpayers.

SUBTITLE B—GENERAL PROVISIONS

Part I—Rates of tax

Sec. 11. Normal tax on individuals.
Sec. 12. Surtax on individuals.
Sec. 13. Tax on corporations in general.
Sec. 14. Tax on special classes of corporations.

Part II—Computation of net income

Sec. 21. Net income.
Sec. 22. Gross income.
Sec. 23. Deductions from gross income.
Sec. 24. Items not deductible.
Sec. 25. Credits of individual against net income.
Sec. 26. Credits of corporations.

Part III—Credits against tax

Sec. 31. Taxes of foreign countries and possessions of United States.
Sec. 32. Taxes withheld at source.
Sec. 33. Credit for overpayments.

Part IV—Accounting periods and methods of accounting

Sec. 41. General rule.
Sec. 42. Period in which items of gross income included.
Sec. 43. Period for which deductions and credits taken.
Sec. 44. Installment basis.
Sec. 45. Allocation of income and deductions.
Sec. 46. Change of accounting period.
Sec. 47. Returns for a period of less than 12 months.
Sec. 48. Taxable period embracing years with different laws.
Sec. 49. Definitions.

Part V—Returns and payment of tax

Sec. 51. Individual returns.
Sec. 52. Corporation returns.
Sec. 53. Time and place for filing returns.
Sec. 54. Records and special returns.
Sec. 55. Publicity of returns.
Sec. 56. Payment of tax.
Sec. 57. Examination of return and determination of tax.
Sec. 58. Additions to tax and penalties.
Sec. 59. Administrative proceedings.

Part VI—Miscellaneous provisions

Sec. 61. Laws made applicable.
Sec. 62. Rules and regulations.
Sec. 63. Taxes in lieu of taxes under 1936 act.
Sec. 64. Short title.

SUBTITLE C—SUPPLEMENTAL PROVISIONS

Supplement A—Rates of tax

Sec. 101. Exemptions from tax on corporations.
Sec. 102. Surtax on corporations improperly accumulating surplus.
Sec. 103. Rates of tax on citizens and corporations of certain foreign countries.
Sec. 104. Banks and trust companies.
Sec. 105. Sale of oil or gas properties.
Sec. 106. Claims against United States involving acquisition of property.

Sec. 107. Compensation for services rendered for a period of 5 years or more.

Supplement B—Computation of net income

Sec. 111. Determination of amount of, and recognition of, gain or loss.
Sec. 112. Recognition of gain or loss.
Sec. 113. Adjusted basis for determining gain or loss.
Sec. 114. Basis for depreciation and depletion.
Sec. 115. Distributions by corporations.
Sec. 116. Exclusions from gross income.
Sec. 117. Capital gains and losses.
Sec. 118. Loss from wash sales of stock or securities.
Sec. 119. Income from sources within United States.
Sec. 120. Unlimited deductions for charitable and other contributions.
Sec. 121. Deduction of dividends paid on certain preferred stock of certain corporations.
Sec. 122. Net operating loss deduction.
Sec. 123. Commodity credit loans.
Sec. 124. Corporation dividends paid credit.
Sec. 125. Consent dividends credit.

Supplement C—Credits against tax

Sec. 131. Taxes of foreign countries and possessions of United States.

Supplement D—Returns and payment of tax

Sec. 141. Consolidated returns.
Sec. 142. Fiduciary returns.
Sec. 143. Withholding of tax at source.
Sec. 144. Payment of corporation income tax at source.
Sec. 145. Penalties.
Sec. 146. Closing by Commissioner of taxable year.
Sec. 147. Information at source.
Sec. 148. Information by corporations.
Sec. 149. Returns of brokers.
Sec. 150. Collection of foreign items.
Sec. 151. Foreign personal holding companies.

Supplement E—Estates and trusts

Sec. 161. Imposition of tax.
Sec. 162. Net income.
Sec. 163. Credits against net income.
Sec. 164. Different taxable years.
Sec. 165. Employees' trusts.
Sec. 166. Revocable trusts.
Sec. 167. Income for benefit of grantor.
Sec. 168. Taxes of foreign countries and possessions of United States.
Sec. 169. Common trust funds.
Sec. 170. Net operating losses.

Supplement F—Partnerships

Sec. 181. Partnership not taxable.
Sec. 182. Tax on partners.
Sec. 183. Computation of partnership income.
Sec. 184. Credits against net income.
Sec. 185. Taxes of foreign countries and possessions of United States.
Sec. 186. Partnership returns.
Sec. 187. Different taxable years of partner and partnership.
Sec. 188. Net operating losses.

Supplement G—Insurance companies

Sec. 201. Tax on life insurance companies.
Sec. 202. Gross income of life insurance companies.
Sec. 203. Net income of life insurance companies.
Sec. 204. Insurance companies other than life or mutual.
Sec. 205. Taxes of foreign countries and possessions of United States.
Sec. 206. Computation of gross income.
Sec. 207. Mutual insurance companies other than life.
Sec. 208. Net operating losses.

Supplement H—Nonresident alien individuals

Sec. 211. Tax on nonresident alien individuals.
Sec. 212. Gross income.
Sec. 213. Deductions.
Sec. 214. Credits against net income.
Sec. 215. Allowance of deductions and credits.
Sec. 216. Credits against tax.
Sec. 217. Returns.
Sec. 218. Payment of tax.
Sec. 219. Partnerships.

Supplement I—Foreign corporations

Sec. 231. Tax on foreign corporations.
Sec. 232. Deductions.
Sec. 233. Allowance of deductions and credits.
Sec. 234. Credits against tax.
Sec. 235. Returns.
Sec. 236. Payment of tax.
Sec. 237. Foreign insurance companies.
Sec. 238. Affiliation.

Supplement J—Possessions of the United States

Sec. 251. Income from sources within possessions of United States.
Sec. 252. Citizens of possessions of United States.

Supplement K—China Trade Act corporations

Sec. 261. Rate of tax.
Sec. 262. Credit against net income.
Sec. 263. Credits against the tax.
Sec. 264. Affiliation.
Sec. 265. Income of shareholders.

Supplement L—Assessment and collection of deficiencies

Sec. 271. Definition of "deficiency."
Sec. 272. Procedure in general.
Sec. 273. Jeopardy assessments.
Sec. 274. Bankruptcy and receiverships.
Sec. 275. Period of limitation upon assessment and collection.
Sec. 276. Same—Exceptions.
Sec. 277. Suspension of running of statute.

Supplement M—Interest and additions to the tax

Sec. 291. Failure to file return.
Sec. 292. Interest on deficiencies.
Sec. 293. Additions to the tax in case of deficiency.
Sec. 294. Additions to the tax in case of nonpayment.
Sec. 295. Time extended for payment of tax shown on return.
Sec. 296. Time extended for payment of deficiency.
Sec. 297. Interest in case of jeopardy assessments.
Sec. 298. Bankruptcy and receiverships.
Sec. 299. Removal of property or departure from United States.

Supplement N—Claims against transferees and fiduciaries

Sec. 311. Transferred assets.
Sec. 312. Notice of fiduciary relationship.

Supplement O—Overpayments

Sec. 321. Overpayment of installment.
Sec. 322. Refunds and credits.

Supplement P—Foreign personal holding companies

Sec. 331. Definition of foreign personal holding company.
Sec. 332. Foreign personal holding company income.
Sec. 333. Stock ownership.
Sec. 334. Gross income of foreign personal holding companies.
Sec. 335. Undistributed Supplement P net income.
Sec. 336. Supplement P net income.
Sec. 337. Corporation income taxed to United States shareholders.
Sec. 338. Information returns by officers and directors.
Sec. 339. Information returns by shareholders.
Sec. 340. Penalties.

Supplement Q—Mutual investment companies

Sec. 361. Definition.
Sec. 362. Tax on mutual investment companies.

Supplement R—Exchanges and distributions in obedience to orders of Securities and Exchange Commission

Sec. 371. Nonrecognition of gain or loss.
Sec. 372. Basis for determining gain or loss.
Sec. 373. Definitions.

TITLE IA—ADDITIONAL INCOME TAXES

SUBTITLE A—PERSONAL HOLDING COMPANIES

Sec. 500. Surtax on personal holding companies.
Sec. 501. Definition of personal holding company.
Sec. 502. Personal holding company income.
Sec. 503. Stock ownership.
Sec. 504. Undistributed subtitle A net income.
Sec. 505. Subtitle A net income.
Sec. 506. Deficiency dividends—credits and refunds.
Sec. 507. Meaning of terms used.
Sec. 508. Administrative provisions.
Sec. 509. Improper accumulation of surplus.
Sec. 510. Foreign personal holding companies.
Sec. 511. Publicity of returns.

TITLE IB—EXCESS PROFITS TAX

Sec. 600. Imposition of tax.
Sec. 601. Alternative tax.
Sec. 602. Excess-profit credit.
Sec. 603. Exempt corporations.
Sec. 604. Net income.
Sec. 605. Invested capital.
Sec. 606. Invested capital, continued.
Sec. 607. Reorganizations.
Sec. 608. Returns and payment of tax.
Sec. 609. Short title.
Sec. 610. Suspension of conflicting and inconsistent acts.
Sec. 611. Criminal penalties.
Sec. 612. Succession to rights and duties.
Sec. 613. Separability clause.
Sec. 614. Effective date of act.

TITLE I—INCOME TAX

SUBTITLE A—INTRODUCTORY PROVISIONS

SEC. 1. Application of title.

The provisions of this title shall apply to any taxable year or portion of taxable year subsequent to its effective date. Income, war-profits, and excess-profits taxes in effect prior to the effective date of this title shall not be affected by the provisions of this title, but shall remain subject to applicable provisions of revenue acts in effect prior to such effective date.

SEC. 2. Cross references.

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

SEC. 3. Classification of provisions.

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

Subtitle A—Introductory provisions,

Subtitle B—General provisions, divided into parts and sections,

Subtitle C—Supplemental provisions, divided into supplements and sections.

SEC. 4. Special classes of taxpayers.

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

(a) Estates and trusts and the beneficiaries thereof—Supplement E.

(b) Members of partnerships—Supplement F.

(c) Insurance companies—Suppement G.

(d) Nonresident alien individuals—Supplement H.

(e) Foreign corporations—Supplement I.

(f) Individual citizens of any possession of the United States who are not otherwise citizens of the United States and who are not residents of the United States—Supplement J.

(g) Individual citizens of the United States or domestic corporations, satisfying the conditions of section 251 by reason of deriving a large portion of their gross income from sources within a possession of the United States—Supplement J.

(h) China Trade Act corporations—Supplement K.

(i) Foreign personal holding companies and their shareholders—Supplement P.

(j) Mutual investment companies—Supplement Q.

SUBTITLE B—GENERAL PROVISIONS

PART I—RATES OF TAX

SEC. 11. Normal tax on individuals.

There shall be levied, collected, and paid for each taxable year upon the net income of every individual a normal tax of 10 percent of the amount of the net income in excess of the credits against net income provided in section 25.

SEC. 12. Surtax on individuals.

(a) Definitions of "Surtax Net Income": As used in this section the term "surtax net income" means the amount of the net income in excess of the credits against net income provided in section 25 (b).

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

Upon a surtax net income of $1,000 there shall be no surtax; upon surtax net incomes in excess of $1,000 and not in excess of $2,000, 6 percent of such excess.

$60 upon surtax net incomes of $2,000; and upon surtax net incomes in excess of $2,000 and not in excess of $3,000, 9 percent in addition of such excess.

$150 upon surtax net incomes of $3,000; and upon surtax net incomes in excess of $3,000 and not in excess of $4,000, 12 percent in addition of such excess.

$270 upon surtax net incomes of $4,000; and upon surtax net incomes in excess of $4,000 and not in excess of $6,000, 15 percent in addition of such excess.

$570 upon surtax net incomes of $6,000; and upon surtax net incomes in excess of $6,000 and not in excess of $8,000, 18 percent in addition of such excess.

$930 upon surtax net incomes of $8,000; and upon surtax net incomes in excess of $8,000 and not in excess of $10,000, 21 percent in addition of such excess.

$1,350 upon surtax net incomes of $10,000; and upon surtax net incomes in excess of $10,000 and not in excess of $14,000, 25 percent in addition of such excess.

$2,350 upon surtax net incomes of $14,000; and upon surtax net incomes in excess of $14,000 and not in excess of $18,000, 30 percent in addition of such excess.

$3,550 upon surtax net incomes of $18,000; and upon surtax net incomes in excess of $18,000 and not in excess of $24,000, 40 percent in addition of such excess.

$5,950 upon surtax net incomes of $24,000; and upon surtax net incomes in excess of $24,000 and not in excess of $30,000, 50 percent in addition of such excess.

$8,950 upon surtax net incomes of $30,000; and upon surtax net incomes in excess of $30,000 and not in excess of $40,000, 60 percent in addition of such excess.

$14,950 upon surtax net incomes of $40,000; and upon surtax net incomes in excess of $40,000 and not in excess of $50,000, 70 percent in addition of such excess.

$21,950 upon surtax net incomes of $50,000; and upon surtax net incomes in excess of $50,000, 80 percent in addition of such excess.

(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).

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

(e) Tax on personal holding companies: For surtax on personal holding companies, see title IA.

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

SEC. 13. Tax on corporations in general.

(a) 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 the credit for dividends received provided in section 26 (b).

(b) Imposition of tax: There shall be levied, collected, and paid for each taxable year upon the normal-tax net income of every corporation the normal-tax net income of which is more than $25,000 (except a corporation subject to the tax imposed by sec. 14, sec. 231 (a), Supp. G, or Supp. Q) whichever of the following taxes is the lesser:

(1) General rule: A tax of 22 percent of the normal-tax net income; or

(2) Alternative tax (corporation with normal-tax net income slightly more than $25,000): A tax of $4,025, plus 35 percent of the amount of the normal-tax net income in excess of $25,000.

(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 section 500.

(e) 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) Imposition of tax: There shall be levied, collected, and paid for each taxable year upon the normal-tax net income of the following corporations (in lieu of the tax imposed by sec. 13) the tax hereinafter in this section specified.

(b) Corporations with normal-tax net incomes of not more than $25,000: If the normal-tax 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 (c), (d), or (e) of this section, the tax shall be as follows:

Upon normal-tax net incomes not in excess of $5,000, 14½ percent.

Seven hundred and twenty-five dollars upon normal-tax net incomes of $5,000, and upon normal-tax net incomes in excess of $5,000 and not in excess of $20,000, 16 percent in addition of such excess.

Three thousand one hundred and twenty-five dollars upon normal-tax net incomes of $20,000, and upon normal-tax net incomes in excess of $20,000, 18 percent in addition of such excess.

(c) 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 22 percent of the normal-tax 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).

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

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

(f) Exempt corporations.—

For corporations exempt from taxation under this title, see section 101.

(g) Tax on personal holding companies.—

For surtax on personal holding companies, see section 500.

(h) Improper accumulation of surplus.—

For surtax on corporations which accumulate surplus to avoid surtax on shareholders, see section 102.

PART II—COMPUTATION OF NET INCOME

SEC. 21. Net income.

(a) Definition: "Net income" means the gross income computed under section 22, less the deductions allowed by section 23.

(b) Cross references: For definition of "adjusted net income" and "normal-tax net income," see section 13.

SEC. 22. Gross income.

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

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

(1) Life insurance: Amounts received under a life-insurance contract paid by reason of the death of the insured, whether in a single sum or otherwise (but if such amounts are held by the

insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income):

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

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

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

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

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

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

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

The income of foreign governments;

Income of States, municipalities, and other political subdivisions;

Receipts of shipowners' mutual protection and indemnity associations;

Dividends from China Trade Act corporations;

Compensation of employees of foreign governments.

(9) Income from discharge of indebtedness: In the case of a corporation, the amount of any income of the taxpayer attributable to the discharge, within the taxable year, of any indebtedness of the taxpayer or for which the taxpayer is liable evidenced by a security (as hereinafter in this paragraph defined) if—

(A) it is established to the satisfaction of the Commissioner, or

(B) it is certified to the Commissioner by any Federal agency authorized to make loans on behalf of the United States to such corporation or by any Federal agency authorized to exercise regulatory power over such corporation,

that at the time of such discharge the taxpayer was in an unsound financial condition, and if the taxpayer makes and files at the time of filing the return, in such manner as the Commissioner, with the approval of the Secretary, by regulations prescribes, its consent to the regulations prescribed under section 113 (b) (3) then in effect. In such case the amount of any income of the taxpayer attributable to any unamortized premium (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be included in gross income and the amount of the deduction attributable to any unamortized discount (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be allowed as a deduction. As used in this paragraph the term "security" means any bond, debenture, note, or certificate, or other evidence of indebtedness, issued by any corporation, in existence on June 1, 1939. This paragraph shall not apply to any discharge occurring in a taxable year beginning after December 31, 1942.

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

(d) Inventories in certain industries: (1) A taxpayer may use the following method (whether or not such method has been prescribed under subsection (c)) in inventorying goods specified in the application required under paragraph (2):

(A) Inventory them at cost;

(B) Treat those remaining on hand at the close of the taxable year as being: First, those included in the opening inventory of the taxable year (in the order of acquisition) to the extent thereof, and second, those acquired in the taxable year; and

(C) Treat those included in the opening inventory of the taxable year in which such method is first used as having been acquired at the same time and determine their cost by the average cost method.

(2) The method described in paragraph (1) may be used—

(A) Only in inventorying goods (required under subsection (c) to be inventoried) specified in an application to use such method filed at such time and in such manner as the Commissioner may prescribe; and

(B) Only if the taxpayer establishes to the satisfaction of the Commissioner that the taxpayer has used no procedure other than that specified in subparagraphs (B) and (C) of paragraph (1) in inventorying (to ascertain income, profit, or loss, for credit purposes, or for the purpose of reports to shareholders, partners, or other proprietors, or to beneficiaries) such goods for any period beginnning with or during the first taxable year for which the method described in paragraph (1) is to be used.

(3) The change to, and the use of, such method shall be in accordance with such regulations as the Commissioner, with the approval of the Secretary, may prescribe as necessary in order that the use of such method may clearly reflect income.

(4) In determining income for the taxable year preceding the taxable year for which such method is first used, the closing inventory of such preceding year of the goods specified in such application shall be at cost.

(5) If a taxpayer, having complied with paragraph (2), uses the method described in paragraph (1) for any taxable year, then such method shall be used in all subsequent taxable years unless—

(A) With the approval of the Commissioner a change to a different method is authorized; or

(B) The Commissioner determines that the taxpayer has used for any period beginning with or during any subsequent taxable year some procedure other than that specified in subparagraph (B) of paragraph (1) in inventorying (for ascertaining income, profit, or loss, for credit purposes, or for the purpose of reports to shareholders, partners, or other proprietors, or to beneficiaries) the goods specified in the application, and requires a change to a method different from that prescribed in paragraph (1) beginning with such subsequent taxable year or any taxable year thereafter.

In either of the above cases, the change to, and the use of the different method shall be in accordance with such regulations as the Commissioner, with the approval of the Secretary, may prescribe as necessary in order that the use of such method may clearly reflect income.

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

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

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

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

(i) Consent dividends: For inclusion in gross income of amounts specified in shareholders' consents, see section 125.

SEC. 23. Deductions from gross income.

In computing net income there shall be allowed as deductions:

(a) Expenses.—

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

(2) Corporate charitable contributions: No deduction shall be allowable under paragraph (1) to a corporation for any contribution or gift which would be allowable as a deduction under subsection (q) were it not for the 5-percent limitation therein contained and for the requirement therein that payment must be made within the taxable year.

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

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

(1) Federal income, war-profits, and excess-profits taxes (other than the excess-profits tax imposed by title I B of this act, by section

106 of the Revenue Act of 1935, by section 602 of the Revenue Act of 1938, or by section 600 of the Internal Revenue Code);

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

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

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

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

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

(1) if incurred in trade or business; or

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

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

(f) Losses by corporations: In the case of a corporation, losses sustained during the taxable year and not compensated for by insurance or otherwise.

(g) Capital losses:

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

(2) Securities becoming worthless: If any securities (as defined in paragraph (3) of this subsection) become worthless during the taxable year and are capital assets, the loss resulting therefrom shall, for the purposes of this title, be considered as a loss from the sale or exchange, on the last day of such taxable year, of capital assets.

(3) Definition of securities: As used in this subsection the term "securities" means (A) shares of stock in a corporation, and (B) rights to subscribe for or to receive such shares.

(h) Wagering losses: Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

(i) Basis for determining loss: The basis for determining the amount of deduction for losses sustained, to be allowed under subsection (e) or (f), and for bad debts, to be allowed under subsection (k), shall be the adjusted basis provided in section 113 (b) for determining the loss from the sale or other disposition of property.

(j) Loss on wash sales of stock or securities: For disallowance of loss deduction in the case of sales of stock or securities where within 30 days before or after the date of the sale the taxpayer has acquired substantially identical property, see section 118.

(k) Bad debts:

(1) General rule: Debts 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 bank, as defined in section 104, with respect to a debt evidenced by a security as defined in paragraph (3) of this subsection.

(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 bank, as defined in section 104, 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.

(3) Definition of securities: As used in this subsection, the term "securities" means bonds, debentures, notes, or certificates, or other evidences of indebtedness, issued by any corporation (including those issued by a government or political subdivision thereof), with interest coupons or in registered form.

(l) Depreciation: A reasonable allowance for the exhaustion, wear, and tear of property used in the trade or business, including a reasonable allowance for obsolescence. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each.

(m) Depletion: In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the Commissioner, with the approval of the Secretary. In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon such revised estimate. In the case of leases the deduction shall be equitably apportioned between the lessor and lessee. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each. (For percentage depletion allowable under this subsection, see section 114 (b), (3) and (4).)

(n) Basis for depreciation and depletion: The basis upon which depletion, exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be as provided in section 114.

(o) Charitable and other contributions: In the case of an individual, contributions or gifts payment of which is made within the taxable year to or for the use of:

(1) the United States, and State, Territory, or any political subdivision thereof or the District of Columbia, or any possession of the United States, for exclusively public purposes;

(2) a corporation, trust, or community chest, fund, or foundation, created or organized in the United States or in any possession thereof or under the law of the United States or of any State or Territory or of any possession of the United States, 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.)

(p) Pension trusts:

(1) General rule: An employer establishing or maintaining a pension trust to provide for the payment of reasonable pensions to his employees shall be allowed as a deduction (in addition to the contributions to such trust during the taxable year to cover the pension liability accruing during the year, allowed as a deduction under subsection (a) of this section) a reasonable amount transferred or paid into such trust during the taxable year in excess of such contributions, but only if such amount (1) has not theretofore been allowable as a deduction, and (2) is apportioned in equal parts over a period of 10 consecutive years beginning with the year in which the transfer or payment is made.

(2) Deductions under prior income tax acts: Any deduction allowable under section 23 (q) of the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of 1934, or under section 23 (p) of the Revenue Act of 1936, or the Revenue Act of 1938 or the Internal Revenue Code which under such section was apportioned to any taxable year beginning after December 31, 1937, shall be allowed as a deduction in the years to which so apportioned to the extent allowable under such section if it had remained in force with respect to such year.

(3) Exemption of trusts under section 165: The provisions of paragraphs (1) and (2) of this subsection shall be subject to the qualification that the deduction under either paragraph shall be allowable only with respect to a taxable year (whether the year of the transfer or payment or a subsequent year) of the employer ending within or with a taxable year of the trust with respect to which the trust is exempt from tax under section 165.

(q) Charitable and other contributions by corporations: In the case of a corporation, contributions or gifts, payment of which is made within the taxable year to or for the use of a corporation, trust, or community chest, fund, or foundation, created or organized in the United States or in any possession thereof or under the law of the United States, or of any State or Territory, or of the District of Columbia, or of any possession of the United States, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for 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 or any of its possessions 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.

(s) Net operating loss deduction: For any taxable year beginning after December 31, 1939, the net operating loss deduction computed under section 122.

SEC. 24. Items not deductible.

(a) General rule: In computing net income no deductions shall in any case be allowed in respect of—

(1) Personal, living, or family expenses;

(2) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate;

(3) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made;

(4) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy; or

(5) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income other than interest (whether or not any amount of income of that class or classes is received or accrued) wholly exempt from the taxes imposed by this title.

(b) Losses from sales or exchanges of property:

(1) Losses disallowed: In computing net income no deduction shall in any case be allowed in respect of losses from sales or exchanges of property, directly or indirectly—

(A) Between members of a family, as defined in paragraph (2) (D);

(B) Except in the case of distributions in liquidation, between an individual and a corporation more than 50 percent in value of the outstanding stock of which is owned, directly or indirectly, by or for such individual;

(C) Except in the case of distributions in liquidation, between two corporations more than 50 percent in value of the outstanding stock of each of which is owned, directly or indirectly, by or for the same individual, if either one of such corporations, with respect to the taxable year of the corporation preceding the date of the sale or exchange was, under the law applicable to such taxable year, a personal holding company or a foreign personal holding company;

(D) Between a grantor and a fiduciary of any trust;

(E) Between the fiduciary of a trust and the fiduciary of another trust, if the same person is a grantor with respect to each trust; or

(F) Between a fiduciary of a trust and a beneficiary of such trust.

(2) Stock ownership, family, and partnership rule: For the purposes of determining, in applying paragraph (1), the ownership of stock—

(A) Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust, shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries;

(B) An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family;

(C) An individual owning (otherwise than by the application of subparagraph (B)) any stock in a corporation shall be considered as owning the stock owned, directly or indirectly, by or for his partner;

(D) The family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants; and

(E) Constructive ownership as actual ownership: Stock constructively owned by a person by reason of the application of subparagraph (A) shall, for the purpose of applying subparagraph (A), (B), or (C), be treated as actually owned by such person, but stock constructively owned by an individual by reason of the application of subparagraph (B) or (C) shall not be treated as owned by him for the purpose of again applying either of such subparagraphs in order to make another the constructive owner of such stock.

(c) Unpaid expenses and interest: In computing net income no deduction shall be allowed under section 23 (a), relating to expenses incurred, or under section 23 (b), relating to interest accrued—

(1) If such expenses or interest are not paid within the taxable year or within 2½ months after the close thereof; and

(2) If, by reason of the method of accounting of the person to whom the payment is to be made, the amount thereof is not, unless paid, includible in the gross income of such person for the taxable year in which or with which the taxable year of the taxpayer ends; and

(3) If, at the close of the taxable year of the taxpayer or at any time within 2½ months thereafter, both the taxpayer and the person to whom the payment is to be made are persons between whom losses would be disallowed under section 24 (b).

(d) Holders of life or terminable interest: Amounts paid under the laws of any State, Territory, District of Columbia, possession of the United States, or foreign country as income to the holder of a life or terminable interest acquired by gift, bequest, or inheritance shall not be reduced or diminished by any deduction for shrinkage (by whatever name called) in the value of such interest due to the lapse of time, nor by any deduction allowed by this title (except the deductions provided for in subsections (l) and (m) of section 23) for the purpose of computing the net income of an estate or trust but not allowed under the laws of such State, Territory, District of Columbia, possession of the United States, or foreign country for the purpose of computing the income to which such holder is entitled.

(e) Tax withheld on tax-free covenant bonds: For nondeductibility of tax withheld on tax-free covenant bonds, see section 143 (a) (3).

SEC. 25. Credits of individual against net income.

(a) Credits for normal tax only: There shall be allowed for the purpose of the normal tax, but not for the surtax, the following credits against the net income:

(1) Interest on United States obligations: The amount received as interest upon obligations of the United States which is included in gross income under section 22.

(2) Interest on obligations of instrumentalities of the United States: The amount received as interest on obligations of a corporation organized under act of Congress, if (A) such corporation is an instrumentality of the United States; and (B) such interest is included in gross income under section 22; and (C) under the act authorizing the issue thereof, as amended and supplemented, such interest is exempt from normal tax.

(b) Credits for both normal tax and surtax: There shall be allowed for the purposes of the normal tax and the surtax the following credits against net income:

(1) Personal exemption: In the case of a single person, or a married person not living with husband or wife, a personal exemption of $800; or in the case of the head of a family or a married person living with husband or wife, a personal exemption of $1,600. A husband and wife living together shall receive but one personal exemption. The amount of such personal exemption shall be $1,600. If such husband and wife make separate returns, the personal exemption may be taken by either or divided between them.

(2) Credit for dependents: $250 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer if such dependent person is under 18 years of ago or is incapable of self-support because mentally or physically defective.

(3) Change of status: If the status of the taxpayer insofar as it affects the personal exemption or credit for dependents, changes during the taxable year, the personal exemption and credit shall be apportioned, under rules and regulations prescribed by the Commission with the approval of the Secretary, in accordance with the number of months before and after such change. For the purpose of such apportionment a fractional part of a month shall be disregarded unless it amounts to more than half a month in which case it shall be considered as a month.

SEC. 26. Credits of corporations.

In the case of a corporation the following credits shall be allowed to the extent provided in the various sections imposing tax—

(a) Interest on obligations of the United States and its instrumentalities: The amount received as interest upon obligations of the United States or of corporations organized under act of Congress which is allowed to an individual as a credit for purposes of normal tax by section 25 (a) (1) or (2).

(b) Dividends received: 85 percent of the amount received as dividends from a domestic corporation which is subject to taxation under this title, but not in excess of 85 percent of the adjusted net income. The credit allowed by this subsection shall not be allowed in respect of dividends received from a corporation organized under the China Trade Act, 1922, or from a corporation which under section 251 is taxable only on its gross income from sources within the United States by reason of its receiving a large percentage of its gross income from sources within a possession of the United States.

(c) Dividends paid credit: For corporation dividends paid credit, see section 124.

(d) Consent dividends credit: For corporation consent dividends credit, see section 125.

PART III—CREDITS AGAINST TAX

SEC. 31. Taxes of foreign countries and possessions of United States.

The amount of income, war-profits, and excess-profits taxes imposed by foreign countries or possessions of the United States shall be allowed as a credit against the tax to the extent provided in section 131.

SEC. 32. Taxes withheld at source.

The amount of tax withheld at the source under section 143 or 144 shall be allowed as a credit against the tax.

SEC. 33. Credit for overpayments.

For credit against the tax of overpayment of taxes imposed by this title for other taxable years, see section 322.

PART IV—ACCOUNTING PERIODS AND METHODS OF ACCOUNTING

SEC. 41. General rule.

The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of the Commissioner does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year as defined in section 48 or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year. (For use of inventories, see section 22 (c), (d).)

SEC. 42. Period in which items of gross income included.

The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under methods of accounting permitted under section 41, any such amounts are to be properly accounted for as of a different period. In the case of the death of a taxpayer there shall be included in computing net income for the taxable period in which falls the date of his death, amounts accrued up to the date of his death if not otherwise properly includible in respect of such period or a prior period.

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

The deductions and credits (other than the corporation dividends paid credit provided in section 124) 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 (except deductions under section 23 (o)) amounts accrued up to the date of his death if not otherwise properly allowable in respect of such period or a prior period.

SEC. 44. Installment basis.

(a) Dealers in personal property: Under regulations prescribed by the Commissioner with the approval of the Secretary, a person who regularly sells or otherwise disposes of personal property on the installment plan may return as income therefrom in any taxable year that proportion of the installment payments actually received in that year which the gross profit realized or to be realized when payment is completed, bears to the total contract price.

(b) Sales of realty and casual sales of personalty: In the case (1) of a casual sale or other casual disposition of personal property (other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year), for a price exceeding $1,000, or (2) of a sale or other disposition of real property, if in either case the initial payments do not exceed 30 percent of the selling price (or, in case the sale or other disposition was in a taxable year beginning prior to January 1, 1934, the percentage of the selling price prescribed in the law applicable to such year), the income may, under regulations prescribed by the Commissioner with the approval of the Secretary, be returned on the basis and in the manner above prescribed in this section. As used in this section the term "initial payments" means the payments received in cash or propery other than evidences of indebtedness of the purchaser during the taxable period in which the sale or other disposition is made.

(c) Change from accrual to installment basis: If a taxpayer entitled to the benefits of subsection (a) elects for any taxable year to report his net income on the installment basis, then in computing his income for the year of change or any subsequent year, amounts actually received during any such year on account of sales or other dispositions of property made in any prior year shall not be excluded.

(d) Gain or loss upon disposition of installment obligations: If an installment obligation is satisfied at other than its face value or distributed, transmitted, sold, or otherwise disposed of, gain or loss shall result to the extent of the difference between the basis of the obligation and (1) in the case of satisfaction at other than face value or a sale or exchange—the amount realized, or (2) in case of a distribution, transmission, or disposition otherwise than by sale or exchange—the fair market value of the obligation at the time of such distribution, transmission, or disposition. Any gain or loss so resulting shall be considered as resulting from the sale or exchange of the property in respect of which the installment obligation was received. The basis of the obligation shall be the excess of the face value of the obligation over an amount equal to the income which would be returnable were the obligation satisfied in full. This subsection shall not apply to the transmission at death of installment obligations if there is filed with the Commissioner, at such time as he may by regulation prescribe, a bond in such amount and with such sureties as he may deem necessary, conditioned upon the return as income, by the person receiving any payment on such obligations, of the same proportion of such payment as would be returnable as income by the decedent if he had lived and had received such payment. If an installment obligation is distributed by one corporation to another corporation in the course of a liquidation, and under section 112 (b) (6) no gain or loss with respect to the receipt of such obligation is recognized in the case of the recipient corporation, then no gain or loss with respect to the distribution of such obligation shall be recognized in the case of the distributing corporation.

SEC. 45. Allocation of income and deductions.

In any case of two or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the Commissioner is authorized to distribute, apportion, or allocate gross income or deductions between or among such organizations, trades, or businesses, if he determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such organizations, trades, or businesses.

SEC. 46. Change of accounting period.

If a taxpayer changes his accounting period from fiscal year to calendar year, from calendar year to fiscal year, or from one fiscal year to another, the net income shall, with the approval of the Commissioner, be computed on the basis of such new accounting period, subject to the provisions of section 47.

SEC. 47. Returns for a period of less than 12 months.

(a) Returns for short period resulting from change of accounting period: If a taxpayer, with the approval of the Commissioner, changes the basis of computing net income from fiscal year to calendar year a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31. If the change is from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the fiscal year. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year.

(b) Income computed on basis of short period: Where a separate return is made under subsection (a) on account of a change in the accounting period, and in all other cases where a separate return is required or permitted, by regulations prescribed by the Commissioner with the approval of the Secretary, to be made for a fractional part of a year, then the income shall be computed on the basis of the period for which separate return is made.

(c) Income placed on annual basis: If a separate return is made (except returns of the income of a corporation) under subsection (a) on account of a change in the accounting period, the net income, computed on the basis of the period for which separate return is made, shall be placed on an annual basis by multiplying the amount thereof by 12 and dividing by the number of months included in the period for which the separate return is made. The tax shall be such part of the tax computed on such annual basis as the number of months in such period is of 12 months.

(d) Reduction of credits against net incomes: In the case of a return made for a fractional part of a year, except a return made under subsection (a), on account of a change in the accounting period, the personal exemption and credit for dependents shall be reduced respectively to amounts which bear the same ratio to the full credits provided as the number of months in the period for which return is made bears to 12 months.

(e) Closing of taxable year in case of jeopardy: For closing of taxable year in case of jeopardy, see section 146.

SEC. 48. Taxable period embracing years with different laws.

In cases where the effective date of this act does not coincide with the beginning of the calendar year, or the fiscal year of the taxpayer, the tax for the taxable period covered by the first return under this title shall be the sum of (1) the same proportion of a tax for the entire period computed under the Revenue Act in effect immediately preceding the effective date of this act which the portion of such period covered by such preceding act is of the entire period; and (2) the same proportion of a tax for the entire period computed under this title which the portion of such period for which this act is effective is of the entire period.

SEC. 49. Definitions.

When used in this title—

(a) Taxable year: "Taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under this part. "Taxable year" includes, in the case of a return made for a fractional part of a year under the provisions of this title or under regulations prescribed by the Commissioner with the approval of the Secretary, the period for which such return is made.

(b) Fiscal year: "Fiscal year" means an accounting period of 12 months ending on the last day of any month other than December.

(c) Paid, incurred, accrued: The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this part.

(d) Trade or business: The term "trade or business" includes the performance of the functions of a public office.

PART V—RETURNS AND PAYMENT OF TAX

SEC. 51. Individual returns.

(a) Requirement: The following individuals shall each make under oath a return stating specifically the items of his gross income and the deductions and credits allowed under this title and such other information for the purpose of carrying out the provisions of this title as the Commissioner with the approval of the Secretary may by regulations prescribe—

(1) Every individual who is single or who is married but not living with husband or wife, if having a gross income for the taxable year of $800 or over;

(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 gross income of $1,600 or over, and the other spouse has no gross income; or

(B) Such individual and his spouse each has for the taxable year a gross income and the aggregate gross income of the two is $1,600 or over.

(b) Husband and wife: In the case of a husband and wife living together the income of each (even though one has no gross income) may be included in a single return made by them jointly, in which case the tax shall be computed on the aggregate income, and the liability with respect to the tax shall be joint and several. No joint return may be made if either the husband or wife is a nonresident alien.

(c) Persons under disability: If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent

or by the guardian or other person charged with the care of the person or property of such taxpayer.

(d) 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.

(e) Fiduciaries:

For returns to be made by fiduciaries, see section 142.

SEC. 52. Corporation returns.

Every corporation subject to taxation under this title shall make a return, stating specifically the items of its gross income and the deductions and credits allowed by this title and such other information for the purpose of carrying out the provisions of this title as the Commissioner with the approval of the Secretary may by regulations prescribe. The return shall be sworn to by the president, vice president, or other principal officer, and by the treasurer, assistant treasurer, or chief accounting officer. In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make return for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

SEC. 53. Time and place for filing returns.

(a) Time for filing:

(1) General rule: Returns made on the basis of the calendar year shall be made on or before the 15th day of March following the close of the calendar year. Returns made on the basis of a fiscal year shall be made on or before the 15th day of the third month following the close of the fiscal year.

(2) Extension of time: The Commissioner may grant a reasonable extension of time for filing returns, under such rules and regulations as he shall prescribe with the approval of the Secretary. Except in the case of taxpayers who are abroad, no such extension shall be for more than 6 months.

(b) To whom return made:

(1) Individuals: Returns (other than corporation returns) shall be made to the collector for the district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business in the United States, then to the collector at Baltimore, Md.

(2) Corporations: Returns of corporations shall be made to the collector of the district in which is located the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in the United States, then to the collector at Baltimore, Md.

SEC. 54. Records and special returns.

(a) By taxpayer: Every person liable to any tax imposed by this title or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) To determine liability to tax: Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the Commissioner deems sufficient to show whether or not such person is liable to tax under this title.

(c) Information at the source: For requirement of statements and returns by one person to assist in determining the tax liability of another person, see sections 147 to 150.

(d) Copies of returns: If any person, required by law or regulations made pursuant to law to file a copy of any income return for any taxable year, fails to file such copy at the time required, there shall be due and assessed against such person $5 in the case of an individual return or $10 in the case of a fiduciary, partnership, or corporation return, and the collector with whom the return is filed shall prepare such copy. Such amount shall be collected and paid, without interest, in the same manner as the amount of tax due in excess of that shown by the taxpayer upon a return in the case of a mathematical error appearing on the face of the return. Copies of returns filed or prepared pursuant to this subsection shall remain on file for a period of not less than two years from the date they are required to be filed, and may be destroyed at any time thereafter under the direction of the Commissioner.

(e) Foreign personal holding companies: For information returns by officers, directors, and large shareholders, with respect to foreign personal holding companies, see sections 338, 339, and 340.

SEC. 55. Publicity of returns.

(a) Returns made under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under section 55 of the Internal Revenue Code.

SEC. 56. Payment of tax.

(a) Time of payment: The total amount of tax imposed by this title shall be paid on the 15th day of March following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the 15th day of the third month following the close of the fiscal year.

(b) Installment payments: The taxpayer may elect to pay the tax in four equal installments, in which case the first installment shall be paid on the date prescribed for the payment of the tax by the taxpayer, the second installment shall be paid on the 15th day of the third month, the third installment on the 15th day of the sixth month, and the fourth installment on the 15th day of the ninth month, after such date. If any installment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

(c) Extension of time for payment.—

(1) General rule: At the request of the taxpayer, the Commissioner may extend the time for payment of the amount determined as the tax by the taxpayer, or any installment thereof, for a period not to exceed 6 months from the date prescribed for the payment of the tax or an installment thereof. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

(2) Liquidation of personal holding companies: At the request of the taxpayer, the Commissioner 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.

(d) Voluntary advance payment: A tax imposed by this title, or any installment thereof, may be paid, at the election of the taxpayer, prior to the date prescribed for its payment.

(e) Advance payment in case of jeopardy: For advance payment in case of jeopardy (see section 146).

(f) Tax withheld at source: For requirement of withholding tax at the source in the case of nonresident aliens and foreign corporations, and in the case of so-called "tax-free covenant bonds" (see sections 143 and 144).

(g) Fractional parts of cent: In the payment of any tax under this title a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(h) Receipts: Every collector to whom any payment of any income tax is made shall upon request give to the person making such payment a full written or printed receipt therefor.

SEC. 57. Examination of return and determination of tax.

As soon as practicable after the return is filed the Commissioner shall examine it and shall determine the correct amount of the tax.

SEC. 58. Additions to tax and penalties.

(a) For additions to the tax in the case of negligence or fraud in the nonpayment of tax or failure to file return therefor, see Supplement M.

(b) For criminal penalties for nonpayment of tax or failure to file return therefor, see section 145.

SEC. 59. Administrative proceedings.

For administrative proceedings in respect of the nonpayment or overpayment of a tax imposed by this title, see as follows:

(a) Supplement L, relating to assessment and collection of deficiencies.

(b) Supplement M, relating to interest and additions to tax.

(c) Supplement N, relating to claims against transferees and fiduciaries.

(d) Supplement O, relating to overpayments.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 61. Laws made applicable.

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this title.

SEC. 62. Rules and regulations.

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

SEC. 63. Taxes in lieu of taxes under 1936 act.

The taxes imposed by this title shall be in lieu of the taxes imposed by chapter 1 of the Internal Revenue Code, or corresponding taxes imposed by acts subsequent to the Internal Revenue Code for the period for which this title shall be in effect.

SEC. 64. Short title.

This title may be cited as the "War Revenue Act."

SUBTITLE C—SUPPLEMENTAL PROVISIONS

SUPPLEMENT A—RATES OF TAX

[Supplementary to Subtitle B, Part I]

SEC. 101. Exemptions from tax on corporations.

The following organizations shall be exempt from taxation under this title—

(1) Labor, agricultural, or horticultural organizations;

(2) Mutual savings banks not having a capital stock represented by shares;

(3) Fraternal beneficiary societies, orders, or associations, (A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and (B) providing for the payment of life, sick, accident, or other bnefits to the members of such society, order, or association or their dependents;

(4) Domestic building and loan associations substantially all the business of which is confined to making loans to members; and cooperative banks without capital stock organized and operated for mutual purposes and without profit;

(5) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(6) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;

(7) Business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(8) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes;

(9) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder;

(10) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses;

(11) Farmers' or other mutual hail, cyclone, casualty, or fire insurance companies or associations (including interinsurers and reciprocal underwriters) the income of which is used or held for the purpose of paying losses or expenses;

(12) Farmers', fruit growers', or like associations organized and operated on a cooperative basis (a) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, on the basis of either the quantity or the value of the products furnished by them, or (b) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses. Exemption shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by producers who market their products or purchase their supplies and equipment through the association; nor shall exemption be denied any such association because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose. Such an association may market the products of nonmembers in an amount the value of which does not exceed the value of the products marketed for members, and may purchase supplies and equipment for nonmembers in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 percent of the value of all its purchases. Business done for the United States or any of its agencies shall be disregarded in determining the right to exemption under this paragraph;

(13) Corporations organized by an association exempt under the provisions of paragraph (12), or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, upon dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose;

(14) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title;

(15) Corporations organized under act of Congress, if such corporations are instrumentalities of the United States and if, under such act, as amended and supplemented, such corporations are exempt from Federal income taxes;

(16) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (A) no part of their net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (B) 85 percent or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses;

(17) Teachers' retirement fund associations of a purely local character, if (A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and (B) the income consists solely of amounts received from public taxation, amounts received from assessments upon the teaching salaries of members, and income in respect of investments.

(18) Religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the net income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

(19) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if (A) admission to membership in such association is limited to individuals who are officers or employees of the United States Government, and (B) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

SEC. 102. Surtax on corporations improperly accumulating surplus.

(a) Imposition of tax: There shall be levied, collected, and paid for each taxable year (in addition to other taxes imposed by this title) upon the net income of every corporation (other than a personal holding company as defined in Title IA or a foreign personal holding company as defined in Supplement P) if such corporation, however created or organized, is formed or availed of for the purpose of preventing the imposition of the surtax upon its shareholders or the shareholders of any other corporation, through the medium of permitting earnings or profits to accumulate instead of being divided or distributed, a surtax equal to the sum of the following:

Fifty percent of the amount of the undistributed section 102 net income not in excess of $100,000, plus

Seventy percent of the undistributed section 102 net income in excess of $100,000.

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

(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.

(d) Definitions: As used in this title—

(1) Section 102 net income: The term "section 102 net income" means the net income, computed without the net operating loss deduction provided in section 23 (s), minus the sum of—

(A) Taxes: Federal income, war-profits, and excess-profits taxes paid or accrued during the taxable year, to the extent not allowed as a deduction by section 23, but not including the tax imposed by this section or a corresponding section of a prior income-tax law.

(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.

(C) Disallowed losses: Losses from sales or exchanges of capital assets which are disallowed as a deduction by section 117 (d).

(2) Undistributed section 102 net income: The term "undistributed section 102 net income" means the section 102 net income minus the basic surtax credit provided in section 124 (b), but the computation of such credit under section 124 (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.

(e) Tax on personal holding companies: For surtax on personal holding companies, see Title IA.

SEC. 103. Rates of tax on citizens and corporations of certain foreign countries.

Whenever the President finds that, under the laws of any foreign country, citizens or corporations of the United States are being subjected to discriminatory or extraterritorial taxes, the President

shall so proclaim and the rates of tax imposed by sections 11, 12, 13, 14, 201 (b), 204 (a), 207, 211 (a), 231, and 362 shall, for the taxable year during which such proclamation is made and for each taxable year thereafter, be doubled in the case of each citizen and corporation of such foreign country; but the tax at such doubled rate shall be considered as imposed by section 11, 12, 13, 14, 201 (b), 204 (a), 207, 211 (a), 231 or 362, as the case may be. In no case shall this section operate to increase the taxes imposed by such sections (computed without regard to this section) to an amount in excess of 80 percent of the net income of the taxpayer. Whenever the President finds that the laws of any foreign country with respect to which the President has made a proclamation under the preceding provisions of this section have been modified so that discriminatory and extraterritorial taxes applicable to citizens and corporations of the United States have been removed, he shall so proclaim, and the provisions of this section providing for doubled rates of tax shall not apply to any citizen or corporation of such foreign country with respect to any taxable year beginning after such proclamation is made.

SEC. 104. Banks and trust companies.

(a) Definition: As used in this section the term "bank" means a bank or trust company incorporated and doing business under the laws of the United States (including laws relating to the District of Columbia), of any State, or of any Territory, a substantial part of the business of which consists of receiving deposits and making loans and discounts, or of exercising fiduciary powers similar to those permitted to national banks under section 11 (k) of the Federal Reserve Act, as amended, and which is subject by law to supervision and examination by State, Territorial, or Federal authority having supervision over banking institutions.

(b) Rate of tax: Banks shall be subject to tax under section 13 or section 14 (b).

SEC. 105. Sale of oil or gas properties.

In the case of a bona fide sale of any oil or gas property, or any interest therein, where the principal value of the property has been demonstrated by prospecting or exploration or discovery work done by the taxpayer, the portion of the tax imposed by section 12 attributable to such sale shall not exceed 30 percent of the selling price of such property or interest.

SEC. 106. Claims against United States involving acquisition of property.

In the case of amounts (other than interest) received by a taxpayer from the United States with respect to a claim against the United States involving the acquisition of property and remaining unpaid for more than 15 years, the portion of the tax imposed by section 12 attributable to such receipt shall not exceed 30 percent of the amount (other than interest) so received.

SEC. 107. Compensation for services rendered for a period of 5 years or more.

In the case of compensation (a) received, for personal services rendered by an individual in his individual capacity, or as a member of a partnership, and covering a period of 5 calendar years or more from the beginning to the completion of such services, (b) paid (or not less than 95 percent of which is paid) only on completion of such services, and (c) required to be included in gross income of such individual for any taxable year, the tax attributable to such compensation shall not be greater than the aggregate of the taxes attributable to such compensation had it been received in equal portions in each of the years included in such period.

SUPPLEMENT B—COMPUTATION OF NET INCOME

[Supplementary to subtitle B, part II]

SEC. 111. Determination of amount of, and recognition of, gain or loss.

(a) Computation of gain or loss: The gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the adjusted basis provided in section 113 (b) for determining gain, and the loss shall be the excess of the adjusted basis provided in such section for determining loss over the amount realized.

(b) Amount realized: The amount realized from the sale or other disposition of property shall be the sum of any money received, plus the fair market value of the property (other than money) received.

(c) Recognition of gain or loss: In the case of a sale or exchange, the extent to which the gain or loss determined under this section shall be recognized for the purposes of this title shall be determined under the provisions of section 112.

(d) Installment sales: Nothing in this section shall be construed to prevent (in the case of property sold under contract providing for payment in installments) the taxation of that portion of any installment payment representing gain or profit in the year in which such payment is received.

SEC. 112. Recognition of gain or loss.

(a) General rule: Upon the sale or exchange of property the entire amount of the gain or loss, determined under section 111, shall be recognized, except as hereinafter provided in this section.

(b) Exchanges solely in kind:

(1) Property held for productive use or investment: No gain or loss shall be recognized if property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, nor stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment.

(2) Stock for stock of same corporation: No gain or loss shall be recognized if common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

(3) Stock for stock on reorganization: No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization.

(4) Same—gain of corporation: No gain or loss shall be recognized if a corporation a party to a reorganization exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation a party to the reorganization.

(5) Transfer to corporation controlled by transferor: No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock or securities in such corporation, and immediately after the exchange such person or persons are in control of the corporation; but in the case of an exchange by two or more persons this paragraph shall apply only if the amount of the stock and securities received by each is substantially in proportion to his interest in the property prior to the exchange. Where the transferee assumes a liability of a transferor, or where the property of a transferor is transferred subject to a liability, then for the purpose only of determining whether the amount of stock or securities received by each of the transferors is in the proportion required by this paragraph, the amount of such liability (if under subsection (k) it is not to be considered as "other property or money") shall be considered as stock or securities received by such transferor.

(6) Property received by corporation on complete liquidation of another: No gain or loss shall be recognized upon the receipt by a corporation of property distributed in complete liquidation of another corporation. For the purposes of this paragraph a distribution shall be considered to be in complete liquidation only if—

(A) the corporation receiving such property was, on the date of the adoption of the plan of liquidation, and has continued to be at all times until the receipt of the property, the owner of stock (in such other corporation) possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and the owner of at least 80 percent of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends) and was at no time on or after the date of the adoption of the plan of liquidation and until the receipt of the property the owner of a greater percentage of any class of stock than the percentage of such class owned at the time of the receipt of the property; and

(B) no distribution under the liquidation was made before the first day of the first taxable year of the corporation beginning after December 31, 1935; and either

(C) the distribution is by such other corporation in complete cancelation or redemption of all its stock, and the transfer of all the property occurs within the taxable year; in such case the adoption by the shareholders of the resolution under which is authorized the distribution of all the assets of such corporation in complete cancelation or redemption of all its stock, shall be considered an adoption of a plan of liquidation, even though no time for the completion of the transfer of the property is specified in such resolution; or

(D) such distribution is one of a series of distribution by such other corporation in complete cancelation or redemption of all its stock in accordance with a plan of liquidation under which the transfer of all the property under the liquidation is to be completed within 3 years from the close of the taxable year during which is made the first of the series of distributions under the plan, except that if such transfer is not completed within such period, or if the taxpayer does not continue qualified under subparagraph (A) until the completion of such transfer, no distribution under the plan shall be considered a distribution in complete liquidation.

If such transfer of all the property does not occur within the taxable year the Commissioner may require of the taxpayer such bond, or waiver of the statute of limitations on assessment and collection, or both, as he may deem necessary to insure, if the transfer of the property is not completed within such 3-year period, or if the taxpayer does not continue qualified under subparagraph (A) until the completion of such transfer, the assessment and collection of all income, war-profits, and excess-profits taxes then imposed by law for such taxable year or subsequent taxable years, to the extent attributable to property so received. A distribution otherwise constituting a distribution in complete liquidation within the meaning of this paragraph shall not be considered as not constituting such a distribution merely because it does not constitute a distribution or liquidation within the meaning of the corporate law under which the distribution is made; and for the purposes of this paragraph a transfer of property of such other corporation to the taxpayer shall not be considered as not constituting a distribution (or one of a series of distributions) in complete cancelation or redemption of all the stock of such other corporation, merely because the carrying out of the plan involves (i) the transfer under the plan to the taxpayer by such other corporation of property, not attributable to shares owned by the taxpayer, upon an exchange described in paragraph (4) of this subsection, and (ii) the complete cancelation or redemption under the plan, as a result of exchanges described in paragraph (3) of this subsection, of the shares not owned by the taxpayer.

(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.

(c) Gain from exchanges not solely in kind.—

(1) If an exchange would be within the provisions of subsection (b) (1), (2), (3), or (5) of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

(2) If a distribution made in pursuance of a plan of reorganization is within the provisions of paragraph (1) of this subsection but has the effect of the distribution of a taxable dividend, then there shall be taxed as a dividend to each distributee such an amount of the gain recognized under paragraph (1) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913. The remainder, if any, of the gain recognized under paragraph (1) shall be taxed as a gain from the exchange of property.

(d) Same—gain of corporation: If an exchange would be within the provisions of subsection (b) (4) of this section if it were not for the fact that the property received in exchange consists not only of stock or securities permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then—

(1) If the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but

(2) If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property so received, which is not so distributed.

(e) Loss from exchanges not solely in kind: If an exchange would be within the provisions of subsection (b) (1) to (5), inclusive, of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

(f) Involuntary conversions: If property (as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation, or the threat or imminence thereof) is compulsorily or involuntarily converted into property similar or related in service or use to the property so converted, or into money which is forthwith in good faith, under regulations prescribed by the Commissioner with the approval of the Secretary, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund, no gain or loss shall be recognized. If any part of the money is not so expended, the gain, if any, shall be recognized, but in an amount not in excess of the money which is not so expended.

(g) Definition of reorganization: As used in this section and section 113—

(1) The term "reorganization" means (A) a statutory merger or consolidation, or (B) the acquisition by one corporation, in exchange solely for all or a part of its voting stock, of at least 80 percent of the voting stock and at least 80 percent of the total number of shares of all other classes of stock of another corporation, or (C) the acquisition by one corporation, in exchange solely for all or a part of its voting stock, of substantially all the properties of another corporation, but in determining whether the exchange is solely for voting stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded, or (D) a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor or its shareholders or both are in control of the corporation to which the assets are transferred, or (E) a recapitalization, or (F) a mere change in identity, form, or place of organization, however effected.

(2) The term "a party to a reorganization" includes a corporation resulting from a reorganization and includes both corporations in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another.

(h) Definition of control: As used in this section the term "control" means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock in the corporation.

(i) Foreign corporations: In determining the extent to which gain shall be recognized in the case of any of the exchanges described in subsection (b) (3), (4), (5), or (6), or described in so much of subsection (c) as refers to subsection (b) (3) or (5), or described in subsection (d), a foreign corporation shall not be considered as a corporation unless, prior to such exchange, it has been established to the satisfaction of the Commissioner that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

(j) Installment obligations: For nonrecognition of gain or loss in the case of installment obligations, see section 44 (d).

(k) Assumption of liability not recognized: Where upon an exchange the taxpayer receives as part of the consideration property which would be permitted by subsection (b) (4) or (5) of this section to be received without the recognition of gain if it were the sole consideration, and as part of the consideration another party to the exchange assumes a liability of the taxpayer or acquires from the taxpayer property subject to a liability, such assumption or acquisition shall not be considered as "other property or money" received by the taxpayer within the meaning of subsections (c), (d), or (e) of this section and shall not prevent the exchange from being within the provisions of subsection (b) (4) or (5); except that if, taking into consideration the nature of the liability and the circumstances in the light of which the arrangement for the assumption or acquisition was made, it appears that the principal purpose of the taxpayer with respect to the assumption or acquisition was a purpose to avoid Federal income tax on the exchange, or, if not such purpose, was not a bona fide business purpose, such assumption or acquisition (in the amount of the liability) shall, for the purposes of this section, be considered as money received by the taxpayer upon the exchange. In any suit or proceeding where the burden is on the taxpayer to prove that such assumption or acquisition is not to be considered as money received by the taxpayer, such burden shall not be considered as sustained unless the taxpayer sustains such burden by the clear preponderance of the evidence.

SEC. 113. Adjusted basis for determining gain or loss.

(a) Basis (unadjusted) of property: The basis of property shall be the cost of such property; except that—

(1) Inventory value: If the property should have been included in the last inventory, the basis shall be the last inventory value thereof.

(2) Gifts after December 31, 1920: If the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that for the purpose of determining loss the basis shall be the basis so determined or the fair market value of the property at the time of the gift, whichever is lower. If the facts necessary to determine the basis in the hands of the donor or the last preceding owner are unknown to the donee, the Commissioner shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the Commissioner finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the Commissioner as of the date or approximate date at which, according to the best information that the Commissioner is able to obtain, such property was acquired by such donor or last preceding owner.

(3) Transfer in trust after December 31, 1920: If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a bequest or devise) the basis shall be the same as it would be in the hands of the grantor, increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon such transfer under the law applicable to the year in which the transfer was made.

(4) Gift or transfer in trust before January 1, 1921: If the property was acquired by gift or transfer in trust on or before December 31, 1920, the basis shall be the fair market value of such property at the time of such acquisition.

(5) Property transmitted at death: If the property was acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent, the basis shall be the fair market value of such property at the time of such acquisition. In the case of property transferred in trust to pay the income for life to or upon the order or direction of the grantor, with the right reserved to the grantor at all times prior to his death to revoke the trust, the basis of such property in the hands of the persons entitled under the terms of the trust instrument to the property after the grantor's death shall, after such death, be the same as if the trust instrument had been a will executed on the day of the grantor's death. For the purpose of this paragraph property passing without full and adequate consideration under a general power of appointment exercised by will shall be deemed to be property passing from the individual exercising such power by bequest or devise. If the property was acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent, and if the decedent died after August 26, 1937, and if the property consists of stock or securities of a foreign corporation, which with respect to its taxable year next preceding the date of the decedent's death was, 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.

(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 paragraphs (15), (17), or (18) 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. Where as part of the consideration to the taxpayer another party to the exchange assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability, such assumption or acquisition (in the amount of the liability) shall, for the purposes of this paragraph, be considered as money received by the taxpayer upon the exchange. This paragraph shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it.

(7) Transfers to corporation: If the property was acquired—

(A) after December 31, 1917, and in a taxable year beginning before January 1, 1936, by a corporation in connection with a reorganization, and immediately after the transfer an interest or control in such property of 50 percent or more remained in the same persons or any of them, or

(B) in a taxable year beginning after December 31, 1935, by a corporation in connection with a reorganization,

then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. This paragraph shall not apply if the property acquired consists of stock or securities in a corporation a party to the reorganization, unless acquired by the issuance of stock or securities of the transferee as the consideration in whole or in part for the transfer.

(8) Property acquired by issuance of stock or as paid-in surplus: If the property was acquired after December 31, 1920, by a corporation—

(A) by the issuance of its stock or securities in connection with a transaction described in section 112 (b) (5) (including, also, cases where part of the consideration for the transfer of such property to the corporation was property or money, in addition to such stock or securities), or

(B) as paid-in surplus or as a contribution to capital,

then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made.

(9) Involuntary conversion: If the property was acquired, after February 28, 1913, as the result of a compulsory or involuntary conversion described in section 112 (f), the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

(10) Wash sales of stock: If the property consists of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under section 118 of this title or corresponding provisions of prior income tax laws, relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, then the basis shall be the basis of the stock or securities so sold or disposed of, increased or decreased, as the case may be, by the difference, if any, between the price at which the property was acquired and the price at which such substantially identical stock or securities were sold or otherwise disposed of.

(11) Property acquired during affiliation: In the case of property acquired by a corporation, during a period of affiliation, from a corporation with which it was affiliated, the basis of such property, after such period of affiliation, shall be determined, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, without regard to inter-company transactions in respect of which gain or loss was not recognized. For the purposes of this paragraph, the term "period of affiliation" means the period during which such corporations were affiliated (determined in accordance with the law applicable thereto) but does not include any taxable year beginning on or after January 1, 1922, unless a consolidated return was made, nor any taxable year after the taxable year 1928. The basis in case of property acquired by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under section 141 of this title or the Revenue Act of 1928, 45 Stat. 831, or the Revenue Act of 1932, 47 Stat. 213, or the Revenue Act of 1934, 48 Stat. 720, or the Revenue Act of 1936, 49 Stat. 1698, or the Revenue Act of 1938 or the Internal Revenue Code, shall be determined in accordance with regulations prescribed under section 141 (b) of this title or the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of 1934 or the Revenue Act of 1936 or the Revenue Act of 1938 or the Internal Revenue Code. The basis in the case of property held by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under section 141 of this title or the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of 1934 or the Revenue Act of 1936 or the Revenue Act of 1938 or the Internal Revenue Code, shall be adjusted in respect of any items relating to such period, in accordance with regulations prescribed under section 141 (b) of this title or the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of 1934 or the Revenue Act of 1936 or the Revenue Act of 1938, or the Internal Revenue Code, applicable to such period.

(12) Basis established by Revenue Act of 1932: If the property was acquired, after February 28, 1913, in any taxable year beginning prior to January 1, 1934, and the basis thereof, for the purposes of the Revenue Act of 1932 (47 Stat. 199), was prescribed by section 113 (a) (6), (7), or (9) of such act, then for the purposes of this title the basis shall be the same as the basis therein prescribed in the Revenue Act of 1932.

(13) Partnerships: If the property was acquired after February 28, 1913, by a partnership and the basis is not otherwise determined under any other paragraph of this subsection, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. If the property was distributed in kind by a partnership to any partner, the basis of such property in the hands of the partner shall be such part of the basis in his hands of his partnership interest as is properly allocable to such property.

(14) Property acquired before March 1, 1913: In the case of property acquired before March 1, 1913, if the basis otherwise determined under this subsection, adjusted (for the period prior to March 1, 1913) as provided in subsection (b), is less than the fair market value of the property as of March 1, 1913, then the basis for determining gain shall be such fair market value. In determining the fair market value of stock in a corporation as of March 1, 1913, due regard shall be given to the fair market value of the assets of the corporation as of that date.

(15) Property received by a corporation on complete liquidation of another: If the property was received by a corporation upon a distribution in complete liquidation of another corporation within the meaning of section 112 (b) (6), then the basis shall be the same as it would be in the hands of the transferor. 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.

(16) Basis established by Revenue Act of 1934: If the property was acquired, after February 28, 1913, in any taxable year beginning prior to January 1, 1936, and the basis thereof, for the purposes of the Revenue Act of 1934, was prescribed by section 113 (a) (6), (7), or (8) of such act, then for the purposes of this title the basis shall be the same as the basis therein prescribed in the Revenue Act of 1934.

(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.

(18) Property received in certain corporate liquidations: If the property was acquired by a shareholder in the liquidation of a corporation in cancelation or redemption of stock with respect to which gain was realized, but with respect to which, as the result of an election made by him under paragraph (7) of section 112 (b), of the Revenue Act of 1938 (52 Stat. 487), the extent to which gain was recognized was determined under such paragraph, then the basis shall be the same as the basis of such stock canceled or redeemed in the liquidation, decreased in the amount of any money received by him, and increased in the amount of gain recognized to him.

(19) (A) If the property was acquired by a shareholder in a corporation and consists of stock in such corporation, or rights to acquire such stock, acquired by him after February 28, 1913, in a distribution by such corporation (hereinafter in this paragraph called "new stock"), or consists of stock in respect of which such distribution was made (hereinafter in this paragraph called "old stock"); and

(i) the new stock was acquired in a taxable year beginning before January 1, 1936; or

(ii) the new stock was acquired in a taxable year beginning after December 31, 1935, and its distribution did not constitute income to the shareholder within the meaning of the sixteenth amendment to the Constitution;

then the basis of the new stock and of the old stock, respectively, shall, in the shareholder's hands, be determined by allocating between the old stock and the new stock the adjusted basis of the old stock; such allocation to be made under regulations which shall be prescribed by the Commissioner with the approval of the Secretary.

(B) Where the new stock consisted of rights to acquire stock and such rights were sold in a taxable year beginning before January 1, 1939, and there was included in the gross income for such year the entire amount of the proceeds of such sale, then, if before the date of the enactment of the Revenue Act of 1939 the taxpayer has not asserted (by claim for a refund or credit or otherwise) that any part of the proceeds of the sale of such new stock should be excluded from gross income for the year of its sale, the basis of the old stock shall be determined without regard to subparagraph (A); and no part of the proceeds of the sale of such new stock shall ever be excluded from the gross income of the year of such sale.

(C) Subparagraph (A) shall not apply if the new stock was acquired in a taxable year beginning before January 1, 1936, and there was included, as a dividend, in gross income for such year an amount on account of such stock, and after such inclusion such amount was not (before the date of the enactment of the Revenue Act of 1939) excluded from gross income for such year.

(D) Subparagraph (A) shall not apply if the new stock or the old stock was sold or otherwise disposed of in a taxable year beginning prior to January 1, 1936, and the basis (determined by a decision of a court or the Board of Tax Appeals, or a closing agreement, and the decision or agreement became final before the ninetieth day after the date of the enactment of the Revenue Act of 1939) for determining gain or loss on such sale or other disposition was ascertained by a method other than that of allocation of the basis of the old stock.

(b) Adjusted basis: The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis determined under subsection (a), adjusted as hereinafter provided.

(1) General rule: Proper adjustment in respect of the property shall in all cases be made—

(A) for expenditures, receipts, losses, or other items, properly chargeable to capital account, including taxes and other carrying charges on unimproved and unproductive real property, but no such adjustment shall be made for taxes or other carrying charges for which deductions have been taken by the taxpayer in determining net income for the taxable year or prior taxable years;

(B) in respect of any period since February 28, 1913, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent allowed (but not less than the amount allowable) under this title or prior income tax laws. Where for any taxable year prior to the taxable year 1932 the depletion allowance was based on discovery value or a percentage of income, then the adjustment for depletion for such year shall be based on the depletion which would have been allowable for such year if computed without reference to discovery value or a percentage of income;

(C) in respect of any period prior to March 1, 1913, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained;

(D) in the case of stock (to the extent not provided for in the foregoing subparagraphs) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax-free or were applicable in reduction of basis (not including distributions made by a corporation, which was classified as a personal service corporation under the provisions of the Revenue Act of 1918, Feb. 24, 1919, c. 18, 40 Stat. 1057, or the Revenue Act of 1921, Nov. 23, 1921, c. 136, 42 Stat. 227, out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the Revenue Act of 1918 or 1921);

(E) to the extent provided in section 337 (f) in the case of the stock of United States shareholders in a foreign personal holding company; and

(F) to the extent provided in section 28 (h) in the case of amounts specified in a shareholder's consent made under section 28.

(G) in the case of property pledged to the Commodity Credit Corporation, to the extent of the amount received as a loan from the Commodity Credit Corporation and treated by the taxpayer as income for the year in which received pursuant to section 123 of this title, and to the extent of any deficiency on such loan with respect to which the taxpayer has been relieved from liability.

(2) Substituted basis: The term "substituted basis" as used in this subsection means a basis determined under any provision of subsection (a) of this section or under any corresponding provision of a prior income-tax law, providing that the basis shall be determined—

(A) by reference to the basis in the hands of a transferor, donor, or grantor, or

(B) by reference to other property held at any time by the person for whom the basis is to be determined.

Whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, then the adjustments provided in paragraph (1) of this subsection shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in the case of a series of substituted bases.

(3) Discharge of indebtedness: Where in the case of a corporation any amount is excluded from gross income under section 22 (b) (9) on account of the discharge of indebtedness the whole or a part of the amount so excluded from gross income shall be applied in reduction of the basis of any property held (whether before or after the time of the discharge) by the taxpayer during any portion of the taxable year in which such discharge occurred. The amount to be so applied (not in excess of the amount so excluded from gross income, reduced by the amount of any deduction disallowed under section 22 (b) (9)) and the particular properties to which the reduction shall be allocated, shall be determined under regulations (prescribed by the Commissioner with the approval of the Secretary) in effect at the time of the filing of the consent by the taxpayer referred to in section 22 (b) (9). The reduction shall be made as of the first day of the taxable year in which the discharge occurred except in the case of property not held by the taxpayer on such first day, in which case it shall take effect as of the time the holding of the taxpayer began.

SEC. 114. Basis for depreciation and depletion.

(a) Basis for depreciation: The basis upon which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 113 (b) for the purpose of determining the gain upon the sale or other disposition of such property.

(b) Basis for depletion.—

(1) General rule: The basis upon which depletion is to be allowed in respect of any property shall be the adjusted basis provided in section 113 (b) for the purpose of determining the gain upon the sale or other disposition of such property, except as provided in paragraphs (2), (3), and (4) of this subsection.

(2) Discovery value in case of mines: In the case of mines (other than metal, coal, or sulphur mines) discovered by the taxpayer after February 28, 1913, the basis for depletion shall be the fair market value of the property at the date of discovery or within 30 days thereafter, if such mines were not acquired as the result of purchase of a proven tract or lease, and if the fair market value of the property is materially disproportionate to the cost. The depletion allowance under section 23 (n) based on discovery value provided in this paragraph shall not exceed 50 percent of the net income of the taxpayer (computed without allowance for depletion) from the property upon which the discovery was made, except that in no case shall the depletion allowance under section 23 (n) be less than it would be if computed without reference to discovery value. Discoveries shall include minerals in commercial quantities contained within a vein or deposit discovered in an existing mine or mining tract by the taxpayer after February 28, 1913, if the vein or deposit thus discovered was not merely the uninterrupted extension of a continuing commercial vein or deposit already known to exist, and if the discovered minerals are of sufficient value and quantity that they could be separately mined and marketed at a profit.

(3) Percentage depletion for oil and gas wells: In the case of oil and gas wells the allowance for depletion under section 23 (n) shall be 27½ percent of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 percent of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance under section 23 (n) be less than it would be if computed without reference to this paragraph.

(4) Percentage depletion for coal and metal mines and sulphur: The allowance for depletion under section 23 (n) shall be, in the case of coal mines, 5 percent, in the case of metal mines 15 percent, and in the case of sulphur mines or deposits 23 percent of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 percent of the net income of the taxpayer (computed without allowance for depletion) from the property. A taxpayer making his first return under this title in respect of a property shall state whether he elects to have the depletion allowance for such property for the taxable year for which the return is made computed with or without regard to percentage depletion, and the depletion allowance in respect of such property for such year shall be computed according to the election thus made. If the taxpayer fails to make such statement in the return, the depletion allowance for such property for such year shall be computed without reference to percentage depletion. The method, determined as above, of computing the depletion allowance shall be applied in the case of the property for all taxable years in which it is in the hands of such taxpayer, or of any other person if the basis of the property (for determining gain) in his hands is, under section 113, determined by reference to the basis in the hands of such taxpayer, either directly or through one or more substituted bases, as defined in that section. The above right of election shall be subject to the qualification that this paragraph shall, for the purpose of determining whether the method of computing the depletion allowance follows the property, be considered a continuation of section 114 (b) (4) of the Revenue Act of 1934, the Revenue Act of 1936, the Revenue Act of 1938, and the Internal Revenue Code, and as giving no new election in cases where such section would, if applied, give no new election.

SEC. 115. Distributions by corporations.

(a) Definition of dividend: The term "dividend" when used in this title (except in section 203 (a) (3) and section 207 (c) (1), relating to insurance companies) means any distribution made by a corporation to its shareholders, whether in money or in other property, (1) out of its earnings or profits accumulated after February 28, 1913, or (2) out of the earnings or profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year), without regard to the amount of the earnings and profits at the time the distribution was made.

(b) Source of distributions: For the purposes of this title every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax-free distribution shall be applied against and reduce the adjusted basis of the stock provided in section 113.

(c) Distributions in liquidation: Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock, and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under section 111, but shall be recognized only to the extent provided in section 112. Despite the provisions of section 117, the gain so recognized shall be considered as a short-term capital gain, except in the case of amounts distributed in complete liquidation. For the purpose of the preceding sentence, "complete liquidation" includes any one of a series of distributions made by a corporation in complete cancellation 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, from the close of the taxable year during which is made the first of the series of distributions under the plan, (1) three 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. In the case of amounts distributed (whether before January 1, 1939, 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 sec. 331 (a) (2)) existed after August 26, 1937, and before January 1, 1938, then, despite the foregoing provisions of this subsection, the gain recognized resulting from such distribution shall be considered as a short-term capital gain—

(1) Unless such liquidation is completed before July 1, 1938; or

(2) Unless (if it is established to the satisfaction of the Commissioner by evidence submitted before July 1, 1938, that due to the laws of the foreign country in which such corporation is incorporated, or for other reason, it is or will 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 December 31, 1938.

(d) Other distributions from capital: If any distribution made by a corporation to its shareholders is not out of increase in value of property accrued before March 1, 1913, and is not a dividend, then the amount of such distribution shall be applied against and reduce the adjusted basis of the stock provided in section 113, and if in excess of such basis, such excess shall be taxable in the same manner as a gain from the sale or exchange of property. This subsection shall not apply to a distribution in partial or complete liquidation or to a distribution which, under subsection (f) (1), is not treated as a dividend, whether or not otherwise a dividend.

SEC. 116. Exclusions from gross income.

In addition to the items specified in section 22 (b), the following items shall not be included in gross income and shall be exempt from taxation under this title:

(a) Income of foreign governments: The income of foreign governments received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign governments, or from interest on deposits in banks in the United States of moneys belonging to such foreign governments, or from any other source within the United States.

(b) Income of States, municipalities, etc.: Income derived from any public utility or the exercise of any essential governmental function and accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, or income accruing to the government of any possession of the United States, or any political subdivision thereof.

Whenever any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, prior to September 8, 1916, entered in good faith into a contract with any person, the object and purpose of which is to acquire, construct, operate, or maintain a public utility—

(1) If by the terms of such contract the tax imposed by this title is to be paid out of the proceeds from the operation of such public utility, prior to any division of such proceeds between the person and the State, Territory, political subdivision, or the District of Columbia, and if, but for the imposition of the tax imposed by this title, a part of such proceeds for the taxable year would accrue directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, then a tax upon a net income from the operation of such public utility shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title, but there shall be refunded to such State, Territory, political subdivision, or the District of Columbia (under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary) an amount which bears the same relation to the amount of the tax as the amount which (but for the imposition of the tax imposed by this title) would have accrued directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, bears to the amount of the net income from the operation of such public utility for such taxable year.

(2) If by the terms of such contract no part of the proceeds from the operaton of the public utility for the taxable year would, irrespective of the tax imposed by this title, accrue directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, then the tax upon the net income of such person from the operation of such public utility shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title.

(c) Bridges to be acquired by State or political subdivision: Whenever any State or political subdivision thereof, in pursuance of a contract to which it is not a party entered into before the enactment of the Revenue Act of 1928, is to acquire a bridge—

(1) If by the terms of such contract the tax imposed by this title is to be paid out of the proceeds from the operation of such bridge prior to any division of such proceeds, and if, but for the imposition of the tax imposed by this title, a part of such proceeds for the taxable year would accrue directly to or for the use of or would be applied for the benefit of such State or political subdivision, then a tax upon the net income from the operation of such bridge shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title, but there shall be refunded to such State or political subdivision (under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary) an amount which bears the same relation to the amount of the tax as the amount which (but for the imposition of the tax imposed by this title) would have accrued directly to or for the use of or would be applied for the benefit of such State or political subdivision, bears to the amount of the net income from the operation of such bridge for such taxable year. No such refund shall be made unless the entire amount of the refund is to be applied in part payment for the acquisition of such bridge.

(2) If by the terms of such contract no part of the proceeds from the operation of the bridge for the taxable year would, irrespective of the tax imposed by this title, accrue directly to or for the use of or be applied for the benefit of such State or political subdivision, then the tax upon the net income from the operation of such bridge shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title.

(d) Dividend from "China Trade Act" Corporation: In the case of a person, amounts distributed as dividends to or for his benefit by a corporation organized under the China Trade Act, 1922, if, at the time of such distribution, he is a resident of China, and the equitable right to the income of the shares of stock of the corporation is in good faith vested in him.

(e) Shipowners' protection and indemnity associations: The receipts of shipowners' mutual protection and indemnity associations not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder; but such corporations shall be subject as other persons to the tax upon their net income from interest, dividends, and rents.

(f) Compensation of employees of foreign governments:

(1) Rule for exclusion: Wages, fees, or salary of an employee of a foreign government (including a consular or other officer, or a nondiplomatic representative) received as compensation for official services to such government—

If such employee is not a citizen of the United States; and

(B) If the services are of a character similar to those performed by employees of the Government of the United States in foreign countries; and

(C) If the foreign government whose employee is claiming exemption grants an equivalent exemption to employees of the Government of the United States performing similar services in such foreign country.

(2) Certificate by Secretary of State: The Secretary of State shall certify to the Secretary of the Treasury the names of the foreign countries which grant an equivalent exemption to the employees of the Government of the United States performing services in such foreign countries, and the character of the services performed by employees of the Government of the United States in foreign countries.

SEC. 117. Capital gains and losses.

(a) Definitions: As used in this title—

(1) Capital assets: The term "capital assets" means property held by the taxpayer (whether or not connected with his trade or business), but does not include stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or property, used in the trade or business, of a character which is subject to the allowance for depreciation provided in section 23 (l);

(2) Short-term capital gain: The term "short-term capital gain" means gain from the sale or exchange of a capital asset held for not more than 24 months, if and to the extent such gain is taken into account in computing net income;

(3) Short-term capital loss: The term "short-term capital loss" means loss from the sale or exchange of a capital asset held for not more than 24 months, if and to the extent such loss is taken into account in computing net income;

(4) Long-term capital gain: The term "long-term capital gain" means gain from the sale or exchange of a capital asset held for more than 24 months, if and to the extent such gain is taken into account in computing net income;

(5) Long-term capital loss: The term "long-term capital loss" means loss from the sale or exchange of a capital asset held for

more than 24 months, if and to the extent such loss is taken into account in computing net income;

(6) Net short-term capital gain: The term "net short-term capital gain" means the excess of short-term capital gains for the taxable year over the sum of (A) short-term capital losses for the taxable year, plus (B) the net short-term capital loss of the preceding taxable year to the extent brought forward to the taxable year under subsection (c);

(7) Net short-term capital loss: The term "net short-term capital loss" means the excess of short-term capital losses for the taxable year over the short-term capital gains for such year;

(8) Net long-term capital gain: The term "net long-term capital gain" means the excess of long-term capital gains for the taxable year over the long-term capital losses for such year;

(9) Net long-term capital loss: The term "net long-term capital loss" means the excess of long-term capital losses for the taxable year over the long-term capital gains for such year;

(b) Percentage taken into account: In the case of a taxpayer, other than a corporation, only the following percentages of the gain or loss recognized upon the sale or exchange of a capital asset shall be taken into account in computing net income:

100 percent if the capital asset has been held for not more than 24 months;

70 percent if the capital asset has been held for more than 24 months.

(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 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 50 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 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 50 percent of the net long-term capital loss.

(d) Limitation on capital losses: Long-term capital losses shall be allowed, but short-term capital losses shall be allowed only to the extent of short-term capital gains.

(e) Net short-term capital loss carry-over: If any taxpayer sustains in any taxable year, beginning after December 31, 1937, in the case of a taxpayer other than a corporation, or beginning after December 31, 1939, in the case of a corporation, 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.

(f) Retirement of bonds, etc.: For the purposes of this title, amounts received by the holder upon the retirement of bonds, debentures, notes, or certificates or other evidences of indebtedness issued by any corporation (including those issued by a government or political subdivision thereof), with interest coupons or in registered form, shall be considered as amounts received in exchange therefor.

(g) Gains and losses from short sales, etc.: For the purpose of this title—

(1) Gains or losses from short sales of property shall be considered as gains or losses from sales or exchanges of capital assets; and

(2) gains or losses attributable to the failure to exercise privileges or options to buy or sell property shall be considered as short-term capital gains or losses.

(h) Determination of period for which held:

For the purpose of this section—

(1) In determining the period for which the taxpayer has held property received on an exchange there shall be included the period for which he held the property exchanged, if under the provisions of section 113, the property received has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as the property exchanged.

(2) In determining the period for which the taxpayer has held property however acquired there shall be included the period for which such property was held by any other person, if under the provisions of section 113, such property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as it would have in the hands of such other person.

(3) In determining the period for which the taxpayer has held stock or securities received upon a distribution where no gain was recognized to the distributee under the provisions of section 112 (g) of the Revenue Act of 1928 (45 Stat. 818) or the Revenue Act of 1932 (48 Stat. 705) or under the provisions of section 371 (c) of the Revenue Act of 1938 or the Internal Revenue Code, there shall be included the period for which he held the stock or securities in the distributing corporation prior to the receipt of the stock or securities upon such distribution.

(4) In determining the period for which the taxpayer has held stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under section 118 of this title or section 118 of the Revenue Act of 1928 (45 Stat. 826), or the Revenue Act of 1932 (47 Stat. 208), or the Revenue Act of 1934 (48 Stat. 715), or the Revenue Act of 1936 (49 Stat. 1692), or the Revenue Act of 1938 (52 Stat. 503), or the Internal Revenue Code, relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, there shall be included the period for which he held the stock or securities the loss from the sale or other disposition of which was not deductible.

(5) In determining the period for which the taxpayer has held stock or rights to acquire stock received upon a distribution, if the basis of such stock or rights is determined under section 113 (a) (19) (A), there shall (under regulations prescribed by the Commissioner with the approval of the Secretary) be included the period for which he held the stock in the distributing corporation prior to the receipt of such stock or rights upon such distribution.

SEC. 118. Loss from wash sales of stock or securities.

(a) In the case of any loss claimed to have been sustained from any sale or other disposition of shares of stock or securities where it appears that, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date, the taxpayer has acquired (by purchase or by an exchange upon which the entire amount of gain or loss was recognized by law), or has entered into a contract or option so to acquire, substantially identical stock or securities, then no deduction for the loss shall be allowed under section 23 (e) (2); nor shall such deduction be allowed under section 23 (f) unless the claim is made by a corporation, a dealer in stocks or securities, and with respect to a transaction made in the ordinary course of its business.

(b) If the amount of stock or securities acquired (or covered by the contract or option to acquire) is less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the loss from the sale or other disposition of which is not deductible shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

(c) If the amount of stock or securities acquired (or covered by the contract or option to acquire) is not less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility of the loss shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

SEC. 119. Income from sources within United States.

(a) Gross income from sources in United States: The following items of gross income shall be treated as income from sources within the United States.

(1) Interest: Interest from the United States, any Territory, any political subdivision of a Territory, or the District of Columbia, and interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, not including—

(A) interest on deposits with persons carrying on the banking business paid to persons not engaged in business within the United States and not having an office or place of business therein, or

(B) interest received from a resident alien individual, a resident foreign corporation, or a domestic corporation, when it is shown to the satisfaction of the Commissioner that less than 20 percent of the gross income of such resident payor or domestic corporation has been derived from sources within the United States, as determined under the provisions of this section, for the 3-year period ending with the close of the taxable year of such payor preceding the payment of such interest, or for such part of such period as may be applicable, or

(C) income derived by a foreign central bank of issue from bankers' acceptances;

(2) Dividends. The amount received as dividends:

(A) from a domestic corporation other than a corporation entitled to the benefits of section 251, and other than a corporation less than 20 percent of whose gross income is shown to the satisfaction of the Commissioner to have been derived from sources within the United States, as determined under the provisions of this section, for the 3-year period ending with the close of the taxable year of such corporation preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence), or

(B) from a foreign corporation unless less than 50 percent of the gross income of such foreign corporation for the 3-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as determined under the provisions of this section; but only in an amount which bears the same ratio to such dividends as the gross income of the corporation for such period derived from sources within the United States bears to its gross income from all sources; but dividends from a foreign corporation shall, for the purposes of section 131 (relating to foreign tax credit), be treated as income from sources without the United States;

(3) Personal services: Compensation for labor or personal services performed in the United States, but in the case of a non-

resident alien individual temporarily present in the United States for a period or periods not exceeding a total of 90 days during the taxable year, compensation received by such an individual (if such compensation does not exceed $3,000 in the aggregate) for labor or services performed as an employee of, or under a contract with a nonresident alien, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, shall not be deemed to be income from sources within the United States;

(4) Rentals and royalties: Rentals or royalties from property located in the United States or from any interest in such property, including rentals or royalties for the use of or for the privilege of using in the United States, patents, copyrights, secret processes and formulas, goodwill, trade-marks, trade brands, franchises, and other like property; and

(5) Sale of real property: Gains, profits, and income from the sale of real property located in the United States.

(6) Sale of personal property: For gains, profits, and income from the sale of personal property, see subsection (e).

(b) Net income from sources in United States: From the items of gross income specified in subsection (a) of this section there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income. The remainder, if any, shall be included in full as net income from sources within the United States.

(c) Gross income from sources without United States: The following items of gross income shall be treated as income from sources without the United States:

(1) Interest other than that derived from sources within the United States as provided in subsection (a) (1) of this section;

(2) Dividends other than those derived from sources within the United States as provided in subsection (a) (2) of this section;

(3) Compensation for labor or personal services performed without the United States;

(4) Rentals or royalties from property located without the United States or from any interest in such property, including rentals or royalties for the use of or for the privilege of using without the United States, patents, copyrights, secret processes and formulas, goodwill, trade-marks, trade brands, franchises, and other like properties; and

(5) Gains, profits, and income from the sale of real property located without the United States.

(d) Net income from sources without United States: From the items of gross income specified in subsection (c) of this section there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto, and a ratable part of any expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income. The remainder, if any, shall be treated in full as net income from sources without the United States.

(e) Income from sources partly within and partly without United States: Items of gross income, expenses, losses, and deductions, other than those specified in subsections (a) and (c) of this section, shall be allocated or apportioned to sources within or without the United States, under rules and regulations prescribed by the Commissioner with the approval of the Secretary. Where items of gross income are separately allocated to sources within the United States, there shall be deducted (for the purpose of computing the net income therefrom) the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of other expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income. The remainder if any, shall be included in full as net income from sources within the United States. In the case of gross income derived from sources partly within and partly without the United States, the net income may first be computed by deducting the expenses, losses, or other deductions apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which cannot definitely be allocated to some items or class of gross income; and the portion of such net income attributable to sources within the United States may be determined by processes or formulas of general apportionment prescribed by the Commissioner with the approval of the Secretary. Gains, profits, and income from—

(1) transportation or other services rendered partly within and partly without the United States or

(2) from the sale of personal property produced (in whole or in part) by the taxpayer within and sold without the United States, or produced (in whole or in part) by the taxpayer without and sold within the United States,

shall be treated as derived partly from sources within and partly from sources without the United States. Gains, profits, and income derived from the purchase of personal property within and its sale without the United States or from the purchase of personal property without and its sale within the United States, shall be treated as derived entirely from sources within the country in which sold, except that gains, profits, and income derived from the purchase of personal property within a possession of the United States and its sale within the United States shall be treated as derived partly from sources within and partly from sources without the United States.

(f) Definitions: As used in this section the words "sale" or "sold" include "exchange" or "exchanged"; and the word "produced" includes "created," "fabricated," "manufactured," "extracted," "processed," "cured," or "aged."

SEC. 120. Unlimited deduction for charitable and other contributions.

In the case of an individual if in the taxable year and in each of the 10 preceding taxable years the amount of the contributions or gifts described in section 23 (o) (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.

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 124.

SEC. 122. Net operating loss deduction.

(a) Definition of net operating loss: As used in this section, the term "net operating loss" means the excess of the deductions allowed by this title over the gross income, with the exceptions and limitations provided in subsection (d).

(b) Amount of carry-over: The term "net operating loss carry-over" means in the case of any taxable year the sum of—

(1) The amount, if any, of the net operating loss for the first preceding taxable year; and

(2) The amount of the net operating loss, if any, for the second preceding taxable year reduced by the excess, if any, of the net income (computed with the exceptions and limitations provided in subsection (d) (1), (2), (3), and (4)) for the first preceding taxable year over the net operating loss for the third preceding taxable year.

(c) Amount of net operating loss deduction: The amount of the net operating loss deduction shall be the amount of the net operating loss carry-over reduced by the amount, if any, by which the net income (computed with the exceptions and limitations provided in subsections (d) (1), (2), (3), and (4)) exceeds, in the case of a taxpayer other than a corporation, the net income (computed without such deduction), or, in the case of a corporation, the normal-tax net income (computed without such deduction);

(d) Exceptions and limitations: The exceptions and limitations referred to in subsections (a), (b), and (c) shall be as follows:

(1) 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);

(2) 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;

(3) No net operating loss deduction shall be allowed;

(4) Long-term capital gains and long-term capital losses shall be taken into account without regard to the provisions of section 117 (b). As so computed the amount deductible on account of long-term capital losses shall not exceed the amount includible on account of the long-term capital gains, and the amount deductible on account of short-term capital losses shall not exceed the amount includible on account of the short-term capital gains;

(5) Deductions otherwise allowed by law not attributable to the operation of a trade or business regularly carried on by the taxpayer shall (in the case of a taxpayer other than a corporation) be allowed only to the extent of the amount of the gross income not derived from such trade or business. For the purposes of this paragraph deductions and gross income shall be computed with the exceptions and limitations specified in paragraphs (1) to (4) of this subsection.

(e) No carry-over from year prior to 1939: As used in this section, the terms "third preceding taxable year," "second preceding taxable year," and "first preceding taxable year" do not include any taxable year beginning prior to January 1, 1939.

SEC. 123. Commodity credit loans.

(a) Amounts received as loans from the Commodity Credit Corporation shall, at the election of the taxpayer, be considered as income and shall be included in gross income for the taxable year in which received.

(b) If a taxpayer exercises the election provided for in subsection (a) for any taxable year beginning after December 31, 1938, then the method of computing income so adopted shall be adhered to with respect to all subsequent taxable years unless with the approval of the Commissioner a change to a different method is authorized.

SEC. 124. 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);

(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 125, 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 (j).

The amount under this paragraph 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 two 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 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 1938, the adjusted net income shall be the adjusted net income as defined in section 13 (a) of the Revenue Act of 1938 (52 Stat. 455), and the basic surtax credit shall be the basic surtax credit as defined in section 27 of the Revenue Act of 1938 (52 Stat. 468).

(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 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 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 section 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 125).

(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.

(j) Net operating loss of preceding year.—

(1) Amount of credit: The amount of the net operating loss (as defined in paragraph (2)) of the corporation for the preceding taxable year (if beginning after December 31, 1937), but not in excess of the adjusted net income for the taxable year.

(2) Definition: As used in this section 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.

In the case of a taxable year beginning after December 31, 1937, and before January 1, 1939, the term "net operating loss" means net operating loss as defined in section 26 (c) of the Revenue Act of 1938, 52 Stat. 467.

SEC. 125. 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 dstribution (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 1 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 taxabe 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 such other medium of payment as the Commissioner may by regulations authorize, 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.

SUPPLEMENT C—CREDITS AGAINST TAX

[Supplementary to subtitle B, part III]

SEC. 131. Taxes of foreign countries and possessions of United States.

(a) Allowance of credit: If the taxpayer signifies in his return his desire to have the benefits of this section, the tax imposed by this title, except the tax imposed by section 102, shall be credited with:

(1) Citizen and domestic corporation: In the case of a citizen of the United States and of a domestic corporation, the amount of any income, war-profits, and excess-profits taxes paid or accrued during the taxable year to any foreign country or to any possession of the United States; and

(2) Resident of United States: In the case of a resident of the United States, the amount of any such taxes paid or accrued during the taxable year to any possession of the United States; and

(3) Alien resident of United States: In the case of an alien resident of the United States, the amount of any such taxes paid or accrued during the taxable year to any foreign country, if the foreign country of which such alien resident is a citizen or subject, in imposing such taxes, allows a similar credit to citizens of the United States residing in such country; and

(4) Partnerships and estates: In the case of any such individual who is a member of a partnership or a beneficiary of an estate or trust, his proportionate share of such taxes of the partnership or the estate or trust paid or accrued during the taxable year to a foreign country or to any possession of the United States, as the case may be.

(b) Limit on credit: The amount of the credit taken under this section shall be subject to each of the following limitations:

(1) The amount of the credit in respect of the tax paid or accrued to any country shall not exceed the same proportion of the tax against which such credit is taken, which the taxpayer's net income from sources within such country bears to his entire net income, in the case of a taxpayer other than a corporation, or to the normal-tax net income, in the case of a corporation, for the same taxable year; and

(2) The total amount of the credit shall not exceed the same proportion of the tax against which such credit is taken, which the taxpayer's net income from sources without the United States bears to his entire net income, in the case of a taxpayer other than a corporation, or to the normal-tax net income, in the case of a corporation, for the same taxable year.

(c) Adjustments on payment of accrued taxes: If accrued taxes when paid differ from the amounts claimed as credits by the taxpayer, or if any tax paid is refunded in whole or in part, the taxpayer shall notify the Commissioner, who shall redetermine the amount of the tax for the year or years affected, and the amount of tax due upon such redetermination, if any, shall be paid by the taxpayer upon notice and demand by the collector, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of section 322. In the case of such a tax accrued but not paid, the Commissioner as a condition precedent to the allowance of this credit may require the taxpayer to give a bond with sureties satisfactory to and to be approved by the Commissioner in such sum as the Commissioner may require, conditioned upon the payment by the taxpayer of any amount of tax found due upon any such redetermination; and the bond herein prescribed shall contain such further conditions as the Commissioner may require.

(d) Year in which credit taken: The credits provided for in this section may, at the option of the taxpayer and irrespective of the method of accounting employed in keeping his books, be taken in the year in which the taxes of the foreign country or the possession of the United States accrued, subject, however, to the conditions prescribed in subsection (c) of this section. If the taxpayer elects to take such credits in the year in which the taxes of the foreign country or the possession of the United States accrued, the credits for all subsequent years shall be taken upon the same basis, and no portion of any such taxes shall be allowed as a deduction in the same or any succeeding year.

(e) Proof of credits: The credits provided in this section shall be allowed only if the taxpayer establishes to the satisfaction of the Commissioner (1) the total amount of income derived from sources without the United States, determined as provided in section 119, (2) the amount of income derived from each country, the tax paid or accrued to which is claimed as a credit under this section, such amount to be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary, and (3) all other information necessary for the verification and computation of such credits.

(f) Taxes of foreign subsidiary: For the purposes of this section a domestic corporation which owns a majority of the voting stock of a foreign corporation from which it receives dividends in any taxable year shall be deemed to have paid the same proportion of any income, war-profits, or excess-profits taxes paid by such foreign corporation to any foreign country or to any possession of the United States, upon or with respect to the accumulated profits of such foreign corporation from which such dividends were paid, which the amount of such dividends bears to the amount of such accumulated profits: *Provided*, That the amount of tax deemed to have been paid under this subsection shall in no case exceed the same proportion of the tax against which credit is taken which the amount of such dividends bears to the amount of the normal-tax net income of the domestic corporation in which such dividends are included. The term "accumulated profits" when used in this subsection in reference to a foreign corporation, means the amount of its gains, profits, or income in excess of the income, war-profits, and excess-profits taxes imposed upon or with respect to such profits or income; and the Commissioner with the approval of the Secretary shall have full power to determine from the accumulated profits of what year or years such dividends were paid; treating dividends paid in the first 60 days of any year as having been paid from the accumulated profits of the preceding year or years (unless to his satisfaction shown otherwise), and in other respects treating dividends as having been paid from the most recently accumulated gains, profits, or earnings. In the case of a foreign corporation, the income, war-profits, and excess-profits taxes of which are determined on the basis of an accounting period of less than 1 year, the word "year" as used in this subsection shall be construed to mean such accounting period.

(g) Corporations treated as foreign: For the purposes of this section the following corporations shall be treated as foreign corporations:

(1) A corporation entitled to the benefits of section 251, by reason of receiving a large percentage of its gross income from sources within a possession of the United States;

(2) A corporation organized under the China Trade Act, 1922, and entitled to the credit provided for in section 262.

SUPPLEMENT D—RETURNS AND PAYMENT OF TAX

[Supplementary to subtitle B, part V]

SEC. 141. Consolidated returns.

(a) Requirement to file consolidated returns: Corporations which are affiliated within the meaning of this section shall, under regulations to be prescribed by the Commissioner with the approval of the Secretary, make a consolidated return of net income and invested capital for the purposes of this title and title IB, and the taxes thereunder shall be computed and determined upon the basis

of such return. Except in the case of corporations which elected to file consolidated returns under section 141 of the internal revenue code, the net income and taxes hereunder shall be computed upon the basis of separate returns where the corporations elect to pay the alternative tax imposed by section 601 of title IB.

(b) Regulations: The Commissioner, with the approval of the Secretary, shall prescribe such regulations as he may deem necessary in order that the tax liability of any affiliated group of corporations making a consolidated return and of each corporation in the group, both during and after the period of affiliation, may be determined, computed, assessed, collected, and adjusted in such manner as clearly to reflect the income and to prevent avoidance of tax liability.

(c) Computation and payment of tax: In any case in which a consolidated return is made the tax shall be determined, computed, assessed, collected, and adjusted in accordance with the regulations under subsection (b) (or, in case such regulations are not prescribed prior to the making of the return, then the regulations prescribed under section 141 (b) of the Revenue Act of 1932 insofar as not inconsistent with this act) prescribed prior to the date on which such return is made.

(d) Definition of "affiliated group": As used in this section an "affiliated group" means one or more chains of corporations connected through stock ownership with a common parent corporation if—

(1) At least 95 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.

As used in this subsection the term "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(e) A consolidated return shall be made only for the domestic corporations within the affiliated group. An insurance company subject to the tax imposed by section 201 or 204 or a personal holding company subject to the tax imposed by title IA shall not be included in the same consolidated return with a corporation subject to the tax imposed by section 13 or 14, and an insurance company subject to the tax imposed by section 201 shall not be included in the same consolidated return with an insurance company subject to the tax imposed by section 204.

(f) China Trade Act corporations: A corporation organized under the China Trade Act, 1922, shall not be deemed to be affiliated with any other corporation within the meaning of this section.

(g) Corporations deriving income from possessions of United States: For the purposes of this section a corporation entitled to the benefits of section 251, by reason of receiving a large percentage of its income from possessions of the United States, shall be treated as a foreign corporation.

(h) Subsidiary formed to comply with foreign law: In the case of a domestic corporation owning or controlling, directly or indirectly, 100 percent of the capital stock (exclusive of directors' qualifying shares) of a corporation organized under the laws of a contiguous foreign country and maintained solely for the purpose of complying with the laws of such country as to title and operation of property, such foreign corporation may, at the option of the domestic corporation, be treated for the purpose of this title as a domestic corporation.

(i) Suspension of running of statute of limitations: If a notice under section 272 (a) in respect of a deficiency for any taxable year is mailed to a corporation, the suspension of the running of the statute of limitations, provided in section 277, shall apply in the case of corporations with which such corporation made a consolidated return for such taxable year.

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 gross income for the taxable year of $800 or over, if single, or if married and not living with husband or wife;

(2) Every individual having a gross income for the taxable year of $1,600 or over, if married and living with husband or wife;

(3) Every estate the gross income of which for the taxable year is $800 or over;

(4) Every trust the gross income of which for the taxable year is $100 or over;

(5) 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.

SEC. 143. Withholding of tax at source.

(a) Tax-free covenant bonds:

(1) Requirement of withholding: In any case where bonds, mortgages, or deeds of trust, or other similar obligations of a corporation, issued before January 1, 1934, contain a contract or provision by which the obligor agrees to pay any portion of the tax imposed by this title upon the obligee, or to reimburse the obligee for any portion of the tax, or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon, or to retain therefrom under any law of the United States, the obligor shall deduct and withhold a tax equal to 2 percent of the interest upon such bonds, mortgages, deeds of trust, or other obligations, whether such interest is payable annually or at shorter or longer periods, if payable to an individual, a partnership, or a foreign corporations not engaged in trade or business within the United States and not having any office or place of business therein: *Provided*, That if the liability assumed by the obligor does not exceed 2 percent of the interest, then the deduction and withholding shall be at the following rates: (A) 20 percent in the case of a nonresident alien individual (except that such rate shall be reduced, in the case of a resident of a contiguous country, to such rate, not less than 5 percent, as may be provided by treaty with such country), or of any partnership not engaged in trade or business within the United States and not having any office or place of business therein and composed in whole or in part of nonresident aliens; (B) in the case of such a foreign corporation, 25 percent; and (C) 2 percent in the case of other individuals and partnerships: *Provided further*, That if the owners of such obligations are not konwn to the withholding agent the Commissioner may authorize such deduction and withhoding to be at the rate of 2 percent, or, if the liability assumed by the obligor does not exceed 2 percent of the interest, then at the rate of 20 percent.

(2) Benefit of credits against net income: Such deduction and withholding shall not be required in the case of a citizen or resident entitled to receive such interest, if he files with the withholding agent on or before February 1 a signed notice in writing claiming the benefit of the credits provided in section 25 (b); nor in the case of a nonresident alien individual if so provided for in regulations prescribed by the Commissioner under section 215.

(3) Income of obligor and obligee: The obligor shall not be allowed a deduction for the payment of the tax imposed by this title, or any other tax paid pursuant to the tax-free covenant clause, nor shall such tax be included in the gross income of the obligee.

(b) Nonresident aliens: All persons, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the United States, having the control, receipt, custody, disposal, or payment of interest (except interest on deposits with persons carrying on the banking business paid to persons not engaged in business in the United States and not having an office or place of business therein), dividends, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income (but only to the extent that any of the above items constitutes gross income from sources within the United States), of any nonresident alien individual, or of any partnership not engaged in trade or business within the United States and not having any office or place of business therein and composed in whole or in part of nonresident aliens, shall (except in the cases provided for in subsection (a) of this section and except as otherwise provided in regulations prescribed by the Commissioner under section 215) deduct and withhold from such annual or periodical gains, profits, and income a tax equal to 10 percent thereof, except that such rate shall be reduced, in the case of a nonresident alien individual a resident of a contiguous country, to such rate (not less than 5 percent) as may be provided by treaty with such country: *Provided*, That no such deduction or withholding shall be required in the case of dividends paid by a foreign corporation unless (1) such corporation is engaged in trade or business within the United States or has an office or place of business therein, and (2) more than 85 percent of the gross income of such corporation for the 3-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as determined under the provisions of section 119: *Provided further*, That the Commissioner may authorize such tax to be deducted and withheld from the interest upon any securities the owners of which are not known to the withholding agent. Under regulations prescribed by the Commissioner, with the approval of the Secretary, there may be exempted from such deduction and withholding the compensation for personal services of nonresident alien individuals who enter and leave the United States at frequent intervals.

(c) Return and payment: Every person required to deduct and withhold any tax under this section shall make return thereof on or before March 15 of each year and shall on or before June 15, in lieu of the time prescribed in section 56, pay the tax to the official of the United States Government authorized to receive it. Every such person is hereby made liable for such tax and is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this section.

(d) Income of recipient: Income upon which any tax is required to be withheld at the source under this section shall be included in

the return of the recipient of such income, but any amount of tax so withheld shall be credited against the amount of income tax as computed in such return.

(e) Tax paid by recipient: If any tax required under this section to be deducted and withheld is paid by the recipient of the income, it shall not be re-collected from the withholding agent; nor in cases in which the tax is so paid shall any penalty be imposed upon or collected from the recipient of the income or the withholding agent for failure to return or pay the same, unless such failure was fraudulent and for the purpose of evading payment.

(f) Refunds and credits: Where there has been an overpayment of tax under this section any refund or credit made under the provisions of section 322 shall be made to the withholding agent unless the amount of such tax was actually withheld by the withholding agent.

(g) Withholding before enactment of title: Notwithstanding the provisions of subsections (a) and (b), the deduction and withholding for any period prior to the effective date of this title shall be upon the items of income and at the rates prescribed in section 143 (a) and (b) of the Internal Revenue Code, or corresponding provisions of any subsequent revenue act in effect prior to the effective date of this title, in lieu of the items and rates prescribed in such subsections.

SEC. 144. Payment of corporation income tax at source.

(a) General rule: In the case of foreign corporations subject to taxation under this title not engaged in trade or business within the United States and not having any office or place of business therein, there shall be deducted and withheld at the source in the same manner and upon the same items of income as is provided in section 143 a tax equal to 25 percent thereof, except that in the case of dividends the rate shall be 20 percent, and except that in the case of corporations organized under the laws of a contiguous country such rate of 20 percent with respect to dividends shall be reduced to such rate (not less than 5 percent) as may be provided by treaty with such country; and such tax shall be returned and paid in the same manner and subject to the same conditions as provided in that section: *Provided*, That in the case of interest described in subsection (a) of that section (relating to tax-free covenant bonds) the deduction and withholding shall be at the rate specified in such subsection.

(b) Withholding before enactment of title: Notwithstanding the provisions of subsection (a), the deduction and withholding for any period prior to the effective date of this title shall be upon the items of income and at the rates prescribed in section 144 of the Internal Revenue Code, or corresponding provision of any subsequent revenue act in effect prior to the effective date of this title, in lieu of the items and rates prescribed in such subsection.

SEC. 145. Penalties.

(a) Any person required under this title to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this title, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than 1 year, or both, together with the costs of prosecution.

(b) Any person required under this title to collect, account for, and pay over any tax imposed by this title, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than 5 years, or both, together with the costs of prosecution.

(c) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(d) For penalties for failure to file information returns with respect to foreign personal holding companies and foreign corporations, see section 340.

SEC. 146. Closing by Commissioner of taxable year.

(a) Tax in jeopardy:

(1) Departure of taxpayer or removal of property from United States: If the Commissioner finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect the tax for the taxable year then last past or the taxable year then current unless such proceedings be brought without delay, the Commissioner shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year or so much of such tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable. In any proceeding in court brought to enforce payment of taxes made due and payable by virtue of the provisions of this section the finding of the Commissioner, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence of the taxpayer's design.

(2) Corporation in liquidation: If the Commissioner finds that the collection of the tax of a corporation for the current or last preceding taxable year will be jeopardized by the distribution of all or a portion of the assets of such corporation in the liquidation of the whole or any part of its capital stock, the Commissioner shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the last preceding taxable year or so much of such tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable.

(b) Security for payment: A taxpayer who is not in default in making any return or paying income, war-profits, or excess-profits tax under any act of Congress may furnish to the United States, under regulations to be prescribed by the Commissioner, with the approval of the Secretary, security approved by the Commissioner that he will duly make the return next thereafter required to be filed and pay the tax next thereafter required to be paid. The Commissioner may approve and accept in like manner security for return and payment of taxes made due and payable by virtue of the provisions of this section, provided the taxpayer has paid in full all other income, war-profits, or excess-profits taxes due from him under any act of Congress.

(c) Same—Exemption from section: If security is approved and accepted pursuant to the provisions of this section and such further or other security with respect to the tax or taxes covered thereby is given as the Commissioner shall from time to time find necessary and require, payment of such taxes shall not be enforced by any proceedings under the provisions of this section prior to the expiration of the time otherwise allowed for paying such respective taxes.

(d) Citizens: In the case of a citizen of the United States or of a possession of the United States about to depart from the United States the Commissioner may, at his discretion, waive any or all of the requirements placed on the taxpayer by this section.

(e) Departure of alien: No alien shall depart from the United States unless he first procures from the collector or agent in charge a certificate that he has compiled with all the obligations imposed upon him by the income, war-profits, and excess-profits tax laws.

(f) Addition to tax: If a taxpayer violates or attempts to violate this section there shall, in addition to all other penalties, be added as part of the tax 25 percent of the total amount of the tax or deficiency in the tax, together with interest at the rate of 6 percent per annum from the time the tax became due.

SEC. 147. Information at source.

(a) Payments of $500 or more: All persons, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, and employers, making payment to another person, of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments described in section 148 (a) or 149), or of $500 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Commissioner, under such regulations and in such form and manner and to such extent as may be prescribed by him with the approval of the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

(b) Returns regardless of amount of payment: Such returns may be required, regardless of amounts, (1) in the case of payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations, and (2) in the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by persons undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

(c) Recipient to furnish name and address: When necessary to make effective the provisions of this section the name and address of the recipient of income shall be furnished upon demand of the person paying the income.

(d) Obligations of United States: The provisions of this section shall not apply to the payment of interest on obligations of the United States.

SEC. 148. Information by corporations.

(a) Dividend payments: Every corporation shall, when required by the Commissioner, render a correct return, duly verified under oath, of its payments of dividends, stating the name and address of each shareholder, the number of shares owned by him, and the amount of dividends paid to him.

(b) Profits declared as dividends: Every corporation shall, when required by the Commissioner, furnish him a statement of such facts as will enable him to determine the portion of the earnings or profits of the corporation (including gains, profits, and income not taxed) accumulated during such periods as the Commissioner may specify, which have been distributed or ordered to be

distributed, respectively, to its shareholders during such taxable years as the Commissioner may specify.

(c) Accumulated earnings and profits: When requested by the Commissioner, or any collector, every corporation shall forward to him a correct statement of accumulated earnings and profits and the names and addresses of the individuals or shareholders who would be entitled to the same if divided or distributed, and of the amounts that would be payable to each.

(d) Contemplated dissolution or liquidation: Every corporation shall, within 30 days after the adoption by the corporation of a resolution or plan for the dissolution of the corporation or for the liquidation of the whole or any part of its capital stock, render a correct return to the Commissioner, verified under oath, setting forth the terms of such resolution or plan and such other information as the Commissioner shall, with the approval of the Secretary, by regulations prescribe.

(e) Distributions in liquidation: Every corporation shall, when required by the Commissioner, render a correct return, duly verified under oath, of its distributions in liquidation, stating the name and address of each shareholder, the number and class of shares owned by him, and the amount paid to him or, if the distribution is in property other than money, the fair market value (as of the date the distribution is made) of the property distributed to him.

(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 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. It shall be unlawful for any person to sell, offer for sale, or circulate, for any consideration whatsoever, any copy or reproduction of any list, or part thereof, authorized to be made public by this act or by any prior act relating to the publication of information derived from income-tax returns; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding $1,000 or by imprisonment not exceeding 1 year, or both, at the discretion of the court: *Provided*, That nothing in this sentence shall be construed to be applicable with respect to any newspaper, or other periodical publication, entitled to admission to the mails as second-class mail matter.

SEC. 149. Returns of brokers.

Every person doing business as a broker shall, when required by the Commissioner, render a correct return duly verified under oath, under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe, showing the names of customers for whom such person has transacted any business, with such details as to the profits, losses, or other information which the Commissioner may require, as to each of such customers, as will enable the Commissioner to determine whether all income tax due on profits or gains of such customers has been paid.

SEC. 150. Collection of foreign items.

All persons undertaking as a matter of business or for profit the collection of foreign payments of interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Commissioner and shall be subject to such regulations enabling the Government to obtain the information required under this title as the Commissioner, with the approval of the Secretary, shall prescribe; and whoever knowingly undertakes to collect such payments without having obtained a license therefor, or without complying with such regulations, shall be guilty of a misdemeanor and shall be fined not more than $5,000 or imprisoned for not more than 1 year, or both.

SEC. 151. Foreign personal holding companies.

For information returns by officers, directors, and large shareholders, with respect to foreign personal holding companies, see sections 338, 339, and 340.

SUPPLEMENT E—ESTATES AND TRUSTS

SEC. 161. Imposition of tax.

(a) Application of tax: The taxes imposed by this title upon individuals shall apply to the income of estates or of any kind of property held in trust, including—

(1) Income accumulated in trust for the benefit of unborn or unascertained person or persons with contingent interests, and income accumulated or held for future distribution under the terms of the will or trust;

(2) Income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a guardian of an infant which is to be held or distributed as the court may direct;

(3) Income received by estates of deceased persons during the period of administration or settlement of the estate; and

(4) Income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated.

(b) Computation and payment: The tax shall be computed upon the net income of the estate or trust, and shall be paid by the fiduciary, except as provided in section 166 (relating to revocable trusts) and section 167 (relating to income for benefit of the grantor). For return made by fiduciary, see section 142.

SEC. 162. Net income.

The net income of the estate or trust shall be computed in the same manner and on the same basis as in the case of an individual, except that—

(a) There shall be allowed as a deduction (in lieu of the deduction for charitable, etc., contributions authorized by section 23 (o)) any part of the gross income, without limitation, which pursuant to the terms of the will or deed creating the trust, is during the taxable year paid or permanently set aside for the purposes and in the manner specified in section 23 (o), or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance, or operation of a public cemetery not operated for profit;

(b) There shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is to be distributed currently by the fiduciary to the beneficiaries, and the amount of the income collected by a guardian of an infant which is to be held or distributed as the court may direct, but the amount so allowed as a deduction shall be included in computing the net income of the beneficiaries whether distributed to them or not. Any amount allowed as a deduction under this paragraph shall not be allowed as a deduction under subsection (c) of this section in the same or any succeeding taxable year;

(c) In the case of income received by estates of deceased persons during the period of administration or settlement of the estate, and in the case of income which, in the discretion of the fiduciary, may be either distributed to the beneficiary or accumulated, there shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year, which is properly paid or credited during such year to any legatee, heir, or beneficiary, but the amount so allowed as a deduction shall be included in computing the net income of the legatee, heir, or beneficiary.

SEC. 163. Credits against net income.

(a) Credits of estate or trust:

(1) For the purpose of the normal tax and the surtax an estate shall be allowed the same personal exemption as is allowed to a single person under section 25 (b) (1), and a trust shall be allowed (in lieu of the personal exemption under section 25 (b) (1)) a credit of $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.

SEC. 164. Different taxable years.

If the taxable year of a beneficiary is different from that of the estate or trust, the amount which he is required, under section 162 (b), to include in computing his net income, shall be based upon the income of the estate or trust for any taxable year of the estate or trust (whether beginning on, before, or after the effective date of this title) ending within or with his taxable year.

SEC. 165. Employees' trusts.

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).

SEC. 166. Revocable trusts.

Where at any time the power to revest in the grantor title to any part of the corpus of the trust is vested—

(1) in the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom, or

(2) in any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom, then the income of such part of the trust shall be included in computing the net income of the grantor.

SEC. 167. Income for benefit of grantor.

(a) Where any part of the income of a trust—

(1) is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, held or accumulated for future distribution to the grantor; or

(2) may, in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income, be distributed to the grantor; or

(3) is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, applied to the payment of premiums upon policies of insurance on the life of the grantor (except policies of insurance irrevocably payable for the purposes and in the manner specified in section 23 (o), relating to the so-called "charitable contribution" deduction);

then such part of the income of the trust shall be included in computing the net income of the grantor.

(b) As used in this section, the term "in the discretion of the grantor" means "in the discretion of the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of the part of the income in question".

SEC. 168. Taxes of foreign countries and possessions of United States.

The amount of income, war-profits, and excess-profits taxes imposed by foreign countries or possessions of the United States shall be allowed as credit against the tax of the beneficiary of an estate or trust to the extent provided in section 131.

SEC. 169. Common trust funds.

(a) Definitions: The term "common trust fund" means a fund maintained by a bank (as defined in section 104)—

(1) exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity as a trustee, executor, administrator, or guardian; and

(2) in conformity with the rules and regulations, prevailing from time to time, of the Board of Governors of the Federal Reserve System pertaining to the collective investment of trust funds by national banks.

(b) Taxation of common trust funds: A common trust fund shall not be subject to taxation under this title, and for the purposes of this title shall not be considered a corporation.

(c) Income of participants in fund:

(1) Inclusions in net income: Each participant in the common trust fund in computing its net income shall include, whether or not distributed and whether or not distributable—

(A) As a part of its short-term capital gains or losses, its proportionate share of the net short-term capital gain or loss of the common trust fund;

(B) As a part of its long-term capital gains or losses, its proportionate share of the net long-term capital gain or loss of the common trust fund;

(C) Its proportionate share of the ordinary net income or the ordinary net loss of the common trust fund, computed as provided in subsection (d).

(2) Credit for partially exempt interest: The proportionate share of each participant in the amount of interest specified in section 25 (a) received by the common trust fund shall for the purposes of this supplement be considered as having been received by such participant as such interest.

(d) Computation of common trust-fund income: The net income of the common trust fund shall be computed in the same manner and on the same basis as in the case of an individual, except that—

(1) There shall be segregated the short-term capital gains and losses and the long-term capital gains and losses, and the net short-term capital gain or loss and the net long-term capital gain or loss shall be computed;

(2) After excluding all items of either short-term or long-term capital gain or loss, there shall be computed—

(A) An ordinary net income which shall consist of the excess of the gross income over the deductions; or

(B) An ordinary net loss which shall consist of the excess of the deductions over the gross income;

(3) The so-called "charitable contribution" deduction allowed by section 23 (o) shall not be allowed.

(e) Admission and withdrawal: No gain or loss shall be realized by the common trust fund by the admission or withdrawal of a participant. The withdrawal of any participating interest by a participant shall be treated as a sale or exchange of such interest by the participant.

(f) Returns by bank: Every bank (as defined in sec. 104) maintaining a common trust fund shall make a return under oath for each taxable year, stating specifically, with respect to such fund, the items of gross income and the deductions allowed by this title, and shall include in the return the names and addresses of the participants who would be entitled to share in the net income if distributed and the amount of the proportionate share of each participant. The return shall be sworn to as in the case of a return filed by the bank under section 52.

(g) Different taxable years of common trust fund and participant: If the taxable year of the common trust fund is different from that of a participant, the inclusions with respect to the net income of the common trust fund, in computing the net income of the participant for its taxable year shall be based upon the net income of the common trust fund for any taxable year of the common trust fund (whether beginning on, before, or after January 1, 1939) ending within or with the taxable year of the participant.

SEC. 170. Net operating losses.

The benefit of the deduction for net operating losses allowed by section 23 (s) shall be allowed to estates and trusts under regulations prescribed by the Commissioner with the approval of the Secretary. The benefit of such deduction shall not be allowed to a common trust fund, but shall be allowed to the participants in the common trust fund under regulations prescribed by the Commissioner with the approval of the Secretary.

SUPPLEMENT F—PARTNERSHIPS

SEC. 181. Partnership not taxable.

Individuals carrying on business in partnership shall be liable for income tax only in their individual capacity.

SEC. 182. Tax of partners.

In computing the net income of each partner, he shall include, whether or not distribution is made to him—

(a) As a part of his short-term capital gains or losses, his distributive share of the net short-term capital gain or loss of the partnership.

(b) As a part of his long-term capital gains or losses, his distributive share of the net long-term capital gain or loss of the partnership.

(c) His distributive share of the ordinary net income or the ordinary net loss of the partnership, computed as provided in section 183 (b).

SEC. 183. Computation of partnership income.

(a) General rule: The net income of the partnership shall be computed in the same manner and on the same basis as in the case of an individual, except as provided in subsections (b) and (c).

(b) Segregation of items:

(1) Capital gains and losses: There shall be segregated the short-term capital gains and losses and the long-term capital gains and losses, and the net short-term capital gain or loss and the net long-term capital gain or loss shall be computed.

(2) Ordinary net income or loss: After excluding all items of either short-term or long-term capital gain or loss, there shall be computed—

(A) An ordinary net income which shall consist of the excess of the gross income over the deductions; or

(B) An ordinary net loss which shall consist of the excess of the deductions over the gross income.

(c) Charitable contributions: In computing the net income of the partnership the so-called charitable contribution deduction allowed by section 23 (o) shall not be allowed; but each partner shall be considered as having made payment, within his taxable year, of his distributive portion of any contribution or gift, payment of which was made by the partnership within its taxable year, of the character which would be allowed to the partnership as a deduction under such section if this subsection had not been enacted.

SEC. 184. Credits against net income.

The partner shall, for the purpose of the normal tax, be allowed as a credit against his net income, in addition to the credits allowed to him under section 25, his proportionate share of such amounts (not in excess of the net income of the partnership) of interest specified in section 25 (a) as are received by the partnership.

SEC. 185. Taxes of foreign countries and possessions of United States.

The amount of income, war-profits, and excess-profits taxes imposed by foreign countries or possessions of the United States shall be allowed as a credit against the tax of the member of a partnership to the extent provided in section 131.

SEC. 186. Partnership returns.

Every partnership shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowed by this title and such other information for the purpose of carrying out the provisions of this title as the Commissioner with the approval of the Secretary may by regulations prescribe, and shall include in the return the names and addresses of the individuals who would be entitled to share in the net income if distributed and the amount of the distributive share of each individual. The return shall be sworn to by any one of the partners.

SEC. 187. Different taxable years of partner and partnership.

If the taxable year of a partner is different from that of the partnership, the inclusions with respect to the net income of the partnership, in computing the net income of the partner for his taxable year, shall be based upon the net income of the partnership for any taxable year of the partnership (whether beginning on, before, or after January 1, 1939) ending within or with the taxable year of the partner.

SEC. 188. Net operating losses.

The benefit of the deduction for net operating losses allowed by section 23 (s) shall not be allowed to a partnership but shall be allowed to the members of the partnership under regulations prescribed by the Commissioner with the approval of the Secretary.

SUPPLEMENT G—INSURANCE COMPANIES

SEC. 201. Tax on life insurance companies.

(a) Definition: When used in this title the term "life insurance company" means an insurance company engaged in the business of issuing life insurance and annuity contracts (including contracts of combined life health, and accident insurance), the reserve funds of which held for the fulfillment of such contracts comprise more than 50 percent of its total reserve funds.

(b) Imposition of tax:

(1) In general: There shall be levied, collected, and paid for each taxable year upon the normal-tax net income of every life insurance company a tax at the rates provided in section 13 or section 14 (b).

(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.

(3) No United States insurance business: Foreign life insurance companies not carrying on an insurance business within the United States and holding no reserve funds upon business transacted within the United States, shall not be taxable under this section but shall be taxable as other foreign corporations.

SEC. 202. Gross income of life insurance companies.

(a) Gross income defined:

(1) In general: 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.

(2) Cross reference:

For inclusion in computation of tax of amount specified in shareholder's consent, see section 125.

(b) Reserve funds required by law, defined: The term "reserve funds required by law" includes, in the case of assessment insurance, sums actually deposited by any company or association with State or Territorial officers pursuant to law as guaranty or reserve funds, and any funds maintained under the charter or articles of incorporation of the company or association exclusively for the payment of claims arising under certificates of membership or policies issued upon the assessment plan and not subject to any other use.

SEC. 203. Net income of life insurance companies.

(a) General rule: In the case of a life insurance company the term "net income" means the gross income less—

(1) Tax-free interest: The amount of interest received during the taxable year which under section 22 (b) (4) is excluded from gross income;

(2) Reserve funds: An amount equal to 4 percent of the mean of the reserve funds required by law and held at the beginning and end of the taxable year, except that in the case of any such reserve fund which is computed at a lower interest assumption rate, the rate of 3¾ percent shall be substituted for 4 percent. Life-insurance companies issuing policies covering life, health, and accident insurance combined in one policy issued on the weekly premium payment plan, continuing for life and not subject to cancelation, shall be allowed, in addition to the above, a deduction of 3¾ percent of the mean of such reserve funds (not required by law) held at the beginning and end of the taxable year, as the Commissioner finds to be necessary for the protection of the holders of such policies only;

(3) Reserve for dividends: An amount equal to 2 percent of any sums held at the end of the taxable year as a reserve for dividends (other than dividends payable during the year following the taxable year) the payment of which is deferred for a period of not less than 5 years from the date of the policy contract;

(4) Investment expenses: Investment expenses paid during the taxable year: *Provided*, That if any general expenses are in part assigned to or included in the investment expenses, the total deduction under this paragraph shall not exceed one-fourth of 1 percent of the book value of the mean of the invested assets held at the beginning and end of the taxable year.

(5) Real-estate expenses: Taxes and other expenses paid during the taxable year exclusively upon or with respect to the real estate owned by the company, not including taxes assessed against local benefits of a kind tending to increase the value of the property assessed, and not including any amount paid out for new buildings, or for permanent improvements or betterments made to increase the value of any property. The deduction allowed by this paragraph shall be allowed in the case of taxes imposed upon a shareholder of a company upon his interest as shareholder, which are paid by the company without reimbursement from the shareholder, but in such cases no deduction shall be allowed the shareholder for the amount of such taxes;

(6) Depreciation: A reasonable allowance, as provided in section 23 (l), for the exhaustion, wear, and tear of property, including a reasonable allowance for obsolescence; and

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

(8) The amount of the net operating loss deduction provided in section 23 (s).

(b) Rental value of real estate: The deduction under subsection (a) (5) or (6) of this section on account of any real estate owned and occupied in whole or in part by a life-insurance company shall be limited to an amount which bears the same ratio to such deduction (computed without regard to this subsection) as the rental value of the space not so occupied bears to the rental value of the entire property.

SEC. 204. Insurance companies other than life or mutual.

(a) Imposition of tax—

(1) In general: 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 at the rates provided in section 13 or section 14 (b).

(2) Normal-tax net income of foreign companies: In the case of a foreign insurance company (other than a life or mutual insurance company), the normal-tax net income shall be the net income from sources within the United States minus the sum of—

(A) Interest on obligations of the United States and its instrumentalities: The credit provided in section 26 (a).

(B) Dividends received: The credit provided in section 26 (b).

(3) No United States insurance business: Foreign insurance companies not carrying on an insurance business within the United States shall not be taxable under this section but shall be taxable as other foreign corporations.

(b) Definition of income, etc.: In the case of an insurance company subject to the tax imposed by this section—

(1) Gross income: "Gross income" means the sum of (A) the combined gross amount earned during the taxable year, from investment income and from underwriting income as provided in this subsection, computed on the basis of the underwriting and investment exhibit of the annual statement approved by the National Convention of Insurance Commissioners, and (B) gain during the taxable year from the sale or other disposition of property, and (C) all other items constituting gross income under section 22;

(2) Net income: "Net income" means the gross income as defined in paragraph (1) of this subsection less the deductions allowed by subsection (c) of this section;

(3) Investment income: "Investment income" means the gross amount of income earned during the taxable year from interest, dividends, and rents, computed as follows:

To all interest, dividends, and rents received during the taxable year add interest, dividends, and rents due and accrued at the end of the taxable year, and deduct all interest, dividends, and rents due and accrued at the end of the preceding taxable year;

(4) Underwriting income: "Underwriting income" means the premiums earned on insurance contracts during the taxable year less losses incurred and expenses incurred;

(5) Premiums earned: "Premiums earned on insurance contracts during the taxable year" means an amount computed as follows:

From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance. To the result so obtained add unearned premiums on outstanding business at the end of the preceding taxable year and deduct unearned premiums on outstanding business at the end of the taxable year;

(6) Losses incurred: "Losses incurred" means losses incurred during the taxable year on insurance contracts, computed as follows:

To losses paid during the taxable year, add salvage and reinsurance recoverable outstanding at the end of the preceding taxable year, and deduct salvage and reinsurance recoverable outstanding at the end of the taxable year. To the result so obtained add all unpaid losses outstanding at the end of the taxable year and deduct unpaid losses outstanding at the end of the preceding taxable year;

(7) Expenses incurred: "Expenses incurred" means all expenses shown on the annual statement approved by the National Convention of Insurance Commissioners, and shall be computed as follows:

To all expenses paid during the taxable year add expenses unpaid at the end of the taxable year and deduct expenses unpaid at the end of the preceding taxable year. For the purpose of computing the net income subject to the tax imposed by this section there shall be deducted from expenses incurred as defined in this paragraph all expenses incurred which are not allowed as deductions by subsection (c) of this section.

(c) Deductions allowed: In computing the net income of an insurance company subject to the tax imposed by this section there shall be allowed as deductions:

(1) All ordinary and necessary expenses incurred, as provided in section 23 (a);

(2) All interest as provided in section 23 (b);

(3) Taxes as provided in section 23 (c);

(4) Losses incurred as defined in subsection (b) (6) of this section;

(5) Subject to the limitation contained in section 117 (d), losses sustained during the taxable year from the sale or other disposition of property;

(6) Bad debts in the nature of agency balances and bills receivable ascertained to be worthless and charged off within the taxable year;

(7) The amount of interest earned during the taxable year which under section 22 (b) (4) is excluded from gross income;

(8) A reasonable allowance for the exhaustion, wear, and tear of property, as provided in section 23 (l);

(9) Charitable, and so forth, contributions, as provided in section 23 (q).

(10) Deductions (other than those specified in this subsection) as provided in section 23.

(d) Deductions of foreign corporations: In the case of a foreign corporation the deductions allowed in this section shall be allowed to the extent provided in Supplement I in the case of a foreign corporation engaged in trade or business within the United States or having an office or place of business therein.

(e) Double deductions: Nothing in this section shall be construed to permit the same item to be twice deducted.

SEC. 205. Taxes of foreign countries and possessions of United States.

The amount of income, war-profits, and excess-profits taxes imposed by foreign countries or possessions of the United States shall be allowed as a credit against the tax of a domestic insurance company subject to the tax imposed by section 201, 204, or 207, to the extent provided in the case of a domestic corporation in section 131, and in the case of the tax imposed by section 201 or 204 "net income" as used in section 131 means the net income as defined in this supplement.

SEC. 206. Computation of gross income.

The gross income of insurance companies subject to the tax imposed by section 201 or 204 shall not be determined in the manner provided in section 119.

SEC. 207. Mutual insurance companies other than life.

(a) Imposition of tax.—

(1) In general: There shall be levied, collected, and paid for each taxable year upon the normal-tax net income of every mutual insurance company (other than a life insurance company) a tax at the rates provided in section 13 or section 14 (b).

(2) Foreign corporations: The tax imposed by paragraph (1) shall apply to foreign corporations as well as domestic corporations; but foreign insurance companies not carrying on an insurance business within the United States shall be taxable as other foreign corporations.

(b) Gross income: Mutual marine-insurance companies shall include in gross income the gross premiums collected and received by them less amounts paid for reinsurance.

(c) Deductions: In addition to the deductions allowed to corporations by section 23 the following deductions to insurance companies shall also be allowed, unless otherwise allowed—

(1) Mutual insurance companies other than life insurance: In the case of mutual insurance companies other than life insurance companies—

(A) the net addition required by law to be made within the taxable year to reserve funds (including in the case of assessment insurance companies the actual deposit of sums with State or Territorial officers pursuant to law as additions to guarantee or reserve funds); and

(B) the sums other than dividends paid within the taxable year on policy and annuity contracts.

(2) Mutual marine insurance companies: In the case of mutual marine insurance companies, in addition to the deductions allowed in paragraph (1) of this subsection, unless otherwise allowed, amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment and the payment thereof;

(3) Mutual insurance companies other than life and marine: In the case of mutual insurance companies (including interinsurers and reciprocal underwriters, but not including mutual life or mutual marine insurance companies) requiring their members to make premium deposits to provide for losses and expenses, the amount of premium deposits returned to their policyholders and the amount of premium deposits retained for the payment of losses, expenses, and reinsurance reserves.

SEC. 208. Net operating losses.

The benefit of the deduction for net operating losses allowed by section 23 (s) shall be allowed to insurance companies subject to the taxes imposed in this supplement under regulations prescribed by the Commissioner with the approval of the Secretary.

SUPPLEMENT H—NONRESIDENT ALIEN INDIVIDUALS

SEC. 211. Tax on nonresident alien individuals.

(a) No United States business or office.—

(1) General rule.—

(A) Imposition of tax: 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 20 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.

(B) Cross reference.—

For inclusion in computation of tax of amount specified in shareholder's consent (see section 125).

(2) Aggregate more than $21,600: The tax imposed by paragraph (1) shall not apply to any individual if the aggregate amount received during the taxable year from the sources therein specified is more than $21,600.

(3) Residents of contiguous countries: Despite the provisions of paragraph (2), the provisions of paragraph (1) shall apply to a resident of a contiguous country so long as there is in effect a treaty with such country (ratified prior to August 26, 1937) under which the rate of tax under section 211 (a) of the Revenue Act of 1936 (49 Stat. 1714) prior to its amendment by section 501 (a) of the Revenue Act of 1937 (50 Stat. 830) was reduced.

(b) United States business or office: A nonresident alien individual engaged in trade or business in the United States or having an office or place of business therein shall be taxable without regard to the provisions of subsection (a). As used in this section, section 119, section 143, section 144, and section 231, the phrase "engaged in trade or business within the United States" includes the performance of personal services within the United States at any time within the taxable year, but does not include the performance of personal services for a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, by a nonresident alien individual temporarily present in the United States for a period or periods not exceeding a total of 90 days during the taxable year and whose compensation for such services does not exceed in the aggregate $3,000. Such phrase does not include the effecting of transactions in the United States in stocks, securities, or commodities through a resident broker, commission agent, or custodian.

(c) No United States business or office and gross income of more than $21,600: A nonresident alien individual not engaged in trade or business within the United States and not having an office or place of business therein who has a gross income for any taxable year of more than $21,600 from the sources specified in subsection (a) (1) shall be taxable without regard to the provisions of subsection (a) (1), except that—

(1) The gross income shall include only income from the sources specified in subsection (a) (1);

(2) The deduction (other than the so-called charitable deduction provided in section 213 (c) shall be allowed only if and to the extent that they are properly allocable to the gross income from the sources specified in subsection (a) (1);

(3) The aggregate of the normal and surtax under sections 11 and 12 shall in no case be less than 10 percent of the gross income from the sources specified in subsection (a) (1); and

(4) This subsection shall not apply to a resident of a contiguous country so long as there is in effect a treaty with such country (ratified prior to August 26, 1937) under which the rate of tax under section 211 (a) of the Revenue Act of 1936, prior to its amendment by section 501 (a) of the Revenue Act of 1937, was reduced.

SEC. 212. Gross income.

(a) General rule: In the case of a nonresident alien individual gross income includes only the gross income from sources within the United States.

(b) Ships under foreign flag: The income of a nonresident alien individual which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States shall not be included in gross income and shall be exempt from taxation under this title.

SEC. 213. Deductions.

(a) General rule: In the case of a nonresident alien individual the deductions shall be allowed only if and to the extent that they are connected with income from sources within the United States; and the proper apportionment and allocation of the deductions with respect to sources of income within and without the United States shall be determined as provided in section 119 under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

(b) Losses:

(1) The deduction, for losses not connected with the trade or business if incurred in transactions entered into for profit, allowed by section 23 (e) (2) shall be allowed whether or not connected with income from sources within the United States, but only if the profit, if such transaction had resulted in a profit, would be taxable under this title.

(2) The deduction, for losses of property not connected with the trade or business if arising from certain casualties or theft, allowed by section 23 (e) (3), shall be allowed whether or not connected with income from sources within the United States, but only if the loss is of property within the United States.

(c) Charitable, etc., contributions: The so-called charitable contribution deduction allowed by section 23 (o) shall be allowed whether or not connected with income from sources within the United States, but only as to contributions or gifts made to domestic corporations, or to community chests, funds, or foundations, created in the United States, or to the vocational rehabilitation fund.

SEC. 214. Credits against net income.

In the case of a nonresident alien individual the personal exemption allowed by section 25 (b) (1) of this title shall be only $800. The credit for dependents allowed by section 25 (b) (2) shall not be allowed in the case of a nonresident alien individual unless he is a resident of a contiguous country.

SEC. 215. Allowance of deductions and credits.

(a) Return to contain information: A nonresident alien individual shall receive the benefit of the deductions and credits allowed to him in this title only by filing or causing to be filed with the collector a true and accurate return of his total income received from all sources in the United States, in the manner prescribed in this title; including therein all the information which the Commissioner may deem necessary for the calculation of such deductions and credits.

(b) Tax withheld at source: The benefit of the personal exemption may, in the discretion of the Commissioner and under regulations prescribed by him with the approval of the Secretary, be received by a nonresident alien individual entitled thereto, by filing a claim therefor with the withholding agent.

SEC. 216. Credits against tax.

A nonresident alien individual shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

SEC. 217. Returns.

(a) Requirement: In the case of a nonresident alien individual the return, in lieu of the time prescribed in section 53 (a) (1), shall be made on or before the fifteenth day of the sixth month following the close of the fiscal year, or, if the return is made on the basis of the calendar year, then on or before the 15th day of June.

(b) Exemption from requirement: Subject to such conditions, limitations, and exceptions and under such regulations as may be prescribed by the Commissioner, with the approval of the Secretary, nonresident alien individuals subject to the tax imposed by section 211 (a) may be exempted from the requirement of filing returns of such tax.

SEC. 218. Payment of tax.

(a) Time of payment: In the case of a nonresident alien individual the total amount of tax imposed by this title shall be paid, in lieu of the time prescribed in section 56 (a), on the 15th day of June following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the fifteenth day of the sixth month following the close of the fiscal year.

(b) Withholding at source: For withholding at source of tax on income of nonresident aliens, see section 143.

SEC. 219. Partnerships.

For the purpose of this title, a nonresident alien individual shall be considered as being engaged in a trade or business within the United States if the partnership of which he is a member is so engaged and as having an office or place of business within the United States if the partnership of which he is a member has such an office or place of business.

SUPPLEMENT I—FOREIGN CORPORATIONS

SEC. 231. Tax on foreign corporations.

(a) Nonresident corporations:

(1) Imposition of tax: There shall be levied, collected, and paid for each taxable year, in lieu of the tax imposed by sections 13 and 14, upon the amount received by every foreign corporation not engaged in trade or business within the United States and not having an office or place of business therein, from sources within the United States as interest (except interest on deposits with persons carrying on the banking business), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, a tax of 25 percent of such amount, except that in the case of dividends the rate shall be 20 percent, and except that in the case of corporations organized under the laws of a contiguous country such rate of 20 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.

(2) Cross reference:

For inclusion in computation of tax of amount specified in shareholder's consent, see section 125.

(b) Resident corporations: A foreign corporation engaged in trade or business within the United States or having an office or place of business therein shall be taxable as provided in section 14 (c) (1).

(c) Gross income: In the case of a foreign corporation gross income includes only the gross income from sources within the United States.

(d) Ships under foreign flag: The income of a foreign corporation, which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States, shall not be included in gross income and shall be exempt from taxation under this title.

SEC. 232. Deductions.

(a) In general: In the case of a foreign corporation the deductions shall be allowed only if and to extent that they are connected with income from sources within the United States; and the proper apportionment and allocation of the deductions with respect to sources within and without the United States shall be determined as provided in section 119, under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

(b) Charitable, and so forth, contributions: The so-called charitable contribution deduction allowed by section 23 (q) shall be allowed whether or not connected with income from sources within the United States.

SEC. 233. Allowance of deductions and credits.

A foreign corporation shall receive the benefit of the deductions and credits allowed to it in this title only by filing or causing to be filed with the collector a true and accurate return of its total income received from all sources in the United States, in the manner prescribed in this title; including therein all the information which the Commissioner may deem necessary for the calculation of such deductions and credits.

SEC. 234. Credits against tax.

Foreign corporations shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

SEC. 235. Returns.

(a) Time of filing: In the case of a foreign corporation not having any office or place of business in the United States the return, in lieu of the time prescribed in section 53 (a) (1), shall be made on or before the fifteenth day of the sixth month following the close of the fiscal year, or, if the return is made on the basis of the calendar year then on or before the fifteenth day of June. If any foreign corporation has no office or place of business in the United States but has an agent in the United States, the return shall be made by the agent.

Exemption from requirement: Subject to such conditions, limitations, and exceptions and under such regulations as may be prescribed by the Commissioner, with the approval of the Secretary, corporations subject to the tax imposed by section 231 (a) may be exempted from the requirement of filing returns of such tax.

SEC. 236. Payment of tax.

(a) Time of payment: In the case of a foreign corporation not having any office or place of business in the United States the total amount of tax imposed by this title shall be paid, in lieu of the time prescribed in section 56 (a), on the fifteenth day of June following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the fifteenth day of the sixth month following the close of the fiscal year.

(b) Withholding at source: For withholding at source of tax on income of foreign corporations, see section 144.

SEC. 237. Foreign insurance companies.

For special provisions relating to foreign insurance companies, see Supplement G.

SEC. 238. Affiliation.

A foreign corporation shall not be deemed to be affiliated with any other corporation within the meaning of section 141.

SUPPLEMENT J—POSSESSIONS OF THE UNITED STATES

SEC. 251. Income from sources within possessions of United States.

(a) General rule: In the case of citizens of the United States or domestic corporations, satisfying the following conditions, gross income means only gross income from sources within the United States—

(1) If 80 percent or more of the gross income of such citizen or domestic corporation (computed without the benefit of this section), for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States; and

(2) If, in the case of such corporation, 50 percent or more of its gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States; or

(3) If, in the case of such citizen, 50 percent or more of his gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States either on his own account or as an employee or agent of another.

(b) Amounts received in United States: Notwithstanding the provisions of subsection (a) there shall be included in gross income all amounts received by such citizens or corporations within the United States, whether derived from sources within or without the United States.

(c) Tax in case of corporations:

(1) Corporation tax: A domestic corporation entitled to the benefits of this section shall be subject to tax under section 13 or section 14 (b).

(2) Cross reference:

For inclusion in computation of tax amount specified in shareholder's consent, see section 125.

(d) Definition: As used in this section the term "possession of the United States" does not include the Virgin Islands of the United States.

(e) Deductions:

(1) Citizens of the United States entitled to the benefits of this section shall have the same deductions as are allowed by Supplement H in the case of a nonresident alien individual engaged in trade or business within the United States or having an office or place of business therein.

(2) Domestic corporations entitled to the benefits of this section shall have the same deductions as are allowed by Supplement I in the case of a foreign corporation engaged in trade or business within the United States or having an office or place of business therein.

(f) Credits against net income: A citizen of the United States entitled to the benefits of this section shall be allowed a personal exemption of only $800 and shall not be allowed the credit for dependents provided in section 25 (b) (2).

(g) Allowance of deductions and credits: Citizens of the United States and domestic corporations entitled to the benefits of this section shall receive the benefit of the deductions and credits allowed to them in this title only by filing or causing to be filed with the collector a true and accurate return of their total income received from all sources in the United States, in the manner prescribed in this title; including therein all the information which the Commissioner may deem necessary for the calculation of such deductions and credits.

(h) Credits against tax: Persons entitled to the benefits of this section shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

(i) Affiliation: A corporation entitled to the benefits of this section shall not be deemed to be affiliated with any other corporation within the meaning of section 141.

SEC. 252. Citizens of possessions of United States.

(a) Any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States shall be subject to taxation under this title only as to income derived from sources within the United States, and in such case the tax shall be computed and paid in the same manner and subject to the same conditions as in the case of other persons who are taxable only as to income derived from such sources.

(b) Nothing in this section shall be construed to alter or amend the provisions of the act entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1922, and for other purposes," approved July 12, 1921, relating to the imposition of income taxes in the Virgin Islands of the United States.

SUPPLEMENT K—CHINA TRADE ACT CORPORATION

SEC. 261. Rate of tax.

(a) Corporation tax: A corporation organized under the China Trade Act, 1922, 42 Stat. 849 (U. S. C., 1934 ed., title 15, ch. 4), shall be subject to tax under section 13 or section 14 (b).

(b) Cross reference:

For inclusion in computation of tax of amount specified in shareholder's consent, see section 125.

SEC. 262. Credit against net income.

(a) Allowance of credit: For the purpose only of the taxes imposed by sections 13, 14, and 600 of this title 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 or 14 (computed without regard to this section) exceed the amount of the special dividend certified under subsection (b) of this section; and in no case shall the diminution, by reason of such credit, of the tax imposed by such section 106 or 600 (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 or 14.

(b) Special dividend: Such credit shall not be allowed unless the Secretary of Commerce has certified to the Commissioner—

(1) The amount which, during the year ending on the date fixed by law for filing the return, the corporation has distributed as a special dividend to or for the benefit of such persons as on the last day of the taxable year were resident in China, the United States, or possessions of the United States, or were individual citizens of the United States or China, and owned shares of stock of the corporation;

(2) That such special dividend was in addition to all other amounts, payable or to be payable to such persons or for their benefit, by reason of their interest in the corporation; and

(3) That such distribution has been made to or for the benefit of such persons in proportion to the par value of the shares of stock of the corporation owned by each; except that if the corporation has more than one class of stock, the certificates shall contain a statement that the articles of incorporation provide a method for the apportionment of such special dividend among such persons, and that the amount certified has been distributed in accordance with the method so provided.

(c) Ownership of stock: For the purposes of this section shares of stock of a corporation shall be considered to be owned by the person in whom the equitable right to the income from such shares is in good faith vested.

(d) Definition of China: As used in this section the term "China" shall have the same meaning as when used in the China Trade Act, 1922.

SEC. 263. Credits against the tax.

A corporation organized under the China Trade Act, 1922, shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

SEC. 264. Affiliation.

A corporation organized under the China Trade Act, 1922, shall not be deemed to be affiliated with any other corporation within the meaning of section 141.

SEC. 265. Income of shareholders.

For exclusion of dividends from gross income, see section 116.

SUPPLEMENT I—ASSESSMENT AND COLLECTION OF DEFICIENCIES

SEC. 271. Definition of deficiency.

As used in this title in respect of a tax imposed by this title "deficiency" means—

(a) The amount by which the tax imposed by this title exceeds the amount shown as the tax by the taxpayer upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or

(b) If no amount is shown as the tax by the taxpayer upon his return, or if no return is made by the taxpayer, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assessment, shall first be decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax.

SEC. 272. Procedure in general.

(a) (1) Petition to Board of Tax Appeals: If in the case of any taxpayer, the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the taxpayer by registered mail. Within 90 days after such notice is mailed (not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day), the taxpayer may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such 90-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3653 (a) of the Internal Revenue Code the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court. In the case of a joint return filed by husband and wife such notice of deficiency may be a single joint notice, except that if the Commissioner has been notified by either spouse that separate residences have been established, then, in lieu of the single joint notice, duplicate originals of the joint notice must be sent by registered mail to each spouse at his last known address.

(2) Cross references.—

For exceptions to the restrictions imposed by this subsection, see—

Subsection (d) of this section, relating to waivers by the taxpayer;

Subsection (f) of this section, relating to notifications of mathematical errors appearing upon the face of the return;

Section 273, relating to jeopardy assessments;

Section 274, relating to bankruptcy and receiverships; and

Section 1145 of the Internal Revenue Code, relating to assessment or collection of the amount of the deficiency determined by the Board pending court review.

(b) Collection of deficiency found by Board: If the taxpayer files a petition with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final shall be assessed and shall be paid upon notice and demand from the collector. No part of the amount determined as a deficiency by the Commissioner but disallowed as such by the decision of the Board which has become final shall be assessed or be collected by distraint or by proceeding in court with or without assessment.

(c) Failure to file petition: If the taxpayer does not file a petition with the Board within the time prescribed in subsection (a) of this section, the deficiency, notice of which has been mailed to the taxpayer, shall be assessed, and shall be paid upon notice and demand from the collector.

(d) Waiver of restrictions: The taxpayer shall at any time have the right, by a signed notice in writing filed with the Commissioner, to waive the restrictions provided in subsection (a) of this section on the assessment and collection of the whole or any part of the deficiency.

(e) Increase of deficiency after notice mailed: The Board shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any penalty, additional amount or addition to the tax should be assessed—if claim therefor is asserted by the Commissioner at or before the hearing or a rehearing.

(f) Further deficiency letters restricted: If the Commissioner has mailed to the taxpayer notice of a deficiency as provided in subsection (a) of this section, and the taxpayer files a petition with the Board within the time prescribed in such subsection, the Commissioner shall have no right to determine any additional deficiency in respect of the same taxable year, except in the case of fraud, and except as provided in subsection (e) of this section, relating to assertion of greater deficiencies before the Board, or in section 273 (c), relating to the making of jeopardy assessments. If the taxpayer is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered (for the purposes of this subsection, or of subsection (a) of this section, prohibiting assessment and collection until notice of deficiency has been mailed, or of section 322 (c), prohibiting credits or refunds after petition to the Board of Tax Appeals) as a notice of a deficiency, and the taxpayer shall have no night to file a petition with the Board based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section.

(g) Jurisdiction over other taxable years: The Board in redetermining a deficiency in respect of any taxable year shall consider such facts with relation to the taxes for other taxable years as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other taxable year has been overpaid or underpaid.

(h) Final decisions of Board: For the purposes of this title the date on which a decision of the Board becomes final shall be determined according to the provisions of section 1140 of the Internal Revenue Code.

(i) Prorating of deficiency to installments: If the taxpayer has elected to pay the tax in installments and a deficiency has been assessed, the deficiency shall be prorated to the four installments. Except as provided in section 273 (relating to jeopardy assessments), that part of the deficiency so prorated to any installment the date for payment of which has not arrived, shall be collected at the same time as and as part of such installment. That part of the deficiency so prorated to any installment the date for payment of which has arrived, shall be paid upon notice and demand from the collector.

(j) Extension of time for payment of deficiencies: Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the taxpayer the Commissioner,

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.

(k) Address for notice of deficiency: In the absence of notice to the Commissioner under section 312 (a) of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by this title, if mailed to the taxpayer at his last known address, shall be sufficient for the purposes of this title even if such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(l) Provision for bond: If the taxpayer, upon receipt of a notice of deficiency as provided in subsection (a), desires to petition the Board of Tax Appeals for a redetermination of any portion or all of such deficiency, he shall, as a condition precedent to the filing of such petition, furnish to the Commissioner of Internal Revenue an acceptable bond in a sum fixed by the Commissioner, not exceeding double the amount of the deficiency as to which the appeal is taken, conditioned upon the payment of the deficiency as finally determined, together with any interest, additional amounts, or additions to the tax provided for by law.

SEC. 273. Jeopardy assessments.

(a) Authority for making: If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, he shall immediately assess such deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) and notice and demand shall be made by the collector for the payment thereof.

(b) Deficiency letters: If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under section 272 (a), then the Commissioner shall mail a notice under such subsection within 60 days after the making of the assessment.

(c) Amount assessable before decision of board: The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the taxpayer, despite the provisions of section 272 (f) prohibiting the determination of additional deficiencies, and whether or not the taxpayer has theretofore filed a petition with the Board of Tax Appeals. The Commissioner 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) Amount assessable after decision of Board: If the jeopardy assessment is made after the decision of the Board is rendered such assessment may be made only in respect of the deficiency determined by the Board in its decision.

(e) Expiration of right to assess: A jeopardy assessment may not be made after the decision of the Board has become final or after the taxpayer has filed a petition for review of the decision of the Board.

(f) Bond to stay collection: When a jeopardy assessment has been made the taxpayer, within 10 days after notice and demand from the collector for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the Board which has become final, together with interest thereon as provided in section 297. 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.

(g) Same—further conditions: If the bond is given before the taxpayer has filed his petition with the Board under section 272 (a), the bond shall contain a further condition that if a petition is not filed within the period provided in such subsection, then the amount the collection of which is stayed by the bond will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 per cent per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subsection.

(h) Waiver of stay: Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The taxpayer shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the taxpayer, be proportionately reduced. If the Board determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the Board is rendered the bond shall, at the request of the taxpayer, be proportionately reduced.

(i) Collection of unpaid amounts: When the petition has been filed with the Board and when the amount which should have been assessed has been determined by a decision of the Board which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded to the taxpayer as provided in section 322, without the filing of claim therefor. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector.

(j) Claims in abatement: No claim in abatement shall be filed in respect of any assessment in respect of any tax imposed by this title.

SEC. 274. Bankruptcy and receiverships.

(a) Immediate assessment: Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the Commissioner in respect of a tax imposed by this title upon such taxpayer shall, despite the restrictions imposed by section 272 (a) upon assessments be immediately assessed if such deficiency has not theretofore been assessed in accordance with law. In such cases the trustee in bankruptcy or receiver shall give notice in writing to the Commissioner of the adjudication of bankruptcy or the appointment of the receiver, and the running of the statute of limitations on the making of assessments shall be suspended for the period from the date of adjudication in bankruptcy or the appointment of the receiver to a date 30 days after the date upon which the notice from the trustee or receiver is received by the Commissioner; but the suspension under this sentence shall in no case be for a period in excess of 2 years. Claims for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Board; but no petition for any such redetermination shall be filed with the Board after the adjudication of bankruptcy or the appointment of the receiver.

(b) Unpaid claims: Any portion of the claim allowed in such bankruptcy or receivership proceeding which is unpaid shall be paid by the taxpayer upon notice and demand from the collector after the termination of such proceeding, and may be collected by distraint or proceeding in court within 6 years after termination of such proceeding. Extensions of time for such payment may be had in the same manner and subject to the same provisions and limitations as are provided in section 272 (j) and section 296 in the case of a deficiency in a tax imposed by this title.

SEC. 275. Period of limitation upon assessment and collection.

Except as provided in section 276—

(a) General rule: The amount of income taxes imposed by this title shall be assessed within 3 years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period.

(b) Request for prompt assessment: In the case of income received during the lifetime of a decedent, or by his estate during the period of administration, or by a corporation, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within 18 months after written request therefor (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by the corporation, but not after the expiration of 3 years after the return was filed. This subsection shall not apply in the case of a corporation unless—

(1) Such written request notifies the Commissioner that the corporation contemplates dissolution at or before the expiration of such 18 months' period; and

(2) The dissolution is in good faith begun before the expiration of such 18 months' period; and

(3) The dissolution is completed.

(c) Omission from gross income: If the taxpayer omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 5 years after the return was filed.

(d) Shareholders of foreign personal holding companies: If the taxpayer omits from gross income an amount properly includible therein under section 337 (b) (relating to the inclusion in the gross income of United States shareholders of their distributive shares of the undistributed Supplement P net income of a foreign personal holding company) the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 7 years after the return was filed.

(e) 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.

(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.

(g) Corporation and shareholder: If a corporation makes no return of the tax imposed by this title, but each of the shareholders includes in his return his distributive share of the net income of the corporation, then the tax of the corporation shall be assessed within 4 years after the last date on which any such shareholder's return was filed.

SEC. 276. Same—exceptions.

(a) False return or no return: In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(b) Waiver: Where before the expiration of the time prescribed in section 275 for the assessment of the tax, both the Commissioner and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(c) Collection after assessment: Where the assessment of any income tax imposed by this title has been made within the period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun (1) within 6 years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer before the expiration of such 6-year period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

SEC. 277. Suspension of running of statute.

The running of the statute of limitations provided in section 275 or 276 on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of a notice under section 272 (a)) be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter.

SUPPLEMENT M—INTEREST AND ADDITIONS TO THE TAX

SEC. 291. Failure to file return.

In case of any failure to make and file a return required by this title, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the tax: 5 percent if the failure is for not more than 30 days with an additional 5 percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax. The amount added to the tax under this section shall be in lieu of the 25 percent addition to the tax provided in section 3612 (d) (1) of the Internal Revenue Code.

SEC. 292. Interest on deficiencies.

Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax, at the rate of 6 percent per annum from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed, or, in the case of a waiver under section 272 (d), to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed whichever is the earlier.

SEC. 293. Additions to the tax in case of deficiency.

(a) Negligence: If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 percent of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions of section 272 (i), relating to the prorating of a deficiency, and of section 292, relating to interest on deficiencies, shall not be applicable.

(b) Fraud: If any part of any deficiency is due to fraud with intent to evade tax, then 50 percent of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected, and paid, in lieu of the 50 percent addition to the tax provided in section 3612 (d) (2) of the Internal Revenue Code.

SEC. 294. Additions to the tax in case of nonpayment.

(a) Tax shown on return.—

(1) General rule: Where the amount determined by the taxpayer as the tax imposed by this title, or any installment thereof, or any part of such amount or installment, is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of 6 percent per annum from the date prescribed for its payment until it is paid.

(2) If extension granted: Where an extension of time for payment of the amount so determined as the tax by the taxpayer, or any installment thereof, has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under section 295, is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (1) of this subsection, interest at the rate of 6 percent per annum shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(b) Deficiency: Where a deficiency, or any interest or additional amounts assessed in connection therewith under section 292, or under section 293, or any addition to the tax in case of delinquency provided for in section 291, is not paid in full within 10 days from the date of notice and demand from the collector, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of 6 percent per annum from the date of such notice and demand until it is paid. If any part of a deficiency prorated to any unpaid installment under section 272 (i) is not paid in full on or before the date prescribed for the payment of such installment, there shall be collected as part of the tax interest upon the unpaid amount at the rate of 6 percent per annum from such date until it is paid.

(c) Filing of jeopardy bond: If a bond is filed, as provided in section 273, the provisions of subsection (b) of this section shall not apply to the amount covered by the bond.

SEC. 295. Time extended for payment of tax shown on return.

If the time for payment of the amount determined as the tax by the taxpayer, or any installment thereof, is extended under the authority of section 56 (c), there shall be collected as a part of such amount, interest thereon at the rate of 6 percent per annum from the date when such payment should have been made if no extension had been granted, until the expiration of the period of the extension.

SEC. 296. Time extended for payment of deficiency.

If the time for the payment of any part of a deficiency is extended, there shall be collected, as a part of the tax, interest on the part of the defficiency the time for payment of which is so extended, at the rate of 6 percent per annum for the period of the extension, and no other interest shall be collected on such part of the deficiency for such period. If the part of the deficiency the time for payment of which is so extended is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of 6 percent per annum for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period.

SEC. 297. Interest in case of jeopardy assessments.

In the case of the amount collected under section 273 (i) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of 6 percent per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under section 273 (i), or, in the case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in section 292. If the amount included in the notice and demand from the collector under section 273 (i) is not paid in full within 10 days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 6 percent per annum from the date of such notice and demand until it is paid.

SEC. 298. Bankruptcy and receiverships.

If the unpaid portion of the claim allowed in a bankruptcy or receivership proceeding, as provided in section 274, is not paid in full within 10 days from the date of notice and demand from the collector, then there shall be collected as a part of such amount interest upon the unpaid portion thereof at the rate of 6 percent per annum from the date of such notice and demand until payment.

SEC. 299. Removal of property or departure from United States.

For additions to tax in case of leaving the United States or concealing property in such manner as to hinder collection of the tax, see section 146.

SUPPLEMENT N—CLAIMS AGAINST TRANSFEREES AND FIDUCIARIES

SEC. 311. Transferred assets.

(a) Method of collection: The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in a tax imposed by this title (including the provisions in case of delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds):

(1) Transferees: The liability, at law or in equity, of a transferee of property of a taxpayer, in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed upon the taxpayer by this title.

(2) Fiduciaries: The liability of a fiduciary under section 3467 of the Revised Statutes in respect of the payment of any such tax from the state of the taxpayer.

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax.

(b) Period of limitation: The period of limitation for assessment of any such liability of a transferee or fiduciary shall be as follows:

(1) In the case of the liability of an initial transferee of the property of the taxpayer, within 1 year after the expiration of the period of limitation for assessment against the taxpayer;

(2) In the case of the liability of a transferee of a transferee of the property of the taxpayer, within 1 year after the expiration of the period of limitation for assessment against the preceding transferee, but only if within 3 years after the expiration of the period of limitation for assessment against the taxpayer—

except that if before the expiration of the period of limitation for the assessment of the liability of the transferee, the court proceeding for the collection of the tax or liability in respect thereof has been begun against the taxpayer or last preceding transferee, respectively, then the period of limitation for assessment of the liability oft he transferee shall expire 1 year after the return of execution in the court proceeding.

(3) In the case of the liability of a fiduciary, not later than 1 year after the liability arises or not later than the expiration of the period for collection of the tax in respect of which such liability arises, whichever is the later;

(4) Where before the expiration of the time prescribed in paragraph (1), (2), or (3) for the assessment of the liability, both the Commissioner and the transferee or fiduciary have consented in writing to its assessment after such time, the liability may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(c) Period for assessment against taxpayer: For the purposes of this section, if the taxpayer is deceased, or in the case of a corporation, has terminated its existence, the period of limitation for assessment against the taxpayer shall be the period that would be in effect had death or termination of existence not occurred.

(d) Suspension of running of statute of limitations: The running of the statute of limitations upon the assessment of the liability of a transferee or fiduciary shall, after the mailing to the transferee or fiduciary of the notice provided for in section 272 (a), be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter.

(e) Address for notice of liability: In the absence of notice to the Commissioner under section 312 (b) of the existence of a fiduciary relationship, notice of liability enforceable under this section in respect of a tax imposed by this title, if mailed to the person subject to the liability at his last known address, shall be sufficient for the purposes of this title even if such person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(f) Definition of "transferee": As used in this section, the term "transferee" includes heir, legatee, devisee, and distributee.

SEC. 312. Notice of fiduciary relationship.

(a) Fiduciary of taxpayer: Upon notice to the Commissioner that any person is acting in a fiduciary capacity such fiduciary shall assume the powers, rights, duties, and privileges of the taxpayer in respect of a tax imposed by this title (except as otherwise specifically provided and except that the tax shall be collected from the estate of the taxpayer), until notice is given that the fiduciary capacity has terminated.

(b) Fiduciary of transferee: Upon notice to the Commissioner that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 311, the fiduciary shall assume, on behalf of such person, the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated.

(c) Manner of notice: Notice under subsection (a) or (b) shall be given in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

SUPPLEMENT O—OVERPAYMENTS

SEC. 321. Overpayment of installment.

If the taxpayer has paid as an installment of the tax more than the amount determined to be the correct amount of such installment, the overpayment shall be credited against the unpaid installments, if any. If the amount already paid, whether or not on the basis of installments, exceeds the amount determined to be the correct amount of the tax, the overpayment shall be credited or refunded as provided in section 322.

SEC. 322. Refunds and credits.

(a) Authorization: Where there has been an overpayment of any tax imposed by this title, the amount of such overpayment, with interest at the rate of 4 percent per annum, shall be credited against any income, war-profits, or excess-profits tax or installment thereof then due from the taxpayer, and any balance shall be refunded immediately to the taxpayer.

(b) Limitation on allowance:

(1) Period of limitation: Unless a claim for credit or refund is filed by the taxpayer within 3 years from the time the return was filed by the taxpayer or within 2 years from the time the tax was paid, no credit or refund shall be allowed or made after the expiration of whichever of such periods expires the later. If no return is filed by the taxpayer, then no credit or refund shall be allowed or made after 2 years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer.

(2) Limit on amount of credit or refund: The amount of the credit or refund of the tax shall not exceed the portion of the tax paid during the 3 years immediately preceding the filing of the claim, or, if no claim was filed, then during the 3 years immediately preceding the allowance of the credit or refund.

(c) Effect of petition to Board: If the Commissioner has mailed to the taxpayer a notice of deficiency under section 272 (a) and if the taxpayer files a petition with the Board of Tax Appeals within the time prescribed in such subsection, no credit or refund in respect of the tax for the taxable year in respect of which the Commissioner has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of such tax shall be instituted in any court except—

(1) As to overpayments determined by a decision of the Board which has become final; and

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Board which has become final; and

(3) As to any amount collected after the period of limitation upon the beginning of distraint or a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the Board which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive.

(d) Overpayment found by Board: If the Board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the Commissioner determined the deficiency, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax unless the Board determines as part of its decision that such portion was paid (1) within 3 years before the filing of the claim or the filing of the petition, whichever is earlier, or (2) after the mailing of the notice of deficiency.

(e) Tax withheld at source: For refund or credit in case of excessive withholding at the source, see section 143 (f).

SUPPLEMENT P—FOREIGN PERSONAL HOLDING COMPANIES

SEC. 331. Definition of foreign personal holding company:

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

(1) Gross-income requirement: At least 60 percent of its gross income (as defined in section 334 (a)) for the taxable year is foreign personal holding company income as defined in section 332; but if the corporation is a foreign personal holding company with respect to any taxable year ending after August 26, 1937, then, for each subsequent taxable year, the minimum percentage shall be 50 percent in lieu of 60 percent, until a taxable year during the whole of which the stock ownership required by paragraph (2) does not exist, or until the expiration of 3 consecutive taxable years in each of which less than 50 percent of the gross income is foreign personal holding company income. For the purposes of this paragraph there shall be included in the gross income the amount includible therein as a dividend by reason of the application of section 334 (c) (2); and

(2) Stock ownership requirement: At any time during the taxable year more than 50 percent in value of its outstanding stock is owned, directly or indirectly, by or for not more than five individuals who are citizens or residents of the United States, hereinafter called "United States group."

(b) Exceptions: The term "foreign personal holding company" does not include a corporation exempt from taxation under section 101.

SEC. 332. Foreign personal holding company income.

For the purposes of this title the term "foreign personal holding company income" means the portion of the gross income determined for the purposes of section 331 (a) (1), which consists of:

(a) Dividends, interest, royalties, annuities.

(b) Stock and securities transactions: Except in the case of regular dealers in stock or securities, gains from the sale or exchange of stock or securities.

(c) Commodities transactions: Gains from futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange. This subsection shall not apply to gains by a producer, processor, merchant, or handler of the commodity which arises out of bona fide hedging transactions reasonably necessary to the conduct of its business in the manner in which such business is customarily and usually conducted by others.

(d) Estates and trusts: Amounts includible in computing the net income of the corporation under Supplement E; and gains from the sale or other disposition of any interest in an estate or trust.

(e) Personal service contracts: (1) Amounts received under a contract under which the corporation is to furnish personal services; if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract; and (2) amounts received from the sale or other disposition of such a contract. This subsection shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may

be designated (by name or by description) as the one to perform, such services.

(f) Use of corporation property by shareholder: Amounts received as compensation (however designated and from whomsoever received) for the use of, or right to use, property of the corporation in any case where, at any time during the taxable year, 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual entitled to the use of the property; whether such right is obtained directly from the corporation or by means of a sublease or other arrangement.

(g) Rents: Rents, unless constituting 50 percent or more of the gross income. For the purposes of this subsection the term "rents" means compensation, however designated, for the use of, or right to use, property; but does not include amounts constituting foreign personal holding company income under subsection (f).

SEC. 333. Stock ownership.

(a) Constructive ownership: For the purpose of determining whether a foreign corporation is a foreign personal holding company, insofar as such determination is based on stock ownership under section 331 (a) (2), section 332 (e), or section 332 (f)—

(1) Stock not owned by individual: Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust, shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries.

(2) Family and partnership ownership: An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family, or by or for his partner. For the purposes of this paragraph the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(3) Options: If any person has an option to acquire stock, such stock shall be considered as owned by such person. For the purposes of this paragraph an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

(4) Application of family-partnership and option rules: Paragraphs (2) and (3) shall be applied:

(A) For the purposes of the stock-ownership requirement provided in section 331 (a) (2), if, but only if, the effect is to make the corporation a foreign personal holding company;

(B) For the purposes of section 332 (e) (relating to personal-service contracts), or of section 332 (f) (relating to the use of property by shareholders), if, but only if, the effect is to make the amounts therein referred to includible under such subsection as foreign personal holding company income.

(5) Constructive ownership as actual ownership: Stock constructively owned by a person by reason of the application of paragraph (1) or (3) shall, for the purpose of applying paragraph (1) or (2), be treated as actually owned by such person; but stock constructively owned by an individual by reason of the application of paragraph (2) shall not be treated as owned by him for the purpose of again applying such paragraph in order to make another the constructive owner of such stock.

(6) Option rule in lieu of family and partnership rule: If stock may be considered as owned by an individual under either paragraph (2) or (3) it shall be considered as owned by him under paragraph (3).

(b) Convertible securities: Outstanding securities convertible into stock (whether or not convertible during the taxable year) shall be considered as outstanding stock—

(1) For the purpose of the stock-ownership requirement provided in section 331 (a) (2), but only if the effect of the inclusion of all such securities is to make the corporation a foreign personal holding company;

(2) For the purpose of section 332 (e) (relating to personal-service contracts), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such subsection as foreign personal holding company income; and

(3) For the purpose of section 332 (f) (relating to the use of property by shareholders), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such subsection as foreign personal holding company income.

The requirement in paragraphs (1), (2), and (3) that all convertible securities must be included if any are to be included shall be subject to the exception that, where some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be included although the others are not included, but no convertible securities shall be included unless all outstanding securities having a prior conversion date are also included.

SEC. 334. Gross income of foreign personal holding companies.

(a) General rule: As used in this Supplement with respect to a foreign corporation the term "gross income" means gross income computed (without regard to the provisions of Supplement I) as if the foreign corporation were a domestic corporation.

(b) Additions to gross income: In the case of a foreign personal holding company (whether or not a United States group, as defined in section 331 (a) (2), existed with respect to such company on the last day of its taxable year) which was a shareholder in another foreign personal holding company on the day in the taxable year (whether beginning before, on, or after January 1, 1939) of the second company which was the last day on which a United States group existed with respect to the second company, there shall be included, as a dividend, in the gross income of the first company, for the taxable year in which or with which the taxable year of the second company ends, the amount the first company would have received as a dividend if on such last day there had been distributed by the second company, and received by the shareholders, an amount which bears the same ratio to the undistributed Supplement P net income of the second company for its taxable year as the portion of such taxable year up to and including such last day bears to the entire taxable year.

(c) Application of subsection (b): The rule provided in subsection (b)—

(1) shall be applied in the case of a foreign personal holding company for the purpose of determining its undistributed Supplement P net income which, or a part of which, is to be included in the gross income of its shareholders, whether United States shareholders, or other foreign personal holding companies;

(2) shall be applied in the case of every foreign corporation with respect to which a United States group exists on some day of its taxable year, for the purpose of determining whether such corporation meets the gross-income requirements of section 331 (a) (1).

SEC. 335. Undistributed Supplement P net income.

For the purposes of this title the term "undistributed Supplement P net income" means the Supplement P net income (as defined in section 336) minus the amount of the basic surtax credit provided in section 27 (b) (computed without its reduction, under section 27 (b) (1), by the amount of the credit provided in section 26 (a), relating to interest on certain obligations of the United States and Government corporations).

SEC. 336. Supplement P net income.

For the purposes of this title the term "Supplement P net income" means the net income with the following adjustments:

(a) Additional deductions: There shall be allowed as deductions—

(1) Federal income, war-profits, and excess-profits taxes paid or accrued during the taxable year to the extent not allowed as a deduction under section 23; but not including the tax imposed by section 102, section 500, 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).

(b) Deductions not allowed.—

(1) Taxes and pension trusts: The deductions provided in section 23 (d), relating to taxes of a shareholder paid by the corporation, and in section 23 (p), relating to pension trusts, shall not be allowed.

(2) Expenses and depreciation: The aggregate of the deductions allowed under section 23 (a), relating to expenses, and section 23 (l), relating to depreciation, which are allocable to the operation and maintenance of property owned or operated by the company, shall be allowed only in an amount equal to the rent or other compensation received for the use or right to use the property, unless it is established (under regulations prescribed by the Commissioner with the approval of the Secretary) to the satisfaction of the Commissioner:

(A) That the rent or other compensation received was the highest obtainable, or, if none was received, that none was obtainable;

(B) That the property was held in the course of a business carried on bona fide for profit; and

(C) Either that there was reasonable expectation that the operation of the property would result in a profit, or that the property was necessary to the conduct of the business.

(3) Net loss carry-over disallowed: The deduction for net operating losses provided in section 23 (s) shall not be allowed.

(c) Capital losses: The net income shall be computed without regard to section 117 (d) and (e), and losses from sales or exchanges of capital assets shall be allowed only to the extent of $2,000 plus the gains from such sales or exchanges.

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 chapter 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, 14, 201, 204, 207, or 362, of his proportionate share of the interest specified in section 25 (a) (1) or (2) which is included in the gross income of the company otherwise than by the application of the provisions of section 334 (b) (relating to the inclusion in the gross income of a foreign personal holding company of its distributive share of the undistributed Supplement P net income of another foreign personal holding company in which it is a shareholder).

(d) Information in return: Every United States shareholder who is required under subsection (b) to include in his gross income any amount with respect to the undistributed Supplement P net income of a foreign personal holding company and who, on the last day on which a United States group existed with respect to the company, owned 5 percent or more in value of the outstanding stock of such company, shall set forth in his return in complete detail the gross income, deductions and credits, net income, Supplement P net income, and undistributed Supplement P net income of such company.

(e) Effect on capital account of foreign personal holding company: An amount which bears the same ratio to the undistributed Supplement P net income of the foreign personal holding company for its taxable year as the portion of such taxable year up to and including the last day on which a United States group existed with respect to the company bears to the entire taxable year, shall, for the purpose of determining the effect of distributions in subsequent taxable years by the corporation, be considered as paid-in surplus or as a contribution to capital and the accumulated earnings and profits as of the close of the taxable year shall be correspondingly reduced, if such amount or any portion thereof is required to be included as a dividend, directly or indirectly, in the gross income of United States shareholders.

(f) Basis of stock in hands of shareholders: The amount required to be included in the gross income of a United States shareholder under subsection (b) shall, for the purpose of adjusting the basis of his stock with respect to which the distribution would have been made (if it had been made), be treated as having been reinvested by the shareholder as a contribution to the capital of the corporation; but only to the extent to which such amount is included in his gross income in his return, increased or decreased by any adjustment of such amount in the last determination of the shareholder's tax liability, made before the expiration of 7 years after the date prescribed by law for filing the return.

(g) Basis of stock in case 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).

SEC. 338. Information returns by officers and directors.

(a) Monthly returns: On the 15th day of each month each individual who on such day is an officer or a director of a foreign corporation which, with respect to its taxable year preceding the taxable year (whether beginning on, before, or after January 1, 1939) in which such month occurs, was a foreign personal holding company, shall file with the Commissioner a return setting forth with respect to the preceding calendar month the name and address of each shareholder, the class and number of shares held by each, together with any changes in stockholdings during such period, the name and address of any holder of securities convertible into stock of such corporation, and such other information with respect to the stock and securities of the corporation as the Commissioner with the approval of the Secretary shall by regulations prescribe as necessary for carrying out the provisions of this title. The Commissioner, with the approval of the Secretary, may by regulations prescribe, as the period with respect to which returns shall be filed, a longer period than a month. In such case the return shall be due on the 15th day of the succeeding period, and shall be filed by the individuals who on such day are officers and directors of the corporation.

(b) Annual returns: On the sixtieth day after the close of the taxable year of a foreign personal holding company each individual who on such sixtieth day is an officer or director of the corporation shall file with the Commissioner a return setting forth—

(1) In complete detail the gross income, deductions and credits, net income, Supplement P net income, and undistributed Supplement P net income of such foreign personal holding company for such taxable year; and

(2) The same information with respect to such taxable year as is required in subsection (a); except that if all the required returns with respect to such year have been filed under subsection (a) no information under this paragraph need be set forth in the return filed under this subsection.

SEC. 339. Information returns by shareholders.

(a) Monthly returns: On the fifteenth day of each month each United States shareholder, by or for whom 50 percent or more in value of the outstanding stock of a foreign corporation is owned directly or indirectly (including in the case of an individual, stock owned by the members of his family as defined in section 333 (a) (2), if such foreign corporation with respect to its taxable year preceding the taxable year (whether beginning on, before, or after January 1, 1939) in which such month occurs was a foreign personal holding company, shall file with the Commissioner a return setting forth with respect to the preceding calendar month the name and address of each shareholder, the class and number of shares held by each, together with any changes in stockholdings during such period, the name and address of any holder of securities convertible into stock of such corporation, and such other information with respect to the stock and securities of the corporation as the Commissioner with the approval of the Secretary shall by regulations prescribe as necessary for carrying out the provisions of this title. The Commissioner, with the approval of the Secretary, may by regulations prescribe, as the period with respect to which returns shall be filed, a longer period than a month. In such case the return shall be due on the fifteenth day of the succeeding period, and shall be filed by the persons who on such day are United States shareholders.

(b) Annual returns: On the sixtieth day after the close of the taxable year of a foreign personal holding company each United States shareholder by or for whom on such sixtieth day 50 percent or more in value of the outstanding stock of such company is owned directly or indirectly (including in the case of an individual, stock owned by members of his family as defined in section 333 (a) (2)), shall file with the Commissioner a return setting forth the same information with respect to such taxable year as is required in subsection (a); except that if all the required returns with respect to such year have been filed under subsection (a) no return shall be required under this subsection.

SEC. 340. Penalties.

Any person required under section 338 or 339 to file a return, or to supply any information, who willfully fails to file such return, or supply such information, at the time or times required by law or regulations, shall, in lieu of the penalties provided in section 145 (a) for such offense, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $2,000, or imprisoned for not more than 1 year, or both.

SUPPLEMENT Q—MUTUAL INVESTMENT COMPANIES

SEC. 361. Definition.

(a) In general: For the purposes of this title the term "mutual investment company" means any domestic corporation (whether chartered or created as an investment trust, or otherwise), other than a personal holding company as defined in section 501, 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 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, computed without the net operating loss deduction provided in section 23 (s), minus the basic surtax credit computed under section 124 (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 18 percent of the amount thereof.

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, 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, 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 (49 Stat. 820, U. S. C., Supp. III, title 15, sec. 79 (b)), (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 (8) of subsection (b)), then the provisions of this section only shall apply.

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 upon a transfer or distribution described in section 371 (d) (1), 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.

SEC. 373. Definitions.

As used in this supplement—

(a) The term "order of the Securities and Exchange Commission" means an order (1) issued after May 28, 1938, and prior to January 1, 1941, by the Securities and Exchange Commission to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935 (49 Stat. 820; U. S. C., Supp. III, title 15, § 79 (b)), or (2) issued by the Commission subsequent to December 31, 1940, 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, 49 Stat. 804 (U. S. C., Supp. III, title 15, § 79 (b), (c)).

(c) The term "majority-owned subsidiary company" of a registered holding company means a corporation, 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).

TITLE IA—ADDITIONAL INCOME TAXES

SUBTITLE A—PERSONAL HOLDING COMPANIES

SEC. 500. Surtax on personal holding companies.

There shall be levied, collected, and paid, for each taxable year beginning after December 31, 1938, upon the undistributed subtitle A net income of every personal holding company (in addition to the taxes imposed by chapter 1) a surtax equal to the sum of the following:

(1) 65 percent of the amount thereof not in excess of $2,000; plus

(2) 75 percent of the amount thereof in excess of $2,000.

SEC. 501. Definition of personal holding company.

(a) General rule: For the purposes of this subtitle and title 1 and title 1B 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 502; 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 104, a life insurance company, a surety company, or 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 501 (a) (2), and the income of such affiliated group, determined as provided in section 141, satisfies the gross income requirement provided in section 501 (a) (1), such affiliated group shall be subject to the surtax imposed by this subchapter.

SEC. 502. Personal holding company income.

For the purposes of this subtitle the term "personal holding company income" means the portion of the gross income which consists of:

(a) Dividends, interest (other than interest constituting rent as defined in subsection (g)), royalties (other than mineral, oil, or gas royalties), annuities.

(b) Stock and securities transactions: Except in the case of regular dealers in stock or securities, gains from the sale or exchange of stock or securities.

(c) Commodities transactions: Gains from futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange. This subsection shall not apply to gains by a producer, processor, merchant, or handler of the commodity which arise out of bona fide hedging transactions reasonably necessary to the conduct of its business in the manner in which such business is customarily and usually conducted by others.

(d) Estates and trusts: Amounts includible in computing the net income of the corporation under Supplement E of title I, and gains from the sale or other disposition of any interest in an estate or trust.

(e) Personal service contracts: (1) Amounts received under a contract under which the corporation is to furnish personal services; if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract; and (2) amounts received from the sale or other disposition of such a contract. This subsection shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform such services.

(f) Use of corporation property by shareholder: Amounts received as compensation (however designated and from whomsoever received) for the use of, or right to use, property of the corporation in any case where, at any time during the taxable year, 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual entitled to the use of the property; whether such right is obtained directly from the corporation or by means of a sublease or other arrangement.

(g) Rents: Rents, unless constituting 50 percent or more of the gross income. For the purposes of this subsection the term "rents" means compensation, however designated, for the use of, or right to use, property, and the interest on debts owed to the corporation, to the extent such debts represent the price for which real propery held primarily for sale to customers in the ordinary course of its trade or business was sold or exchanged by the corporation; but does not include amounts constituting personal holding company income under subsection (f).

(h) Mineral, oil, or gas royalties: Mineral, oil, or gas royalties, unless (1) constituting 50 percent or more of the gross income, and (2) the deductions allowable under section 23 (a) (relating to expenses) other than compensation for personal services rendered by shareholders, constitute 15 percent or more of the gross income.

SEC. 503. Stock ownership.

(a) Constructive ownership: For the purpose of determining whether a corporation is a personal holding company, insofar as such determination is based on stock ownership under section 501 (a) (2), section 502 (e), or section 502 (f)—

(1) Stock not owned by individual: Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries.

(2) Family and partnership ownership: An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family or by or for his partner. For the purposes of this paragraph the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(3) Options: If any person has an option to acquire stock such stock shall be considered as owned by such person. For the purposes of this paragraph an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

(4) Application of family-partnership and option rules: Paragraphs (2) and (3) shall be applied—

(A) For the purposes of the stock ownership requirement provided in section 501 (a) (2), if, but only if, the effect is to make the corporation a personal holding company;

(B) For the purposes of section 502 (e) (relating to personal-service contracts), or of section 502 (f) (relating to the use of property by shareholders), if, but only if, the effect is to make the amounts therein referred to includible under such subsection as personal holding-company income.

(5) Constructive ownership as actual ownership: Stock constructively owned by a person by reason of the application of paragraph (1) or (3) shall, for the purpose of applying paragraph (1) or (2), be treated as actually owned by such person; but stock constructively owned by an individual by reason of the application of paragraph (2) shall not be treated as owned by him for the purpose of again applying such paragraph in order to make another the constructive owner of such stock.

(6) Option rule in lieu of family and partnership rule: If stock may be considered as owned by an individual under either paragraph (2) or (3) it shall be considered as owned by him under paragraph (3).

(b) Convertible securities: Outstanding securities convertible into stock (whether or not convertible during the taxable year) shall be considered as outstanding stock—

(1) For the purpose of the stock-ownership requirement provided in section 501 (a) (2), but only if the effect of the inclusion of all such securities is to make the corporation a personal holding company;

(2) For the purpose of section 502 (e) (relating to personal service contracts), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such subsection as personal holding company income; and

(3) For the purpose of section 502 (f) (relating to the use of property by shareholders), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such subsection as personal holding company income.

The requirement in paragraphs (1), (2), and (3) that all convertible securities must be included if any are to be included shall be subject to the exception that, where some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be included although the others are not included, but no convertible securities shall be included unless all outstanding securities having a prior conversion date are also included.

SEC. 504. Undistributed subtitle A net income.

For the purposes of this subtitle the term "undistributed subchapter A net income" means the subtitle A net income (as defined in section 505) minus—

(a) The amount of the dividends paid credit provided in section 27 (a) without the benefit of paragraphs (3) and (4) thereof (computed without its reduction, under section 27 (b) (1), by the amount of the credit provided in section 26 (a), relating to interest on certain obligations of the United States and Government corporations); but, in the computation of the dividends paid credit for the purposes of this subtitle, the amount allowed under subsection (c) of this section in the computation of the tax under this subtitle for any preceding taxable year shall be considered as a dividend paid in such preceding taxable year and not in the year of distribution;

(b) Amounts used or irrevocably set aside to pay or to retire indebtedness of any kind incurred prior to January 1, 1934, if such amounts are reasonable with reference to the size and terms of such indebtedness.

(c) Dividends paid after the close of the taxable year and before the 15th day of the third month following the close of the taxable year, if claimed under this subsection in the return, but only to the extent to which such dividends are includible, for the purposes of chapter 1, in the computation of the basic surtax credit for the year of distribution; but the amount allowed under this subsection shall not exceed either:

(1) The accumulated earnings and profits as of the close of the taxable year; or

(2) The undistributed subtitle A net income for the taxable year computed without regard to this subsection; or

(3) Ten percent of the sum of—

(A) The dividends paid during the taxable year (reduced by the amount allowed under this subsection in the computation of the tax under this subtitle for the taxable year preceding the taxable year); and

(B) The consent dividends credit for the taxable year.

SEC. 505. Subtitle A net income.

For the purposes of this subtitle the term "Subtitle A Net Income" means the net income with the following adjustments:

(a) Additional deductions: There shall be allowed as deductions—

(1) Federal income, war-profits, and excess-profits taxes paid or accrued during the taxable year to the extent not allowed as a deduction under section 23; but not including the tax imposed by section 102, section 500, 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 taxpayer'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.

(3) In the case of a corporation organized prior to January 1, 1936, to take over the assets and liabilities of the estate of a decedent, amounts paid in liquidation of any liability of the corporation based on the liability of the decedent to make contributions or gifts to or for the use of donees described in section 23 (o) for the purposes therein specified, to the extent such liability of the decedent existed prior to January 1, 1934. No deduction shall be allowed under paragraph (2) of this subsection for a taxable year for which a deduction is allowed under this paragraph.

(b) Deductions not allowed: The aggregate of the deductions allowed under section 23 (a), relating to expenses, and section 23 (l), relating to depreciation, which are allocable to the operation and maintenance of property owned or operated by the corporation, shall be allowed only in an amount equal to the rent or other compensation received for the use of, or the right to use, the property, unless it is established (under regulations prescribed by the Commissioner with the approval of the Secretary) to the satisfaction of the Commissioner:

(1) That the rent or other compensation received was the highest obtainable, or, if none was received, that none was obtainable;

(2) That the property was held in the course of a business carried on bona fide for profit; and

(3) Either that there was reasonable expectation that the operation of the property would result in a profit, or that the property was necessary to the conduct of the business.

(c) Net loss carry-over disallowed: The deduction for net operating losses provided in section 23 (s) shall not be allowed.

SEC. 506. Deficiency dividends—credits and refunds.

(a) Credit against unpaid deficiency: If the amount of a deficiency with respect to the tax imposed by this subtitle 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 3760; 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 subtitle 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 3760; 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 subtitle, 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 1, 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 basis surtax credit for such year, but only for the purpose of computing the tax under this subtitle 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 504 (c) in the computation of the tax under this subtitle 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 subchapter 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 after 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) if 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 subchapter 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.

SEC. 507. Meaning of terms used.

The terms used in this subtitle shall have the same meaning as when used in title I.

SEC. 508. Administrative provisions.

All provisions of law (including penalties) applicable in respect of the taxes imposed by title I, shall insofar as not inconsistent with this subtitle, be applicable in respect of the tax imposed by this subtitle, except that the provisions of section 131 shall not be applicable.

SEC. 509. Improper accumulation of surplus.

For surtax on corporations which accumulate surplus to avoid surtax on shareholders, see section 102.

SEC. 510. Foreign personal holding companies.

For provisions relating to foreign personal holding companies and their shareholders, see supplement P of title I.

SEC. 511. Publicity of returns.

For provisions with respect to publicity of returns under this subtitle, see subsection (a) (2) of section 55.

TITLE IB—EXCESS PROFITS TAX

SEC. 600. Imposition of tax.

In addition to the taxes imposed by title I and title IA, there shall be levied, collected, and paid for each taxable year or portion of such year to which the tax under title I applies upon the income of every corporation a tax equal to the following percentages of the net income:

RATE SCHEDULE

10 percent of the amount of the net income in excess of the credit (determined under section 602) and not in excess of 10 percent of the invested capital for the taxable year;

20 percent of the amount of the net income in excess of 10 percent but not in excess of 15 percent of such invested capital;

30 percent of the amount of the net income in excess of 15 percent but not in excess of 20 percent of such invested capital;

40 percent of the amount of the net income in excess of 20 percent but not in excess of 25 percent of such invested capital;

60 percent of the amount of the net income in excess of 25 percent of such invested capital.

In any case where the full amount of the credit (determined under section 602) is not exhausted under the first bracket, the unused part shall be applied in reduction of the net income in the succeeding brackets until the entire credit is absorbed.

SEC. 601. Alternative tax.

(a) There shall (at the election of the taxpayer) be levied, collected, and paid, in lieu of the tax imposed by section 600, a tax equal to 50 percent of such part of the net income for the taxable year as is in excess of the average net income for any 3 of the 4 taxable years 1936, 1937, 1938, and 1939.

(b) If a corporation was not in existence during the whole of such 4-year period, the average net income shall be computed by taking into account all such taxable years specified in subsection (a) during which the corporation was in existence.

(c) For the purpose of this tax, the net income shall be the same as the net income for income-tax purposes in title I of this act.

(d) Except in the case of corporations which elected to file consolidated returns for the taxable years specified in subsection (a) in accordance with the applicable revenue acts, the tax imposed by this section shall be computed upon the basis of separate returns.

SEC. 602. Excess-profits credit.

(a) The excess-profits credit shall consist in the case of a domestic corporation of (1) a specific exemption of $3,000 or (2) 5 percent of the invested capital for the taxable year, whichever is the greater. A foreign corporation or a corporation entitled to the benefit of section 251, or a corporation organized under the China Trade Act, 1922, shall be entitled to an excess-profits credit of 6 percent of the invested capital.

(b) In the case of a return made for a fractional part of a year, the specific exemption of $3,000 shall be reduced to an amount which bears the same ratio to such specific exemption as the number of months in the period for which return is made bears to 12 months.

(c) In any case where a tax is assessed upon the basis of a consolidated return, only one specific exemption of $3,000 shall be allowed.

SEC. 603. Exempt corporations.

Corporations enumerated in section 101 shall, to the extent they are exempt from the income tax under title I be exempt from taxation under this title.

SEC. 604. Net income.

For the purpose of the tax imposed by section 600, the net income shall be the same as the net income for income-tax purposes in title I of this act, with the following adjustments:

(a) Additional deductions—(1) Dividends: There shall be allowed as a deduction, the amount received as dividends from a domestic corporation which is subject to taxation under title I. The deduction allowed by this subsection shall not be allowed in respect of dividends received from a corporation organized under the China Trade Act, 1922, or from a corporation which under section 251 of title I is taxable only on its gross income from sources within the United States by reason of its receiving a large percentage of its gross income from sources within a possession of the United States.

(2) Loss in inventory: (A) At the time of filing return for the last taxable year under this title a taxpayer may, notwithstanding any other provision of law, file a claim in abatement based on the fact that he has sustained a substantial loss (whether or not actually realized by sale or other disposition) resulting from any material reduction (not due to temporary fluctuation) of the value of the inventory for such taxable year, or from the actual payment after the close of such taxable year of rebates in pursuance of contracts entered into during such year upon sales made during such year. In such case payment of the amount of the tax covered by such claim shall not be required until the claim is decided, but the taxpayer shall accompany his claim with a bond in double the amount of the tax covered by the claim, with sureties satisfactory to the Commissioner, conditioned for the payment of any part of such tax found to be due, with interest. If any part of such claim is disallowed then the remainder of the tax due shall on notice and demand by the collector be paid by the taxpayer with interest at the rate of 6 percent per annum from the time the tax would have been due had no such claim been filed. If it is shown to the satisfaction of the Commissioner that such substantial loss has been sustained, then in computing the tax imposed by this title the amount of such loss shall be deducted from the net income.

(B) If no such claim is filed, but it is shown to the satisfaction of the Commissioner that during the period of 1 year after the date upon which the last return under this title is due the taxpayer has sustained a substantial loss of the character above described then the amount of such loss shall be deducted from the net income for the last taxable year under this title and the tax imposed by this title for such year shall be redetermined accordingly. Any amount found to be due to the taxpayer upon the basis of such redetermination shall be credited or refunded to the taxpayer in accordance with the provisions of section 322.

(3) Amortization: (A) In the case of buildings, machinery, equipment, or other depreciable facilities, contracted for and constructed, erected, installed, or acquired on or after the effective date of this act, for the production of articles essential to the prosecution of the war, and in the case of vessels contracted for and constructed or acquired on or after such date for the transportation of articles or men essential to the prosecution of the war, there shall be allowed, for any taxable year ending after the effective date of this act, a reasonable deduction for the amortization of such part of the cost of such facilities or vessels as has been borne by the taxpayer (not in excess of the adjusted basis under section 113 of title I), but not again including any amount otherwise allowed under title I, or previous acts of Congress as a deduction in computing net income. The allowance under this subsection shall be inclusive of all depreciation during the amortization period on property subject to amortization: *Provided*, That amortization shall not be allowed under this subsection unless the construction, erection, installation, or acquirement of the facility or vessel shall have been authorized by the President, through such agency as he shall designate, and determined by such agency to be for the production of articles essential to the prosecution of the war, or, in the case of vessels, for the transportation of articles or men essential to the prosecution of the war: *Provided further*, That in the case of vessels, buildings, machinery, equipment, or other facilities contracted for, or constructed, erected, or installed prior to the effective date of this act, but acquired by the taxpayer subsequent to such date, whether by purchase, exchange, gift, transfer, or in any other manner, no amortization shall be allowed under this paragraph: *Provided further*, That after this act shall cease to be effective the Commissioner may reexamine the returns made under this title, and if he then finds that the deduction originally allowed was incorrect, the tax for the year or years affected shall be redetermined. The amount of the deduction under this subsection shall be allowed only with respect to such facilities or vessels which have become obsolete, or ceased to be required, or have been sold prior to 1 year after the date upon which this act shall cease to be effective. The amount of any deficiency in tax determined to be due may be assessed and collected at any time, subject to the provisions of section 272 of title I, without regard to the provisions of section 275 of title I.

The amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of section 322 of title I.

(B) Tentative allowance: For the purpose of returns under this title, the tentative estimate of the amount of such amortization for any year shall not exceed 12½ percent of the cost of such part of the facilities or vessels as has been borne by the taxpayer: *Provided,* That when the aggregate tentative allowances equal 50 percent of the cost of the facilities or vessels no further tentative allowances shall be made.

(b) Consolidated net income: For the purpose of this title, consolidated net income in the case of affiliated corporations shall be the same as consolidated net income for income-tax purposes in title I, subject to the adjustments provided in subsection (a).

SEC. 605. Invested capital.

(a) As used in this title—

The term "intangible property" means patents, copyrights, secret processes and formulae, good will, trade-marks, trade brands, franchises, and other like property;

The term "tangible property" means stocks, bonds, notes, and other evidences of indebtedness, bills and accounts receivable, leaseholds, and other property other than intangible property;

The term "borrowed capital" means money or other property borrowed, whether represented by bonds, notes, open accounts, or otherwise;

The term "inadmissible assets" means stocks, bonds, and other obligations (other than obligations of the United States) the dividends or interest from which is not included in computing net income under this title, but where the income derived from such assets consists in part of gain or profit derived from the sale or other disposition thereof, or where all or part of the interest derived from such assets is in effect included in the net income because of the limitation on the deduction of interest under subsection (b) of section 23 of title I, a corresponding part of the capital invested in such assets shall not be deemed to be inadmissible assets;

The term "admissible assets" means all assets other than inadmissible assets, valued in accordance with the provisions of subsection (a) of section 606 and section 607.

(b) For the purposes of this title the par value of stock or shares shall, in the case of stock or shares issued at a nominal value or having no par value, be deemed to be the fair market value as of the date or dates of issue of such stock or shares.

SEC. 606.

(a) As used in this title the term "invested capital" for any year means (except as provided in subdivision (b) and (c) of this section):

(1) Actual cash bona fide paid in for stock or shares;

(2) Actual cash value of tangible property, other than cash, bona fide paid in for stock or shares, at the time of such payment, but in no case to exceed the par value of the original stock or shares specifically issued therefor, unless the actual cash value of such tangible property at the time paid in is shown to the satisfaction of the Commissioner to have been clearly and substantially in excess of such par value, in which case such excess shall be treated as paid-in surplus: *Provided,* That the Commissioner shall keep a record of all cases in which tangible property is included in invested capital at a value in excess of the stock or shares issued therefor, containing the name and address of each taxpayer, the business in which engaged, the amount of invested capital and net income shown by the return, the value of the tangible property at the time paid in, the par value of the stock or shares specifically issued therefor, and the amount included under this paragraph as paid-in surplus. The Commissioner shall furnish a copy of such record and other detailed information with respect to such cases when required by resolution of either House of Congress, without regard to the restrictions contained in section 55 of the Internal Revenue Code.

(3) Paid-in or earned surplus and undivided profits; not including surplus and undivided profits earned during the year;

(4) Intangible property bona fide paid in for stock or shares prior to January 1, 1940, in an amount not exceeding (a) the actual cash value of such property at the time paid in, (b) the par value of the stock or shares issued therefor, or (c) in the aggregate 25 percent of the par value of the total stock or shares of the corporation outstanding on January 1, 1940, whichever is lowest;

(5) Intangible property bona fide paid in for stock or shares on or after January 1, 1940, in an amount not exceeding (a) the actual cash value of such property at the time paid in, (b) the par value of the stock or shares issued therefor, or (c) in the aggregate 25 percent of the par value of the total stock or shares of the corporation outstanding at the beginning of the taxable year, whichever is lowest: *Provided,* That in no case shall the total amount included under paragraphs (4) and (5) exceed in the aggregate 25 percent of the par value of the total stock or shares of the corporation outstanding at the beginning of the taxable year; but

(b) As used in this title the term "invested capital" does not include borrowed capital.

(c) There shall be deducted from invested capital as above defined a percentage thereof equal to the percentage which the amount of inadmissible assets is of the amount of admissible and inadmissible assets held during the taxable year.

(d) The invested capital for any period shall be the average invested capital for such period, but in the case of a corporation making a return for a fractional part of a year, it shall be the same fractional part of such average invested capital.

SEC. 607. Reorganizations.

That in the case of the reorganization, consolidation, or change of ownership of a trade or business, or change of ownership of property, after January 1, 1940, if an interest or control in such trade or business or property of 50 percent or more remains in the same persons, or any of them, then no asset transferred or received from the previous owner shall, for the purpose of determining invested capital, be allowed a greater value than would have been allowed under this title in computing the invested capital of such previous owner if such asset had not been so transferred or received: *Provided,* That if such previous owner was not a corporation, then the value of any asset so transferred or received shall be taken at its cost of acquisition (at the date when acquired by such previous owner) with proper allowance for depreciation, impairment, betterment, or development, but no addition to the original cost shall be made for any charge or expenditure deducted as expense or otherwise on or after March 1, 1913, in computing the net income of such previous owner for purposes of taxation.

SEC. 608. Returns and payment of tax.

Every corporation not exempt under section 603 shall make a return for the purposes of this title. Such returns shall be made, and the taxes imposed by this title shall be paid, at the same times and places, in the same manner, and subject to the same conditions, as is provided in the case of returns and payment of income tax by corporations for the purposes of title I, and all the provisions of that title not inapplicable, including penalties, are hereby made applicable to the taxes imposed by this title.

SEC. 609. Short title.

This act may be cited as the War Emergency Act.

SEC. 610. Suspension of conflicting and inconsistent acts.

All acts or parts of acts conflicting or inconsistent with the provisions of this act are to the extent of such conflict or inconsistency suspended during the effectiveness of this act.

SEC. 611. Criminal penalties.

Any person who willfully violates any provisions of this act or any of the rules and regulations made thereunder shall, unless other criminal penalties be provided herein for such violation, be guilty of a misdemeanor, and shall upon conviction thereof be fined not more than $100,000 or imprisoned for not more than 1 year, or both, together with the cost of prosecution.

SEC. 612. Succession to rights and duties.

On the expiration of this act, the United States of America shall be successor to the rights and duties required or incurred by any board or commission created by this act.

SEC. 613. Separability.

If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

SEC. 614. Effective date of act.

Except as otherwise provided herein, the provisions of this act shall become operative and in full force and effect immediately upon the declaration by Congress that a state of war exists between the United States and any foreign government and that the existence of such state of war creates grave national emergency; and such provisions shall remain in full force and effect for the duration of such war and thereafter until the Congress shall declare the emergency created by such war to be at an end.

Mr. PITTMAN. Mr. President, I understand that the committee amendment has been reconsidered for the purpose of further amendment.

The PRESIDING OFFICER. It will be necessary to reconsider it again.

Mr. PITTMAN. I ask unanimous consent to reconsider the vote by which the committee amendment was agreed to, so that I may offer two amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PITTMAN. I offer the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Nevada will be stated.

The CHIEF CLERK. At the proper place in the committee amendment, it is proposed to insert the following:

Income derived from the mining, reduction, or beneficiation of tungsten, quicksilver, manganese, platinum, and antimony, chromite and tin, or the ores and material containing such metals, shall not be subject to the excess-profits tax provided for in this act.

Mr. HARRISON. Mr. President, let me say to the Senator from Nevada that we adopted several amendments touching mining operations. If it be agreeable to the Senator, I have no objection to this amendment going to conference, so that it may be before us, and the broad question may be looked into.

Mr. PITTMAN. Mr. President, I should like to make a brief statement with respect to the amendment.

This subject has not been touched in any of the amendments. The War Department has established certain metals as strategic metals. The list is as follows: Manganese, chromium, mercury, tungsten, nickel, tin, and antimony.

In the first place, no revenue would be derived from that source in any circumstances. The total value of the production of those metals in the United States last year was less than $10,000,000. It is perfectly evident that no revenue would be obtained from that source.

To save time, I shall ask unanimous consent to have printed in the RECORD certain statistics from the Bureau of Mines. The manganese produced in this country is from 5 to 6 percent of our requirements. Ninety-four percent of it is imported. It is an absolute essential to steel manufacture. Our imports come from Russia and the Gold Coast. Thirty-four and four-tenths percent of our imports come from Russia, and 26.2 percent from the Gold Coast. Practically all our imports come from those two places. So far as Russia is concerned, there are several ways in which our imports might be shut off. Only recently a press dispatch from Russia stated that Russia was about to place an embargo against the exportation of manganese because it was required in Russia. What should we do if the export from Russia were cut off? We could not manufacture steel.

We have slightly increased the production of manganese in the United States in the past year. Processes are now being developed for handling low-grade manganese. The Government is spending hundreds of millions of dollars in an effort to increase the production of all these materials.

Chromium is essential to the manufacture of high-grade steel. We produce only 1 percent of our requirements. Ninety-nine percent is imported. We obtain nearly all our importation of chromium from Africa and British possessions. They may come into the hands of an enemy, and our importations may be cut off.

Quicksilver is in the same position. Seventy-four percent of our quicksilver, which is an essential war material, comes through Spain. Nine percent of it comes from Italy. It is perfectly obvious that that importation may be cut off.

With respect to tungsten, we are in better shape. We produce in this country about four-fifths of the tungsten we use, but the tungsten we import comes chiefly from China. That source of importation undoubtedly will be cut off. The next largest importation comes from British Malaya. That source is in danger of being cut off.

With regard to nickel, we are in good shape, because most of it is imported from Canada.

With respect to tin, we obtain nearly all our tin from the United Kingdom, from the Netherlands East Indies, and from China. Those sources may be cut off. It is true that there is very little chance of materially increasing tin production in this country. Nevertheless, recently there have been some developments which are very encouraging with regard to tin.

Nearly all our antimony is obtained from China. That importation may be cut off.

The position I present is merely this: These are essential war materials. It is so stated by the War Department. Our importations may be cut off. It is necessary to increase production in this country. With these new industries expanding rapidly, or attempting to expand rapidly, generally with a great loss of money for several years, it is impracticable to attempt to assess excess profits taxes against them.

I ask for a vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nevada to the committee amendment.

The amendment to the amendment was agreed to.

Mr. PITTMAN. Mr. President, I ask leave to have printed in the RECORD certain statistics from the Bureau of Mines.

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

STRATEGIC MINERALS

The United States Bureau of Mines has compiled the following break-down of the percentage of individual strategic minerals produced domestically and the percentage of necessary importation of such strategic minerals, computed over a recent 5-year period in peacetime:

	Produced domestically	Necessary importation
	Percent	*Percent*
Manganese	5.0–6.0	94.0
Chromium	1.0	99.0
Mercury	40.0	60.0
Tungsten	50.0	50.9
Nickel	.5	99.5
Tin	.2	99.8
Antimony	10.0	90.0

MANGANESE

	Long tons
Manganese produced in United States, 1938	25,321
Manganese imported into United States, 1938	483,588
Manganese available for domestic consumption	508,909

Imported manganese was procured from the following countries:

	Long tons	Percent
Russia	166,043	34.4
Cuba	131,423	27.2
Gold Coast	126,858	26.2
Brazil	29,698	5.6
British India	25,480	5.5
Philippine Islands	4,002	.6
France	68	.0001
Canada	2	.000004
Other countries	14	.00002
1938 total imports	483,588	99.60

It is also interesting to note that importation of manganese in 1939 increased some 200,000 long tons over the 1938 figure. In 1939 the United States imported 698,490 long tons as against the 1938 figure of 483,588 long tons.

CHROMITE

	Long tons
Chromite produced in United States, 1939	3,614
Chromite imported into United States, 1939	317,511
Amount of chromite available for domestic consumption	321,125

Imported chromite was procured from the following countries:

	Long tons	Percent
Africa (Union of South Africa, other British South Africa, other British West Africa, and Mozambique)	118,233	37
Philippine Islands	71,914	29
Cuba	66,002	21
Turkey	16,632	5
New Caledonia	14,359	5
Greece	11,000	3
1939 total imports	317,511	100

MERCURY

	Flasks
Mercury produced in United States, 1939	18,633
Mercury imported into United States, 1939	3,499
Total	22,132
Mercury exported from United States, 1939	1,208
Amount of mercury available for domestic consumption	20,924

Imported mercury was procured from the following countries:

	Flasks	Percent
Spain	2,601	74.2
Mexico	563	16.0
Italy	336	9.8
1939 total imports	3,500	100

NOTE: A flask of mercury is equivalent to 76 pounds of mercury.

TUNGSTEN

	Pounds
Tungsten produced in United States, 1939	4,080,024
Tungsten imported into United States, 1939	1,485,157
Amount of tungsten available for consumption	5,565,181

Imported tungsten was procured from the following countries:

	Pounds	Percent
China	899,806	60.5
Mexico	146,637	10.0
British Malaya	123,682	8.6
Bolivia	96,164	6.4
Argentina	76,524	5.0
Australia	56,639	4.0
Peru	48,625	3.2
Ecuador	21,326	1.4
Burma	12,878	.8
French Indo-China	2,876	.1
1939 total imports	1,485,157	100.0

NICKEL

	Short tons
Nickel produced in United States, 1939	394
Nickel imported into United States, 1939	64,796
Total	65,190
Nickel exported from United States, 1939	10,167
Amount of nickel available for consumption	55,023

Imported nickel was procured from only one country: Canada, 98 percent.

TIN

	Long tons
Tin produced in United States, 1939	34
Tin imported into United States, 1939	70,102
Total	70,136
Tin exported from United States, 1939	1,997
Amount of tin available for domestic consumption	68,139

Imported tin was procured from the following countries:

	Long tons	Percent
British Malaya	46,785	66.6
United Kingdom	10,698	15.2
Netherlands India	5,316	7.5
China	3,259	4.6
Belgium	1,320	1.8
Hong Kong	1,062	1.5
Netherlands	1,008	1.4
Argentina	251	.3
Australia	250	.3
Belgian Congo	100	.1
Portugal	25	.0003
French Indo-China	25	.0003
Canada	3	.00004
Panama Canal Zone	(1)	(2)
1939 total imports	70,102	99.30064

[1] Less than 1 ton.
[2] Insignificant.

ANTIMONY

	Short tons
Antimony produced in United States, 1939	393
Antimony imported into United States, 1939	1,045
Total	1,438
Antimony exported from United States, 1939	58
Amount of antimony available for consumption	1,380

Imported antimony was procured from the following countries:

	Short tons	Percent
China	661	64
Belgium	191	18
Mexico	125	12
France	56	5
United Kingdom	12	1
1939 total imports of antimony	1,045	100

Mr. PITTMAN. Mr. President, I offer another amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Nevada will be stated.

The CHIEF CLERK. On page 97, in the committee amendment, line 11, it is proposed to strike out paragraphs (1), (2), (3), and (4) of subsection (b) and insert:

(1) By computing the aggregate of the excess profits net income for each of the taxable years of the taxpayer beginning after December 31, 1935, and before January 1, 1940, reduced, in the case of each such taxable year in which the deductions plus the credit for dividends received exceeded the gross income, by the amount of such excess determined as provided in paragraph (4); but there shall be excluded from such computation the excess profits net income or excess of deductions plus the credit for dividends received over gross income for one of such taxable years, as the taxpayer may select.

(2) By dividing the amount ascertained under paragraph (1) by the total number of months in all such taxable years, less the number of months in the taxable year selected by the taxpayer for exclusion under paragraph (1); and

(3) By multiplying the amount ascertained under paragraph (2) by 12.

(4) For the purposes of paragraph (1), in determining whether, for any taxable year, the deductions plus the credit for dividends received exceeded the gross income, and in determining the amount of such excess, the adjustments provided in section 711 (b) (1) shall be made.

On page 126, line 16, in the committee amendment it is proposed to strike out subsections (b) and (c) and insert:

(b) By adding the plus amounts ascertained under subsection (a) (3) for each year of the base period, and subtracting from such sum the sum of the minus amounts, excluding, however, one of such plus amounts, or one of such minus amounts, as the taxpayer may select.

(c) By dividing the amount ascertained under subsection (b) by three.

Mr. PITTMAN. Mr. President, I wish to apologize for the language. The language was taken from the bill itself. As I understand, it is a repetition of the language in the bill, with the exception of one paragraph. The one paragraph is paragraph (2), which says:

By dividing the amount ascertained under paragraph (1) by the total number of months in all such taxable years, less the number of months in the taxable year selected by the taxpayer for exclusion under paragraph (1).

All it means is simply this: Instead of having 4 years, and being allowed to set aside 1 of the 4 years, and dividing the 3 remaining years by 4, the amendment provides for dividing the 3 years by 3. The absurdity of thinking that anyone is receiving a benefit by being allowed to deduct an abnormally low year, and then divide the profit for the other 3 years by 4, should be apparent. If there were a profit of $100 a year for 3 years, and for the 4th year there were a profit of $80, if the $380 were divided by 4 the result would be $95, which is below the normal profit for 3 years. If there were no profit for 1 year, if 1 year should represent a total loss, and the profit for the 3 years selected were divided by 4, the result would be $75.

In other words, any way on earth it is figured, you are $25 below the normal average.

If you are going to have a normal proposition, have it normal; but it is absurd to say that you will get an average normal when you divide 3 by 4.

Mr. HARRISON. Mr. President, I would have no objection to the amendment going to conference striking out "4" and inserting "3." That is what the Senator seeks, as I understand.

Mr. PITTMAN. I seek to have the 3 years divided by 3 instead of 4.

Mr. HARRISON. The only trouble is that the Senator's amendment would strike from the bill one or two amendments which the Senate Finance Committee put in which we thought would be very helpful, and which we wanted to have go to conference. As the amendment is drawn, those parts which are stricken out, which are in the bill, would not be in conference, and they ought to be in conference.

As to taking 3 out of 4 years to reach the average earning, the Treasury and the House Ways and Means Committee have practically come to an accord; but at the last moment they found that there would be such a loss of revenue by virtue of this amendment that they adopted another method of dealing with these deficit years. There was strong sentiment in the Finance Committee to give corporations the advantage of 3 out of 4 years in selecting the average-earning base method; but when we struck out the 4.1 percent and put the 3.1 percent tax on all corporations we felt that the bill could not stand it. There would be too much loss of revenue.

What I was trying to see was if we could not preserve the part that we adopted in the Senate committee bill, and then

the Senator may offer this amendment, and it may be in conference for debate.

Mr. PITTMAN. The Senator from Nevada is willing to offer it in any way possible. The Senator from Nevada may say that he does not know how to offer it, because he does not know what the bill means.

Mr. HARRISON. I have just been able to secure the text of the amendment which the Senator has offered. Of course, I could not pass on a proposition of this importance until I could read the amendment. The experts are now seeing if we can let it go to conference without destroying the effects of what the Finance Committee has done in getting this formula. Will not the Senator withhold the amendment for a moment?

Mr. PITTMAN. Certainly; I will withhold it.

Mr. CLARK of Missouri. Mr. President, as I understand, the committee amendment is still open to amendment. It has been reconsidered.

The PRESIDING OFFICER. Yes.

Mr. CLARK of Missouri. In addition to that, I ask unanimous consent to reconsider the vote on the amendment to section 724, "Personal service corporations," offered on Saturday by the Senator from Michigan [Mr. BROWN], and adopted by the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. HARRISON. The Senator seeks to undo to some extent what was done by the substitute amendment offered on Saturday and agreed to?

Mr. CLARK of Missouri. That is true. The amendment of the Senator from Michigan was intended to obviate some ambiguities in the bill, and it appears that that has not been completely done. The purpose of the amendment which I now seek to offer is simply to remove the ambiguities. If the chairman of the committee is willing to take the matter to conference and have it examined, I shall be perfectly satisfied.

Mr. HARRISON. I think it ought to go to conference.

Mr. CLARK of Missouri. I will say to the chairman of the committee that I have discussed the matter both with the officials of the Treasury and with members of the staff of the Joint Committee on Internal Revenue Taxation, and they say there is no question that the old definition of the 1917 act, which has been adopted practically verbatim in this bill as it came over from the House, was ambiguous, and resulted in a great deal of litigation, I think to the extent of 14,000 lawsuits. What we are seeking to do is to remove the ambiguity as to what are personal-service corporations. The Treasury officials and the members of the staff of the joint committee have told me that the subject ought to be redefined, but they have frankly stated that they have been so overpressed with the amount of work which has been put upon them by the two committees that they have not had an opportunity to do it. If the chairman of the committee is willing to take this amendment to conference, I shall be perfectly satisfied with whatever the conferees do about the matter.

Mr. BROWN rose.

Mr. HARRISON. I am perfectly willing to take it to conference. I think it ought to be sent to conference, but I think the amendment which was adopted the other day ought to go to conference, too. Therefore, I was wondering if it would not be better to offer this amendment not as a subsitute but as another amendment, so that both of them would be in conference.

Mr. BROWN. Mr. President, I thank the Senator for that suggestion. I think that is the proper course to follow.

Mr. CLARK of Missouri. Then I will change the text of this amendment, and offer it as a new subsection to be inserted at the proper place, which I assume would be immediately after the amendment adopted the other day at the suggestion of the Senator from Michigan.

The amendment of Mr. CLARK of Missouri is as follows:

Insert at the proper place in the bill the following:

"As used in this subchapter, the term 'personal-service corporation' means a corporation in which capital is not a material income-producing factor and either

"(1) At least 80 percent in value of whose capital stock is owned at all times during the taxable year by shareholders who are regularly engaged in the active conduct of the affairs of the corporation, or

"(2) Whose income is to be ascribed primarily to the activities of shareholders who are regularly engaged in the active conduct of the affairs of the corporation, all of whose stock is owned at all times during the taxable year by or for not more than 20 individuals

but does not include any foreign corporation, nor any corporation 50 percent or more of whose gross income consists of gains, profits, or income derived from trading as a principal. For the purposes of this subsection, an individual shall be considered as owning, at any time, the stock owned at such time by his spouse or minor child or by any guardian or trustee representing them."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Missouri [Mr. CLARK] to the amendment reported by the committee.

The amendment to the amendment was agreed to.

Mr. CLARK of Missouri. Mr. President, I have another amendment which is not an amendment to the committee amendment, and I do not wish to interfere with any Senator who has an amendment to offer to the committee amendment while it has been reconsidered. I shall ask the Chair for recognition again later in the day.

Mr. ADAMS. Mr. President, a day or two ago, in an effort to protect the mining industry and certain other industries in which a period of research and development precedes the reward, I offered an amendment to the committee amendment, which was inserted in line 8 on page 110, which provided that the abnormal profit or income derived as a result of some periods of research should be attributed to a period of not to exceed 5 years. The chairman of the Finance Committee, with amiable generosity, suggested to me that perhaps 10 years would be all right; and, rather overwhelmed by the generosity, I agreed to it. I should like to reinstate my original amendment, and substitute "five" for "ten." Therefore, I move, in the amendment I offered, that the word "ten" be stricken out and the word "five" inserted.

The PRESIDING OFFICER. Without objection, the vote by which the amendment was agreed to will be reconsidered; and, without objection, the amendment offered by the Senator from Colorado will be agreed to.

Mr. CLARK of Missouri. Mr. President, I offer the amendment which I send to the desk, proposing to add a new section to the bill.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. It is proposed to insert in the bill at the proper place, as a new section, the following:

That any taxpayer shall be allowed credit against the tax for the calendar years 1936, 1937, 1938, and 1939, imposed by section 901 of the Social Security Act for the amount of contributions, with respect to employment during such years, paid by him before the sixtieth day after the enactment of this act, into an unemployment fund under a State law. The provisions of such act (except the provision limiting such credit to amounts paid before the date of filing returns) shall apply to allowance of credit under this act, and the terms used in this act shall have the same meaning as when used in the Social Security Act.

Refund of the tax (including penalty and interest collected with respect thereto, if any), based on any credit allowable under this section, may be made in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax. No interest shall be allowed or paid on the amount of any such refund.

Mr. CLARK of Missouri. Mr. President, I apologize to the chairman of the Committee on Finance and the other members of the committee, as well as the Senate, for not bringing this matter to the attention of the Committee on Finance when the bill was under consideration in the committee. The reason was that at that time the ruling which brings about the offering of the amendment had not been made, and it naturally had not been called to my attention.

The amendment has to do with this situation: In many cases, and usually, I am informed, in cases of small corporations, under the Social Security Act, taxes were not paid on employees employed by independent subcontractors. Those taxes were not paid at that time in agreement with what was universally understood to be the law. Now the Bureau of Internal Revenue has reversed its ruling and has concluded

that the original employer is liable for the social-security taxes on employees of subcontractors. So that there is no question about the liability, and the amendment does not affect the liabilities of those companies. But in the meantime the time within which credit can be claimed for taxes paid the States for offsets on their taxes has expired, and unless the amendment or some such provision shall be adopted, simply to extend the time, these people are going to be forced to pay the Federal tax of 5 percent and, in addition, a State tax of 4½ percent, which in many cases would wipe out small corporations.

The only purpose of the amendment is to extend the time within which such taxpayers may claim credit for social security taxes paid the States, and all I ask the chairman of the committee to do is to take it to conference.

Mr. HARRISON. Mr. President, it is perfectly satisfactory to us to have the amendment go to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Missouri [Mr. CLARK].

The amendment was agreed to.

Mr. PITTMAN. Mr. President, I now offer the amendment which I withheld. The amendment has been read once, and I ask unanimous consent that it be not read again.

Mr. HARRISON. Mr. President, the amendment is satisfactory now. The experts have looked over it, and it is all right.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nevada on page 97, line 11, which has heretofore been read.

The amendment to the amendment was agreed to.

Mr. GEORGE. Mr. President, I have one amendment to offer, but I desire to say a word of explanation.

Under the rule now followed in the House of Representatives and in the Senate with reference to conference reports, this matter would probably be in conference, but since identical language is used in both the bill as it passed the House and in the Senate committee bill, I personally would feel some moral compunction in urging the conference to consider the subject matter of the amendment without action by the Senate on the matter. I desire to offer the amendment for the purpose of taking the question to conference.

I will say, without reading the language of the amendment, unless some Senator desires to have me read it, that the graduated excess-profits rates in the bill which passed the House and in the Senate committee bill are based merely upon dollar value, without any reference to the percentage of earnings to invested capital, or the prior earnings of any company. In the amendment offered by the Senator from Wisconsin [Mr. LA FOLLETTE] to the whole of titles I and II of the bill he corrected this manifest error.

I understand that one of the primary reasons why the brackets were based upon dollars rather than upon the percentage of earnings to invested capital or prior earnings was a desire to aid the smaller corporations to protect the revenue. So the amendment I offer preserves both the dollar brackets for the benefit of the smaller corporation, if it is a benefit—and I presume it is—and at the same time returns to the sounder principle of measuring the tax by the percentage of earnings to invested capital, or prior earnings. I hope the amendment may be agreed to.

The PRESIDENT pro tempore. The clerk will state the amendment offered by the Senator from Georgia to the amendment of the committee.

The CHIEF CLERK. On page 84 it is proposed to strike out in the committee amendment, beginning with line 17 down to and including line 25, on page 85, and in lieu thereof to insert:

25 percent of so much of the adjusted excess profits net income as does not exceed the greater of $20,000 or 20 percent of the excess-profits credit;

30 percent of so much of the adjusted excess profits net income as exceeds the greater of $20,000 or 20 percent of the excess-profits credit and does not exceed the greater of $50,000 or 40 percent of such credit;

35 percent of so much of the adjusted excess profits net income as exceeds the greater of $50,000 or 40 percent of the excess-profits credit and does not exceed the greater of $100,000 or 60 percent of such credit;

40 percent of so much of the adjusted excess profits net income as exceeds the greater of $100,000 or 60 percent of the excess-profits credit and does not exceed the greater of $250,000 or 80 percent of such credit;

45 percent of so much of the adjusted excess profits net income as exceeds the greater of $250,000 or 80 percent of the excess-profits credit and does not exceed the greater of $500,000 or 100 percent of such credit; and

50 percent of so much of the adjusted excess profits net income as exceeds the greater of $500,000 or 100 percent of the excess-profits credit.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The PRESIDENT pro tempore. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDENT pro tempore. The question now is, Shall the bill pass?

Mr. VANDENBERG. I ask for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. McNARY (when his name was called). On this vote I have a pair with the senior Senator from Alabama [Mr. BANKHEAD]. If he were present he would vote "yea." If at liberty to vote, I should vote "nay."

Mr. STEWART (when his name was called). I have a pair with the Senator from Oregon [Mr. HOLMAN]. I transfer that pair to the Senator from Pennsylvania [Mr. GUFFEY], and will vote. I vote "yea."

Mr. THOMAS of Utah (when his name was called). I have a general pair with the senior Senator from New Hampshire [Mr. BRIDGES]. I transfer that pair to the Senator from Arkansas [Mr. MILLER], and will vote. I vote "yea."

The roll call was concluded.

Mr. DAVIS. I have a general pair with the junior Senator from Kentucky [Mr. CHANDLER], who is necessarily absent. I understand that, if present, he would vote "yea." If I were at liberty to vote, I should vote "nay."

Mr. SHIPSTEAD. I have a pair with the senior Senator from Virginia [Mr. GLASS]. I am informed that, if present, he would vote "yea." If at liberty to vote, I should vote "nay."

Mr. MINTON. I announce that the Senator from Alabama [Mr. BANKHEAD], the Senator from New Mexico [Mr. CHAVEZ], the Senators from Arkansas [Mrs. CARAWAY and Mr. MILLER], the Senator from Virginia [Mr. GLASS], the Senator from Pennsylvania [Mr. GUFFEY], the Senator from Delaware [Mr. HUGHES], the Senators from Illinois [Mr. LUCAS and Mr. SLATTERY], the Senator from Missouri [Mr. TRUMAN], the Senator from Maryland [Mr. TYDINGS], and the Senator from South Carolina [Mr. SMITH] are necessarily absent. I an advised that, if present and voting, these Senators would vote "yea."

The Senator from Washington [Mr. BONE] is absent because of illness.

The Senator from Arizona [Mr. ASHURST], the Senator from Ohio [Mr. DONAHEY], the Senator from North Carolina [Mr. REYNOLDS], the Senator from Georgia [Mr. RUSSELL], and the Senator from Nevada [Mr. McCARRAN] are unavoidably detained.

Mr. AUSTIN. I announce the following pair on this question: The Senator from New Jersey [Mr. BARBOUR], who would vote "yea," with the Senator from Massachusetts [Mr. LODGE], who would vote "nay."

Mr. DAVIS. Mr. President, I should like to inquire if it is too late to request that the bill with all its amendments be printed.

The PRESIDENT pro tempore. That is out of order at this time.

The result was announced—yeas 46, nays 22, as follows:

YEAS—46

Adams	George	Maloney	Sheppard
Andrews	Gerry	Mead	Smathers
Bailey	Gillette	Minton	Stewart
Barkley	Green	Murray	Thomas, Okla.
Brown	Harrison	Neely	Thomas, Utah
Bulow	Hatch	O'Mahoney	Townsend
Burke	Hayden	Overton	Van Nuys
Byrd	Herring	Pepper	Wagner
Byrnes	Johnson, Colo.	Pittman	Walsh
Clark, Idaho	King	Radcliffe	Wheeler
Connally	Lee	Schwartz	
Ellender	McKellar	Schwellenbach	

NAYS—22

Austin	Frazier	Johnson, Calif.	Tobey
Bilbo	Gibson	La Follette	Vandenberg
Capper	Gurney	Nye	White
Clark, Mo.	Hale	Reed	Wiley
Danaher	Hill	Taft	
Downey	Holt	Thomas, Idaho	

NOT VOTING—27

Ashurst	Chavez	Lodge	Russell
Bankhead	Davis	Lucas	Shipstead
Barbour	Donahey	McCarran	Slattery
Bone	Glass	McNary	Smith
Bridges	Guffey	Miller	Truman
Caraway	Holman	Norris	Tydings
Chandler	Hughes	Reynolds	

So the bill (H. R. 10413) was passed.

Mr. HARRISON. Mr. President, I move that the Senate insist on its amendments, request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the President pro tempore appointed Mr. HARRISON, Mr. KING, Mr. GEORGE, Mr. CAPPER, and Mr. TOWNSEND conferees on the part of the Senate.

Mr. HARRISON. Mr. President, I ask unanimous consent that the bill be printed showing the Senate amendments by number.

The PRESIDENT pro tempore. Without objection, it is so ordered.

WHO PAYS THE TAXES?

Mr. O'MAHONEY. Mr. President, will the Senator from Mississippi yield to me for a moment?

Mr. HARRISON. I yield.

Mr. O'MAHONEY. I have asked the Senator from Mississippi to yield in order that I may place at this point in the RECORD a statement which I gave out yesterday with respect to the monograph which has just been prepared for the Temporary National Economic Committee upon the general subject Who Pays the Taxes?

I think it is altogether appropriate at this point. I may say that in this pamphlet there is contained a table which shows that individuals who receive incomes of $1,500 or less in the United States are so numerous that in spite of the small compensation which they receive annually, their total receipts are in excess of $24,000,000,000, twice as much as the receipts of all individuals whose annual income amounts to $15,000 or more.

A conclusion to be drawn from these statistics is that the national tax receipts could be increased to a much greater extent by improving the economic status of the lower-income groups than by increasing the tax burden upon the upper-income groups.

The facts which are set forth in the monograph I think are of particular interest, and I ask unanimous consent that the table to which I have just referred, and the statement, may be printed in the RECORD at this point.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The statement and the table are as follows:

STATEMENT OF SENATOR JOSEPH C. O'MAHONEY, CHAIRMAN OF THE TEMPORARY NATIONAL ECONOMIC COMMITTEE, ON TEMPORARY NATIONAL ECONOMIC COMMITTEE MONOGRAPH, WHO PAYS THE TAXES?

It makes no difference who actually signs the check or delivers the cash to the tax collector, the real burden of taxation is borne by the public and not by any particular class of taxpayers. This, at least, seems to be the conclusion to be drawn from a monograph entitled "Who Pays the Taxes?" which has just been prepared by the Department of Commerce for the Temporary National Economic Committee. The document is now in the Government Printing Office and should be ready for public distribution within a week or 10 days. It is particularly appropriate and timely now that Congress is about to enact the new tax measure, popularly known as the excess-profits tax bill.

The authors of the study, Dr. Gerhard Colm and Helen Tarasov, tax experts of the Department of Commerce, have used the statistics available from Government reports to allocate all forms of taxes imposed upon the American people according to income brackets. According to their figures, for example, 26 percent of all taxes imposed by Federal, State, and local governments were actually paid in 1939 by persons whose incomes were less than $1,000 a year.

It would appear from these figures that persons falling into this salary group comprised 46 percent of all persons or corporations receiving income and that their receipts amounted to 18 percent of all income that year. In other words, they were so numerous that, although individually their incomes are in the lowest bracket, the total income received by all of them was so great that it amounted to more than the total income of all persons receiving $15,000 annually.

It also appears from the study that these persons whose income is so small that they cannot save, and, in many instances, are compelled to borrow or to use funds not included in their current income for living expenses, nevertheless spent 23 percent of the entire amount expended for all current consumption purposes.

To put it in another way, the expenditure by a large number of persons with small incomes for the bare necessities of life constitute a much larger proportion of total expenditures by the whole population than the amounts paid out by persons with incomes in excess of $15,000 annually. It would appear, for example, from this study that despite the high plane of living of those who receive incomes in excess of $15,000, their expenditures account for less than 5 percent of all consumption expenditures and for approximately only 20 percent of all taxes. Persons who fall into this bracket would seem, according to the study, to comprise only one-half of 1 percent of all income units.

Another interesting point developed by the study is that a larger proportion of the total tax payment goes to State and local governments than to the Federal Government. Tax payments in 1939 accounted for 20 percent of all income received by all classes. Of the total, 11 percent was paid to State and local governments and 9 percent to the Federal Government. But those with incomes of more than $10,000 paid proportionately more to the Federal tax collector than did those with incomes in the lower brackets, for the taxes paid by the income group in the lower brackets consisted largely of levies on property and sales as well as consumption taxes. Those in the higher brackets also participated in the payment of such taxes, but since they are not so numerous their contribution was not so large as that of the persons who constitute the small-income groups. The total payment by the taxpayers in the upper-income groups is increased by levies upon profits, incomes, and on inheritances.

The monograph does not contain any recommendation and is not to be regarded as in any sense representing the conclusions of the Temporary National Economic Committee by which it is received solely as factual material for consideration in the later deliberations of the committee.

It is of great interest, however, because it is apparently the first scientific study that has been made of the aggregate effect of taxes on the several income groups. All levies were arranged by type and grouped in three classes, namely, those falling on personal incomes, those which are classified as consumption taxes, and finally business taxes.

Copies of the study, which will be published as the Temporary National Economic Committee Monograph No. 3, will soon be available from the Superintendent of Documents, Government Printing Office, Washington, D. C. In the meantime copies will be placed on file in the office of the executive secretary of the committee, room 281, Apex Building, Washington, and at the Library of Congress for inspection by interested parties.

Another study on Taxation of Corporate Enterprise is also in the process of preparation. This has been prepared by Mr. Clifford J. Hynning, of the Department of Commerce, in consultation with Dr. Colm, and will cover the whole field of corporate taxation. It is expected that this study also will be ready for publication in the near future.

TABLE I—*Savings and all taxes as percent of consumer income, 1938–39*

Income classes	Total consumer income (in millions of dollars)	Taxes as percentage of income			Savings as percentage of income
		Federal	State and local	Total	
I. Under $500	2,363	7.9	14.0	21.9	−24.3
II. $500 to $1,000	10,038	6.6	11.4	18.0	−2.0
III. $1,000 to $1,500	12,280	6.4	10.9	17.3	5.2
IV. $1,500 to $2,000	10,210	6.6	11.2	17.8	5.8
V. $2,000 to $3,000	12,194	6.4	11.1	17.5	9.6
VI. $3,000 to $5,000	7,743	7.0	10.6	17.6	16.8
VII. $5,000 to $10,000	4,861	8.4	9.5	17.9	28.4
VIII. $10,000 to $15,000	2,238	14.9	10.6	25.5	32.3
IX. $15,000 to $20,000	1,601	19.8	11.9	31.7	32.3
X. $20,000 and over	6,333	27.2	10.6	37.8	38.3
Total	69,861	9.2	11.0	20.2	11.4

Mr. HARRISON. Mr. President, I am delighted that the Senator from Wyoming has placed in the RECORD the statement and table to which he referred. I am sure it will be a valuable contribution.

TRANSPORTATION IN COMMERCE OF CONVICT-MADE GOODS—CONFERENCE REPORT

The PRESIDENT pro tempore. The Chair must state that under the unanimous-consent agreement previously entered into it now becomes the duty of the Chair, immediately on the passage of the tax bill, to lay before the Senate the conference report on Senate bill 3550. The report was read and considered on the 12th instant.

The Chair lays before the Senate the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3550) to make unlawful the transportation of convict-made goods in interstate and foreign commerce.

(For the above-mentioned conference report, see page 11972 of the Senate proceedings of September 12, 1940.)

Mr. BARKLEY. Mr. President, has the Chair laid down the conference report?

The PRESIDENT pro tempore. The conference report has been laid before the Senate in accordance with the unanimous-consent agreement.

Mr. BARKLEY. It is obvious we cannot dispose of the conference report today, because I understand some Senators wish to discuss it. Therefore I move that the Senate proceed to the consideration of executive business.

Mr. NEELY. Mr. President, will the Senator withhold his motion for a moment?

Mr. BARKLEY. I withhold it.

Mr. NEELY. I inquire of the Senator from Kentucky whether or not it is understood that we shall proceed to the consideration of the conference report tomorrow.

Mr. BARKLEY. Yes; that is the understanding, and it is the order of the Senate. It is now the unfinished business, and will so remain until it shall have been disposed of.

EXPANSION OF LENDING AUTHORITY OF EXPORT-IMPORT BANK

Mr. WAGNER. Mr. President, for a week I have been prepared to present the report of the conferees on the so-called Export-Import Bank bill. I hope that when the conference report which is now the unfinished business shall have been disposed of I may have an opportunity to present the conference report to which I refer.

Mr. BARKLEY. That is entirely satisfactory.

FUNERAL EXPENSES OF THE LATE SENATOR LUNDEEN

Mr. BYRNES. Mr. President, from the Committee to Audit and Control the Contingent Expenses of the Senate I report favorably, without amendment, Senate Resolution 308, and ask unanimous consent for its present consideration.

There being no objection, the resolution (S. Res. 308) submitted by Mr. SHIPSTEAD on September 6, 1940, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the contingent fund of the Senate the actual and necessary expenses incurred by the committee appointed by the Presiding Officer of the Senate in arranging for and attending the funeral of Hon. Ernest Lundeen, late a Senator from the State of Minnesota, upon vouchers to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

REGULATION OF INSURANCE BUSINESS IN THE DISTRICT OF COLUMBIA

Mr. DANAHER. Mr. President, I ask the indulgence of the Senator from Kentucky to recall his brief conversation with me the other day with reference to taking up a District insurance bill. At that time we thought we might get it up that day, but unfortunate events intervened. Since there is no objection to disposing of this particular matter, which is very unimportant to most people, and which has hitherto been thoroughly explained, I hope that perhaps tomorrow we may take it up.

Mr. BARKLEY. I shall be glad to discuss the matter with the Senator.

Mr. DANAHER. I thank the Senator.

EXECUTIVE SESSION

Mr. BARKLEY. I renew the motion 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 PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

The PRESIDENT pro tempore. If there be no reports of committees, the clerk will state the nominations on the calendar.

THE JUDICIARY

The legislative clerk read the nomination of James F. T. O'Connor to be United States district judge for the southern district of California.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask that the nominations of postmasters be confirmed en bloc.

The PRESIDENT pro tempore. Without objection, the nominations of postmasters are confirmed en bloc.

IN THE ARMY

The legislative clerk proceeded to read sundry nominations in the Army.

Mr. SHEPPARD. Mr. President, I ask that all Army nominations appearing on the Executive Calendar be confirmed en bloc, and that the President be notified of this action.

The PRESIDENT pro tempore. Without objection, the Army nominations are confirmed en bloc, and the President will be notified.

Mr. SHEPPARD. I wish to make a further request in connection with these nominations. The nominations which have just been confirmed are routine in character; and, because of the large amount of printing involved, I ask unanimous consent that the names of the persons nominated for appointment, promotion, or transfer in the Regular Army be not again printed, but that proper reference be made to the pages of the CONGRESSIONAL RECORD on which the nominations appear.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Texas? The Chair hears none, and it is so ordered.

Mr. JOHNSON of Colorado. Mr. President, I merely wish to call the attention of the Senate to the long list of Army officers promoted to the rank of lieutenant colonel. A few weeks ago we had the Army promotion bill before the Senate, and during the course of the debate I stated to the Senate that if that bill should be passed we would have more colonels in the Army than there are in the State of Kentucky.

I also stated that we would have more colonels in the Army than majors and captains combined. I notice that today we are confirming the appointment of a long list of officers who have been advanced to the rank of lieutenant colonel under the provisions of that act. The list includes some 400 or more nominations.

The PRESIDENT pro tempore. The clerk will state the next nomination on the calendar.

IN THE NAVY

The legislative clerk proceeded to read sundry nominations in the Navy.

Mr. WALSH. I ask that the nominations in the Navy be confirmed en bloc.

The PRESIDENT pro tempore. Without objection, the nominations in the Navy are confirmed en bloc.

That completes the calendar.

RECESS

Mr. BARKLEY. As in legislative session, I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 36 minutes p. m.) the Senate took a recess until tomorrow, Friday, September 20, 1940, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate, September 19 (legislative day of September 18), 1940

COAST GUARD OF THE UNITED STATES

Prof. Albert A. Lawrence to be a professor, with the rank of lieutenant commander, in the Coast Guard of the United States, to rank as such from August 6, 1940.

James F. McDonough to be a chief boatswain in the Coast Guard of the United States, to take effect from date of oath.

PROMOTIONS AND APPOINTMENTS IN THE NAVY

MARINE CORPS

The following-named captains to be majors in the Marine Corps from the 8th day of July 1940:

Calvin R. Freeman.

Presley M. Rixey.

Francis J. McQuillen.

Capt. Kenneth W. Benner to be a major in the Marine Corps from the 1st day of September 1940.

The following-named citizens to be second lieutenants in the Marine Corps from the 25th day of June 1940:

Robert H. Houser, a citizen of Virginia.

Andre D. Gomez, a citizen of Louisiana.

John H. Jones, a citizen of New Jersey.

Robert D. Shine, a citizen of California.

Tolson A. Smoak, a citizen of South Carolina.

POSTMASTERS

CALIFORNIA

Sidney L. Wingert to be postmaster at Bloomington, Calif., in place of G. M. Belles. Incumbent's commission expired April 27, 1940.

Jackson C. Roether to be postmaster at El Cajon, Calif., in place of J. H. Dodson, retired.

Thomas E. Trulove to be postmaster at Inglewwood, Calif., in place of C. A. Acton. Incumbent's commission expired January 25, 1940.

Allie C. Cook to be postmaster at Montebello, Calif., in place of A. C. Cook. Incumbent's commission expired May 19, 1940.

William L. Carter to be postmaster at Needles, Calif., in place of P. V. Howell, removed.

Grace P. Johnson to be postmaster at Windsor, Calif., in place of G. P. Johnson. Incumbent's commission expired April 3, 1940.

CONNECTICUT

Earl S. Johnson to be postmaster at Bethlehem, Conn. Office became Presidential July 1, 1940.

Gertrude C. Wood to be postmaster at Noroton, Conn., in place of G. C. Wood. Incumbent's commission expired June 1, 1940.

Thomas F. Murray to be postmaster at Noroton Heights, Conn., in place of T. F. Murray. Incumbent's commission expired May 23, 1940.

ILLINOIS

William D. Meier to be postmaster at Meredosia, Ill., in place of W. D. Meier. Incumbent's commission expired July 1, 1940.

INDIANA

Andrew H. Henschen to be postmaster at Rising Sun, Ind., in place of A. H. Henschen. Incumbent's commission expired June 25, 1940.

Bessie L. King to be postmaster at Wanatah, Ind., in place of F. G. Sheviak. Incumbent's commission expired January 20, 1940.

IOWA

Frances F. Baldwin to be postmaster at Cascade, Iowa, in place of F. F. Baldwin. Incumbent's commission expired April 28, 1940.

Walter W. White to be postmaster at Spirit Lake, Iowa, in place of W. W. White. Incumbent's commission expired July 9, 1939.

KANSAS

Frank A. Ryniker to be postmaster at Cheney, Kans., in place of I. L. Farris, resigned.

William L. Kauffman to be postmaster at Seneca, Kans., in place of W. L. Kauffman. Incumbent's commission expired February 28, 1938.

KENTUCKY

Maude Underwood to be postmaster at Drakesboro, Ky., in place of Maude Underwood. Incumbent's commission expired January 23, 1940.

Clarence B. Coleman to be postmaster at Evarts, Ky., in place of J. W. Cox. Incumbent's commission expired July 1, 1940.

Anna Clare Rapier to be postmaster at Waverly, Ky., in place of A. C. Rapier. Incumbent's commission expired July 1, 1940.

Edward A. Fish to be postmaster at Williamsburg, Ky., in place of J. P. Mahan. Incumbent's commission expired August 27, 1939.

MASSACHUSETTS

Josephine M. Connell to be postmaster at Forge Village, Mass. Office became Presidential July 1, 1940.

Lester L. Lewis to be postmaster at West Yarmouth, Mass. Office became Presidential July 1, 1940.

MINNESOTA

Marvin Sidney Hillestad to be postmaster at Fosston, Minn., in place of H. C. Whaley, removed.

Edward M. Schellhouse to be postmaster at Hills, Minn., in place of E. M. Christianson. Incumbent's commission expired June 1, 1940.

Alfred Anderson to be postmaster at Twin Valley, Minn., in place of Alfred Anderson. Incumbent's commission expired June 25, 1940.

Alfred Gronner to be postmaster at Underwood, Minn., in place of Alfred Gronner. Incumbent's commission expired April 24, 1940.

Mary A. Bradford to be postmaster at Verndale, Minn., in place of M. A. Bradford. Incumbent's commission expired April 30, 1940.

MISSISSIPPI

Edna F. Kirk to be postmaster at Olive Branch, Miss., in place of A. Y. Sivley, retired.

NEW HAMPSHIRE

Ernest L. Richardson to be postmaster at Conway, N. H., in place of E. L. Richardson. Incumbent's commission expired April 24, 1940.

Dwight L. Moody to be postmaster at New Hampton, N. H., in place of B. E. Tilton, removed.

NEW JERSEY

George J. Imlay to be postmaster at Allenhurst, N. J., in place of G. J. Imlay. Incumbent's commission expired April 30, 1940.

Joseph A. Daly to be postmaster at Beverly, N. J., in place of E. N. Perkins, removed.

William J. Lawlor to be postmaster at Carteret, N. J., in place of W. J. Lawler. Incumbent's commission expired February 14, 1940.

John B. Graham to be postmaster at Mantua, N. J., in place of E. B. Leisy. Incumbent's commission expired June 16, 1940.

Edward Williams to be postmaster at West Point Pleasant, N. J. Office became Presidential July 1, 1940.

NEW YORK

Jay Stafford to be postmaster at Red Creek, N. Y., in place of F. M. Jones, deceased.

Fred Schweickhard to be postmaster at Rushville, N. Y., in place of Fred Schweickhard. Incumbent's commission expired June 20, 1940.

Ward Kilpatrick to be postmaster at Windsor, N. Y., in place of Ward Kilpatrick. Incumbent's commission expired January 23, 1940.

NORTH CAROLINA

Roberdeau Wheat to be postmaster at Erlanger, N. C. Office became Presidential July 1, 1940.

OKLAHOMA

Bentley R. Jones to be postmaster at Stilwell, Okla., in place of B. R. Jones. Incumbent's commission expired June 1, 1940.

PENNSYLVANIA

H. Leon Breidenbach to be postmaster at Boyertown, Pa., in place of J. G. Lefever, removed.

Samuel C. Green to be postmaster at Mont Alto, Pa., in place of S. C. Green. Incumbent's commission expired April 9, 1940.

Medea F. Hoffman to be postmaster at New Alexandria, Pa., in place of J. H. Shields, retired.

SOUTH CAROLINA

Lottie G. Myers to be postmaster at Pamplico, S. C., in place of L. G. Myers. Incumbent's commission expired July 1, 1940.

SOUTH DAKOTA

Dale A. Van Voorhis to be postmaster at Hitchcock, S. Dak., in place of A. A. Van Voorhis, deceased.

VIRGINIA

Wallace J. Dyar to be postmaster at Skyland, Va. Office became Presidential July 1, 1940.

WASHINGTON

Carl S. Halverson to be postmaster at Bremerton, Wash., in place of E. J. Braendlein. Incumbent's commission expired June 25, 1940.

Archie Emmitte Brown to be postmaster at Osborne, Wash., in place of K. T. S. Rush, resigned.

WEST VIRGINIA

James H. Rouzee to be postmaster at Paw Paw, W. Va., in place of J. W. McNabb, removed.

WISCONSIN

Donald A. Sommers to be postmaster at Arkansaw, Wis., in place of J. C. Will. Incumbent's commission expired January 18, 1939.

Anna Kettering to be postmaster at Glen Flora, Wis., in place of Anna Kettering. Incumbent's commission expired February 4, 1940.

Mary E. Lazers to be postmaster at Marshall, Wis., in place of M. E. Lazers. Incumbent's commission expired July 30, 1939.

Charles S. Thayer to be postmaster at Palmyra, Wis., in place of C. S. Thayer. Incumbent's commission expired June 25, 1940.

Henry F. Schumacher to be postmaster at Stoughton, Wis., in place of H. F. Schumacher. Incumbent's commission expired May 13, 1940.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 19 (legislative day of September 18), 1940

UNITED STATES DISTRICT JUDGE

James F. T. O'Connor to be United States district judge for southern district of California.

PROMOTIONS AND APPOINTMENTS, BY TRANSFER, IN THE REGULAR ARMY

NOTE.—The names of the persons whose nominations for appointment or transfer in the Regular Army were today confirmed by the Senate will be found, under the caption "Nominations," in the CONGRESSIONAL RECORD of September 5, 9, and 13, beginning on pages 11547, 11795, and 12115, respectively.

APPOINTMENTS IN THE NATIONAL GUARD OF THE UNITED STATES

GENERAL OFFICERS

Ellard Arthur Walsh to be major general.
Gordon Cloyd Hollar to be brigadier general.
John Aiken to be brigadier general.

PROMOTIONS IN THE NAVY

TO BE CAPTAINS

Laurance T. DuBose
Edmund W. Burrough

TO BE COMMANDERS

Charles L. Hutton
Walton W. Smith
Elmer Kiehl
Hilyer F. Gearing
Stanley F. Patten
Daniel V. Gallery, Jr.
Walter F. Boone

TO BE LIEUTENANT COMMANDERS

Stuart S. Purves
John D. Reppy
Watson T. Singer
David G. Roberts
John Sylvester
Bert F. Brown
George T. Mundorff
Marvin P. Evenson
Howard W. Gilmore
James A. Morrison
James F. Byrne
Eugene M. Waldron

TO BE LIEUTENANTS

DeWitt W. Shumway
Allen M. Shinn
John D. Andrew
Edwin C. Asman
Frank D. Latta
John S. Lewis
Thomas D. F. Langen
Marcus W. Williamson
Harry W. Seely
Albert S. Major, Jr.
Samuel A. McCornock
Daniel F. Smith, Jr.
James A. Flenniken
Garry W. Jewett, Jr.
Albert D. Kaplan
Irwin Chase, Jr.
Lionel A. Arthur
Kenneth P. Letts
William H. Raymond
Adolphe Wildner
Clifford A. Johnson
Joseph A. McGoldrick
Roland O. Lucier
George H. Laird, Jr.
Robert M. Gibbons
Ignatius J. Galantin
Thomas F. Connolly
James G. Franklin
Carter L. Bennett

TO BE LIEUTENANTS (JUNIOR GRADE)

Gerald P. Joyce
Donald L. Mehlhop
Nelson P. Watkins
Lawrence G. Bernard
Harry C. Transue
Simon E. Ramey

TO BE ASSISTANT DENTAL SURGEONS

Kenneth L. Longeway
Joseph S. Restarski
Davis Henderson
William L. Strangman
Donald E. Cooksey
Harlan K. Muth
Ernest L. Purdum
Howard M. Farwell
Howard T. d'Arc
Walter A. Hall, Jr.
Robert P. Steed
Frank K. Etter
Gerald H. Bonnette
Albert P. Leisz
George O. Stead
Bernard C. Kingsbury
Leslie M. Wallace
Howard B. Haisch
John V. Niiranen
James P. Donnelly
James L. Bradley
Wilson T. Axline
Donald E. Carlson
Oliver E. McClintick
Robert D. Lindelof
William H. Lieser
Henry A. Collett, Jr.
Charles A. Giermann
Leo J. Kowalski
George M. Denney
Merrill C. Wheatcroft

TO BE PASSED ASSISTANT PAYMASTER

DeWitt C. T. Grubbs, Jr.

TO BE ASSISTANT PAYMASTER

James W. Fryer.

TO BE CHIEF BOATSWAIN

Jesse F. Simmons.

TO BE CHIEF RADIO ELECTRICIAN

Harry L. Dawes.

TO BE CHIEF PAY CLERK

Peter J. Lelesch.

TO BE LIEUTENANTS

Rex B. Little
William H. Groverman, Jr.
William W. Vanous
Charles S. Hutchings
George W. Pressey
Robert P. Walker
Alton E. Parker
Arthur H. Vorpahl
Francis E. Nuessle
Samuel P. Moncure

TO BE CAPTAINS

Everett LeR. Gayhart
Earl F. Enright
Edward L. Cochrane
Adrian R. Marron

TO BE COMMANDERS

James E. J. Kiernan
William A. Sullivan

TO BE LIEUTENANT COMMANDERS

William W. Anderson, Jr.
James H. Rodgers
Oscar Stiegler
George C. Weaver
William C. Sprenger
Joseph L. Bird
John H. Ellison
Mario G. Vangeli

TO BE LIEUTENANTS

Robert B. Madden
Robert A. Gallagher
Jack W. Roe
Henry P. Rumble
Charles A. Curtze
Robert E. Garrels
James S. Bethea

POSTMASTERS

MISSOURI

Monroe A. Fields, Humansville.
R. Lancelot West, Monticello.

HOUSE OF REPRESENTATIVES

THURSDAY, SEPTEMBER 19, 1940

The House met at 12 o'clock noon and was called to order by the Speaker.

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

O Lord, our God, Thou art the eternal source of every blessing and every joy; Thy goodness and mercy crown each day. Continue, our Father, to let the dawn of each day come to us with the breath of God. We thank Thee that our times are in Thy hands and Thou art with us in every state. Let us look beyond created things and find our abiding peace and fondest hopes in the sovereignty of our Lord and Saviour. Let us hear the inward voice that speaks and vitalizes human life. Give wisdom that we may know how to use our power and may all problems yield to one solution and that is to a high sense of right. Bless us with a deep zeal for righteousness, with sound reasoning which gives release to the channels of justice to all and let these be the fruits of the benediction of our Redeemer and Elder Brother. With sincerity of purpose and with quietness of temper, help us to pass through the duties of this day. Through Christ our Saviour. Amen.

The Journal of the proceedings of Monday, September 16, 1940, 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 a bill of the following title, in which the concurrence of the House is requested:

S. 3426. An act to amend the Agricultural Adjustment Act, as amended, and as reenacted by the Agricultural Marketing Agreement Act of 1937, as amended.

The message also announced that the Vice President had appointed Mr. BARKLEY and Mr. TOBEY members of the joint select committee on the part of the Senate, as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of executive papers in the following departments and agencies:

1. Department of Agriculture.
2. Department of the Interior.
3. Department of Justice.
4. Civil Aeronautics Authority.
5. Federal Works Agency.
6. Interstate Commerce Commission.
7. The National Archives.

The message also announced that the Senate had ordered that Mr. WHEELER and Mr. REED be appointed as additional conferees on the part of the Senate to the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 162) entitled "An act to protect producers, manufacturers, distributors, and consumers from the unrevealed presence of substitutes and mixtures in spun, woven, knitted, felted, or otherwise manufactured wool products, and for other purposes."

DESIGNATION OF TEMPORARY CLERK

The Speaker laid before the House the following communication from the Clerk of the House:

SEPTEMBER 17, 1940.

The SPEAKER,
House of Representatives, Washington, D. C.

SIR: Desiring to be temporarily absent from my office, I hereby designate Mr. H. Newlin Megill, an official in my office, to sign any and all papers and do all other acts for me which he would be authorized to do by virtue of this designation and of clause 4, rule III, of the House.

Respectfully yours,

SOUTH TRIMBLE,
Clerk of the House of Representatives.

EXTENSION OF REMARKS

Mr. WARREN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include a very beautiful radio speech made on the late Speaker, the Honorable William B. Bankhead, by Mr. Earl Godwin.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina [Mr. WARREN]?

There was no objection.

AMENDMENT OF COMMODITY EXCHANGE ACT

Mr. JONES of Texas. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 4088) to amend the Commodity Exchange Act, as amended, to extend its provisions to fats and oils, cottonseed, cottonseed meal, and peanuts, with Senate amendments thereto, disagree to the Senate amendments, and ask for a conference.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas [Mr. JONES]?

Mr. MICHENER. Mr. Speaker, reserving the right to object, the gentleman is asking only that this bill go to conference?

Mr. JONES of Texas. Yes.

The SPEAKER. Is there objection to the request of the gentleman from Texas [Mr. JONES]?

There was no objection, and the Speaker appointed the following conferees: Messrs. FULMER, BEAM, PACE, HOPE, and KINZER.

EXTENSION OF REMARKS

Mr. BLAND. Mr. Speaker, I ask unanimous consent to insert in the RECORD at this point a resolution adopted by the Virginia delegation on the occasion of the death of our late Speaker, the Honorable WILLIAM B. BANKHEAD.

The SPEAKER. Is there objection to the request of the gentleman from Virginia [Mr. BLAND]?

There was no objection.

The resolution referred to follows:

At a meeting of the Virginia delegation of the House of Representatives in the Seventy-sixth Congress of the United States, held on the 18th day of September 1940, the following resolution was unanimously adopted:

"*Resolved*, first, That the Virginia members of the House of Representatives in the Seventy-sixth Congress desire to record their deep appreciation of the patriotic, untiring, faithful and devoted service of WILLIAM B. BANKHEAD, of Alabama, as Speaker of the House of Representatives in the Seventy-fourth, Seventy-fifth, and Seventy-sixth Congresses of the United States.

"Second, that in the death of WILLIAM B. BANKHEAD, the Nation has sustained an irreparable loss, the House of Representatives a wise counselor and guide, Alabama an ever loyal son, and the Democratic Party one of its most courageous champions.

"Third, that Speaker BANKHEAD added a new luster to the office of Speaker by his fair, courteous, and faithful administration of the

duties of that high office, in which he was always impelled by the highest ideals and the loftiest patriotism.

"Fourth, that the members of the Virginia delegation will always cherish their memories of their service with Speaker BANKHEAD will find in his work in these most trying times an inspiration and an example.

"Fifth, that the dean of this delegation is authorized to request that a copy of these resolutions be made a part of the CONGRESSIONAL RECORD, and to transmit a copy to the family of the deceased."

SCHUYLER OTIS BLAND.
PATRICK H. DREWRY.
CLIFTON A. WOODRUM.
THOMAS G. BURCH.
JOHN W. FLANNAGAN, JR.
HOWARD W. SMITH.
A. WILLIS ROBERTSON.
COLGATE W. DARDEN, JR.
DAVE E. SATTERFIELD, JR.

THE LATE SPEAKER BANKHEAD

Mr. VOORHIS of California. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from California [Mr. VOORHIS]?

There was no objection.

Mr. VOORHIS of Calif. Mr. Speaker, I take this occasion simply to pay my tribute to our late Speaker, the Honorable WILLIAM B. BANKHEAD. May I say to the House that ever since I came here as a new Member 4 years ago and during all the time I have served as a Member of this House he has been an inspiration to me and his memory always will be. It is a source of silent but real satisfaction to me to be able to remember that I cast my vote for him when he was candidate for Vice President of the United States at the Democratic Convention held at Chicago.

EXTENSION OF REMARKS

Mr. JONKMAN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include an editorial from the Grand Rapids (Mich.) Herald of September 18, 1940.

The SPEAKER. Is there objection to the request of the gentleman from Michigan [Mr. JONKMAN]?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. PLUMLEY. Mr. Speaker, I ask unanimous consent that at the conclusion of all business on the Speaker's table and after the disposition of any special orders heretofore made, I may address the House for 25 minutes on next Monday.

The SPEAKER. Is there objection to the request of the gentleman from Vermont [Mr. PLUMLEY]?

There was no objection.

EXTENSION OF REMARKS

Mr. LUTHER A. JOHNSON. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include, first, a tribute paid to the present Speaker of the House in an article in the Denison Herald by George W. Stimpson, and, second, to include a letter written to me by H. P. Drought, State administrator for Texas.

The SPEAKER. Is there objection to the request of the gentleman from Texas [Mr. LUTHER A. JOHNSON]?

There was no objection.

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks in the RECORD and to include two letters, one from Charles Talmadge Cobb, of Collinsville, Ala., and the other from T. K. Stapleton, of the Veterans of Foreign Wars, Jackson, Miss., regarding my remarks inserted in the RECORD on September 14, entitled "Caught in the Draft."

The SPEAKER. Is there objection to the request of the gentleman from Minnesota [Mr. ALEXANDER]?

There was no objection.

Mr. THOMAS F. FORD. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks in the RECORD and to include an article and statement by Henry F. Grady, Assistant Secretary of State.

The SPEAKER. Is there objection to the request of the gentleman from California [Mr. THOMAS F. FORD]?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to address the House and to revise and extend my own remarks in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas [Mr. PATMAN]?

There was no objection.

[Mr. PATMAN addressed the House. His remarks appear in the Appendix of the RECORD.]

EXTENSION OF REMARKS

Mr. JOHNSON of Indiana asked and was given permission to extend his own remarks in the RECORD.

Mr. SPRINGER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein a brief editorial.

The SPEAKER. Is there objection to the request of the gentleman from Ind'ana?

There was no objection.

Mr. DICKSTEIN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein a statement with regard to Richard Rollins, a former investigator of the McCormack committee.

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

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. DICKSTEIN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, and to revise and extend my remarks.

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

There was no objection.

[Mr. DICKSTEIN addressed the House. His remarks appear in the Appendix of the RECORD.]

TRANSPORTATION ACT OF 1940

Mr. JARMAN. Mr. Speaker, from the Committee on Printing I report (H. Rept. No. 2948) an original privileged concurrent resolution (H. Con. Res. 88) authorizing the printing of additional copies of Public Law No. 785, entitled "Transportation Act of 1940," and ask for its immediate consideration.

The Clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That there be printed 60,000 additional copies of Public Law No. 785, current Congress, entitled "Transportation Act of 1940," of which 10,000 copies shall be for the use of the Senate document room and 50,000 copies shall be for the use of the House document room.

Mr. MICHENER. Mr. Speaker, will the gentleman yield?

Mr. JARMAN. I yield to the gentleman from Michigan.

Mr. MICHENER. As I understand, this resolution refers to the Transportation Act?

Mr. JARMAN. It does.

Mr. MICHENER. This resolution is just to authorize the printing of additional copies of that act which are being requested?

Mr. JARMAN. That is true. There is a very general demand for them.

The concurrent resolution was agreed to.

PERMISSION TO ADDRESS THE HOUSE

Mr. DICKSTEIN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. DICKSTEIN. Mr. Speaker, I had a special order permitting me to address the House for half an hour on yesterday. In view of the fact that the House was not in session yesterday, does the calendar of yesterday carry over to today?

The SPEAKER. It does not.

Mr. DICKSTEIN. Then I ask unanimous consent, Mr. Speaker, that today, at the conclusion of the legislative program of the day and following any special orders heretofore entered, I may be permitted to address the House for 30 minutes.

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

There was no objection.

EXTENSION OF REMARKS

Mr. COX. Mr. Speaker, I ask unanimous consent that all Members of the House may have 7 days in which to extend their remarks in the RECORD on the subject of our late Speaker.

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

There was no objection.

Mr. ANGELL. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD on two subjects, and in one to include a short editorial and in the other to include some resolutions prepared by the Western Association of State Game and Fish Commissions.

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

There was no objection.

Mr. GROSS. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein an editorial appearing in the Gettysburg Star and Sentinel.

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

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. GROSS. Mr. Speaker, I ask unanimous consent that today, at the conclusion of the legislative program of the day and following any special orders heretofore entered, I may be permitted to address the House for 30 minutes on an important subject.

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

There was no objection.

EXTENSION OF REMARKS

Mr. FRIES. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein an address delivered to the United Federal Workers of America.

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

There was no objection.

Mr. ANDERSON of Missouri asked and was given permission to extend his own remarks in the RECORD.

Mr. THORKELSON. Mr. Speaker, I have two requests. First, I ask unanimous consent to extend my own remarks in the RECORD and include therein excerpts from articles by A. H. Lane. Second, I ask unanimous consent to extend my own remarks in the RECORD and include therein excerpts from a book entitled "The Hidden Hand."

Mr. SABATH. I object, Mr. Speaker.

Mr. BRADLEY of Michigan. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein a brief editorial from the Sault Ste. Marie Evening News.

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

There was no objection.

Mr. RISK. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein a speech delivered by the Governor of Rhode Island on September 1.

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

There was no objection.

Mr. RISK. Mr. Speaker, I further ask unanimous consent to extend my own remarks in the RECORD and include therein a short article appearing in the Pawtucket Times on Federal pensions.

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

There was no objection.

Mr. VAN ZANDT. Mr. Speaker, I ask unanimous consent to extend my own remarks in the Appendix of the RECORD and include therein an article by Bruce Catton on the subject No Faith In Voluntary Enlistments.

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

There was no objection.

ARMY HOUSING

Mr. WOODRUM of Virginia. Mr. Speaker, I ask unanimous consent for the immediate consideration of the joint resolution (H. J. Res. 607), making additional appropriations for the Military Establishment for the fiscal year ending June 30, 1941.

The Clerk read the title of the joint resolution.

The Clerk read the joint resolution, as follows:

House Joint Resolution 607

Resolved, etc., That the following sums are appropriated out of any money in the Treasury not otherwise appropriated for the Military Establishment for the fiscal year ending June 30, 1941, namely:

Military posts: For construction and installation of buildings, flying fields, and appurtenances thereto, including the acquisition of land, rights appertaining thereto, leasehold and other interests therein, and temporary use thereof, without regard to the provisions of sections 355, 1136, and 3648, Revised Statutes, as amended (10 U. S. C. 1339; 40 U. S. C. 255; 31 U. S. C. 529), $329,519,902.

Acquisition of land: For acquisition of land, including rights pertaining thereto, leasehold and other interests therein, and temporary use thereof, without regard to the provisions of sections 355, 1136, and 3648, Revised Statutes, as amended (10 U. S. C. 1339; 40 U. S. C. 255; 31 U. S. C. 529), $8,744,000.

Mr. WOODRUM of Virginia. Mr. Speaker, I ask unanimous consent to proceed for 5 minutes in explanation of the request.

Mr. MICHENER. Reserving the right to object, Mr. Speaker, is this the bill that the gentleman from New York [Mr. TABER] has agreed may be brought up by unanimous consent and passed by unanimous consent?

Mr. WOODRUM of Virginia. The gentleman cannot agree to pass it by unanimous consent.

Mr. MICHENER. I mean, so far as he is concerned.

Mr. WOODRUM of Virginia. Yes; it is the same bill.

Mr. MICHENER. That ought to be a good recommendation.

Mr. WOODRUM of Virginia. Yes.

The SPEAKER. The gentleman from Virginia asks unanimouse consent to proceed for 5 minutes. Is there objection?

There was no objection.

Mr. WOODRUM of Virginia. In explanation of the request for immediate consideration, Mr. Speaker, the funds carried in this joint resolution, $338,263,902, are for the emergency housing of the conscripted army.

You will recall that we wrote into the so-called conscription bill a provision that no men shall be inducted for such training and service until adequate provision shall have been made for such shelter, and so forth. The Committee on Appropriations has started hearings on the $1,600,000,000 appropriation for the National Guard and the conscripted army, but it has developed, of course, that the matter of housing the selective trainees is a very vital portion of the program and every day counts. Housing for the National Guard already has been provided for. If Congress recesses until the first of the week and we are not able to get the entire program in shape for report before the first of next week, it will be several days afterward before there could be consideration. If we could pass this resolution today for the housing part of the program and get Senate action on it, it would save a week's time.

The Subcommittee on Deficiencies of the Committee on Appropriations has gone into the matter and there is a unanimous report from that subcommittee. We also have contacted the members of the full committee and my information is that there is no objection on the part of a majority of the members to the consideration of the measure at this time and in this way.

Mr. DICKSTEIN. Mr. Speaker, will the gentleman yield?

Mr. WOODRUM of Virginia. I yield.

Mr. DICKSTEIN. Who is going to handle this housing matter under this measure?

Mr. WOODRUM of Virginia. It is to be handled by the Quartermaster General of the Army.

Mr. DICKSTEIN. Are they handling the other contracts now for the defense program?

Mr. WOODRUM of Virginia. They are.

Mr. DICKSTEIN. And does the gentleman think that everything is going satisfactorily with regard to the letting of those contracts?

Mr. WOODRUM of Virginia. I do.

Mr. HOFFMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. WOODRUM of Virginia. I yield to the gentleman from Michigan.

Mr. HOFFMAN. Are any of these buildings to be erected at any place other than in continental United States?

Mr. WOODRUM of Virginia. Yes; some of this money for construction will be used upon projects in Alaska, Hawaii, and Puerto Rico.

Mr. HOFFMAN. And some of it in South America?

Mr. WOODRUM of Virginia. Not a penny of it.

Mr. LUDLOW. Some in Puerto Rico.

Mr. WOODRUM of Virginia. Puerto Rico; yes.

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

Mr. WOODRUM of Virginia. I yield to the gentleman from Pennsylvania.

Mr. RICH. Will we have an opportunity to have something to say in reference to this bill?

Mr. WOODRUM of Virginia. If permission is granted for the immediate consideration of the joint resolution, it is my intention to ask unanimous consent that we have 30 minutes of debate, the time to be equally divided in order that the matter may be fully discussed by the membership of the House.

Mr. RICH. We could not discuss it very fully in 30 minutes; but the point I make is that you are proposing to appropriate this money out of money in the Treasury not otherwise appropriated, and I had some pertinent questions to ask the majority side of the House about where that money is, because I know everybody is trying to get their hands on it, and if there is any money of that kind in this country I would like to know where it is.

Mr. WOODRUM of Virginia. I know the question the gentleman always asks, and I have asked that question, too, but right now this conscription army has got to be housed.

Mr. RICH. The gentleman is absolutely right about that.

Mr. WOODRUM of Virginia. And the money has to be obtained from somewhere.

Mr. RICH. That is right.

Mr. WOODRUM of Virginia. And there is no question right now about having to do this job.

Mr. RICH. The point I want to make is about the extravagant expenditure of funds that has been going on for the last 7 or 8 years and ask whether we are going to try to cut down on those expenses in order that we may maintain this army after we conscript them.

Mr. WOODRUM of Virginia. I do not think this is any time to talk about that, I will say to my friend from Pennsylvania.

Mr. RICH. I think it is a very pertinent question to ask now. I think the proper time has been here during the last 7 or 8 years, and, as much as I like the gentleman from Virginia, I do not believe we could spend any time more wisely or judiciously than to try to get the Government to cut down its enormous overhead and its vast expenditures that are doing this country no good. We ought to do that and the gentleman from Virginia knows it.

Mr. WOODRUM of Virginia. Will the gentleman yield to me?

Mr. RICH. I yield. [Laughter.]

Mr. WOODRUM of Virginia. How much does the gentleman think ought to be cut from this appropriation?

Mr. RICH. I do not believe anything ought to be cut off of this appropriation, because I think we ought to house these boys. I think that some time ought to be given by the Members of Congress to trying to cut down in some places where it can be cut down wisely and judiciously.

Mr. RABAUT. Will the gentleman yield?

Mr. WOODRUM of Virginia. I yield.

Mr. RABAUT. I asked the gentleman to yield in order to ask the gentleman from Pennsylvania [Mr. RICH] if he knows anybody in his district who is against this idea?

Mr. RICH. There are hundreds of thousands of people in my district who are against conscription——

Mr. RABAUT. I did not ask about conscription. I asked you about housing these boys. Do not dodge the issue.

Mr. RICH. They are against trying to conscript boys in peacetime, and the gentleman knows there are many people in Michigan who are against it, too.

[Here the gavel fell.]

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

Mr. TABER. Mr. Speaker, reserving the right to object, I think the gentleman from Virginia should include a request for a reasonable time for discussion of the resolution. I would suggest something like 40 minutes, the time to be equally divided. Then, of course, it will have to be considered under the 5-minute rule after that if anyone cares to offer amendments.

Mr. WOODRUM of Virginia. Mr. Speaker, I amend the unanimous-consent request to ask that the bill be considered in the House as in the Committee of the Whole, and that there be 40 minutes of general debate, the time to be equally divided between the gentleman from New York [Mr. TABER] and myself.

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

Mr. CASE of South Dakota. Mr. Speaker, reserving the right to object, I would like to ask the chairman of the Deficiency Subcommittee on Appropriations whether there was any consideration given by the deficiency committee to providing for reports from the quartermaster general to the Appropriations Committee on these expenditures? I have just had a few minutes to look over the break-down submitted. I notice suggested construction in different parts of the country and possessions for barracks and housing of various kinds. It is the practice of the War Department subcommittee, of which the gentleman from Pennsylvania [Mr. SNYDER] is the distinguished chairman, in considering these requests that we make a limitation or at least have an understanding with the War Department that the construction of quarters shall not exceed a certain amount for this or that type of construction, taking into consideration the locality and the conditions prevailing there. But in this resolution there is no such limitation. I would like to have the assurance of the gentleman that the quartermaster's department, the War Department, will make some report to the Appropriations Committee and the proper subcommittees thereof with respect to these expenditures.

Mr. WOODRUM of Virginia. We expect to get that report, I will say to the gentleman.

Mr. ENGEL. Mr. Speaker, reserving the right to object, I did not know anything about this until a few minutes ago. I just saw this break-down of the appropriation for the first time. I went into this housing matter very carefully a year ago. I have before me photographs of temporary quarters in Panama which were erected at a cost of $150 per man. If anyone wants to see them, I have them right here. These are very good temporary quarters, constructed of wood. Of course, they are a different type than is required here. They do not require heating and they have no foundations in Panama. However, we have temporary quarters, "enlisted men, listed at $450 per man, a total of $226,000,000." The Army officials claim that construction in Panama is 25 percent higher than it is in the United States, and it costs $150 per man there and $450 per man here. Has the gentleman from Virginia gone into that?

Mr. WOODRUM of Virginia. I do not know whether the gentleman's Panama figures include the utilities that go with housing.

Mr. ENGEL. They do not.

Mr. WOODRUM of Virginia. Well, the $450 per man is not for housing alone. It also includes the utilities.

Mr. ENGEL. Surely the utilities do not cost twice the amount of the housing.

Mr. WOODRUM of Virginia. If the gentleman will permit the matter to come up for consideration he will have ample opportunity to express himself on it.

Mr. ENGEL. Will there be time for debate upon it?

Mr. WOODRUM of Virginia. Oh, yes.

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

There was no objection.

EXCESS-PROFITS TAX

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent that, notwithstanding the adjournment of the House, the Clerk of the House be authorized to receive any message on the bill (H. R. 10413) to provide revenue, and for other purposes, that the House disagree to the amendments of the Senate to such bill and agree to the conference thereon, and that the Speaker appoint managers on the part of the House to attend said conference.

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

Mr. MICHENER. Reserving the right to object, Mr. Speaker——

Mr. TREADWAY. Mr. Speaker, I reserve the right to object.

Mr. MICHENER. What this request accomplishes is this——

Mr. DOUGHTON. This is the revenue bill. It will go to conference tomorrow if the Senate concludes the bill today.

Mr. MICHENER. If this request is granted, it will mean that the tax bill will go to conference and it will not be necessary for the House to remain in session tomorrow and Saturday?

Mr. DOUGHTON. That is right.

Mr. TREADWAY. Reserving the right to object, I only do so to confirm the request which the gentleman from North Carolina [Mr. DOUGHTON] has made. I hope the request will be granted, and I can assure him that the minority will cooperate in every way possible to expedite the conference report.

Mr. SCHAFER of Wisconsin. Mr. Speaker, reserving the right to object, I do not want to give my approval to this request if it is to be understood that the Members of this House in not objecting to the request do object to some of the very fine amendments which have been incorporated in the bill by our brethren on the other side of the Capitol. I therefore desire to suggest that the House conferees do not take the granting of this request as an indication that the Members of the House are unanimously opposed to all of the Senate amendments including several very good amendments.

Mr. DOUGHTON. All I can say to the gentleman is that this will be just like any other conference. The ranking minority Member can assure his colleagues that we will try to support the views of the House as far as it is possible.

Mr. SCHAFER of Wisconsin. Let it not be understood that in granting this request any Member of the House is indicatting that it is the will of the House to reject all or any of the Senate amendments, but that they are merely consenting to sending the bill to conference.

Mr. DOUGHTON. That is a question which answers itself.

Mr. TREADWAY. This is a request neither to reject nor approve the bill, but merely to send it to conference.

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

There was no objection.

ORDER OF BUSINESS

Mr. WARREN. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

Mr. MICHENER. Reserving the right to object, Mr. Speaker, can the gentleman outline at this time what the program for next week will be?

Mr. WARREN. I understand that on Monday there will be the deficiency bill to be followed by any conference reports that may be ready. Beyond that I do not think any program has been set.

Mr. TABER. Mr. Speaker, will the gentleman yield?

Mr. WARREN. I yield.

Mr. TABER. We shall probably have to follow the deficiency bill—perhaps not Monday, but later in the week—with a resolution carrying funds to put the draft into effect.

Mr. WARREN. This is my understanding. That will probably come up the latter part of the week.

Mr. TABER. That we cannot tell exactly until next week.

Mr. WARREN. Mr. Speaker, I wish, temporarily, to withdraw my request.

PROTECTION OF DEFENSIVE MATERIAL AND UTILITIES

Mr. SABATH, from the Committee on Rules, submitted the following report on the bill, H. R. 10465 (Rept. No. 2952) entitled "An act to amend an act to punish the willful injury or destruction of war material, or war premises or utilities used in connection with war material, and for other purposes," approved April 20, 1918, for printing under the rule.

House Resolution 604

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 10465, a bill to amend an act entitled "An act to punish the willful injury or destruction of war material, or of war premises or utilities used in connection with war material, and for other purposes," approved April 20, 1918. That after general debate, which shall be confined to the bill and shall continue not to exceed 1 hour, to be equally divided and controlled by the chairman and the ranking minority member of the Committee on the Judiciary, the bill shall be read for amendments under the 5-minute rule. At the conclusion of the reading of the bill for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

ASSIGNMENT OF CLAIMS UNDER PUBLIC CONTRACTS

Mr. SABATH, from the Committee on Rules, submitted the following report on the bill H. R. 10464 (Rept. No. 2953), "A bill to assist in the national-defense program by amending sections 3477 and 3737 of the Revised Statutes to permit the assignment of claims under public contracts," for printing under the rule.

House Resolution 605

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 10464, a bill to assist in the national-defense program by amending sections 3477 and 3737 of the Revised Statutes to permit the assignment of claims under public contracts. That after general debate, which shall be confined to the bill and shall continue not to exceed 1 hour, to be equally divided and controlled by the chairman and the ranking minority member of the Committee on the Judiciary, the bill shall be read for amendments under the 5-minute rule. At the conclusion of the reading of the bill for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

WAR DEPARTMENT APPROPRIATION FOR DEFENSE HOUSING

The SPEAKER. The gentleman from Virginia is recognized for 20 minutes.

Mr. WOODRUM of Virginia. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. PATMAN].

GOLD OWNED BY THE UNITED STATES

Mr. PATMAN. Mr. Speaker, I desire to enlarge a little on what I said a while ago on the right of the United States Government to issue its own money or credit for our national-defense program. In this issue of the daily CONGRESSIONAL RECORD, in the Appendix, will be found questions and answers I have prepared on this subject.

We have in this country approximately $21,000,000,000 in gold, and, as all of you know, the title to this gold is in the Government of the United States. Many people will try to make you believe that the Federal Reserve banks own this gold. Any statement to this effect is not true. This gold is owned by the Government of the United States.

PRIVATE BANKS USING GOVERNMENT CREDIT FREE

I concede that there is a logical argument to justify the private banks of the country in using the Government's credit in private transactions, but I do not concede to the private

banks of the country the right to charge the Government for the use of the Government's own credit, and that is what we do under our present system of issuing and selling to the banks of the United States Government tax-exempt interest-bearing bonds. This gold, $21,000,000,000, if used as a 40-percent reserve or base, is sufficient to justify the issuance of more than $51,000,000,000, which would more than pay the national debt and at the same time provide much of the money for our national-defense and preparedness plan.

I would not advocate the payment of the national debt quickly or suddenly, but I do advocate a program by which eventually the national debt will be paid through the use of this gold and that our national-defense and preparedness plans be financed entirely by the use of this gold.

Under this particular bill under consideration, $525,000,000 will be spent. The way that money will be raised is this: $525,000,000 in bonds will be issued by the Treasury and sold to the banks. The banks will give the Treasury credit upon their books for $525,000,000. So far so good. Suppose now the banks need the money. They turn right around and put up those same bonds as collateral and get money issued by our Government in return for them. In that way and in other ways they are using the Government's credit absolutely free of charge. It is not right. There is no way you can justify it. As I said, you can justify it for private transactions as being in the interest of the public for our own economic good.

You cannot justify paying a few private bankers $525,000,000 in order to permit us to have $525,000,000 to spend for defense plans. By the time these bonds are paid for, which you will authorize, you will pay twice as much, and one-half will be interest.

EDISON SAID SYSTEM WRONG

At one time Mr. Thomas A. Edison was inspecting Muscle Shoals, and since he was in favor of improving Muscle Shoals, he was asked the question, "Are you in favor of issuing $30,000,000 in bonds for the purpose of carrying on this work?"

He said, in substance, "No; that would not be right. If you issue $30,000,000 in Government tax-exempt, interest-bearing bonds to do this work, by the time the bonds are paid the private banks will have collected $30,000,000 in order to let the ones who furnish the materials and who do the work receive $30,000,000." He said that any government that can issue a dollar bond that is good can issue a dollar bill that is good, because they are made at exactly the same place and carry the same guaranty.

I want to appeal to the membership of this House to study this particular proposal at this time because it is not right to pay a few private bankers a billion dollars a year interest for the purpose of enabling us, upon our own credit, the credit of this Nation, to finance our national defense and preparedness program. There is no logic or reason that will justify it.

Mr. HOUSTON. Will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Kansas.

Mr. HOUSTON. Is it not a fact that under the Federal Reserve law of 1913 the Federal Government can issue $2.50 in currency for every dollar of gold we have in the vault?

Mr. PATMAN. Yes; that is the recognized legal ratio; and that would amount to $51,000,000,000 now, based upon our $21,000,000,000 in gold.

Mr. HOUSTON. It could pay off the national debt?

Mr. PATMAN. Yes; and we would have some money left over for national-defense plans, and we would also save over a billion dollars a year in interest.

Mr. THORKELSON. Will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Montana.

Mr. THORKELSON. May I ask the gentleman if he is not willing to admit that a gold certificate is a claim against the gold in the United States Treasury?

Mr. PATMAN. If issued to people and other nations, that is true. If we issued gold certificates to a foreign nation, that would be a claim upon the gold.

[Here the gavel fell.]

Mr. TABER. Mr. Speaker, I yield such time as he may desire to the gentleman from Illinois [Mr. ARENDS].

Mr. ARENDS. Mr. Speaker, I ask unanimous consent that the House Military Affairs Committee may have until midnight tonight to file a report on the bill H. R. 10495.

The SPEAKER. Is there objection to the request of the gentleman from Illinois [Mr. ARENDS]?

There was no objection.

Mr. TABER. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, this resolution calls for $338,000,000, $8,744,000 to buy land and $329,000,000 to provide facilities to house and train the men who may be called to service.

Mr. TREADWAY. Will the gentleman yield?

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

Mr. TREADWAY. May I ask the gentleman whether or not the provision that appears in this bill making such large appropriations is not to a certain extent based on the amendment offered by the gentleman from Connecticut [Mr. AUSTIN] during the time that bill was up for consideration?

Mr. TABER. I believe the fact this bill has been brought in here at this particular moment providing as large an appropriation as it does for proper cantonments and hospital facilities is largely due to that amendment.

This resolution provides for cantonments to house 503,000 men. We were told that these cantonments would be made in something like the following manner: There would be a floor above the ground on posts. On that floor would be a double floor with building paper between, that there would be a space of an inch and a half to 2 inches between a plaster board or similar construction on the inside and then building paper on the outside of the uprights and the siding outside that, so that the cantonments would be tight. They would be covered with a sound roof supported by roof boards and would be in such shape that they could be properly heated and provided for.

The cantonments are costing, according to what they tell us, $450 per man.

The tent construction will cost $320. This tent construction involves a wooden platform set up above the ground a little and a tent over it to house five men.

Mr. RABAUT. Will the gentleman yield?

Mr. TABER. I yield to the gentleman from Michigan.

Mr. RABAUT. Has any consideration been given at all to trailers?

Mr. TABER. What kind of trailers?

Mr. RABAUT. Trailers for temporary housing.

Mr. TABER. Does the gentleman mean automobile trailers?

Mr. RABAUT. Automobile trailers. You can house eight men in a modern trailer.

Mr. TABER. I have not heard about that. I do not know whether that would be an advisable thing to do or not. That would not provide water supply, steam heat, or other utilities which are required.

Mr. RABAUT. Are they putting steam heat in the tents?

Mr. TABER. No; they cannot put steam heat in the tents, but in every outfit where there are tents there will have to be hospital facilities made up of solid construction with steam heat, and there will have to be recreation centers for the men with steam heat, and then a mess hall provided where they can be fed to properly take care of them. This could not be done with trailers. Of course, the trailers could take the place of housing for the men.

Mr. RABAUT. The trailers could supply places for sleeping.

Mr. TABER. I do not know how they would handle the heating, however, of a large number of such outfits.

Mr. RABAUT. They have heat in these trailers. It is heat for the individual room.

Mr. TABER. There has been no consideration of that as far as the committee is concerned.

Mrs. ROGERS of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield to the gentlewoman from Massachusetts.

Mrs. ROGERS of Massachusetts. I know the gentleman is taking a tremendous interest in having proper housing and

proper hospital facilities. Is the gentleman perfectly satisfied with what is being done? I understand that the tents in the warm climates will have wooden frames as well as wooden floors to make them more substantial.

Mr. TABER. That is correct. We are told by men who have had experience that in the southern part of the country these tents are healthier than the cantonments. Of course, they would not have the tents at all in the North, where we are obliged to have steam heat.

Mrs. ROGERS of Massachusetts. I have been assured that there would be cantonments in the North.

Mr. TABER. That is correct. The largest part of this item is for cantonments. There is provision for only 40,000 troops in tents in this whole item. The major part of it is for cantonments. Of course, there are a lot of other items like reception centers, mobilization shelters, shelters for student personnel, construction for armored school programs, construction for ordnance training installations, school programs for ground troops, and general hospitals for 10,000 beds. Where an outfit is located near a present camp where there is a regular brick barracks, they are going to use the brick barracks for hospital facilities for the enrollees and put some of the men in the temporary structures. This will drive some of the Regulars out of these barracks. Of course, this provides for Hawaii, Panama, and Puerto Rico. I do not believe there is much question but that the tents would be proper housing for such places.

Mrs. ROGERS of Massachusetts. Is the money allocated to specific places?

Mr. TABER. It is not allocated definitely to specific places?

Mrs. ROGERS of Massachusetts. I know Fort Devens, at Ayer, Mass., in my district, will have a large reception center, and it needs more buildings.

Mr. TABER. A good deal of that would be in the $128,000,000 that was provided the other day.

Mr. BREWSTER. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield to the gentleman from Maine.

Mr. BREWSTER. How does the character and cost of these facilities compare with those constructed during the World War?

Mr. TABER. I would not want to compare them, but the cost has gone up. It will vary considerably. For instance, around New York City the wage scale has to be somewhere around $14 for carpenters, whereas in a rural community the going rate of pay will be somewhere around $8.

Mr. BREWSTER. Are the facilities to be about the same?

Mr. TABER. The facilities will be a little different, according to the need. They will have to be a little bit tighter and a little bit more firm around New York City or New England or Minnesota or in areas of that kind than they will be in Florida.

Mr. VAN ZANDT. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield to the gentleman from Pennsylvania.

Mr. VAN ZANDT. Has the gentleman any idea when these accommodations will be available for occupancy?

Mr. TABER. We are told that it will take 3 months to provide these quarters. This means that with this money they would be ready somewhere around Christmas, not any before; perhaps it may be the 1st of February or the 1st of March, in some cases.

Mr. ENGEL. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield to the gentleman from Michigan.

Mr. ENGEL. This tent housing is for Panama, the Hawaiian Islands, and Puerto Rico?

Mr. TABER. I would not say that. It is in the southern part of the country.

Mr. ENGEL. In the tropics?

Mr. TABER. In the warmer parts of the country, anyway. Of course, we had a lot of tent housing in the other bill that was under consideration. [Applause.]

[Here the gavel fell.]

Mr. WOODRUM of Virginia. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SNYDER].

Mr. SNYDER. Mr. Speaker, I believe some Members of the House are confused in that they believe this is a special item. This is just one item of $329,000,000 taken out of the $1,600,000,000 the committee is now considering. This is done because of the extreme emergency, as the gentleman from Virginia [Mr. WOODRUM] has said. We will gain 6 days if we get the bill through today. This will give the Army that much advantage in getting this housing program started.

Mr. TABER. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I was called just as I was starting for the House, at about 5 minutes to 12, and asked to O. K. this bill for $367,000,000, as a member of the Committee on Appropriations, without a committee meeting. It was because I was discussing the matter with a clerk of the committee that I was not on the floor of the House when the bill came up a few minutes ago. The idea of bringing up a $367,000,000 bill without a committee meeting, and with 40 minutes of debate, does not appeal to me. I have no desire to hamper or to handicap the housing program. These men must be housed. However, my experience with Army housing has been such in the past that I am not willing to let this bill go by in this way without a protest.

Just a moment ago I asked the gentleman from New York regarding the tent camps, which are going to cost us $320 per man. You have here an item for tent camps for 40,000 men at $320 per man—$12,800,000. This is for the Tropics, the gentleman says, the Hawaiian Islands, Puerto Rico, Panama, and so forth. I have photographs here before me that I took in Panama, where they built temporary wooden quarters without the lavatories for $150 per man; the material was shipped in from the States.

Surely it is not going to cost us more than twice as much for the construction of tent camps as it does for this temporary wooden housing. We have here temporary quarters at $450 per man, while I have here a picture from Panama of a permanent concrete building, with a tiled roof, with materials shipped in from the United States, that cost $630 per man. The Army says it costs them 25 percent more there than in the States, and this is permanent construction for $430 per man.

Mr. Speaker, I have had this housing matter up before. I have considered this matter for the last 3 years in the War Department subcommittee.

I have here the hearings. They are simply astounding and amazing. We were building Army officers' quarters for $17,500 with relief money. We had General Seaman, construction quartermaster, on the witness stand testifying in 1939. The law permits the expenditure of $14,500 per officer for field officers. They had spent $17,500, or $3,000 more than allowed by law.

Here is the testimony:

Mr. ENGEL. Now, what is the balance of the $87,000, or approximately $14,500, being spent for? That is what I am getting at now.

General SEAMAN. One hundred and fifty feet of pipe lines and connections, at $2 a foot, $300, for each set of quarters.

When General Seaman was before the committee I let him go back to his office, and he inserted these figures in the record of the committee hearings later on, after deliberation and consultation, and here is his reply:

One hundred and fifty feet of sewer mains and connections at $1.50 a foot, $225.

One hundred and fifty feet of electric line and connections, at $3 a foot, $450.

One hundred and fifty feet of roads, at $5 a foot, $750.

One hundred and fifty feet of walk, at $1.50 per square yard, $225.

Grading and drainage——

Mr. ENGEL (interposing). Right there, is that for each one of the five, or for the five?

General GIBBINS. Each one.

[Here the gavel fell.]

Mr. TABER. Mr. Speaker, I yield the balance of my time to the gentleman from Michigan.

The SPEAKER pro tempore (Mr. RAMSPECK). The gentleman from Michigan is recognized for 5 additional minutes.

Mr. ENGEL (reading):

Mr. ENGEL. The amounts you have read will be multiplied by five?

General SEAMAN. Yes, sir.

Grading and drainage, and so forth, at 50 cents per cubic yard, $75.

Telephone system, connections and equipment, $200.

Miscellaneous, advertising, personnel, and supplies, and so forth, $675.

That is for each set of quarters.

Mr. ENGEL. Does that apply to the noncommissioned officers' quarters, too?

General SEAMAN. The noncommissioned officers' quarters are practically the same.

Now, Mr. Speaker, I have no intention of interfering with this program. These drafted men coming into the Army have to be housed, but when they come to me with a bill for $367,000,000 and at 5 minutes of 12 o'clock I am asked to agree to a bill I have never heard of, I cannot help but protest. I do not know whether they had any hearings on the matter. If they had any, I have not seen them. Then 15 minutes later I find the bill on the floor of the House. I was late because I had been talking the matter over with the clerk of the committee.

I also want to say this, that General Marshall and Major General Gregory and Major General Hartman, the Chief of Staff and the Quartermaster General and Construction Quartermaster, have taken the places of these other generals I have referred to. I am not going to be taken off my feet on this sort of thing and appropriate $320 per tent per man when they are building temporary wooden quarters and good temporary quarters in the same area for $150 per man. The House is going to pass this bill, and I am going to vote for it, because we have to have the quarters. When it is passed and when the construction is going on the War Department subcommittee of the Committee on Appropriations and the Committee on Appropriations ought to keep a periodical check on what is going on and see that we do not have a repetition of what has happened before.

Mr. SCHAFER of Wisconsin. Will the gentleman yield?

Mr. ENGEL. I yield.

Mr. SCHAFER of Wisconsin. Is the gentleman correct that to house 8 of these men in a tent the Government is going to be called upon to spend $2,560 for a tent.

Mr. ENGEL. The one item reads: "Forty thousand enlisted men at $320 per man, $12,800,000." The next item is "enlisted men, $450 temporary quarters, $226,000,000."

Mr. SCHAFER of Wisconsin. But then, if we take a tent which will house 8 men and multiply $320 by 8 we will have a cost of $2,560 for the 8-man tents. Some of our New Deal brethren must be engaged in the tent-business racket.

Mr. ENGEL. I want to be fair about the matter.

You must have water; you must have sanitation; you must have other equipment. These temporary wood barracks down there do not have any heating appliances or lavatories, but neither will these tents. I would like to have an explanation of this thing.

Mr. WOODRUM of Virginia. Will the gentleman yield?

Mr. ENGEL. I yield.

Mr. WOODRUM of Virginia. In the illustration the gentleman gave of the building at Panama, is the gentleman advised whether or not that was done by enlisted personnel?

Mr. ENGEL. It was done by civilian labor.

Mr. WOODRUM of Virginia. Was there any enlisted personnel used?

Mr. ENGEL. Some of it was done by the engineers and the permanent construction—a tile building, concrete, a beautiful red tile roof building—was built with civilian labor at $630 per man.

Mr. MICHENER. Will the gentleman yield?

Mr. ENGEL. I yield.

Mr. MICHENER. The gentleman is a member of the Subcommittee on Appropriations, War Department. He has made a special study of this matter for a number of years. I think we all appreciate the work he has done, and many of us have gone along with him and want to go along with him, because we know his ability and courage; but at this time we must not forget that we have conscripted the boys of the country, and we are going to take them, within a little more than 60 days, and we are going to march them off to camps somewhere. In these circumstances it strikes me that we must resolve all doubt in favor of speedily providing adequate housing for those conscripted boys.

[Here the gavel fell.]

Mr. WOODRUM of Virginia. Mr. Speaker, I yield 3 minutes to the gentleman from Nevada [Mr. SCRUGHAM].

Mr. SCRUGHAM. Mr. Speaker, I am entirely in agreement with the idea that the progress of the construction program to house Army recruits should not be delayed. I am equally of the opinion that this is a case where haste makes waste. I am of the opinion that this method of handling an appropriation, here being pursued by the deficiency committee, will actually delay construction by hasty and ill-considered action. To the best of my knowledge and belief more efficient methods of handling this $350,000,000 appropriation can be devised with a little more investigation. You are establishing a most dangerous precedent in rushing through vast appropriations in a hasty, irregular manner which can save little or no time in construction.

I deeply regret that this bill has been brought up without the consideration of the full Appropriations Committee. I will not object at this time, however, because the deficiency subcommittee has decided that this arbitrary process is the way to prevent any delay in the program. The basic fault lies in the organization of the Appropriations Committee of the House which permits a small minority of the committee to usurp the functions of all other subcommittees and of the whole committee in carrying out a program of this magnitude. The whole problem of national-defense appropriations must have more careful and thorough consideration if we are to deal with it intelligently, economically, and efficiently. There must be more close and careful congressional supervision of the whole program if we fulfill our responsibilities to the electorate we represent.

[Here the gavel fell.]

Mr. WOODRUM of Virginia. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, there was no intention on the part of the deficiency subcommittee to rush this matter beyond what the exigencies of the occasion seemed to justify. The subcommittee on deficiencies was unanimous on the item. Practically every member of the Appropriations Committee that we could contact had no objection to its consideration. There was a clear majority in favor of this course.

Mr. ENGEL. Will the gentleman yield?

Mr. WOODRUM of Virginia. I yield.

Mr. ENGEL. At 5 minutes before 12 o'clock the clerk showed me a list and there were seven members of that committee marked "aye."

Mr. WOODRUM of Virginia. Those 7 were in addition to the 11 members of the deficiency subcommittee, and others besides the 7 subsequently were contacted; but be that as it may the gentleman, of course, could have stopped consideration of the resolution if he did not want it to come up.

Mr. ENGEL. Surely, a couple of hours' consideration on this bill for $367,000,000 before the full Appropriations Committee would not have delayed the matter at all.

Mr. WOODRUM of Virginia. Now, the gentleman is an authority on the subject——

Mr. ENGEL. I am not an authority on it.

Mr. WOODRUM of Virginia. Well, I respect the gentleman's understanding of the situation. What would the gentleman suggest that we should have done about it?

Mr. ENGEL. I would suggest that at least we should have had a chance to know that this bill was coming up when it came up. At 5 minutes to 12 was the first information that I, a member of the Appropriations Committee, had that the bill was coming on the floor. I was detained over there discussing it for 10 or 15 minutes with the clerk and then I came here and found the bill under consideration. Surely that is not giving proper consideration to a member of the Appropriations Committee on a bill of this magnitude.

Does the gentleman think so? I have worked with the gentleman from Virginia, and I have admired him. I think he is one of the ablest men on the floor of the House. His ability is unquestioned, and his desire to economize is unquestioned. I am going along with the bill because the gentleman from Virginia and the gentleman from New York [Mr. TABER] have agreed to it, but of course the committee ought to keep a check on this and see that the history of the past is not repeated.

Mr. WOODRUM of Virginia. I agree thoroughly with everything the gentleman has said, but as the gentleman from Michigan [Mr. MICHENER] so well said a moment ago, as a prerequisite to ordering this army to be mobilized we must see to it that proper housing is available, as expressly required by the Selective Service and Training Act.

General Marshall was before our committee this morning and made a very impressive statement about this matter in considerable detail. He made its importance very plain. We went into it very carefully. We must have the housing, and no matter how much time we might spend considering it, and we could spend a great deal, there would be nothing we could do in the end but go ahead with it.

Mr. ENGEL. Mr. Speaker, will the gentleman yield?

Mr. WOODRUM of Virginia. I yield.

Mr. ENGEL. How does the gentleman account for the fact that these temporary wooden quarters in Panama cost $145 per man built with civilian labor, whereas the quarters provided for in this bill cost $450 per man?

Mr. WOODRUM of Virginia. I may say to the gentleman from Michigan that when he asked his question previously I was under the impression that much of the temporary housing down there had been built by enlisted men. Regardless of that, however, the gentleman knows that what you pay for labor in Panama cannot be compared to what we have to pay for labor in the States. In addition to that, there has been a great increase in the cost of building within the last 30 or 60 days. Neither the committee nor the Quartermaster General's office feels it is an exorbitant rate under existing conditions, when we are working under emergency conditions.

Mr. ENGEL. The officers who testified before our committee said that the cost at that time was higher because of the fact that all the material they used had to be transported to Panama.

Mr. WOODRUM of Virginia. Lumber may be higher in Panama, although I am not so sure about that, but labor, as the gentleman from Michigan knows, is very much cheaper. In addition to that the funds here provided not only include the houses themselves but sanitation, streets, lighting, sewers, mess halls, recreation halls, station hospitals, storage, shops, and many other facilities and appurtenances, all entering into the unit cost and not included in the cost of Panama houses which the gentleman mentioned.

Mr. TABER. Mr. Speaker, will the gentleman yield?

Mr. WOODRUM of Virginia. I yield.

Mr. TABER. As I understand it lumber for construction in the southern and northern States on the eastern seaboard very largely comes through the Panama Canal. Lumber at the Panama Canal, therefore, should cost a great deal less.

Mr. WOODRUM of Virginia. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. RABAUT].

Mr. RABAUT. Mr. Speaker, as a member of the Committee on Appropriations, I am somewhat inclined to agree with my colleague from Michigan. I believe that the deficiency subcommittee, insomuch as it deals with subject matters which come before every subcommittee of the Appropriations Committee, should be comprised of the chairmen of all the subcommittees.

The particular resolution that comes before us this morning is to deal with an emergency and anyone can readily understand that it is an emergency. Those who most vigorously oppose the procedure by which the measure is brought up for consideration in the same breath say they are going to support the bill. I think under the emergency there is nothing else that could be done. We are getting into a program here that demands speed; and insomuch as we have gone ahead with the draft bill we must be ready to take care of these boys. This is our obligation, and we should proceed to do everything in our power and do it with the greatest speed. That is why it comes up as it does and necessitates the emergency.

Mr. DWORSHAK. Mr. Speaker, will the gentleman yield?

Mr. WOODRUM of Virginia. I yield.

Mr. DWORSHAK. Are the contracts to be placed under this bill to be placed by competitive bidding?

Mr. WOODRUM of Virginia. No; not by competitive bidding.

Mr. DWORSHAK. Will they be negotiated contracts?

Mr. WOODRUM of Virginia. They will be negotiated contracts. All these emergency contracts are negotiated contracts.

Mr. DWORSHAK. With what limitation of profit?

Mr. WOODRUM of Virginia. Cost plus a fixed fee not to exceed 6 percent.

That is all the time I wish to use, Mr. Speaker.

The SPEAKER. All time has expired. The Clerk will read.

The Clerk read as follows:

House Joint Resolution 607

Joint resolution making additional appropriations for the Military Establishment for the fiscal year ending June 30, 1941

Resolved, etc., That the following sums are appropriated out of any money in the Treasury not otherwise appropriated for the Military Establishment for the fiscal year ending June 30, 1941, namely:

Military posts: For construction and installation of buildings, flying fields, and appurtenances thereto, including the acquisition of land, rights appertaining thereto, leasehold and other interests therein, and temporary use thereof, without regard to the provisions of sections 355, 1136, and 3648, Revised Statutes, as amended (10 U. S. C. 1339; 40 U. S. C. 255; 31 U. S. C. 529), $329,519,902.

Acquisition of land: For acquisition of land, including rights pertaining thereto, leasehold and other interests therein, and temporary use thereof, without regard to the provisions of sections 355, 1136, and 3648, Revised Statutes as amended (10 U. S. C. 1339; 40 U. S. C. 255; 31 U. S. C. 529), $8,744,000.

Mr. TABER. Mr. Speaker, I move to strike out the last word.

Mr. Speaker, I agreed in the deficiency subcommittee to bring this item before the House because I felt that it was of the utmost importance that when we call men to serve we provide proper housing and hospital facilities to take care of them.

I know that much of this construction will cost more than it would in peacetime. We had the Quartermaster General before us, we had the Chief of Staff before us this morning. We have gone into the thing as thoroughly as we could, but we felt, I felt, and I still feel that everything should be done by the Congress to expedite the start of construction upon these projects just as fast as it can be done, because they can work just twice as fast on the cantonments now as they can after the 1st of December.

I wish we had opportunity to go into every detail but frankly I know we have not. It is true that we must hold those who have charge of the spending of these funds to strict accountability and to just as much efficiency as can be had under all the circumstances, but I am not going to be one who stands back and fails to provide the facilities to take care of these men who are going to be called.

I know that much of this temporary construction in the Tropics, much of the permanent construction in the Tropics would not be suitable for the cantonments we have provided. I know that in the Tropics they are not providing sewage disposal and water systems, and that sort of thing that we have to provide here. I know the labor they use is mostly supplied by Jamaicans and Panamanians, natives of the Canal Zone, rather than the type of labor we have to employ here in the States. The figures therefore are not so comparable as one might think.

I do not believe we are getting a good price on these things. On the other hand, I do not believe it is so bad as we might be up against. I would not favor anything that disrupted orderly practice in the Appropriations Committee but I do not believe that we can have orderly practice when

we are confronted with this kind of situation and I feel we have been justified in bringing this in here and submitting it to the House.

Mr. CANNON of Missouri. Mr. Speaker, in the Spanish-American War and in the World War more men died of disease than we lost in battle. Great masses of men brought from all quarters of the country, unaccustomed to the new mode of life, their routine completely changed, are naturally subject to many maladies unless every possible care is taken of them. There is an ever-present danger that contagion will sweep these camps and wipe men out by the hundreds as has repeatedly happened in our Army camps in the past. If some epidemic should start through the ranks this winter, as frequently attacks both civil and military populations, the country will hold to strict accountability every man and every agency of the Government in any way responsible for any possible delinquency in caring for these men.

Winter is coming on. Time is short. Every day counts. When these boys come to camps we must be ready to house them, we must be prepared to shelter them, we must be ready to take care of them and must provide for them every facility for the protection of life and health. That is the whole purpose of the pending resolution.

The expense is a matter that cannot be avoided, but it is not exorbitant. You cannot go into the sections of the country in which these cantonments are to be built and build them by contract appreciably cheaper than they will be built by the War Department. But they must be built and they must be built now.

There is no more important phase of the preparedness program than this important question of properly housing the young men and protecting them from pneumonia and influenza when they are brought from their homes and inducted into the service.

Mr. Speaker, in this connection, may I express appreciation, and I am certain the appreciation of every member of the Committee on Appropriations, of the work done on this bill and its companion bills as well as the entire preparedness program by the gentleman from Virginia, CLIFF WOODRUM and the gentleman from New York, JOHN TABER. I do not think the House generally realizes the long hours, the indefatigable labor, and the exhaustive study and investigation these two men and their associates on the committee have given to this work. [Applause.]

It has been charged that democratic government is not as efficient as totalitarian governments in waging war. It has been charged that America, while a prosperous nation, is fat and unwieldy and incapable of self-defense. We are demonstrating by this bill and by the correlated legislation we have enacted this session that we are not only capable of producing wealth and developing a civilization, but we are capable of protecting that wealth and defending that civilization. If any international brigand across the water has any predatory designs on our people it is reckoning without its host. We are developing in the shortest time, and with record efficiency, the most effective armament to be found in the world today, and we are training an army with efficiency and speed unequaled in either of the two former wars in which we were engaged. We shall shortly have men and guns and ships and planes that can hold their own against any attack and which can defend this country and this hemisphere against any power or combination of powers on earth. In the meantime, we must not lose a single boy entrusted to our care through preventable disease or exposure, and we cannot do that unless we make this provision for their care. This bill should be passed without amendment and by unanimous vote. [Applause.]

[Here the gavel fell.]

Mr. DIRKSEN. Mr. Speaker, I move to strike out the last two words.

Mr. Speaker, I would like to address a question to the chairman of the subcommittee which I believe is very pertinent and of interest to every Member of the House. I wonder what is going to be done about school facilities in connection with the housing program for those who are on reservations and those who are off reservations. As I understand this housing program from a conference with Major Wilson of the Army Quartermaster Corps, they will make provisions for housing on the reservations and the public buildings branch in the Federal Works Agency will take care of that portion of the housing that deals with the industrial sections, and so forth.

Now, this school problem comes up in connection with, first, the enlisted men on the reservations; and, secondly, with respect to those families who are moving into houses in areas where no school facilities have been made available, let us say in the area of an arsenal or an airplane plant. The net effect is going to be that the facilities of the local States are going to be taxed to capacity, it is going to cost a considerable lot of money, and in many instances the State tax for school purposes is already up to the limit and it would require legislative action on the part of the legislature before any relief may be provided. May I ask whether the word "appurtenances" in this bill would cover schools and whether or not schools could be built on reservations for the children of both officers and enlisted men and, further, whether under the rest of the housing program schools can be provided in the area of industrial centers where craftsmen are taken for purposes of the defense program?

Mr. WOODRUM of Virginia. I should say that in the case of an isolated post the War Department would make some provision for the children of military personnel. I should not think the bill would contemplate the use of funds for such purposes outside Army posts. The gentleman will remember that this large concentration of people in the different localities or communities will bring about a large expenditure of funds there. It probably is contemplated that localities will make some suitable arrangements for schools.

Mr. DIRKSEN. But the time element enters into it.

Mr. WOODRUM of Virginia. Yes; there will probably be some drag so far as the question of time is concerned, but, answering the gentleman specifically, there is nothing in here that contemplates the spending of any money for schools outside Army posts.

Mr. DIRKSEN. Is there general legislative authority making provision for schools on reservations? This money, I take it, will be expended only on reservations. Is there general authority for making provision for schools?

Mr. WOODRUM of Virginia. Within the reservation and within the limit of money appropriated, the War Department has done that and has the right to do it, as I understand.

Mr. DIRKSEN. I fancy this problem is going to be very acute in a little while.

Mr. WOODRUM of Virginia. I am very glad to have the gentleman draw attention to it. We are conducting hearings on it now, and I shall be very glad to call attention to the matter.

Mr. DIRKSEN. I take this time for the purpose of directing attention to it only because it is a very important matter.

Mr. SCHAFER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. DIRKSEN. I yield to the gentleman from Wisconsin.

Mr. SCHAFER of Wisconsin. Is it proposed to take the families of these officers along and then take them along across the seas if we should go to war across the seas? Why cannot their families stay home just like the families of the enlisted men, the buck privates who are drafted in the Army and serve for $21 a month?

Mr. DIRKSEN. I do not know what is proposed, but look at this situation. You have 42,000 married enlisted men in the Navy today. When they come back to shore, obviously they live with their families, because it improves the morale of those who are in the service. By the same token, if their families are there, school provisions must be made for the children. That is the long and short of it.

Mr. SCHAFER of Wisconsin. But these additions to the Army and the Navy, people who are drafted and forced to serve in Uncle Sam's Army or Navy in peacetime under the

New Deal, Hitler-Stalin type of compulsory peacetime military service will not have dependent families, we have been told.

Mr. DIRKSEN. They may or may not have. I assume that so far as possible they will select those who are without dependents; but the fact remains that this is a condition that exists at the present time and adequate provision must be made.

Mr. BREWSTER. Mr. Speaker, will the gentleman yield?

Mr. DIRKSEN. I yield to the gentleman from Maine.

Mr. BREWSTER. The Navy in this connection is proposing to build 400 houses, which I assume will be tax exempt, but they may provide perhaps 800 children for the schools.

Mr. DIRKSEN. But they can make payments in lieu of taxes, according to the tenor of the bill.

Mr. BREWSTER. Is there such authority in all these bills, generally?

Mr. DIRKSEN. Yes; authority was written into the housing bill the other day as it passed this body. [Applause.]

[Here the gavel fell.]

Mr. RICH. Mr. Speaker, I move to strike out the last word.

Mr. Speaker, I certainly believe that we should take care of these drafted men we are going to place in camps so that they do not freeze to death and so that they may have comfortable quarters in which to live, especially if we conscript them now in peacetime. I believe peacetime conscription is about the most unnecessary thing we could possibly have at this time. Nevertheless, while I oppose peacetime conscription, I believe we should now, since the bill has been passed, take care of these boys.

Let me call your attention to this—and I do not say this because the subcommittee chairman now has this bill in hand, because I have a lot of regard for him; but the chairman of the Committee on Appropriations should certainly have called the committee together and permitted us to have some information in regard to this bill before it was brought on the floor of the House. It is not right, it is not businesslike, and it is not proper to handle appropriations in this way.

Mr. BRADLEY of Michigan. Mr. Speaker, will the gentleman yield?

Mr. RICH. I yield for a question.

Mr. BRADLEY of Michigan. The conscription bill was before the Senate and the House for 6 weeks or 2 months. Why was not some information prepared on this matter so that the committee would have had some knowledge of the amount of money necessary to house these men?

Mr. RICH. That is a very good point. There is no reason why it should not have been handled in a businesslike way. When the members of the Committee on Appropriations did not know that this bill was coming to the floor of the House until they got into the Chamber this morning, it certainly shows that Congress is not giving attention even to the appropriation of funds, but that the powers that be who are back of peacetime conscription seem to be driving everything down the Avenue to the Capitol, and then they expect the Members who are supposed to be looking after the vital interests of the people of this Nation and to give them their time and attention to consider these matters, but they do not do that.

The appropriations that have been made during this session of Congress up to this time ought to make everybody shudder. We have appropriated already over $21,000,000,000, counting the appropriations and the authorizations of this session of Congress, and, according to the President's estimate, we are going to get receipts of about $5,600,000,000. Then we passed one tax bill to yield about $1,007,000,000, and the other day we passed what we called the excess-profits tax bill, under which we will get about $250,000,000 this year. This means that if we spend the money we have appropriated and authorized this session we will be an additional $14,000,000,000 in the red in a year. This is one of the most outstanding inequitable and unbusinesslike procedures I have ever heard of in all the history of the Nation or in all the history of the world. Nobody ever did anything like that before. It is a terrible travesty on American business that we should do such things.

Mr. SCHAFER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. RICH. I yield to the gentleman from Wisconsin.

Mr. SCHAFER of Wisconsin. Of course, the gentleman is worried, no doubt, about where Uncle Sam is going to get the additional $20,000,000,000 for the national-defense program.

Mr. RICH. I have been worried for 7 years about where we are going to get the money.

Mr. SCHAFER of Wisconsin. I will tell you where Uncle Sam is going to get the money. If the gentleman reads an article entitled "More Borrowing, Rather Than Taxes, Planned for Defense," which appeared on page 2 of the September 18, 1940, edition of the Washington Evening Star, he would have observed that several New Deal "brain trusters," including Benjamin Cohen, Leon Henderson, and Jerome Frank, met with several representatives of Kuhn, Loeb & Co. and other international bankers and reached a decision as to where Uncle Sam was going to get additional money for national defense. They agreed that Uncle Sam should borrow an additional $20,000,000,000 and issue that amount of interest-bearing obligations, which, as to principal and interest thereon, will have to be paid in tax dollars produced in the sweat and toil of several generations still unborn. I believe that the gentleman and the country will be interested in obtaining these facts.

Mr. RICH. I want to say that those same fellows are borrowing that money to help these foreign nations that now owe Uncle Sam about $15,000,000,000.

Mr. SCHAFER of Wisconsin. That is absolutely correct.

Mr. RICH. And now they want to borrow more money to help those same people, and I say we ought to stop it. That is the point I am trying to make.

Mr. SCHAFER of Wisconsin. And after the New Deal international bankers and "brain trusters" bankrupt Uncle Sam and we have inflation, chaos, and revolution, these internationalists shall reap the harvest of the seeds which they now sow, as they have in many of the European countries.

Mr. RICH. Mr. Speaker, we are not only going to be further behind, but we will wreck this Nation, and we will not be able to take care of these boys like we ought to.

[Here the gavel fell.]

Mr. ENGEL. Mr. Speaker, I do not want to get into the question of the public debt, but I do want to call attention to the fact that with a $20,000,000,000 loan confronting us for national defense, with all these tremendous expenditures being made throughout the country, we are apparently not doing one thing to cut other expenses of the Government to offset these tremendous amounts we are appropriating here every day. Congress ought to remain in session and the Appropriations Committee, together with the Departments, ought to go over these nonmilitary items and make decisive cuts on some of the nonessentials that are contained in these appropriations.

The question of labor in Panama was discussed. I have in my office photographs of white men weighing 150 to 200 pounds driving spikes. I talked with them personally. I saw one big Irishman there working with a hammer. I saw the Jamaicans there and I have photographs of them and photographs of the thatched huts from which they come. One free American laborer down there engaged in that work will do as much as half a dozen of these Jamaicans.

They have two classes of employees there, the gold employees, who are the white skilled laborers, and then the silver employees, who are natives from Panama and Jamaica. The wages of the gold employees run anywhere from $1.39 to $1.44 an hour. The plumbers get $1.44, and the roofers, which is the lowest-paid group, get $1.39 an hour. The common laborers, who are Jamaicans, get 22 cents an hour, and the carpenters and painters and the Jamaicans in other crafts, get 29 cents an hour. But there is no question about the fact that one American will do as much work as four or five of these other men.

I want to say in justice to General Marshall and General Gregory and General Hartman, that they have done everything they could do to cooperate with me. They have drawn completely new plans for housing which I think will solve the problem. I refuse to be carried off my feet because of any emergency to the extent of allowing waste and extravagance to run rampant. And I do not want to come back here 2 years from now and have a repetition of what we have had during the last 2 years.

I was opposed to conscription; but that policy has been adopted and it is law, and I am ready to go along with it to the limit. I am ready to provide the housing and everything that these men need. The policy has been set. The time to discuss the policy is passed, but I refuse to swallow everything that is handed me.

As long as I am in this House and as long as I am a member of the War Department Subcommittee of the Appropriations Committee, or any other subcommittee, I am going to keep on checking up on these departments after the committee has done its work and the House has passed the bills. [Applause.] I want to give fair notice that I, for one, am going to check up on the expenditures as far as my feeble efforts will permit with respect to every dollar of the $367,000,000 contained in this bill, and I am going to insist on an itemized report of every dollar expended in this and every other national-defense bill.

It strikes me as passing strange that the other body can have a bill for 18 or 20 days; that individual Members of the other body can discuss a bill for 1, 2, or 3 hours at a time, and we in this House rush these bills through and are limited to the 5-minute rule on a bill appropriating $367,000,000. [Applause.]

[Here the gavel fell.]

Mr. CASE of South Dakota. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CASE of South Dakota: Strike out the last period and insert: "*Provided*, That in expending funds appropriated in this resolution the War Department shall file with the appropriate Appropriations Committees of the Congress detailed reports showing the amounts of contracts let and the terms thereof, and in the case of land acquisitions, such reports shall show the price paid and the assessed valuation of the lands."

Mr. CASE of South Dakota. Mr. Speaker, my purpose in offering this amendment is to make it possible for the Appropriations Committee to keep in touch with the expenditure of the funds proposed in this resolution.

It will be recognized, of course, that in appropriating $329,000,000 we are appropriating in this resolution, under short consideration, more than one-third of what has been the normal appropriation for the War Department in the last few years. It is being expended under emergency conditions. I for one do not want to delay the providing of the housing or proper facilities for the men when they go into camp. At the same time, in the interest of the integrity of government and in the interest of integrity of legislation, it seems to me that the Appropriations Committee should be kept currently informed on the expenditure of this money.

What the gentleman from Michigan [Mr. ENGEL] has said about the effort of the Appropriations Subcommittee for the War Department is correct. An effort has been made to keep track of these expenditures for quarters and to see that in given localities and under given conditions the costs are not out of line with those in other places.

I have discussed this amendment with the chairman of the deficiency subcommittee presenting this resolution, the gentleman from Virginia [Mr. WOODRUM], and with the ranking minority member, the gentleman from New York [Mr. TABER]. I understand it is the desire to put this bill through as rapidly as possible and that the engrossed copy has already been printed and prepared for signature. If I can have assurance that this amendment will be included in the full bill that is coming on next week, so as to make it applicable to both of these bills, I have no objection to deferring it at this time.

Mr. WOODRUM of Virginia. Will the gentleman yield?

Mr. CASE of South Dakota. I yield.

Mr. WOODRUM of Virginia. The committee already has asked for practically the information which the gentleman seeks in his amendment, and if it will satisfy the gentleman, we shall be very glad to put that amendment in the bill carrying the remaining defense items when we bring it in next week. I think it is quite proper to have that information. I should much rather pursue that course than to have this resolution amended.

Mr. CASE of South Dakota. That is quite satisfactory to me. My purpose is to reduce as much as possible the danger of waste and excessive or reckless expenditure in this program. It is well known that emergency construction of buildings is often attended by waste and excessive costs. In this resolution, the usual safeguards of competitive bidding are removed. It seems to me that the very minimum of what we should do is to require that reports of the expenditures be made to the subcommittees that normally handle items for the defense establishments. Then these committees may know currently what is going on, and if something starts to go haywire it will be within the power of the committee to take appropriate action.

Mr. Speaker, I ask unanimous consent to withdraw the amendment at this time.

The SPEAKER. Without objection the amendment will be withdrawn.

There was no objection.

Mr. MARTIN J. KENNEDY. Mr. Speaker, I move to strike out the last word.

Mr. Speaker, I want to congratulate the gentleman from Michigan [Mr. ENGEL] for his assurance to the House that he will keep a careful check of all expenditures in connection with the activities resulting from the preparedness program. I am sure that there is not a single Member of this House who would tolerate the expenditure of one penny in a careless and wasteful way. I also have complete confidence in the authorities down in the War Department and Navy Department, charged with the responsibility of this work. I am certain these officials will exercise all necessary vigilance so that this emergency work will be done economically and efficiently. At this time, I wish to direct the attention of the House to a related subject, and that is the question of salaries. It is important that we safeguard the amount and rate of pay and the type of men to be employed. Undoubtedly, this House is committed to the employment, as far as possible, of our own citizens. However, there are times in other jurisdictions, like the Panama Canal Zone and other insular possessions, where exceptions to this principle may have to be allowed. I am satisfied that the President will only make such modifications in this rule necessary by reason of emergency. I feel sure that within a reasonable time the authorities hope to eliminate all alien labor on these Government projects and employ only citizens of the United States.

I trust that this program will go forward without delay. I insist that every safeguard be thrown around the working men and women of this country, so that in the great rush and excitement incidental to the military activities all of the splendid things that I have been fighting for throughout my legislative career will not be suspended or infringed. I specifically refer to the benefits provided by Social Security Act, National Labor Relations Act, and Wage and Hour Act. I am confident that it is the wish and purpose of the President to do just as I have suggested in these matters, but I am taking this opportunity to place in the RECORD my views of what should be done so that the officials in the War or Navy Department, or any other official charged with the responsibility of dealing with problems of wages or hours to preserve all of the gains made by labor in recent years in wages, hours, and general working conditions, will be mindful of the wishes of this Congress. [Applause.]

[Here the gavel fell.]

Mr. VOORHIS of California. Mr. Speaker, I move to strike out the last two words.

Mr. Speaker, in the first place, I want to remind those gentlemen who are worried—as we all should be—about the

borrowing on the part of the Government that the main reason the Government borrows from the banks is because it has permitted private banks to exercise the privilege of creating credit in the United States even to the extent of excluding the Government itself from performing that function. If you want to stop that borrowing, what you have to do is to be ready to restore to Government that function of creating originally the money and credit of the Nation. If you are not ready to do that, I would advise you not to complain about the borrowing of money by the Government. I am ready to do it, and I want to second what the gentleman from Texas [Mr. PATMAN] said today. The purpose of my asking for this time is a different purpose from that, however.

After the World War in which the United States engaged, you will all remember that there was appointed a select committee of the Senate, a special committee of the Senate, to investigate the munitions industry. The findings of that committee were rather sensational in certain respects, particularly with regard to the profiteering that had gone on and things of that kind. It would have been better if those things had been prevented in the first place. What I have to say reflects no lack of confidence on my part whatsoever in the officials of the War Department, the Navy Department, or any other official of the Government, but I think it would be a wise and prudent thing for us to consider the establishment at this time of a committee of the House, which is the body primarily responsible for the expenditure of this money, to review and investigate the expenditures of the funds appropriated by us for national-defense purposes. I think it would be a salutary thing to have this committee give publicity not only to cases where the Government is charged too much or sold inferior goods, but also to cases where we find companies or labor organizations or anyone else cooperating 100 percent with the defense program. I have no doubt of this. Many people in this country today are deeply concerned about all this money we are expending. As in the case of the bill before us it is sometimes necessary for us to appropriate money in a very short time in order to meet the requirements of an emergency. There are times when no Member can interpose objection to our doing this. But after the appropriation is made and the work in progress we certainly would do no harm, but on the contrary much good, by watching the matter carefully.

It may be said that the Committee on Appropriations would be the proper agency to perform the function I have in mind, but I say it is far too busy a committee to carry on that type of review and running investigation I have in mind. The appointment of such a committee as this might be an extremely salutary thing. Its very existence might prevent things being slipped over on perfectly conscientious and earnest Government officials who, however, do not have the opportunity or the power to go behind certain facts that may be in existence. I ask the House to remember that we have, for reasons that seemed good and sufficient to certain Members, removed all limitation on profits. We have removed the necessity for competitive bidding. The tax bill, when it comes back from the Senate, will, if I read about it correctly in the newspapers, certainly not do very much to bring excess profits back into the Treasury. At least it will not do so in the case of the large monopoly corporations whose earnings have been very high in the past 4 years. It is true we adopted the industry draft in the conscription bill, which I think was an entirely proper thing to do in order to put that weapon into the hands of Government officials. But I appeal to you gentleman that it would, I think, be a very good thing if such committee as I have proposed were set up. Indeed I have today introduced a resolution to create such a committee.

I do not do this with the idea, as I said before, of casting any reflection on anybody, but I do it because I think it would be far better to have this continuing review on the part of Congress in the furtherance of the discharge of its duty to the American people. The things this committee would say, the publicity it would give its findings, would have the effect of calming the people, of assuring the people that everything was going forward all right and being carefully taken care of. It appears to me that it would be a wise and proper thing to do.

I know some of the objections that will be raised to it. It will be said that the Appropriations Committee can do this, and it will be said that we already have the National Defense Council, and so on. But, as I said before, the Appropriations Committee is an extremely busy committee, the busiest committee in the House. I do not think it has time to do the kind of job I have in mind; and I believe it to be a part of the function and duty of the Congress in this trying time to carry through in the manner I have tried to indicate in these few moments.

[Here the gavel fell.]

Mr. HOFFMAN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOFFMAN: After the last period add the following: "*Provided*, That from the sums herein provided no greater price shall be paid for material furnished or services rendered than is now paid for like material and service under similar circumstances."

Mr. HOFFMAN. Do I understand from the gentleman from Virginia that no copy of this bill is available?

Mr. WOODRUM of Virginia. The gentleman is correct.

Mr. HOFFMAN. In my judgment, no emergency can be so pressing as to justify the appropriation of millions of dollars without making available to Congress at least a copy of the proposed bill authorizing the appropriation. Nor is there any reason why Congress should not be permitted to throw around the expenditure of the funds safeguards which are as essential to real preparedness as is the act of appropriation. Sometimes we do not make as much speed, do not accomplish as much, build as securely, when we hurry as when we take more time.

Mr. Speaker, my vote has been consistently cast against excessive appropriations and grants of unlimited power to the Chief Executive. My vote was cast against conscription and if I had the opportunity I would cast it the same way again. Congress having adopted conscription, we are caught between the devil and the deep blue sea. There is nothing we can do except to vote such sums as the executive department, the Army and the Navy ask us to vote. Otherwise we are accused of lack of patriotism.

The President is determined to have a third term. To secure a third term he must have a war or at least a realistic threat of war; hence, the conscription bill, based on the excuse that it was necessary, if we were to have preparedness.

As Commander in Chief of the Army and Navy, the President will have under his control more than a million men, with the power of life or death over some of them. All unprepared as we are to house and train the National Guard, the men conscripted, some of them will die like rats in conscription cantonments, unless we vote funds to care for them.

Not a single man here is willing to sacrifice one life, to see one man ill, because of a failure to do our utmost to protect him; hence bills like this. What we can do, what we should do, is to see that the money we vote is used to the best advantage so that the conscripted men, the men enlisted—the men in the Regular Army, in the Navy—shall avoid suffering unnecessary hardship.

I have no doubt that of the money the Republicans have joined in voting to this administration for this defense program, at least 25 percent will be either wasted, foolishly expended, or used for some purpose foreign to that for which we voted it. What are we going to do about it? There is not a thing we can do about it. We have to vote for it because we just simply cannot take the chance of letting the conscripts endure unnecessary hardships. But I hope that if we win this election in November those fellows who steal it will have to pay for it during the coming years.

We can do one thing if we wish. We can make an effort to protect the funds we vote from the leeches who always seek to profit from individual or national misfortune. I know that we ought to get the most for every dollar we spend that

it is possible for us to get. If it is true that a great national emergency confronts us, there is no excuse for wasting money and there is no excuse for using it for campaign purposes. Unless we pass some restrictive laws there will be profiteering, and it will not be by businessmen alone. There will be others all the way down the line who will want to profiteer. Day after day, here and in the other body, we hear a great deal of talk about patriotism and sacrifice. Everybody is willing that somebody else make a sacrifice.

The amendment I have offered is along the line of keeping things stable, of getting a dollar's value for every dollar expended. The amendment provides that, out of the sums authorized by this bill, the Government shall not pay any greater price for either material—which will catch the business profiteers—or for services rendered—which will catch the labor racketeers—than is paid under like circumstances for similar services or materials at the present time. You may say that is absurd. However, next week I hope to offer a bill to freeze prices at the present level. What is the object of that? It is so that some fellow who is smart in a business way and short on patriotism cannot slip in and make a profit out of someone else's misery and suffering.

Wages are good. The prices of farm products are good in this country, so we are told. Why not let it ride there and let everyone go along just as we are, taking no extra profit? Why should we not have some legislation so that everyone who has been talking about making a sacrifice will really make one? As an illustration, why not pass an act that all of those in the Federal Government who receive more than $10,000 a year shall for the duration of the emergency take $5,000, or 50 percent of the present income? That hits Congressmen, of course, but if the President is willing to cut his $75,000 in two we ought to be willing to cut our $10,000 in two.

Enact legislation which will require all of those, whether in Federal or private employment, who receive $10,000 or more a year, to accept as full compensation for the period of the emergency 50 percent of his present income. Let all those on the Federal pay roll and on private pay rolls who receive, say, $3,000 a year pay a Government tax of 25 percent, and so on down the list until we get to an income of $1,000 a year, when the tax might be 10 percent—these taxes in addition to all other municipal, State, and Federal levies—exempting, of course, those on relief.

Under such an act all those who have been talking about patriotism, aid to the Allies, war to save democracy, their desire and their willingness to make a sacrifice, would have brought home to them in a substantial way just exactly what the adoption of their policies mean.

My judgment is—and I may, of course, be mistaken—that many of those who now see the necessity of burning our fingers in this foreign war would have a change of heart. It is one thing, you know, to yell about one's duty to one's country—to talk about the willingness which the young men should have to offer up their lives to preserve our liberties; it is all well enough to suggest that we should police the world and settle the world's troubles. But it is quite probable that some of those who are now so anxious to involve us in this war would lose some of their enthusiasm if they were forced, by legislation, to contribute a fair and equitable portion of the cost.

I realize there are practical difficulties in the carrying out of the purpose of the amendment which I have offered, but there is none which is insurmountable. If we can pass laws limiting a profit—and it is well that we do; if we can pass laws taking some of our young men from their homes and their businesses, and so totally destroying their means of livelihood, of advancement, limiting their opportunity for future advancement, there is no reason in law, and certainly none in morals, why every individual in the Republic cannot, under the power given Congress to provide for the defense of the Nation—and that is the power which we are exercising when we pass these bills—be made to render adequate service to the country in this emergency which the President has so foolishly, so needlessly, brought down upon us.

I have often wondered how some of the politicians who talk about the necessity of selecting Mr. Roosevelt as a third-term President, of the necessity—and the two go together—of becoming involved in this war, would talk and act if their incomes were cut in half. It might be well to try the experiment and learn by the result who are the real patriots in our Nation.

[Here the gavel fell.]

Mr. WOODRUM of Virginia. Mr. Speaker, I ask unanimous consent that all debate on this amendment and on the joint resolution conclude in 3 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Virginia [Mr. WOODRUM]?

There was no objection.

Mr. WOODRUM of Virginia. Mr. Speaker, I rise in opposition to the amendment offered by the gentleman from Michigan [Mr. HOFFMAN].

Mr. Speaker, the gentleman's amendment, while undoubtedly having a very commendable purpose—that is, to prevent exorbitant charges for materials and to prevent any Government department, the Army, or Navy, or any public-buildings agency from paying more than it should pay—it seems to me would be absolutely unworkable. The amendment provides that such agencies cannot buy anything at a price more than the presently prevailing price, which would mean they could not buy a stick of lumber, a keg of nails, an electric-light bulb, or anything else 30 days from now unless they were sure it did not cost any more than the present price.

Mr. HOFFMAN. Will the gentleman yield?

Mr. WOODRUM of Virginia. I yield to the gentleman from Michigan.

Mr. HOFFMAN. I had that in mind. We have provided for the seizing of plants on a rental basis. If we are going to conscript the boys, why not hold the prices down? For instance, let us assume I have a lumber yard and I want to hike the price when you come along. If you need this lumber for an Army camp, why should you not be in the position to say, "Listen, you are going to take the price you charged me last week and no more." Why not make that apply all down the line?

Mr. WOODRUM of Virginia. The gentleman knows that prices are rising in the construction industry.

Mr. HOFFMAN. Surely.

Mr. WOODRUM of Virginia. Much of it for normal or legitimate reasons. The gentleman's amendment would absolutely prevent taking that into consideration. If there is to be legislation of this kind, it should not be in the form of an amendment that would make this housing program absolutely unworkable. They could not make a contract 30 or 60 days from now for building these camps if, in the course of normal business affairs or in the course of normal increases in business, there should occur a rise of prices in the construction business. The construction business is on the upward grade now. They would be tied up.

Mr. HOFFMAN. And they will keep going up until it will get where you cannot buy unless you have sums undreamed of appropriated.

Mr. WOODRUM of Virginia. The tax bill we just passed is supposed to have something to do with that.

Mr. HOFFMAN. You are going to limit profits?

Mr. WOODRUM of Virginia. Yes.

Mr. HOFFMAN. Why not limit the profits that come through exorbitant prices?

Mr. WOODRUM of Virginia. The gentleman seeks to tack this on here. It would tie the whole thing up in a knot. Let us leave that for other legislation, and do not put it on as an amendment to this resolution and tie up these cantonments for the boys.

Mr. HOFFMAN. Well, we will not get it then.

Mr. SABATH. Will the gentleman yield?

Mr. WOODRUM of Virginia. I yield to the gentleman from Illinois.

Mr. SABATH. In view of what the gentleman from Michigan stated, I feel that we can take care of all the profiteers and they should be taken care of by the income-tax medium.

The excess-profits tax instead of going to 50 percent should go to 60 or 70 percent. We can go to 75 or 80, and thus prevent profiteering. There is no question in my mind that there is profiteering. I wonder if the gentleman from Michigan would vote for such a bill.

[Here the gavel fell.]

The SPEAKER. All time has expired.

The question is on the amendment offered by the gentleman from Michigan [Mr. HOFFMAN].

The amendment was rejected.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The joint resolution was passed.

A motion to reconsider was laid on the table.

Mr. WOODRUM of Virginia. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House the Clerk of the House be authorized to receive a message from the Senate on House Joint Resolution 607 and that the Speaker be authorized to sign the enrolled bill.

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

There was no objection.

ADJOURNMENT OVER

Mr. WARREN. Mr. Speaker, I now renew my request that when the House adjourns today it adjourn to meet on Monday next.

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

There was no objection.

EXTENSION OF REMARKS

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks in the Appendix of the RECORD in two particulars.

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

There was no objection.

BRIDGE ACROSS THE STRAITS OF MACKINAC

Mr. KELLY. Mr. Speaker, I call up the conference report on the bill (S. 1379) granting the consent of Congress to the Mackinac Straits Bridge Authority to construct, maintain, and operate a toll bridge or series of bridges, causeways, and approaches thereto, across the Straits of Mackinac at or near a point between St. Ignace, Mich., and the lower peninsula of Michigan, and ask unanimous consent that the statement be read in lieu of the report.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the statement.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1379) entitled "Granting the consent of Congress to the Mackinac Straits Bridge Authority to construct, maintain, and operate a toll bridge or series of bridges, causeways, and approaches thereto, across the Straits of Mackinac at or near a point between Saint Ignace, Michigan, and the Lower Peninsula of Michigan," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the House amendments in sections 1 and 2 of the bill and agree thereto.

That the Senate recede from its disagreement to the House amendment of the title and agree thereto.

Both Houses agree to the bill with the amendments adopted by the House as herein cited.

JOSIAH W. BAILEY,
MORRIS SHEPPARD,
A. H. VANDENBERG,
Managers on the part of the Senate.

EDWARD A. KELLY,
PEHR G. HOLMES,
DONALD L. O'TOOLE,
Managers on the part of the House.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1379) entitled "Granting the consent of Congress to the Mackinac Straits Bridge Authority to construct, maintain, and operate a toll bridge or series of bridges, causeways, and approaches thereto, across the Straits of Mackinac at or near a point between St. Ignace, Mich., and the Lower Peninsula of Michigan," submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report.

The bill, as it passed the Senate, granted the consent of Congress for the construction, maintenance, and operation of the bridge as proposed to the "Mackinac Straits Bridge Authority, created by Public Act No. 35 of the 1934 extra session of the Michigan State Legislature"; the House amended this provision so that the consent of Congress would run directly to the State of Michigan. The title of the bill was amended so as to effect this same change. These amendments the conference committee agreed to accept in the form adopted by the House.

Other amendments by the House are in section 2 of the bill; the first placed a limitation upon the financing cost to be included in the amortization fund for payment of the construction cost of the bridge, and the second provides that the bridge be operated and maintained free of tolls after completion of the amortization fund for the total cost of construction of the bridge. These amendments were agreed to by the conference committee in the form as adopted by the House.

The Senate recedes from its disagreement to all the amendments adopted by the House, which leaves the bill exactly as passed by the House.

EDWARD A. KELLY,
PEHR G. HOLMES,
Managers on the part of the House.

Mr. MICHENER. Mr. Speaker, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from Michigan.

Mr. MICHENER. As I understand, this is what is known as the Mackinac Straits Bridge bill. The bill passed the Senate, it then came to the House and was materially amended, it then went to conference, and the conference has accepted the House amendment.

Mr. KELLY. The gentleman is correct.

Mr. MICHENER. The Senate has accepted the House amendment.

Mr. KELLY. That is correct.

Mr. MICHENER. If this bill becomes law, it will mean that the Mackinac Straits Bridge, which is involved, cannot be built except by authority of the State of Michigan, which operates through its State legislature?

Mr. KELLY. That is correct.

Mr. MICHENER. In other words, those Members opposing it in the House are simply saying that the State of Michigan may, if it sees fit, construct this bridge, or grant authority to someone else to construct it?

Mr. KELLY. That is correct.

Mr. MICHENER. I may say further that the gentleman from Michigan, Mr. DONDERO, and the gentleman from Michigan, Mr. CRAWFORD, as well as some others, have opposed the bill. As I understand the gentleman from Illinois, this is now agreeable to those Michigan Members?

Mr. KELLY. That is correct.

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

Mr. KELLY. I yield to the gentleman from Michigan.

Mr. HOFFHAN. Is this the bill that was sponsored by the gentleman from Michigan [Mr. BRADLEY], among others?

Mr. KELLY. Yes, it is.

Mr. RABAUT. Mr. Speaker, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from Michigan.

Mr. RABAUT. A minute ago one of my colleagues from Michigan across the aisle said that this was the bill of the gentleman from Michigan [Mr. BRADLEY]. The bill originally was introduced in the House by Senator BROWN, of Michigan, when he was a Member of the House, and it has been since taken to the Senate and introduced there. That should be in here as the correct statement of where this bill came from and how it got here.

Mr. HOFFMAN. Will the gentleman tell us how it got away after it had been buried?

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

INDIAN CHILDREN, SCHOOL DISTRICT 13, FROID, MONT.

Mr. O'CONNOR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1450) to provide funds for cooperation with school district No. 13, Froid, Mont., for extension of public-school buildings to be available to Indian children.

The Clerk read the title of the bill.

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

Mr. MICHENER. Reserving the right to object, Mr. Speaker, the gentleman from Michigan [Mr. WOLCOTT] objected to the consideration of this bill when it was on the Consent Calendar. The gentleman has investigated the situation and knows about it. May I ask the gentleman what his attitude is at this time?

Mr. WOLCOTT. I may say to the gentleman that I have discussed this bill with the gentleman from Montana and he has convinced me there is a great need for this assistance out there. I believe that in this particular instance it is justified, so I have withdrawn my objection.

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

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That there is hereby authorized to be appropriated, from any moneys in the Treasury not otherwise appropriated, the sum of $30,000 for the purpose of cooperating with school district No. 13, Froid, Mont., for the extension and improvement of public-school buildings: *Provided*, That the expenditure of any money so appropriated shall be subject to the condition that the schools maintained by said district shall be available to all Indian children of the school district on the same terms, except as to payment of tuition, as other children of said school district: *Provided further*, That plans and specifications for construction, enlargement, or improvement of structures shall be furnished by local or State authorities, without cost to the United States, and upon approval thereof by the Commissioner of Indian Affairs, actual work shall proceed under the direction of such local or State officials. Payment for work in place shall be made monthly on vouchers properly certified by local officials of the Indian Service: *Provided further*, That any amount expended on any project hereunder shall be recouped by the United States within a period of 30 years, commencing with the date of occupancy of the project, through reducing the annual Federal tuition payments for the education of Indian pupils enrolled in public or high schools of the district involved, or by the acceptance of Indian pupils in such schools without cost to the United States; and in computing the amount of recoupment for each project interest at 3 percent per annum shall be included on unrecouped balances: *Provided further*, That such expenditures shall be subject to such further conditions as may be prescribed by the Secretary of the Interior.

With the following committee amendment:

Page 1, line 6, strike out "13" and insert "15."

The committee amendment was agreed to.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The title was amended so as to read: "To provide funds for cooperation with school district No. 15, Froid, Mont., for extension of public-school buildings to be available to Indian children."

SMITHSONIAN GALLERY OF ART

Mr. KELLER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 9806) to permit the Smithsonian Gallery of Art Commission to purchase a model of the winning design for the proposed Smithsonian Gallery of Art, and for other purposes.

The Clerk read the title of the bill.

Mr. MICHENER. Mr. Speaker, reserving the right to object, does this bill have the approval of the full committee?

Mr. KELLER. It has.

Mr. MICHENER. Does the committee know that the gentleman is adopting this extraordinary procedure to have the bill enacted into law?

Mr. KELLER. Probably not, but there is certainly no objection in the committee.

Mr. MICHENER. Unless there is some minority member of the committee here to speak for the minority, I shall be constrained to object. When bills are brought up in this manner the minority certainly has the right to know that they are going to be brought up, and unless the minority does have that knowledge in this instance I shall object.

Mr. KELLER. If the gentleman will permit me to suggest what the bill really is, I think no one will object.

Mr. MICHENER. Following the usual policy, Mr. Speaker, unless the gentleman advises that at least the ranking minority member on his committee was advised that he was going to call the bill up for consideration by unanimous consent, I shall have to object.

Mr. KELLER. I make the statement it is a unanimous report, and there never has been any objection to it.

Mr. HOFFMAN. Mr. Speaker, I object.

PER CAPITA PAYMENT TO RED LAKE BAND OF CHIPPEWA INDIANS

Mr. BUCKLER of Minnesota. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 8369) authorizing a per capita payment of $12.50 each to the members of the Red Lake Band of Chippewa Indians from the proceeds of the sale of timber and lumber on the Red Lake Reservation.

Mr. Speaker, this bill was on the Consent Calendar, and the gentleman from Michigan [Mr. WOLCOTT] objected. But I spoke to him about it the other day and he now states that he has no objection.

The Clerk read the title of the bill.

Mr. MICHENER. Reserving the right to object, Mr. Speaker, applying the same rule that I applied to the last bill up, has the gentleman conferred with the minority members of the committee as to what he expected to do here today?

Mr. BUCKLER of Minnesota. Not the minority members of the committee, but I conferred with the gentleman from Michigan [Mr. WOLCOTT], and he said he would withdraw his objection.

Mr. WOLCOTT. Mr. Speaker, will the gentleman yield?

Mr. MICHENER. I yield.

Mr. WOLCOTT. I may say that I conferred with the minority members of the committee, and it was perfectly agreeable to them that the bill be considered as it is a unanimous report. The gentleman from Minnesota discussed this bill with me the other day and convinced me that it is a good bill. This money is paid out of tribal funds and does not take any money out of the Treasury, and I told the gentleman from Minnesota that I would withdraw my objection.

Mr. MICHENER. Having great respect for the intelligence and judgment of the gentleman from Michigan, and knowing that he is one of the official objectors, but wondering if he is not mellowing a little toward the close of the session, I withdraw any objection, Mr. Speaker.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized to withdraw as much as may be necessary from the fund in the Treasury of the United States arising from the proceeds of the sale of timber and lumber within the Red Lake Reservation in Minnesota, according to the provisions of the act of May 18, 1916 (39 Stat. L. 137), and to make therefrom a per capita payment or distribution of $12.50 to each of the living members of the Red Lake Band of Chippewa Indians of the State of Minnesota, immediately payable upon the passage of this act, under such rules and regulations as the said Secretary may prescribe: *Provided*, That the money paid to the Indians as authorized herein shall not be subject to any lien or claim of attorneys or other parties: *Provided further*, That before any payment is made hereunder, the Red Lake Band of Chippewa Indians in Minnesota shall, in such manner as may be prescribed by the Secretary of the Interior, ratify the provisions of this act and accept same.

With the following committee amendments:

Page 1, line 5, strike out the words "the fund" and insert "any funds on deposit."

Page 1, line 5, strike out the words "arising from", strike out all of lines 6 and 7 and down to the word "and" in line 8, and insert "to the credit of the Red Lake Indians in Minnesota."

Page 1, line 9, strike out the words "or distribution."

Page 2, line 1, strike out the amount "$12.50" and insert the amount "$10."

Page 2, line 1, strike out the word "living."

Page 2, line 2, after the word "Minnesota" and preceding the comma, insert "living at the date of the passage of this act."

The Committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The title was amended so as to read: "A bill authorizing a per capita payment of $10 each to the members of the Red Lake Band of Chippewa Indians from any funds on deposit in the Treasury of the United States to their credit."

EXTENSION OF REMARKS

Mr. VOORHIS of California. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks made today in the RECORD, and also to extend my remarks in the Appendix.

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

There was no objection.

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include an article on the value of Guayule rubber as a national-defense product.

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

There was no objection.

Mr. ANGELL. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include a radio address delivered by myself.

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

There was no objection.

Mr. HOFFMAN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include a newspaper article.

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

There was no objection.

Mr. THORKELSON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include excerpts from a Carnegie Corporation report.

Mr. SABATH. Mr. Speaker, I reserve the right to object. I notice that the gentleman inserted a speech in last Monday's CONGRESSIONAL RECORD so unjustified and unwarranted that I think any man who is guilty of any such thing——

Mr. HOFFMAN. I demand the regular order, Mr. Speaker.

Mr. SABATH. I object, Mr. Speaker.

Mr. SHAFER of Michigan asked and was given permission to revise and extend his own remarks in the RECORD.

Mr. CREAL. Mr. Speaker, I ask unanimous consent to insert in the Appendix a brief address by Hon. J. Dan Talbot at a patriotic meeting at Bardstown, Ky.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. COFFEE of Washington. Mr. Speaker, I ask unanimous consent to extend my own remarks on two different topics.

The SPEAKER. Is there objection?

Mr. THORKELSON. Mr. Speaker, I am sorry, but I have to object.

The SPEAKER. Objection is heard.

The SPEAKER. Under previous order of the House, the gentleman from New York [Mr. DICKSTEIN] is recognized for 30 minutes.

UN-AMERICAN ACTIVITIES

Mr. DICKSTEIN. Mr. Speaker, I ask unanimous consent, in connection with my address to this House, to extend my remarks by inserting a number of names of persons actively engaged in this country with certain subversive groups, commonly known as the "fifth column."

The SPEAKER. Is there objection?

Mr. THORKELSON. Mr. Speaker, I object.

Mr. DICKSTEIN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD.

Mr. THORKELSON. Mr. Speaker, I object to that, too.

The SPEAKER. Objection is heard.

Mr. DICKSTEIN. Mr. Speaker, it is rather sad to see my colleague from Montana objecting to my request. I do not think I have ever objected to any man's request, especially so when it was made for the purpose of enlightening the country on some people who are actively engaged in subversive movements within the United States.

Mr. THORKELSON. Will the gentleman yield for a question?

Mr. DICKSTEIN. I always yielded to the gentleman.

Mr. THORKELSON. What was it you wanted to put in?

Mr. DICKSTEIN. I want to tell the country how many spies and saboteurs we have in this country that have not been subpenaed by the Dies committee.

Mr. THORKELSON. Are you sure you have all of them?

Mr. DICKSTEIN. I have got some of them. I only have about several hundred on my list now.

Mr. THORKELSON. If he wants to put that in the RECORD, I have no objection to it, Mr. Speaker.

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

There was no objection.

Mr. DICKSTEIN. I thank you.

Mr. Speaker, a gesture may be a gesture and speeches may be speeches, but there comes a time in every man's life when he must confront himself with the facts.

Again in the last 3 days I notice a number of press releases by the Dies committee as to what they are going to do, what they have found, and how they are going to find out more. To my disappointment I find a press release of September 18, supposedly made by my good friend, the distinguished gentleman from Texas [Mr. DIES], chairman of this committee, and I quote from the New York Sun of September 18, 1940, in which he states as follows:

> Representative DIES in an interview yesterday declared that his committee a year ago learned of a plot to blow up the Hercules Powder Co., at Kenvil, N. J., but that its report evoked only laughs from the Government. He said that the blast which destroyed the plant last Thursday undoubtedly was the work of a foreign agent.

I submit that if Mr. DIES or any member of his committee or any representative of his committee or the so-called investigators knew that the Hercules plant was to be blown up a year ago, he should have named the person, he should have advised the Attorney General, or the F. B. I., he should have forced the American Government to stop the killing of almost 50 human beings and the maiming of almost 200.

Mr. HOFFMAN. Will the gentleman yield?

Mr. DICKSTEIN. I yield for a brief question.

Mr. HOFFMAN. Are you not charging almost directly that that committee is responsible for the death of these people? You do not mean that, do you?

Mr. DICKSTEIN. No; certainly not. I am just quoting a press release. I am not making that statement. I read from a press release. I will repeat it if the gentleman wishes to hear the language again.

Mr. HOFFMAN. Well, you are giving it circulation by reading it. Are you adding your endorsement to the charge?

Mr. DICKSTEIN. No; I am adding no endorsement. I am just quoting something which my distinguished colleague has made in the press. He said in that statement that about a year ago they learned of a plot to blow up the Hercules Powder Co. in New Jersey.

Mr. HOFFMAN. Pardon me. I do not want to take up too much of your time.

Mr. DICKSTEIN. I wish you would not. I only have a short time.

Mr. HOFFMAN. Did not Mr. DIES report that to the Government?

Mr. DICKSTEIN. I do not know. But Mr. DIES has not subpenaed one single person who was drilling at the Nazi camp which is within that area of the Hercules powder plant, which is within the area of the DuPont Powder Co., which is within the area of two of the largest powder plants in this country.

Now, let me call the attention of this House to something that I believe you should know, and I think the Dies committee should know.

As far back as July 26, 1937, I said, as appears from the RECORD of that date, page 9971:

Mr. Speaker, the twenty-first camp of this type in this country was opened in New Jersey last Sunday with more than 15,000 men and women going wild about Hitler and Mussolini. I want the Members to know where Camp Nordland is located. This camp is situated within a number of miles of the largest munitions factories of this Government and one of the largest powder factories of the Du Ponts. I do not have to tell you, my friends, what happened in 1916 in connection with the Black Tom explosion. Mr. Speaker, if we are ever implicated in another war, we will have to fight the enemy within and without.

This camp is located on Lake Denmark. It is within the area of some of the largest powder plants in the United States. It is located near the marine barracks and not so very far away from the Hercules Munition Works and the Atlas Powder Manufacturing Co.

I gave that information to the House way back in July of 1937, calling attention to the fact that these subversive alien groups purchased 100 acres of ground for the sole purpose of being within the area of these important defense plants, the very area where the explosion took place last week that resulted in the killing of so many victims.

Why does not the Dies committee subpena members of some of these groups attached to this movement?

Does the gentleman from Michigan desire me to yield further?

Mr. HOFFMAN. Yes. The gentleman is undoubtedly familiar with the activities of these alien groups because he has spoken about them several times on the floor and given us information about them. I ask the gentleman if he has ever reported them to the F. B. I. and asked for action?

Mr. DICKSTEIN. Just a moment. I read a quotation from the RECORD. I think everybody heard it. In that quotation taken from a speech of mine as far back as 1937 in which I called attention vigorously to this very thing. And I remember that my good friend from Michigan—and I have high esteem for him—and a number of others sort of ridiculed me.

Mr. HOFFMAN. Oh, no; now, wait—not me.

Mr. DICKSTEIN. Yes.

Mr. HOFFMAN. I apologize if the gentleman thinks I ever ridiculed him.

Mr. DICKSTEIN. I do not mean to be offensive.

Mr. HOFFMAN. I never ridicule anyone.

Mr. DICKSTEIN. I have called these things to the attention of as many people as I could.

Mr. HOFFMAN. The gentleman called attention to these organizations in speeches on the floor of the House, but did the gentleman get active and make a report to the F. B. I., giving them the information he had?

Mr. DICKSTEIN. Before I answer the gentleman's question positively I shall have to look up my files. I have over 1,000 files.

Mr. HOFFMAN. Why criticize the gentleman from Texas [Mr. DIES]? The gentleman has the information himself.

Mr. DICKSTEIN. What I am criticizing is not the gentleman from Texas [Mr. DIES] but the methods he has been using. They ought to get some action and subpena the right people instead of sitting in the Waldorf-Astoria, calling a few so-called movie actors and asking, "Are you pink? Are you a pink?" "No, no." "You are excused."

Why not get to the bottom of this whole thing? Why not clean house and rid this country of "fifth columnists"?

Mr. HOFFMAN. I agree with the gentleman; but does not the gentleman believe that he, having information of this character, ought to report to the F. B. I. instead of just talking about it on the floor?

Mr. DICKSTEIN. Let me again say to the gentleman from Michigan that this exposé of subversive activities carried on in various States which I have made from time to time, as disclosed by the CONGRESSIONAL RECORD, comes to their attention. The F. B. I., however, has no power to subpena certain individuals to determine how far they have gone, who they are, what they are doing, and so forth. That is the function of the Dies committee or some other committee of the Congress that has power to subpena witnesses and force them to give the necessary information to the committee. Then the evidence gathered can be given to the F. B. I. for prosecution.

Mr. VOORHIS of California. Mr. Speaker, will the gentleman yield?

Mr. DICKSTEIN. Yes; I yield to the gentleman from California, a member of the Dies committee.

Mr. VOORHIS of California. In the first place, of course, I will agree with the gentleman heartily about the importance of exposing these Nazi outfits, but I also want to say that in the last few months the Dies committee has had such investigators as it could put on it working on this very matter, and in the very regions the gentleman mentions; and I ask the gentleman to remember that, so far as actually apprehending people who might be likely to commit a crime of that kind is concerned, the Dies committee can hardly do it with the handful of people that they necessarily have to depend on to do its work. That kind of work is a job to be done by a real law-enforcing body.

I am not disagreeing with the gentleman that this work should be pushed as vigorously as possible—I have been contending for that myself—but I think in justice to the committee it should be clear that the committee's function is to bring out these facts and expose them, and that in the nature of the case the Dies committee, with four or five investigators for the whole country, cannot itself prevent terrible things like this explosion from happening.

Mr. DICKSTEIN. I agree with the gentleman, but in the first place I do not believe the committee has the proper investigators. That is an honest expression of opinion, not merely a critical one. In the second place, I do not expect the Dies committee to pick up these things, but I do expect the Dies committee, in view of the fact that I have a number of times asked the Dies committee to call me into conference on certain matters, that they should; but they were jealous and envious lest my name appear in the papers as helping them.

Mr. HOFFMAN. Mr. Speaker, I object to that kind of language. I do not think it is proper.

To say that the Dies committee was jealous and envious does not help the situation, and I am sure the gentleman did not mean that.

Mr. DICKSTEIN. I meant just what I said.

Mr. HOFFMAN. Could not the gentleman have gone there as a witness? Does he have to be called in in conference?

Mr. DICKSTEIN. Shall I stand in the front door or the back door waiting to be called in? Does the gentleman think a Member of this House should have to do that?

Mr. HOFFMAN. If I had any information that I thought was of value to the Dies committee I would go over there and say, "Let me testify."

Mr. DICKSTEIN. I have sent some information over to the Dies committee, and after several weeks received a letter from a fourth-rate clerk stating that it will be called to the attention of the committee. I know of a number of very fine, patriotic organizations that have sent a lot of information to the Dies committee, and they have not even received an acknowledgment.

Mr. THORKELSON. Will the gentleman yield?

Mr. DICKSTEIN. I yield to the gentleman from Montana.

Mr. THORKELSON. May I ask this question—and I realize, of course, it takes money to finance these movements—has the gentleman any idea who is furnishing the money for those subversive activities, particularly those he is mentioning now?

Mr. DICKSTEIN. The gentleman from Texas [Mr. DIES] says he knows. I think you had better ask him. I could not give you the answer just now.

Mr. THORKELSON. I was wondering.

Mr. PATMAN. Will the gentleman yield?

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

Mr. PATMAN. Does the gentleman know why this appeaser named Westrick was not subpenaed by the Dies committee before he left the country?

Mr. DICKSTEIN. I do not know. I exposed Westrick a long time ago and after weeks of exposing I find out by the

press that the Dies committee is going to do this or that, and that they are going to subpena Westrick and others.

I am not particularly concerned how they run their show but I say that we have a menace in this country, a menace in the form of the "fifth column" and unless we go right into the heart of it, we are not going to clean out the "fifth column." I will name you 50 organizations in this country who are practicing and preaching intolerance, hate, and everything that stands against democracy, yet not one of these organizations has been subpenaed. I will give you the names of dozens, yes hundreds, of names of those actively engaged as "fifth columnists" who have been exempted from subpena. Oh, a lot of insignificant people have been subpenaed and brought before the Dies committee. Everything was a secret and behind closed doors. No, Mr. Speaker, you are not going to get rid of this question unless you expose every rat in that column publicly. You cannot do it behind closed doors. You cannot keep quiet about it. You cannot stand here and say nothing about what is going on if you have any love and affection for your country.

Mr. BLOOM. Will the gentleman yield?

Mr. DICKSTEIN. I yield to the gentleman from New York.

Mr. BLOOM. The gentleman just made a comment that they are exempted from subpenas. Will the gentleman explain what he means by that?

Mr. DICKSTEIN. Certain people are subpenaed and certain people are not.

Mr. BLOOM. But they are not exempted.

Mr. DICKSTEIN. They are not exempt. The committee exempts them.

Mr. ROUTZOHN. Will the gentleman yield?

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

Mr. ROUTZOHN. Did I understand the gentleman to say that he could furnish the information that he is speaking of, that the Dies committee is not furnishing?

Mr. DICKSTEIN. It will be in the RECORD.

Mr. ROUTZOHN. You are preparing to do that today?

Mr. DICKSTEIN. Why, it is right here.

Mr. ROUTZOHN. Fine. I would be very much obliged to the gentleman if he would furnish the information.

Mr. ROBSION of Kentucky. Will the gentleman yield?

Mr. DICKSTEIN. I yield to the gentleman from Kentucky.

Mr. ROBSION of Kentucky. Of course, I am opposed to communism, the bund, and all those things, and I appreciate the work that the gentleman has done.

Mr. DICKSTEIN. You are about the only one who does, then.

Mr. ROBSION of Kentucky. I do not think so. Perhaps some may not appreciate the attitude that the gentleman presents when he says if we do not rise up and do this and that we do not love our country like we ought to love it. I think we all love our country. The gentleman says he has the names of 50 organizations that are identified in helping to develop this "fifth column" movement in this country?

Mr. DICKSTEIN. That is right.

Mr. ROBSION of Kentucky. He has the names?

Mr. DICKSTEIN. That is right.

Mr. ROBSION of Kentucky. And he has the names of hundreds of others——

Mr. DICKSTEIN. Do not tie me up, now. I do not want to get in too many.

Mr. ROBSION of Kentucky. Is the gentleman going to put the names of these organizations in his speech?

Mr. DICKSTEIN. That is right.

Mr. ROBSION of Kentucky. I may say that I have been in favor of the Dies committee and I am in favor of it now. I think it has done a good work. When we have the names and when they have the names, we can insist that they bring in those folks before the committee.

Mr. BLOOM. Have a No. 2 Dies committee.

Mr. ROBSION of Kentucky. I think there is enough work for two Dies committees.

Mr. DICKSTEIN. I stood up on this floor 2, 3, and 4 years ago and at that time the gentleman from Kentucky asked me a number of questions. I believe he was sympathetic. I tried to warn the country against the "fifth column" movement at that time, but little attention was paid to me.

Mr. ROBSION of Kentucky. I was aware of the fact that we had a "fifth column" in this country; that we had folks boring from within. I have thought all the time that the present danger to this country is more from right here in the United States than from somebody across the sea.

Mr. DICKSTEIN. How are we going to get at them then?

Mr. BLOOM. The gentleman gave the information with reference to these associations before the term "fifth column" was ever mentioned on the floor of this House.

Mr. DICKSTEIN. That is right.

Mr. BLOOM. They never were known as "fifth columnists" at that time.

Mr. DICKSTEIN. Although I am not going to put this into the RECORD, because it would be useless to squander any money on it, I also wish to call your attention to the RECORD of August 19, 1937, pages 11954 and 12049, and the RECORD of May 9, 1937, page 7459. I have other RECORDS that go back as far as 1934 and 1933, but I do not believe it is necessary to put these speeches in now.

Mr. STARNES of Alabama. Mr. Speaker, will the gentleman yield?

Mr. DICKSTEIN. I yield to the gentleman from Alabama.

Mr. STARNES of Alabama. I believe every Member of the House appreciates the efforts of the gentleman from New York and certain activities of his in an endeavor to expose un-American, subversive activities. Is it not a fact that the gentleman himself served on a committee of that type and character once before?

Mr. DICKSTEIN. On the McCormack committee.

Mr. STARNES of Alabama. That committee had practically the same task to perform as the present committee?

Mr. DICKSTEIN. I created that committee.

Mr. STARNES of Alabama. They held executive hearings. I believe I heard the gentleman from Texas [Mr. PATMAN] praising their procedure on the floor the other day. They held executive hearings, did they not, and issued public statements afterward?

Mr. DICKSTEIN. No; we never released any public statements. We had executive hearings, and after the executive hearings were completed and printed we would sit down in conference and go over the material and then call a public hearing. It was on that public hearing that the newspapers got the information. At no time, to my knowledge, did we issue any statements to the press while we brought certain witnesses before us in executive hearings. We have always protected the reputation and character of those who appeared before us.

Mr. STARNES of Alabama. The gentleman who is now speaking has himself been before the Dies committee and has been accorded a satisfactory hearing?

Mr. DICKSTEIN. Yes; a very courteous hearing.

Mr. STARNES of Alabama. He has been given an opportunity to present all the evidence he had in his possession?

Mr. DICKSTEIN. On one phase of the inquiry; yes.

Mr. STARNES of Alabama. I can assure the gentleman now, here, at this time, publicly, that we of the committee will be delighted, indeed, to have the gentleman come before us again, either in an executive session or a public hearing, to give us the benefit of his knowledge about any and all un-American subversive activities in this country. We will be delighted to receive from him a list of the organizations he claims are vendors of hate in this country and are un-American in their character, and whose activities are subversive. We will be glad to have that list.

Mr. DICKSTEIN. Mr. Speaker, there is no finer gentleman than my friend, the gentleman from Alabama [Mr. STARNES]. I admire him. I appreciate that he understands the situation probably as well as anyone on this committee. The gentleman recalls that I have come to him and asked that I be brought into the councils of this committee, not for myself, but for my country's sake, because I knew I had the information. The gentleman never brought me back an answer other than that he volunteered—and I thank the

gentleman for his action—that he would cooperate, and as far as the gentleman is concerned, he has cooperated. I am not trying to criticize the gentleman from Texas to the extent that I am scolding him. I am still advising him, because in order to advise him to listen to me I must go on the floor and tell him just what I think he ought to do.

I exposed the German Library of Information on this floor months ago, but it was not until 2 weeks after that that one of the investigators must have buzzed the ear of our good friend the gentleman from Texas [Mr. DIES], and then they were going to investigate the German Library of Information.

Mr. STARNES of Alabama. Mr. Speaker, will the gentleman yield?

Mr. DICKSTEIN. I yield to the gentleman from Alabama.

Mr. STARNES of Alabama. Months ago we ascertained that the German Library of Information is a registered agent of the German Government. We know who its directors are and we know how much money they have received from the German Government. Since they have complied fully with all the requirements of the law and have registered as German agents, there is nothing further we can do about it, as far as we know.

Mr. DICKSTEIN. Except that you could have brought in during the interim a report to the House asking for some legislation to eradicate it if it is an evil; and if it is not an evil and is doing the right things, then you could have given it a clean bill of health, as you have given a clean bill of health to certain moving-picture stars.

Mr. STARNES of Alabama. The gentleman knows, of course, that our colleague the gentleman from California [Mr. VOORHIS] has introduced legislation dealing with the registration of foreign aliens that provides stricter regulation than the present statutes, and that this measure has passed the House.

Mr. DICKSTEIN. The gentleman also knows that on every bill that has been presented from his committee I have cooperated and sent it out from my committee.

Mr. STARNES of Alabama. That is correct. I thank the gentleman for that; and I may say that one of those bills passed the House and the Senate and was vetoed, while the other passed the House and as yet has not been considered by the Senate. I am not criticizing the gentleman. I appreciate his cooperation with the committee.

Mr. DICKSTEIN. I am not criticizing the gentleman, either. It is just a question of legality.

What is this so-called American bund? The so-called members are just little fish. Behind this whole picture are the big fish. Let me call to your attention the fact that about 3 or 4 months ago a man by the name of Paffrath wrote four articles appearing in Liberty magazine, the title of which was, "I Am a Nazi Spy." In these articles he fully explained that he was sent here by the Nazi government and the Propaganda Minister. In fact, he built up a great story that he was in my employ and that he was sent to get into my employ to get a lot of information for the German Government. He mentioned certain superior officers that he had to report to on this matter. As a matter of fact, the articles themselves almost made this man the outstanding German spy in this country.

I have presented my case on this floor and I have appealed to the committee and called the attention of my friend and colleague the gentleman from Texas [Mr. DIES] to the fact that Paffrath is walking around. This man never was in my employ. He admits that he was a Nazi spy and he was sent here to help undermine our Government in one way or another and the Liberty magazine printed it and I pleaded with the Dies committee to subpena Paffrath. That has never been done. He is just another rat of the "fifth column" walking within this country. Do you not think it was important enough to find out what his activity was, with whom he was connected, and how much money he was receiving while he was working for the German Government, and who was paying it?

Now, thank the Lord, Mr. Fritzie Kuhn is in jail and so they have elected a new leader. This man is G. William Kunze and he is the fellow in charge of the Nordland Camp, and I might say, from my investigation of the Nordland Camp, that for the last number of years it is nothing but an immoral place. I do not want to use any foul language, but it is immoral. Not only did they have uniforms and guns and everything else, which they have cleaned out since, but the whole place is immoral and they try to inculcate into small children the philosophy and ideology of Hitlerism.

Yes; in connection with my 50 names that I hope to put in, I am going to give you 2 real Communist groups that you have not even touched.

Mr. STARNES of Alabama. Mr. Speaker, will the gentleman yield?

Mr. DICKSTEIN. Certainly, I yield with pleasure to the gentleman from Alabama.

Mr. STARNES of Alabama. The gentleman from New York knows that we have had before us Fritz Kuhn, a leader of the German-American Bund and one of its founders. The gentleman knows that.

Mr. DICKSTEIN. Yes.

Mr. STARNES of Alabama. The gentleman knows we have had before us Earl Browder, the head of the Communist group.

Mr. DICKSTEIN. That is right.

Mr. STARNES of Alabama. And we have had before us the leader of every Communist organization we knew of in this country, and we have had before this committee men who founded the Communist Party in America and practically all of the living ex-candidates for President and Vice President on the Communist ticket, and I wish the gentleman would be a little fairer and a little more restrained in his remarks when he states that we have had nothing but "small fry" before us, when the gentleman knows we have subpenaed before that committee the leader of every one of these organizations that has been under fire.

Mr. DICKSTEIN. Let me give the gentleman and the committee credit for Earl Browder's exposé, but let me also say in fairness to myself and to the committee and to this Congress that a number of other individual Communists that you subpenaed were just a lot of convicts who were trying to save their own necks by coming before the committee and giving certain testimony involving certain people that really were not the type that had the red ribbon around them. I say that in fairness to both of us.

Now, I say you have done a good job. I say you are responsible for the conviction of one of the leaders, and you have focused the attention of the country on what is going on, but in the same breath I must say that you have not picked up those who are behind Browder, and, as I am informed, there are one or two Communist camps in this country, and you do not even know where they are; in fact, it took me a long time to find out, and I did not have to pay any money for it.

Mr. THORKELSON. Will the gentleman say who is behind Browder?

Mr. DICKSTEIN. I do not know; apparently, the Communists, but that is up to the committee to find out.

With the activities of the "fifth column" in the United States becoming more brazen than ever before, despite the publicity given to it by an awakened press, it is time to examine the work of the Dies committee to determine how effectively the menace is being combatted by this group. All over the country organizations and individuals whose avowed or unadmitted purposes are the destruction of our democratic form of government and the propagation of Nazi ideology, are conspiring against our democratic institutions which they seek to supplant by foreign dictatorial ones.

Many months ago I pointed out to Congress that the Dies committee had merely scratched the surface in the course of its widely publicized and expensive investigations. Today I am forced to repeat that criticism of a congressional body which can offer little for the money and time and newspaper

space spent on it. Recently this committee decided to subpena several openly Nazi organizations in the city of New York. By a strange coincidence these groups, such as the German Library of Information, the German Railways Information Office, and so forth, had a few days before made the headlines in newspapers, independently studying their subversive nature and performing a public service by exposing them to the public. In other words, not until years after these groups were originally denounced and not until the newspapers exposed their activities did the Dies committee finally come to spasmodic life.

Needless to say, these groups had plenty of time to remove all incriminating literature and documents before the investigators of the committee at last descended upon their offices.

I contend that the Dies committee has not made a single independent move to investigate subversive groups in the past few months. They waited until some other agency or individual took the first step.

Hundreds of un-American groups and "fronts" remain untouched, free to ply their totalitarian wares in the market places of our Nation, waiting for der tag, when they can come out in the open against our democracy.

The appeasers, composed of powerful individuals willing to sell their American birthright of freedom for a mess of Nazi pottage—and ersatz pottage at that—demand the immediate attention of some investigating agency of the Government. These powerful men are a thousand times more important and dangerous than the crackpots and madmen whom they finance. There is no need to name names; PM, a New York newspaper, has recently exposed these traitors, pointing out that three of them are the wearers of Hitler medals, with one of the three an official of a giant corporation, somehow having been appointed to a post connected with the national defense.

This is the same kind of situation which in France resulted in the debacle of its military arm. Certain Frenchmen, like certain Americans in our midst, connived with the Nazis, supported their aims in their native country by financing native Fascist groups, and finally saw their land given over to a barbaric horde of invaders.

Last June, in the Anti-Nazi Bulletin, publication of the Non-Sectarian Anti-Nazi League, an article on the American Fellowship Forum, a Nazi front group, contained the following significant passage:

> The advisability of placating Hitler a la Munich follows easily once you accept the premise that Hitler can't be beaten. The cry that we'd better not stick our necks out, as yet merely a still, small voice heard only in Yorkville and from certain Members of Congress, may be expected to grow in intensity as the summer pre-election months roll by.
>
> Still required to convince the American public is the notion that Hitler, after all, could be worse, and, anyway, doesn't really conflict with the interests of the United States. This is the identical dressing to the unsavory dish presented to the people of Great Britain and France before Munich.

Our appeasers and Nazi-inspired traitors are hoping to put across an American Munich on the people of this country by financing native groups with the funds required to spread antidemocratic propaganda and sow the seeds of the same kind of cancerous un-American growths which led to the destruction of France.

Perhaps there may have been some excuse for France, Norway, or the other victims of Nazi cunning betrayed from within; they did not realize the importance of curbing their traitors. There can be no excuse for us, with the lesson of what happened in those countries before us, if we allow our appeasers and Nazi-inspired native traitors to sabotage our democracy.

It would seem to me that the Dies committee has done nothing about these powerful interests, that are the real internationalists, who betray the American people by encouraging appeasement with Nazi Germany, the avowed enemy of everything we hold dear. They have done nothing about the spread of un-American propaganda by native traitors who reprint the mouthings of Herr Goebbels, or about the native Fascist organizations like the Ku Klux Klan, recently linked to the German-American Bund through a joint rally in New Jersey. They have done absolutely nothing about any of the openly un-American groups active at this very hour spreading discontent and terror.

Here is a list, taken at random, of half a hundred of these organizations which the Dies committee has perhaps read about in the papers but never bothered to investigate:

1. The Christian Front, including other Coughlin-inspired groups.
2. The Christian Mobilizers (see list A for names and addresses of important members).
3. The American Destiny Party (see list B for names and addresses of important members).
4. The Christian Knight Crusaders (see list C for names and addresses of important members).
5. The Arabian Nationalists.
6. The Russian Nationalists.
7. The Roumanian Iron Guard (Boian).
8. The Armenian Fascists.
9. The Italian Fascists.
10. World Alliance (Sanctuary).
11. Mosley's Union of British Fascists and New York tie-ins (Seward Collins).
12. American Nationalist Confederation Headquarters, St. Albans, W. Va. (Deatherage).
13. League for Constitutional Government (John B. Snow).
14. Constitutional Educational League (Kamp).
15. National Gentile League (Shea).
16. Kyfhauser Bund, 228 East Eighty-sixth Street, New York City.
17. K. K. K.-bund affiliations.
18. American Defense Society.
19. American Patriots.
20. American Women's League.
21. James True Industrial Controlled Reports.
22. Edmondson's Economic Service.
23. Brinkley's Newspaper Publicity, Wichita, Kans.
24. Propaganda coming into the United States by Clipper from Europe and South America and Spanish and Portugese ships.
25. American National Party, New York.
26. Industrial Defense League of Boston.
27. Japanese propaganda.
28. Printing presses financed from abroad, and their manner of distributing pamphlets and leaflets harmful to our citizenry.
29. Radio broadcasting by Nazi sympathizers and American broadcasts sponsored with Nazi money.
30. German youth camps and teachings of children in Nazi philosophy.
31. Trade relations and pressure methods applied by groups here (Board of Trade for German American Commerce).
32. Foreign exchange with Germany relative to transfer of moneys.
33. Stahlhelm activities (composed of German and Austrian veterans of last war).
34. National Guard infiltration of Germans since advent of Hitler government.
35. Immigration Conference Board (John B. Cecil).
36. Investigation of Molly Pitcher Brigade (Mrs. Parr).
37. Mr. Ralph Beaver Strasburger, one of the most prominent men in the Republican Party—publisher of a big newspaper in Norristown, Pa. Married heiress to Singer sewing machine millions. Has big grazing stable and distributes thousands and thousands of German-White propaganda here—further details on file of P M.
38. Communist camps in Beacon and Camp Unity, and others teaching training of Communist philosophy to children.
39. Russian airplane engineers working in Wright airplane factory in Paterson, N. J.
40. Silver Shirts.
41. Dr. Albert Degener, secretary to the outfit, was shown by the
41. The German American Board of Trade; Dr. Albert Degener, secretary to the outfit, was shown by the McCormack-Dickstein committee to be the financial supporter of the bund predecessor organization. Also he is a member of the German Nazi party.
42. The American Fellowship Forum.
43. George Sylvester Viereck.
44. The illegal use of so many exchange students here on special visas to be investigated in connection with German Library of Information.
45. The German Railway Tourist Bureau.
46. The activities of the German consuls.
47. The Deutscher Konsum Verband.
48a. Trans-Ocean News Service (Dr. Zapp).
48b. German News Bureau, 150 Rockefeller Plaza, by many non-bona-fide newspaper men.
49. The Deutsche Wirtschaftsdienst, 17 Battery Place, New York City.
50. Irish Republican Army.

LIST A

The following are mobilizer guards and their addresses:

Arthur Keelan, 65 Southern Boulevard.
Edward Reilly, 3416 Park Avenue.
James McQueeney, 594 St. Marys Street.
Richard Coigene, 695 West One Hundred and Thirty-seventh Street.
Thomas Fox, 521 West One Hundred and Forty-fourth Street.
John Tiernan, 145 West One Hundred and Forty-fourth Street.
Michael Daly, 150 West One Hundred and Forty-fourth Street.

John Sullivan, 462 West One Hundred and Thirty-first Street.
Philip McTeigue, 430 West One Hundred and Forty-third Street.
John Hanley, 303 East One Hundred and Thirty-ninth Street.
Paul Talkbig, 371 East One Hundred and Forty-second Street.
James Heaney, 310 East Twenty-eighth Street.
Patrick Mason, 612 East One Hundred and Sixty-eighth Street (Fred Grimm is captain of guards).

Some other members:

Mr. Eibach, 1883 Longfellow Avenue.
Mrs. Daisy McFarlane, 2140 Tomlinson Avenue.
Mrs. Grace Lacey, 310 East One Hundred and Thirty-sixth Street.
Mrs. Mary Nesbit, 133 Alexander Avenue.
Mr. Walter Wayditch, 430 East One Hundred and Thirty-eighth Street.
Mr. Thomas Maloney, 475 East One Hundred and Thirty-ninth Street.
Mr. Jack Dillon, 494 East One Hundred and Fortieth Street.
Mr. Thomas McGee, 363 East One Hundred and Fortieth Street.
Mr. John Heimberger, 445 East One Hundred and Fortieth Street.
Mr. Nicholas Dooley, 400 East One Hundred and Forty-fifth Street.
Mr. Michael Crowe, 513 East One Hundred and Forty-sixth Street.
Mr. Patrick Coyne, 638 Kelly Street.
Mrs. Ostertag, 901 East One Hundred and Sixty-seventh Street.
Mrs. Gertrude Dickey, 601 East One Hundred and Seventieth Street.
Mrs. Thomas Monahan, 640 Jackson Avenue.
Mr. Powers, 8 West One Hundred and Eighty-first Street.
Mr. W. C. Thompson.
Mr. F. Grimm.
Mr. George Rieper.
Mr. E. Lucarellie.
Mr. L. Helmond.
Mr. George Pagnanelli, 159 East Forty-sixth Street.
Mr. Herman Schwartz, 507 East Eighty-third Street.
Mrs. Casanova, 305 West Ninety-seventh Street.
Mr. William M. Daly, 135 West Sixty-second Street.
Mr. Holzwarth, 312 East Eightieth Street.
James McQueeney, 623 West One Hundred and Forty-first Street.
Mrs. James Maude Harrar, husband is chief of obstretics, Lenox Hill Hospital, 410 East Fifty-seventh Street, Plaza 8-2333.
E. O. Bogart, 551 Fifth Avenue.
Mayor K. Maydell Kelly, room 200, 33 West Sixtieth Street.
Jacob Beck, 424 Central Avenue, Brooklyn.
John Cecil, 101 Cedar Street.
C. M. Publishing Co., Adward Adrion, editor; Frank Gunn, associate editor; Bernard Duffy, business manager; 3196 Third Avenue, Mel. 5-6874.
Holler Ice Co., 3974 Boston Road.
F. M. Schildwachter, Inc., 1769 Webster Avenue.
Col. Sanctuary, 514-44 East Twenty-third Street.
Captain Collins.
Hans Omenitsch, 35-45 Forty-second Street, Jackson Heights, Long Island.
Gasper Ippolito.
Henry A. Curtiss (Gaeda).
Harry Thorne, Christian Labor Front, Local 800, A. F. of L., St. 4-4460.
Printer, Mathias & Curr, 1 East Forty-second Street.
Mr. and Mrs. Baeder, 428 East Fifty-third Street.
H. N. P.: Harkness, Sheridan, Flanagan, Phil May, Evans, Maxine Gordon.

LIST B

Ambruster, L., 1409 Third Avenue.
Arnecke, F., 220 East Eighty-fifth Street.
Behrens, Henry F., 207 East Eighty-seventh Street.
Bischoff, G., 59-40 Myrtle Avenue.
Bohlken, E., 241 East Eighty-sixth Street.
Bonney, John, 291 Irving Avenue.
Catharius, C., 1628 Second Avenue.
Dietrich, Louis, 226 East Eighty-sixth Street.
Dietze, M., 1686 Third Avenue.
Duecker, Harry, 248 East Eighty-fourth Street.
Ehni, Charles, 236 East Eighty-sixth Street.
Eisenhut, Werner, 1688 Third Avenue.
Eisasser, A., 447 East Eighty-seventh Street.
Fischl, Joseph, 1442 Third Avenue.
Fries, M., 1600 Third Avenue.
Froelich, Gustave, 218 East Eighty-fourth Street.
Fox, William, 17 West Fifty-sixth Street.
Gastrich, Hans, 200 East Eighty-sixth Street.
Goldbach, Charles, 1054 Third Avenue.
Halder, Paul, 1623 First Avenue.
Hamer, Richard, 315 East Eighty-fifth Street.
Hansen, Henry, 1646 Second Avenue.
Hartensteiner, K., 62-15 Myrtle Avenue.
Heinsohn, A., 1592 Third Avenue.
Helmert, Albert, 1741 First Avenue.
Hengut, A., 1742 First Avenue.
Hoff, Bernard, 310 East Forty-eighth Street.
Hopp, Hermann, 1574 Second Avenue.
Hoppe, William C., 450 Willis Avenue.
Janson, August, 1691 Second Avenue.
Kauffmann, F., 1485 Third Avenue.
Ktels, H. F., 1561 Second Avenue.
Koenig, P., 1298 Third Avenue.
Kramer, J., 305 East Eighty-fourth Street.
Krause, E. O., 308 East Eighty-sixth Street.
Lang, William, 314 St. Nicholas Avenue.
Lasch, Frederick, 123 East Eighty-ninth Street.
Lensky, Max, 1639 First Avenue.
Lippert, Richard, 1589 First Avenue.
Ludemann, F., 337 East Eighty-seventh Street.
Maier, Albert, 1591 Third Avenue.
Martens, Peter, 1641 First Avenue.
Pennekamp, Henry, 1584 First Avenue.
Phaff, S., 451 East One Hundred and Fifty-fourth Street.
Praeg, Louis, 464 Seneca Avenue.
Puetz, Henry, 1682 First Avenue.
Renz, Hans, 1248 Lexington Avenue.
Rossteuscher, Joseph, 338 East Eighty-sixth Street.
Schadler, Simon, 577 East One Hundred and Sixty-third Street.
Schellhorn, Carl, 3216 Third Avenue.
Schleier, Robert, 272 Wyckoff Avenue.
Schlosser, A. J., 258 Wyckoff Avenue.
Schmidt, F., 209 East Eighty-sixth Street.
Seidel, Joseph, 1574 Second Avenue.
Stadler, A., 1130 Third Avenue.
Staudinger, F., 304 East Eighty-sixth Street.
Steuer, August, 322 East Eighty-sixth Street.
Stoll, Adam, 1728 Second Avenue.
Witt, Walter, 1475 Third Avenue.
Wurster, Carl, 853 Seneca Avenue.
The above list was compiled from original copy at the headquarters of the American Destiny Party.

NAMES OF STORES AIDING M'WILLIAMS FINANCIALLY

Rose's Shop, lingerie and hosiery, 1570 Second Avenue, New York City.
Thomas Moore, coffee, tea, and eggs, 743 East One Hundred and Fifty-second Street.
Henry's Deutsches Restaurant, 221 East Eighty-sixth Street.
G. Steinborn, the Lloyd tailor, cleaner-tailor, weaver, 335 East Eighty-sixth Street.
Julius Rossl, floral artist, 1654 Second Avenue.
Carl Froehlich, matting and mats, 1575 York Avenue.
Paul C. Schultz, dairy, delicatessen, and groceries, 1656 First Avenue.
Joseph Vosst & Son, cutler and grinding, 1619 Second Avenue.
Mietzner's Prime Meat Market, 1667 Second Avenue.
Holzwarth Express, 312 East Eightieth Street.
German-American Haberdashery, ladies' and gents' wear, 1652 Second Avenue.
Deutsche Heilkrauter Zentrale, pharmacist, 1691 Putnam Avenue, Brooklyn; 1652 Second Avenue, New York City.
Alwin Van Co., moving, 235 East Sixty-ninth Street.
Paul C. Schultz, dairy, delicatessen, and groceries, 1656 First Avenue.
Schmidt Importing Co., 1625 Second Avenue.
Funeral Service Corporation, Arthur R. Plantikow, president, 1641 First Avenue.

LIST C

Allen, Lester E., 78 Irving Place, New York City.
Adamco, Anthony, 409 East Eighty-seventh Street, New York City.
Aubry, George A., 2234 Richmond Avenue, New Springfield, Richmond.
Brady, Michael, 4949 Seaman Avenue, New York City.
Bohn, Elizabeth, 801 East Tenth Street, Brooklyn, N. Y.
Brow, Joseph, Jr., 331 East Eighty-ninth Street, New York City.
Brueckner, Herman, 343 East Eighty-sixth Street, New York City.
Bennett, Bernard, 401 East One Hundred and Forty-second Street, New York City.
Bayer, Phil, Jee, 1641 First Avenue, New York City.
Bouchard, Herman L., 1245 Park Avenue.
Bednarik, Al, 1583 First Avenue.
Bovine, Frank, 304 East One Hundred and Twenty-fourth Street.
Cervini, George, 221 East Seventy-sixth Street.
Carlson, Mrs. Elizabeth, 1577 York Avenue.
Croteau, Phil, 123-02 Fifteenth Avenue, College Point, Queens.
Cormican, James F., 415 West Fifty-seventh Street.
Dooney, Thomas P., 55 West Ninety-fifth Street.
Des Rosiers, Annonciade, Kingston Avenue Hospital, Brooklyn.
Dunn, Albert, 173 West Farms Road.
Dawson, Leo A., 135 East Sixtieth Street.
Donovan, Harry, 227 East Eighty-third Street.
Erhart, Erich, 674 East One Hundred and Thirty-sixth Street, Bronx, N. Y.
Fried, Joseph, 229 East One Hundredth Street.
Gibbons, John, 205 East Ninety-sixth Street.
Goetz, Olaf, 162 East Ninetieth Street.
Gannon, Frank P., 56-07 Thirty-first Avenue, Woodside, L. I.
Haak, John A., 31-14 Thirty-fifth Street, Queens.
Henderson, George E., 936 Rockaway Avenue, Kings County.
Hahnenberger, Frieda, 1307 Third Avenue.
Hack, Michael, 208 East Eighty-first Street.
Hamliman, Francis J., 1645 First Avenue.
Hornung, Karl, 869 Eagle Avenue, Bronx, N. Y.
Hickey, J. B., 117 Seaman Avenue.
Healy, Patrick, 375 Beekman Avenue.
Jackson, George, 309 East Seventy-fifth Street.
Kohler, Paul, 417 East Ninety-third Street.
Kohler, Catherine, 417 East Eighty-fourth Street.
Kormis, Herman, 443 East Eighty-seventh Street.

Koymis, Else, 443 East Eighty-seventh Street.
Haolecek, William, 406 East Eighty-third Street.
Kalish, Arnold E., 431 East Eighty-fifth Setreet.
La Porte, Germaine, 185 East Seventy-sixth Street.
Lutz, Frank A., 512 East Eighty-eighth Street.
Mayer, John, 175 Pinehurst Avenue.
Morgan, Richard R., 217 East Two Hundred and Thirty-eighth Street.
Molloy, James, 536 Fifty-fourth Street, Kings County, Brooklyn.
May, Phillip, 25 West Eighty-fifth Street.
Morgan, James, 149 East Ninetieth Street.
Melisha, August, 404 East Seventy-first Street.
Melota, Vincent, 220 East Seventy-eighth Street.
Molinas, Sam, 1322 Fifth Avenue.
Monsha, Miles P., 511 East Eighty-seventh Street.
Marrin, Thomas J., 120 West Ninety-seventh Street.
McCafferty, William C., 510 East Seventy-seventh Street.
McCormack, Mary, 438 East Eighty-third Street.
McCormack, Thomas, and Thomas, Jr., 438 East Eighty-third Street.
McNally, James M., 329 West Eighteenth Street.
Owens, Robert, 210 East Ninety-sixth Street.
O'Connor, William F., 108 West Ninetieth Street.
O'Leary, Frank, 898 Eagle Avenue, Bronx, N. Y.
Pintacuda, Jasper, 178 East Seventy-seventh Street.
Ruff, Frank, 1971 Webster Avenue, Bronx.
Rush, John, 326 East Ninety-third Street.
Thomas, Robert C., 319 West Fifty-fourth Street.
Vivona, Vito R., 1693 First Avenue.
Varady, Louis, 1539 York Avenue.
Weickert, Hans, 323 East Ninety-second Street.
Wadden, M. F., 426 Sterling Place, Brooklyn.
Weiss, Hyman, 1586 First Avenue.
Zimmerman, Robert, 178 East Seventy-seventh Street.
Zimmerman, William G., 416 East Eighty-fifth Street.
Bretten, William, 1676 First Avenue.
Brown, Dr. Charles F., 221 West Eighty-ninth Street.
Bruno, Claire, 1396 Second Avenue.
Boylan, Thomas F., 2307 Second Avenue.
Calman, John, 314 West Fifty-fourth Street.
Castorina, Paul, 1537 Mayflower Avenue, Bronx.
Callahan, James M., 29 East Mosholu Parkway, North Bronx.
Callahan, Thomas, 500 Trinity Avenue, Bronx.
Cox, William F., 7 Park Avenue.
Dietrich, Henry G., 473 Macon Street, Brooklyn.
DeMatteo, James, 173 East One Hundred and Nineteenth Street.
Faucher, Ernest, 250 East One Hundred and Twenty-fourth Street.
Farrell, Thomas.
Gray, Lester M., 317 West Fifty-sixth Street.
Geis, John, 1377 Gates Avenue, Brooklyn.
Hassenpflug, John, 724 East One Hundred and Sixtieth Street, Bronx.
Laucke, George, 206 East Sixty-ninth Street.
Hooley, John, 1109 Clay Avenue, Bronx.
Higgins, Owen, 617 East Fourteenth Street.
Hathaway, Robert, 338 Calhoune Avenue, Bronx.
Joyce, Michael, 767 Amit Avenue.
Kenegeisar, Eddie, 128 West Eighty-seventh Street.
Kinney, George, 825 President Street, Brooklyn.
Kelly James, City Hospital, Welfare Island.
Leonard, Oscar, 1590 First Avenue.
Letard, Commissioner Joseph, 766 Ninth Avenue.
McCus, Frank, 1683 Third Avenue.
McCarthy, Patrick J., 2004 Ellis Avenue, Bronx.
McMenamin, William J., 3608 Twenty-first Street, Astoria, Long Island.
McCaffery, Frank, 329 Mott Avenue, Bronx.
McMahon, James, 281 Avenue A.
McNamee, Stephen, 31 Arden Street.
Mills, Maria L., Iroquois Hotel, 49 West Forty-fourth Street.
Murray, James J., 50 Broadway, room 1510.
Malone, Frank, 512 A St. Johns Place, Brooklyn.
Malone, John, 504 West One Hundred and Thirty-ninth Street.
Malone, James F., 3956 Fifty-first Street, Woodside, Long Island.
Murphy, Richard, 1500 Second Avenue.
Meehan, Joseph, 564 East One Hundred and Sixty-sixth Street.
Mahoney, John F., 241 West Thirteenth Street.
Morriaty, Michael, 437 West One Hundred and Twenty-fourth Street.
Malone, Thomas, 475 East One Hundred and Thirty-ninth Street.
Noally, George, 932 New York Avenue, Brooklyn.
O'Leary, John, 221 East One Hundred and Twenty-fourth Street.
O'Brien, Edward, 137 West Seventy-first Street.
Pintacuda, Jasper, 178 East Seventy-seventh Street.
Pilein, Edward, 432 East Sixteenth Street.
Rochford, John, 111 East One Hundred and Eighteenth Street.
Rappert, Robert J., 315 South Broadway.
Schreck, L. B., 165 East Eighty-eighth Street.
Sweeney, James, 349 East One Hundred and Forty-ninth Street.
Sullivan, Michael, 206 East One Hundred and Twenty-third Street.
Spence, Alfred W., 1021 University Avenue, Bronx.
Sapudar, Victor, St. Lukes Hospital, One Hundred and Thirteenth Street and Amsterdam Avenue.
Schweit, Edward, 448 East Eighty-fourth Street.
Scully, Marion, 406 East Eighty-eighth Street.
Scwab, W. A., 232 West Sixteenth Street.
Schottler, Margaret, 1586 First Avenue.
Schottler, John, 1586 First Avenue.
Sullivan, A. J., 328 West Fifty-sixth Street.
Tessier, Germaine, Central Nurses' Residence.
Turner, Arch, 317 East Ninetieth Street.
Tiernan, Thomas, 830 West One Hnudred and Sevenay-seventh Street.
Van Nosdall, Willis, 126 East One Hundred and Twenty-third Street.
Van Nosdal, G. A., 126 East One Hundred and Twenty-third Street.
Angelo, Herman J. V., 1 Luqueer Street, Brooklyn.
Murray, Thomas, 331 East Twenty-fourth Street.
Schwartzer, Otto L., 232 East Sixty-eighth Street.
Horkans, William, 3 East Sixty-sixth Street.
Huddy, Richard, 2297 Eighth Avenue.
Dunn, Albert, 1413 Second Avenue.
Eibach, Benno, 1883 Longfellow Avenue, Bronx.
Wadden, Michael F., 203 Underhill Avenue, Brooklyn.
Thelemann, Arno, 1499 Third Avenue.
Reed, Mrs. Lily, 47 Eighth Avenue.
Bruns, George, 225 West Twenty-third Street.
Aigner, Joseph, 556 West One Hundred and Fortieth Street.
Sheehan, Patrick J., 211 East Seventy-seventh Street.
Bailey, Edward A., 425 East Eighty-third Street.
Bloedel, Carol, 48 Pondfield Road North, Bronxville, N. Y.
Cox, William F., 7 Park Avenue.
Condon, Joseph, 311 East Ninty-second Street.
Canavan, Patrick J., 4002 Twenty-first Avenue, Astoria, Long Island.
Morse, Gordon J., 336 East Fifty-ninth Street.
Munsch, Kate, 523 East Eighty-third Street.
Munsch, Gabriel, 523 East Eighty-third Street.
McGath, John, 173 East Ninety-fifth Street.
McDonald, W. Benedict, 4501 A Avenue D, Brooklyn.
McGee, James A., 161 East One Hundred and Twenty-third Street.
McGee, Arthur B., Jr., 161 East One Hundred and Twenty-third Street.
Jaques, Clifford, 2035 Hazen Avenue or Street, Jackson Heights.
Krach, Otto, 1662 Second Avenue.

The following are some of the activities of the groups mentioned:

1. The Christian Front, a pro-Nazi, anti-Semitic organization supporting Father Coughlin.

2. The Christian Mobilizers, outgrowth of the front, advocating violence and revolution. Leader, Joseph McWilliams, close to Fritz Kuhn. Mobilizers almost merged with the bund.

3. American Destiny Party, running Joe McWilliams for Congress. Composed for the most part of Nazis. "Fuehrer" McWilliams has repeatedly praised Hitler and advocated terror and revolution.

4. Christian Knight Crusaders, another Coughlin group, whose aims closely parallel those of the front.

5. Arabian Nationalists, headquarters in New York. Working closely with Nazi agents.

6. Russian Nationalists, headed by the notorious Count Spiridovich, who is linked to the bund and other Nazi groups.

7. Rumanian Iron Guards. American branch of the Hitler Iron Guard group in Rumania.

8. Armenian Fascists, Ukrainian Fascists. See exhibit The Hour, article 1, September 14, 1940.

9. Italian Fascists; purpose is self-evident. Attempting to corrupt Italian-Americans by preaching obedience to Fascist Italy rather than the United States.

10. World Alliance. One "Colonel" Sanctuary is the moving spirit behind this organization, which seeks to array public opinion against the Jews.

11. Mosley's English Fascists and New York tie-ins (Stewart Collins). A bookshop on West Fifty-eighth Street in New York is the headquarters for this subversive group.

12. American Nationalist Confederation, headed by notorious Fascist George Deatherage in St. Albans, W. Va. An attempt to merge all native Fascist groups.

13. League for Constitutional Government (John B. Snow), another high-sounding name covering pro-Nazi and anti-Semitic aims.

14. Constitutional Educational League (Mr. Kamp), one of the "fifth column" groups which is attempting to throw investigators off its trail by calling others "fifth columnists." Not a single Nazi or Fascist, however, is included in its denunciations. Headquarters in New York.

15. National Gentile League (Shea), headquarters in Washington and Baltimore. Headed by a semi-illiterate crackpot who is at present engaged in distributing propaganda for the Japanese Government.

16. Kyfhauser bund, a German group seeking to reestablish the "glory" of the old German Empire. 228 East Eighty-sixth Street, New York City.

17. K. K. K.-bund. Their joint rally in New Jersey showed how far Nazi agents have penetrated in the Ku Klux Klan.

18. American Defense Society—high-sounding name for a pro-Fascist organization.

19. American Patriots—same as the American Women's League.

20. American Women's League—this organization which pretends to be against Communism, is linked to the notorious Allen Zoll, who will soon be tried on charges of attempted extortion after having attempted to obtain money from a radio station in New York.

21. James True Industrial Control Reports.—True sends out a viciously pro-Nazi and anti-Semitic news letter replete with "facts" also, by some strange coincidence found in the German hand-outs.

22. Edmondson's Economic Service—from his lair near Wilkes-Barre, Pa., Edmondson sends out his Vigilante Bulletins filled with Herr Goebbels' propaganda.

23. Brinkley's Newspaper Publicity (Wichita, Kans.)—this paper, published by the goat-gland faker, who was forced to remove his radio station into Mexico when his promises of cures for various ills resulted in complaints, is now the publisher of a newspaper which features anti-Semitic drive plus the mouthings of the semi-illiterate columnist, Edward James Smythe, who recently admitted that he was responsible for the Klan-bund rally. Documentary proof in my files proves Smythe a Nazi agent.

24. Propaganda coming into the United States via the Clipper and Spanish Lines—unmolested.

25. American Nationalist Party—located in New York; this is linked to the bund; composed of many bundsters.

26. Industrial Defense League of Boston—another Fascist outfit with a high-sounding but meaningless name.

27. Japanese propaganda—still flooding the country with such a Fascist as Donald Shea of the so-called National Gentile League one of the agents.

28. Printing presses, and so forth, financed from abroad and their manner of distributing pamphlets and leaflets harmful to our citizenry.

29. Radio broadcasting by Nazi sympathizers, also radio broadcasts from Germany.

30. German youth camps and teaching of Nazi philosophy to children. Been going on in the United States for 10 years; taught racial hatred and intolerance; these children carry such ideologies to New York City educational centers.

31. Trade relations and pressure methods applied by groups here. (See the Board of Trade for German-American Commerce.)

32. Foreign exchange with Germany relative to the transfer of money.

33. Stahlhelm activities—composed of German and Austrian veterans of last war, closely allied with German-American Bund.

34. Nazi Guard infiltration of Germans since advent of Hitler government, particularly important since calling out of Guard.

35. Immigration Conference Board (John B. Cecil), an alien-baiting outfit which attempts to hide its Fascist sympathies behind an impressive name.

36. Molly Pitcher Brigade (Mrs. Parr), connected with the Christian Front and distributor of anti-Semitic literature.

37. Distributors of German White Paper, who are responsible for extensive publication of Nazi propaganda material.

38. Communist camps in Beacon and Camp Unity, as well as others teaching Communist philosophy to children.

39. Russian airplane engineers working in Wright airplane factory in Paterson, N. J. Why are foreign representatives allowed to keep places during critical times like the present?

40. Silver Shirts. Where is Pelley? Are the Silver Shirts still strong but merely in hiding?

41. German-American Board of Trade, dangerous group attempting to guide American businessmen into the camp of the appeasers; controlled directly from Berlin.

42. American Fellowship Forum, another "American Munich" group with whom Nazi Propagandist George Sylvester Viereck is connected. Mails literature to same list as German consulate.

43. George Sylvester Viereck, propagandist active during World War; still active agent of Nazi government here. Busy spreading anti-American propaganda.

44. German Library of Information. Floods the country with Nazi propaganda.

45. German Railway Tourist Bureau. Has representatives all over the United States, although it is almost impossible for anyone to go abroad. Why are these "representatives" stationed in key cities?

46. Activities of German consuls. Just as in Norway, Holland, and all the other countries invaded by Nazi Germany, consuls here are preparing the way for military attack by spreading propaganda and conniving with native Fascists.

47. Deutsche Konsum Verband, an organization of German merchants levying a tax on every German doing business in the city of New York to finance German imports and exports.

48. Interocean News Service (Dr. Zapp), Nazi news service, sending out propaganda, particularly to South America.

49. Deutsche Wirtschaftsdienst, an organization of German merchants to capture markets for Germany in South America.

50. Irish Republican Army, sympathizers here in America of the German bund and carrying on vicious anti-British activities.

The following Nazi organizations, bund members, and "fifth column" sympathizers of Camp Nordland, who directly as well as indirectly have been aiding the upkeep, financially, since 1937 are listed below.

These should be investigated as to their activities at once, since the serious happenings at the Hercules powder plant:

1. Erster Deutscher Lesezirkel, 176 East Eighty-fifth Street, New York City.
2. Blane Lesemappe; New Jersey representative, Hans Sass, 643 Pleasant Avenue, Union City, N. J. Hans Sass was a former bund storm trooper commander.
3. Reiman & Bresse, 1645 Third Avenue, New York City.
4. Joseph Zimmerman, 550 Elizabeth Avenue, Elizabeth, N. J.
5. Rhinemo Imports, 225 Fifth Avenue, New York City.
6. Cafe Hindenburg, 220 East Eighty-sixth Street, New York City.
7. Karl Wagner, 32 Benson Street, Paterson, N. J.
8. Foreign Exchange Agency, 330 Forty-eighth Street, Union City, N. J.
9. Deutscher Weckruf und Beobachter; Max Rapp, 178 East Eighty-fifth Street, New York City.
10. Steneck Travel Bureau, 77 River Street, Hoboken, N. J.; New York Bureau, 144 East Eighty-sixth Street.
11. Geiger's, cafe, 206 East Eighty-sixth Street, New York City.
12. Hamburg-American Line, North German Lloyd, 57 Broadway, New York City.
13. Ernst Esch Co., 32 Broadway.
14. Cafe Mozart (owner Frank Hainzl), associated with bund, 249 East Eighty-fifth Street, New York City.
15. Black Forest Inn, Knickerbocker and Myrtle Avenues, Brooklyn, N. Y.
16. E. O. Krause, 308 East Eighty-sixth Street, New York City.
17. Hans Jaeger Cafe, Eighty-fifth Street and Lexington Avenue, New York City.
18. Central Restaurant, 1642 Second Avenue, New York City.
19. Hamburg-Bremen Steamship Agency, 218 East Eighty-sixth Street, room 218, New York City.
20. Dohm Shoe Co., 477 Ninth Avenue, New York City.
21. Rudi & Maxl's Restaurant, 239 East Eighty-sixth Street, New York City.
22. Egon-Scheibe, member of bund's propaganda department, 18-33 Forty-first Street, Astoria, Long Island.
23. L. Armbruster, 1471 Third Avenue, New York City.
24. August Hambach, does radio propaganda for the bund, 207 East Eighty-seventh Street, New York City.
25. Cafe Vaterland, 1648 Second Avenue, New York City.
26. Bolle & Detzel, Inc., financial transactions with Fritz Kuhn and the bund, 1495 Third Avenue; 32 Central Avenue, Newark, N. J.

27. D. & D. Service Station, Fourteenth Street and Park Avenue, Hoboken, N. J.
28. Wertpapiere; Hurt H. Schurig & Co., 50 Broadway, New York City.
29. Deutsch-Amerikanischer Verband von Newark, N. J., Dr. Francis Just, president, became Nazi agitator after trips to Germany; Hermann Wimmer, secretary.
30. Deutsche Kueche, 120 Summit Avenue, Union City, N. J.
31. W. H. Linen Supply, 525 Twenty-second Street, West New York, N. J.
32. Norr & Stoll, 630 Bergenline Avenue, West New York, N. J.
33. Vietmeyer Bros. Co., 174–84 Sherman Avenue, Jersey City, N. J.
34. C. & J. Willenborg Inc., 1126 Hudson Street, Hoboken, N. J.
35. Budelmann's, 226 Paterson Avenue, East Rutherford, N. J.
36. Kraus, 422 Thirty-eighth Street, near Bergenline, Union City, N. J.
37. Thomas Taylor, 1475 Bergen Turnpike, North Bergen, N. J.
38. Embassy Market, Bergenline Avenue, corner Twenty-ninth Street; North Bergen, N. J.
39. Raymond Furniture Co., 246–48 Summit Avenue, Union City, N. J.
40. Fred Haschka, 5505 Hudson Boulevard, North Bergen, N. J.
41. Schelling Hardware Co., 734 Willow Avenue, Hoboken, N. J.
42. Erwins, 833–A Bergenline Avenue, Union City, N. J.
43. George Reich, 825 Bergenline Avenue, Union City, N. J.
44. Hohneker's Dairy, 567 Thirtieth Street, North Bergen, N. J.
45. City Hall Tavern, 754 Palisade Avenue, corner Thirty-eighth Street, Union City, N. J.
46. Lillian's Shoppe, 909 Bergenline Avenue, Union City, N. J.
47. American Shirt Shops—R. I. Clark, 653 Bergenline Avenue, West New York, N. J.
48. Edward Dankert, 725 Jackson Street, West New York, N. J.
50. Ferdinand Fiswick, 145 Forty-eighth Street, Union City, N. J.
51. Lemonier, 656 Bergenline Avenue, Union City, N. J.
52. Herman Krug, 851 Park Avenue, Union City, N. J.
53. G. Rehbein, 314 Willow Avenue, Hoboken, N. J.
54. Elsie, 443 Sixteenth Street, West New York, N. J.
55. George Goelz' Sons, 541 Bergenline Avenue, Union City, N. J.
56. Thueringer Pork Store, 695 Bergenline Avenue, West New York, N. J.
58. Mam's, 404 Thirty-second Street, Union City, N. J.
59. Karl's Tavern, 474 Bergenline Avenue, West New York, N. J.
60. Lottie Leuschner, 653 Bergenline Avenue, West New York, N. J.
61. F. Witschel, 208 Forty-fifth Street, Union City, N. J.
62. Chas. J. Schneider, 180 Summit Avenue, Union City, N. J.
63. Carl's Restaurant, 514 Forty-third Street, Union City, N. J.
64. Seabord Travel Bureau, 95 River Street, Hoboken, N. J.
65. Schindler Grocery, 769 Bergenline Avenue, Union City, N. J.
66. Neo-Iso Sign Co., 392 Bergenline Avenue, Union City, N. J.
67. Henry Neuffer, 674 Bergenline Avenue, West New York, N. J.
68. A. Mertens, 787 Bergenline Avenue, West New York, N. J.
69. Ernest A. Leistritz, 214 Twenty-sixth Street, Guttenberg, N. J.
70. Wiebe Hardware Co., 667 Bergenline Avenue, West New York, N. J.
71. Fred Schoendorf, 341 Bergenline Avenue, Union City, N. J.
72. Alt Heidelberg, Thirty-sixth Stret and Hudson Boulevard.
73. Hein's Delicatessen, 617 Bergenline Avenue, Union City, N. J.
74. Central Cafe, 411 Washington Street, Hoboken, N. J.
75. Carl Telitzki, 133 Washington Street, Hoboken, N. J.
76. Hausold Bros., Third and Washington Streets, Hoboken, N. J.
77. Koops, 694 Monroe Place, West New York, N. J.
78. Wirth Products Co., 501 West Street, Union City, N. J.
79. Henry Hassmann, 450 Park Avenue, West New York, N. J.
80. Thompson Shirt Co., 881 Bergenline Avenue, Union City, N. J.
81. Fitschen's, 673 Bergenline Avenue, West New York, N. J.
82. Fred and Walter Foge, 306 Lincoln Avenue, Secaucus, N. J.
83. North Hudson Lunch, 849 Park Avenue, Union City, N. J.
84. Theodore Petermann, 404 Forty-third Street, Union City, N. J.
85. Gieschen & Blanken, 46 Bergenline Avenue, Guttenberg, N. J.
86. Henry Wehrle, 223 Forty-ninth Street, Union City, N. J.
87. Max Heimsath, 136 Fortieth Street and Hudson Avenue, Union City, N. J.
88. Moser-Kueng Lumber Co., 4699 Hudson Boulevard, North Bergen, N. J.
89. Wisner-Peerless Manufacturing Co.—Tom Hammond, 241 West Broadway, New York City.
90. J. T. Bergmeyer, M. D., 422 Twentieth Street, West New York, N. J.
91. Hans Jesse, 914 Washington Street, Hoboken, N. J.
92. Herman S. Heinzmann, 442 Hudson Avenue, West New York, N. J.
93. Clover Provision Market, 676 Bergenline Avenue, West New York, N. J.
94. Al Doeg's, 440 Thirteenth Street, West New York, N. J.
95. Hamburg-Bremen Shipping Agency, 26 Park Place, Newark, N. J.
96. August Klapproth, director Camp Nordland.
97. Otto H. Stiegel of Newark.
98. Poggi Press, 163 Sixth Street, Hoboken, N. J.
99. Frederick Hutka, 728 Tenth Street, Union City, N. J.
101. Maxine's, 948 Bergenline Avenue, Union City, N. J.
102. Klinger's Hardware, 11 Bergenline Avenue, Guttenberg, N. J.
104. Ernst Walthers, 960 Bergenline Avenue, North Bergen, N. J.

And others.

Mr. Speaker and Members of this House, I could name many other individuals and organizations, but I do not desire to take up more of your time than absolutely necessary.

If any of the organizations or individuals mentioned here by me can show that I am wrong and want to clear themselves of the charges made against them, let them come forward and do so. I will be the first one to cooperate with them if my charges should prove unjustified.

These are perilous times, and we are going through a national as well as international emergency. In order to preserve our democracy and to keep this a land of liberty we will have to destroy subversive groups that preach intolerance and bigotry and that try to deprive certain groups in this country of the rights guaranteed to them by our Constitution. Events abroad have shown us that no country is safe unless her internal structure is sound. If we want to keep our democratic institutions, if we want to keep this country free, we have to keep alert and take precautions before it is too late. [Applause.]

The SPEAKER pro tempore. The time of the gentleman has expired.

EXTENSION OF REMARKS

Mr. MAAS. Mr. Speaker, I ask unanimous consent to extend my remarks in the Appendix by inserting my own minority report to the report of the Board of Visitors to the Naval Academy.

The SPEAKER pro tempore (Mr. COSTELLO). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

AMENDMENT OF NATIONAL DEFENSE ACT

Mr. HARTER of Ohio. Mr. Speaker, I ask unanimous consent that I may have until midnight tonight to file a report on the bill (S. 3636) to amend the National Defense Act, as amended, so as to provide for retirement of assistant chiefs of branches and of wing commanders of the Air Corps with the rank and pay of the highest grade held by such officers as assistant chiefs and wing commanders, and for other purposes.

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

There was no objection.

EXTENSION OF REMARKS

Mr. DICKSTEIN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein the names of certain organizations and individuals that will appear as a part of my remarks.

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

There was no objection.

Mr. COFFEE of Washington. Mr. Speaker, I renew my request for permission to extend my remarks on two different topics in the RECORD, and I am advised by the gentleman who objected that he will now withdraw his objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. THORKELSON. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include an article by A. H. Lane, and I have a second request to extend my own remarks in the RECORD and include excerpts from a book entitled "The Hidden Hand."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

SPECIAL ORDER

The SPEAKER pro tempore. Under special order of the House, the gentleman from Pennsylvania [Mr. GROSS] is recognized for 30 minutes.

Mr. GROSS. Mr. Speaker, much has been said on this floor recently about what is termed "Washington's milk problem." This subject has long been discussed, and at times very bitterly and ofttimes personalities involved. Usually the arguments contained more heat than light, and at times the

discussions were entered into by parties who had no interest personally or otherwise. Ofttimes arguments have been presented by parties who knew nothing about the subject, and cared less, and the question has arisen as to why.

I am reminded of the story of two men driving through the country at a rapid rate of speed when they passed by a pasture field in which there were a lot of cows. One man said, "Oh, look at the cows. I wish I could count them." The other man said, "I have already counted them." Then his friend replied, "How did you do it?" He said, "Each cow has four teats. I counted them and divided by four. There are 400 cows in that pasture." The one man knew his cows; the other could not even count them.

Milk happens to be the chief source of income on the farms in those heavily populated sections of the country. And many a man who is always a law-abiding and peaceful citizen is ready to fight on a moment's notice when milk is mentioned. Few people realize the immensity of the dairy business of the Nation, or the volume of milk produced annually. Why, it would make a river 3,000 miles long, 40 feet wide, and more than 2½ feet deep. Fifty-one billion quarts are our annual production. Twelve billion quarts of this are used right on the farms where it is produced. Thirty-nine billion quarts enter the channels of trade. These 51,000,000,000 quarts of milk must be drawn from the cows twice a day, and in many cases three times a day, every day of the year, by the men and women and children on the farms. It is milked into approved regulation pails and poured through approved strainers into regulation cans and moved into a milk house on the farm that has been approved, and put into a refrigerator and cooled to a certain temperature. This, however, only applies to those areas that supply their milk and its derivatives to municipalities that have set up sanitary regulations in the interest of the public health. A great deal of the milk produced is produced in outlying areas where no sanitary regulations are provided, and it finds its way into channels of trade where it is used in other ways except as milk and cream distributed from door to door as we understand it.

This milk, cooled to its proper temperature, is then taken from the farms on trucks traveling the main highways, and all of the milk not produced along the routes traveled by milk trucks must be delivered by the farmers to the highway, there to be picked up on trucks that may be used only for transportation of milk. They are either refrigerated or the milk is iced while in transportation. It is then delivered to the cooling or receiving station, and is then usually transported to the municipalities in tank trucks, tank cars, or in cans under refrigeration to the main distributing plants.

This transportation costs the producer anywhere from 15 cents to 75 cents per hundredweight, depending on the distance or method of transportation. In the central plant the milk is standardized, pasteurized, put into commercial containers, and placed in refrigerators to be delivered to the consumer's door the following day.

The consumer's door may be on the tenth or twentieth story of an apartment house. The consumers using milk want the milk they want. Consequently, we find as many as 10 or 12 delivery trucks delivering milk in the same block in the city. It is put up in various kinds of containers, principally glass or paper. All of this costs a lot of money. Up to the time the milk enters the central plant the cost is borne by the producer. Bottles are very expensive, and too often we find the consumer failing to cooperate by not returning the bottles. I have in mind one city in Pennsylvania a few years ago that was using so many bottles—I mean the bottles were not returned—that the dealers began putting on a deposit. The result was that the following year they used just as many crates of bottles as they used carloads of bottles the year before. This sounds fantastic, but it is nevertheless true.

There was a time not many years ago when we heard little or nothing about sanitary regulations in the production and handling of dairy products. The milk retailers in the city purchased milk where they could get it at a price they established themselves. At certain periods of the year that price was high and other periods very low, and a farmer could drive to a milk plant in the morning with his milk to have the dairyman tell him that he did not need his milk; that he was getting too much; or he could find fault with it and he could eliminate him by that method. Many a farmer found himself without a market without an hour's notice.

This unfair trade practice, together with other unfair trade practices, worked a terrific hardship on the producers. On the other hand, there were no sanitary regulations on the farms or in the plants, and epidemics were from time to time being traced to the milk supply. Milk was gradually being used more and more. People everywhere were beginning to find out its food value and the demands were rapidly increasing. With it came the demand for a higher-classed product from the consumer and relief from unfair trade practices from the producers. Some unfair trade practices that still exist are, for instance, bootlegging of milk. May I say right here there is not so much milk bootlegged. Bootlegging confines itself principally to cream. A great many people do not know that cream may be shipped long distances, made under unsanitary conditions, may even reach the stage in which it cannot be poured, and still be washed in a lime or chlorine solution, diluted with condensed or skim milk or water, pasteurized several times, and sold as a fair quality of milk to the unsuspecting public. Another unfair trade practice that some folks say still exists, and probably does, is the purchasing of butter—cheap butter—butter known as rancid or off quality. This, too, can be melted, reverted into cream, and finally back into milk, and sold to the same consumers who, with the producers, are the victims of these unfair trade practices.

During the last few years we have heard charges and countercharges of bootlegging here in the Capital; and let me say right here that the milk problems of Washington, D. C., are no different than they are in every municipality in the country. The same kind of tactics have been used wherever milk has been sold at some time or other. But there must have been some bootlegging resorted to here in the Capital, because during the time when this bootlegging charge was made the sales of local milk went down as much as 60,000 quarts per day. And after the bootlegging was stopped, if it has been stopped, the sales increased for the balance of that year more than $500,000.

Charges have been made that during the investigation of this bootlegging the hands of the committee were tied. They did get far into the racket but found that it smelled as high as heaven. It is my candid opinion that the stench came from the product that was being bootlegged in and that the investigation got along all right according to the record, which contains volumes, and which I have read. There was nothing wrong with the investigation except that the trail led to the front door of the wrong party, and there it stopped.

I have always contended, and have said on the floor of the House on more than one occasion, that milk in the District of Columbia is retailing too high. Yet those people who want cheaper milk have access to 11-cent milk at the chain grocery stores. I am informed that there are more than 200 stores in the District of Columbia selling milk at 11 cents per quart. It has been pointed out here that Mayor LaGuardia has done marvelous work along this line for New York. I am pointing out that Washington, D. C., has the same service that New York has; that is, milk stations have been opened to sell cheap milk to people on relief. This method here in the city has recently been severely criticized. I said at that time, and it was only a few weeks ago, that I felt sure that when the people of the city understood that this milk was available at the 11 stations established here that they would avail themselves of this cheap milk. And I find that now, in about a months time, the sales have more than doubled. I am talking of the 5-cent milk sold to people on relief at the 11 stations open throughout the city.

Now, let us compare the retail price of milk in Washington with that of Chicago, and we find that the local price is 14

cents for 4-percent milk. In Chicago it is 13 cents for milk testing 3.6, or equivalent to 14.4 cents for 4-percent milk. It is true there is a lot of milk selling for less than this price in Chicago, and has been for some time, because of a price war going on there. Now, let us come back and, for just a minute or two, consider whether the putting of these sanitary regulations into effect and the organization of the producers' associations in the milksheds supplying these cities has been worth while. First, let us consider the quality of milk. We find that in 1920, here in the District of Columbia, and I quote from the District of Columbia Department of Health report, the bacteria in raw milk received from the farms was 1,898,000 per cubic centimeter as against 18,500 in 1938. The bacteria in pasteurized milk received by consumers in 1920 contained 120,000 bacteria per cubic centimeter as against 7,000 in 1938. We find a corresponding increase of butterfat, which was, in 1928, 4 percent as against 4.14 in 1938. We turn to the infant mortality rate in the District of Columbia and we find that in 1925 we had a death rate per thousand of live births under 1 year of age of 87.5, as against a death rate in 1938 of 48.1. In other words, as the standard of the quality of milk and cream sold here went up the death rate of children below 1 year of age was practically cut in half. I am asking you to judge for yourself whether or not it was worth while.

Much criticism has been aroused about the farmer-producer organizations, not only here in this milkshed but in other milksheds, too. I shall confine my remarks, however, to the Maryland-Virginia Milk Producers' Association, covering the milkshed supplying this municipality with milk. The history of this organization, however, will check with that of every other farm cooperative.

Due to unfair trade practices, due to infant mortality and raging epidemics, and due to a demand for a higher quality of milk as well as for a stable supply, the University of Maryland, 20 years ago, organized the producers in both Baltimore and Washington areas. I question whether the university has ever done anything that was of greater service or that will stand to its everlasting credit more than this organization of milk producers. And let me say here that the Baltimore organization and the Washington organization are two separate and distinct cooperatives at the present time. My interest in maintaining the local organization is because I know that unless we maintain the producer's organization in the Washington milkshed we cannot maintain the producer's organizations in other milksheds. I have a great many farmers in my district who belong to the Interstate Milk Producers' Association of Philadelphia, and they are enjoying a fair market and I do not want to see it taken away from them. The charge has been made that there are many farmers in my district who want to sell milk into Washington. This is not true and never was. We now have two farmers from Pennsylvania shipping milk into Washington, D. C. We do have some milk going into Baltimore from my county. The sanitary regulations for the Washington market are of such a nature that most of the farmers in my district would have to build new barns were they to ship here. The markets they now enjoy are not so bad that they would be justified in making this added expenditure.

Criticisms have been made of the salaries received by the officers of the producers' organizations. These salaries are paid by the producers by a brokerage charge of 1 cent per gallon. This is called a revolving fund. Out of it producers are paid if dealers fail. In other words, accounts are made safe by this fund. This has created quite a large fund, really larger than was necessary; and some years ago they started to pay back each year to the producers from this fund. The amount returned last year to the producers in this milkshed was $122,000 and will probably be $100,000 this year. In checking the salaries of the officers of the producers' organization with those of the officers of the dairies serving this city we find that they are just about the same.

The call has been made for an investigation of the local milk market by the Federal Trade Commission. I remember about 1934 or 1935 the Federal Trade Commission investigated the markets of Boston, New York, and Philadelphia. The hearings were conducted by Judge H. W. Hilldrop, of Tennessee. It was my privilege to sit in on these hearings in Philadelphia. A gang of attorneys lived in Philadelphia's swankiest hotel for a number of weeks. I recall one afternoon in the hearing when the judge rapped the gavel on the table and said, "Gentlemen, don't you think we ought to have a smoke?" Of course, everybody agreed and so the court recessed for 15 minutes to smoke. At the end of 15 minutes, which was 4:30 p. m., the court was called to order. A witness was put on the stand and sworn in when the judge pulled his watch again and said, "Gentlemen, I have forgotten I was invited out to go places and see things tonight. The court will recess until tomorrow morning at 9 o'clock." That night I picked up the Philadelphia Bulletin and read an account of the milk hearing. It said that the hearings were about to come to a close; that the committee had exhausted its fund of $850,000 and would ask for an additional $150,000 to conclude the hearings.

The report of these investigations filled volumes. I have looked them over and all they said was that they had not investigated sufficiently to make a definite report. They should have another $1,000,000 to investigate Chicago and St. Louis markets before making any definite recommendations. This is not a slam at the Federal Trade Commission but it is a statement of fact of the investigation conducted by Judge Hilldrop for the Commission in the three cities mentioned. I am reliably informed and willing to believe that the Commission is better handled today.

I have listened for a long time—for a number of years—to charges being made against various corporations—various organizations—and generally those making the charges upon whom rests the burden of proof are hard to find when the proper time comes. I was very much amused yesterday to pick up the newspaper and see that the Government's antitrust case against 45 individuals, corporations, and associations in the milk industry of Chicago were dismissed and the charges dropped. The case was one of the largest in the Department of Justice's campaign against alleged monopolies. Special Assistant Attorney General Tierney informed Judge Woodward that the consent decree had been arranged. The judge then dismissed the charges of conspiracy to violate the antitrust law against all of the defendants. The judge said that he felt the action best served the interests of all concerned. The charges in that case were just the same as the charges against the local producers' organization, milk dealers, and wagon drivers, together with the local health officials, as are being made here in this market.

I might have discussed in detail the stable supply of good milk now available here as compared with the milk the city would be compelled to use if the present set-up were broken down and the retailers permitted to go out and purchase cheap milk. By cheap milk I mean the surplus milk from other markets, and those other markets might be anywhere in the United States, or distressed milk, which is a quantity of milk that springs up anytime, anywhere, due to local weather conditions. These two supplies of milk are likewise stopped without notice for many reasons, principally due to weather conditions. I would like to discuss many other phases of this market and the industry, generally, but time and space forbid. However, I shall be glad at any time to furnish such knowledge as I have of the milk industry generally to interested persons seeking constructive information.

My object in inserting this matter in the RECORD is because I felt it was my duty to turn the light on this subject. I have avoided heat and personalities and confined myself to facts. I shall continue to stand by them and want it definitely understood that I am fighting no battles for any particular individual or organization and do not intend to be actively engaged in any further milk fights in Washington, D. C. This matter will stand in the RECORD as information for those who want information after this. I harbor no ill-will against any of the parties involved, but do believe that

those who have made former charges and those who want to make charges hereafter should be in a position to make those charges good. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

EXTENSION OF REMARKS

Mr. THORKELSON. Mr. Speaker, I ask unanimous consent to extend my remarks and include excerpts from an article by A. H. Lane.

The SPEAKER pro tempore. Is there objection?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. POLK, for 2 weeks, on account of important business.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 3612. An act to authorize the Secretary of War to accept, as loans, from States and political subdivisions thereof, funds to be immediately used in the prosecution of authorized flood-control work, and for other purposes; to the Committee on Flood Control.

S. 3426. An act to amend the Agricultural Adjustment Act, as amended, and as reenacted by the Agricultural Marketing Agreement Act of 1937, as amended; to the Committee on Agriculture.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 4031. An act to confer jurisdiction on the Court of Claims to hear, determine, and render judgment upon the claim or claims of the Recording & Computing Machines Co., of Dayton, Ohio;

H. R. 8551. An act for the relief of Xenophon George Panos;

H. R. 10026. An act to provide for the disposition of certain photographed records of the United States Government, and for other purposes;

H. R. 10176. An act authorizing the Secretary of the Interior to issue patents for lands held under color of title;

H. R. 10438. An act to extend the age limits for applicants for appointment as midshipmen at the United States Naval Academy;

H. J. Res. 445. Joint resolution to establish a Commission for the Celebration of the Two Hundredth Anniversary of the Birth of Thomas Jefferson; and

H. J. Res. 596. Joint resolution to authorize Commander Howard L. Vickery to hold the office of a member of the United States Maritime Commission.

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2991. An act to authorize the Secretary of the Navy to accept on behalf of the United States certain lands in the city of National City, Calif.

ADJOURNMENT

Mr. THOMASON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 56 minutes p. m.), pursuant to its order heretofore entered, the House adjourned until Monday, September 23, 1940, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1949. A letter from the quartermaster general, United Spanish War Veterans, transmitting the proceedings of the convention of the Forty-second National Encampment of the United Spanish War Veterans, held in Detroit, Mich., August 18 to 22, 1940 (H. Doc. No. 953); to the Committee on Military Affairs and ordered to be printed with illustrations.

1950. A letter from the Secretary of War, transmitting a draft of a proposed bill to provide for an extension of the conditions under which a money allowance for rental of quarters may be paid to certain noncommissioned officers of the Army of the United States; to the Committee on Military Affairs.

1951. A letter from the Secretary of War, transmitting a draft of a proposed bill to create the grade of aviation cadet in the Air Corps, Regular Army, and to prescribe the pay and allowances thereof, and for other purposes; to the Committee on Military Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. JARMAN: Committee on Printing. House Concurrent Resolution 88. Concurrent resolution authorizing the printing of additional copies of Public Law No. 785, the Transportation Act of 1940; without amendment (Rept. No. 2948). Referred to the Committee of the Whole House on the state of the Union.

Mr. LANHAM: Committee on Public Buildings and Grounds. H. R. 9989. A bill authorizing the Administrator of Veterans' Affairs to transfer certain land to the city of Memphis, Tenn., for street-widening purposes; with amendment (Rept. No. 2949). Referred to the Committee of the Whole House on the state of the Union.

Mr. VINSON of Georgia: Committee on Naval Affairs. H. R. 10224. A bill to establish the minimum permanent authorized enlisted strength of the active list of the Marine Corps; without amendment (Rept. No. 2950. Referred to the Committee of the Whole House on the state of the Union.

Mr. BLAND: Committee on Merchant Marine and Fisheries. H. R. 10501. A bill to amend section 509, as amended, of the Merchant Marine Act, 1936; with amendment (Rept. No. 2951). Referred to the Committee of the Whole House on the state of the Union.

Mr. SABATH: Committee on Rules. House Resolution 604. Resolution for the consideration of H. R. 10465, a bill to amend an act entitled "An act to punish the willful injury or destruction of war material, or of war premises or utilities used in connection with war material, and for other purposes," approved April 20, 1918; without amendment (Rept. No. 2952). Referred to the House Calendar.

Mr. SABATH: Committee on Rules. House Resolution 605. Resolution for the consideration of H. R. 10464, a bill to assist in the national-defense program by amending sections 3477 and 3737 of the Revised Statutes to permit the assignment of claims under public contracts; without amendment (Rept. No. 2953). Referred to the House Calendar.

Mr. THOMASON: Committee on Military Affairs. H. R. 10335. A bill to remove the restriction placed upon the use of certain lands acquired in connection with the expansion of Mitchel Field, N. Y.; without amendment (Rept. No. 2954). Referred to the Committee of the Whole House on the state of the Union.

Mr. KEOGH: Committee on Revision of the Laws. H. R. 7405. A bill to repeal an obsolete section of the District of Columbia Code; without amendment (Rept. No. 2955). Referred to the House Calendar.

Mr. KEOGH: Committee on Revision of the Laws. H. R. 9947. A bill to repeal obsolete statutes and to improve the United States Code; with amendment (Rept. No. 2956). Referred to the Committee of the Whole House on the state of the Union.

Mr. KEOGH: Committee on Revision of the Laws. H. R. 9773. A bill to repeal obsolete statutes and to improve the United States Code; without amendment (Rept. No. 2957). Referred to the Committee of the Whole House on the state of the Union.

Mr. KEOGH: Committee on Revision of the Laws. H. R. 9882. A bill to repeal obsolete statutes and to improve the United States Code; without amendment (Rept. No. 2958). Referred to the Committee of the Whole House on the state of the Union.

Mr. KEOGH: Committee on Revision of the Laws. H. R. 10131. A bill to repeal obsolete statutes and to improve the United States Code; without amendment (Rept. No. 2959). Referred to the Committee of the Whole House on the state of the Union.

Mr. KEOGH: Committee on Revision of the Laws. H. R. 10123. A bill to repeal obsolete statutes and to improve the United States Code; without amendment (Rept. No. 2960). Referred to the Committee of the Whole House on the state of the Union.

Mr. KEOGH: Committee on Revision of the Laws. H. R. 10411. A bill to repeal obsolete statutes and to improve the United States Code; without amendment (Rept. No. 2961). Referred to the Committee of the Whole House on the state of the Union.

Mr. KEOGH: Committee on Revision of the Laws. S. 3990. An act to transfer the essential language of section 518, title IV, of the Tariff Act of 1930, approved June 17, 1930, into the Judicial Code of the United States and to provide for its reenactment as part of said Judicial Code, to take effect from the date of its passage, including the allowance to the judges of the United States Customs Court, Government counsel, and stenographic clerks as set forth therein for traveling expenses incurred for maintenance while absent from New York on official business, and to repeal all acts inconsistent therewith to the extent of such inconsistency, and for other purposes; with amendment (Rept. No. 2962). Referred to the Committee of the Whole House on the state of the Union.

Mr. MAY: Committee on Military Affairs. H. R. 10495. A bill to amend section 61 of the National Defense Act of June 3, 1916, by adding a proviso which will permit States to organize military units not a part of the National Guard, and for other purposes; without amendment (Rept. No. 2963). Referred to the Committee of the Whole House on the state of the Union.

Mr. HARTER of Ohio: Committee on Military Affairs. S. 3636. An act to amend the National Defense Act, as amended, so as to provide for retirement of assistant chiefs of branches and of wing commanders of the Air Corps with the rank and pay of the highest grade held by such officers as assistant chiefs and wing commanders, and for other purposes; without amendment (Rept. No. 2964). 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. BROWN of Ohio:

H. R. 10517. A bill to provide for the free transmission in the mails of absentee ballots of officers and enlisted men of the land and naval forces of the United States; to the Committee on the Post Office and Post Roads.

By Mr. H. CARL ANDERSEN:

H. R. 10518. A bill granting the consent of Congress to the Department of Highways and the county of Big Stone, State of Minnesota, to construct, maintain, and operate a free highway bridge across the Whetstone diversion channel at or near Ortonville, Minn.; to the Committee on Interstate and Foreign Commerce.

By Mr. DIMOND:

H. R. 10519. A bill to amend section 6 of an act of Congress approved May 20, 1935, entitled "An act concerning the incorporated town of Seward, Territory of Alaska"; to the Committee on the Territories.

By Mr. IZAC:

H. R. 10520. A bill to provide for cancelation of citizenship in the case of certain naturalized citizens of the United States; to the Committee on Immigration and Naturalization.

By Mr. KING:

H. R. 10521. A bill to provide for the establishment of a fishery research laboratory in the Territory of Hawaii in cooperation with the government of the Territory of Hawaii; to the Committee on Merchant Marine and Fisheries.

By Mr. MUNDT:

H. R. 10522. A bill to provide for the establishment of Fort Sisseton National Historical Park; to the Committee on the Public Lands.

By Mr. SECREST:

H. R. 10523. A bill providing for the apportionment among the States for road construction of all funds derived from any Federal tax on the sale of gasoline or lubricating oils; to the Committee on Roads.

By Mr. VOORHIS of California:

H. R. 10524. A bill to promote international understanding in the Americas by a mutual interchange of students between the various republics; to the Committee on Education.

By Mr. HILL:

H. R. 10525. A bill to amend the act of June 10, 1933, relating to the exportation of apples and pears, so as to more adequately protect American exporters of such fruit; to the Committee on Agriculture.

By Mr. MAY:

H. R. 10526. A bill to create the grade of aviation cadet in the Air Corps, Regular Army, and to prescribe the pay and allowances therefor, and for other purposes; to the Committee on Military Affairs.

H. R. 10527. A bill to provide for an extension of the conditions under which a money allowance for quarters may be paid to certain noncommissioned officers of the Army of the United States; to the Committee on Military Affairs.

By Mr. O'CONNOR:

H. R. 10528. A bill to amend an act entitled "An act to provide funds for cooperation with the public-school district at Hays, Mont., for construction and improvement of public-school buildings to be available for Indian children"; to the Committee on Indian Affairs.

By Mr. SUMNERS of Texas:

H. R. 10529. A bill to extend the provisions of the act of May 22, 1934, as amended, known as the National Stolen Property Act; to the Committee on the Judiciary.

By Mr. SCRUGHAM:

H. R. 10530. A bill to provide an improved highway into the Pyramid Lake Indian Reservation; to the Committee on Appropriations.

By Mr. MARCANTONIO:

H. J. Res. 608. Joint resolution to strengthen the national defense; to prevent dislocation in the economic life of the Nation; to restore the civil liberties and rights of the people; and to keep the United States out of war, by repealing Public Law No. 783, Seventy-sixth Congress (ch. 720, 3d sess.); to the Committee on Military Affairs.

By Mr. HORTON:

H. Res. 606. Resolution authorizing an investigation of the land purchase and consolidation program conducted on behalf of the Shoshone and Arapaho Indian Tribes of the Wind River Reservation in Wyoming; to the Committee on Rules.

H. Res. 607. Resolution to provide for expenses of investigation authorized by House Resolution 606; to the Committee on Accounts.

By Mr. VOORHIS of California:

H. Res. 608. Resolution to assure the judicious expenditure of funds appropriated for national defense; 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. COFFEE of Washington:

H. R. 10531. A bill authorizing the reenlistment in the United States Army of Theodore E. Johnson; to the Committee on Military Affairs.

By Mr. GREGORY:

H. R. 10532. A bill to confer jurisdiction upon the United States District Court for the Western District of Kentucky to hear, determine, and render judgment upon the claim of Theodore R. Troendle, sole stockholder of the Dawson Springs Construction Co.; to the Committee on Claims.

By Mr. JOHNSON of Illinois:

H. R. 10533. A bill for the relief of Manuel G. Rambo; to the Committee on Military Affairs.

By Mr. McLAUGHLIN:

H. R. 10534. A bill for the relief of Joseph Pollack; to the Committee on Claims.

By Mr. PETERSON of Georgia:

H. R. 10535. A bill for the relief of Annie E. Griffeth; to the Committee on Claims.

H. R. 10536. A bill for the relief of Wallace L. Edenfield; to the Committee on Claims.

By Mr. RISK:

H. R. 10537. A bill for the relief of George Washington Webster; to the Committee on Naval Affairs.

By Mr. SCHAFER of Wisconsin:

H. R. 10538. A bill granting a pension to Anna Maria Amberg; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9303. By the SPEAKER: Petition of F. J. Safley, J. A. Bell, and James W. Reagan, of San Gabriel, Calif., petitioning consideration of their resolution with reference to flood control, United States Army engineers' projects; to the Committee on Flood Control.

9304. Also, petition of the United Automobile Workers of America, Hudson Local 154, Detroit, Mich., petitioning consideration of their resolution with reference to Senate bill 591, United States Housing Authority program; to the Committee on Banking and Currency.

SENATE

FRIDAY, SEPTEMBER 20, 1940

(Legislative day of Wednesday, September 18, 1940)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The Chaplain, Rev. ZeBarney T. Phillips, D. D., offered the following prayer:

God of all wisdom, who knowest our necessities before we ask and art always more ready to give than we are to receive: Forgive, we beseech Thee, our pitiful worship and the poverty of our prayers. Make us to worship Thee in the depths of our spirit and in truth. Hearken not to our petitions but to the crying of our need for clean hands, pure hearts, and the forgiveness of our sins. We ask for no far-off vision which may obscure the nearer duty, for no enchantment which may slacken our hands or enfeeble our spirits, but for the vision of Thyself in the common things of every day. Remove the suspicion which regards Thy service as an intrusion on our time, an interference with our daily task, and do Thou so fashion our lives that every citizen of our beloved country, from the chiefest to the humblest, shall put character above reputation, virtue above success, and devotion to God above every other loyalty. In our Saviour's name we ask it. Amen.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day of Thursday, September 19, 1940, was dispensed with, and the Journal was approved.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Latta, one of his secretaries.

CALL OF THE ROLL

Mr. MINTON. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Ellender	Lee	Sheppard
Andrews	Frazier	Lodge	Shipstead
Ashurst	George	McKellar	Smathers
Austin	Gerry	McNary	Stewart
Bailey	Gibson	Maloney	Taft
Barkley	Gillette	Mead	Thomas, Idaho
Bilbo	Glass	Minton	Thomas, Okla.
Brown	Green	Murray	Thomas, Utah
Bulow	Gurney	Neely	Tobey
Burke	Hale	Norris	Tydings
Byrd	Harrison	Nye	Vandenberg
Byrnes	Hatch	O'Mahoney	Van Nuys
Capper	Hayden	Overton	Wagner
Caraway	Herring	Pepper	Walsh
Clark, Idaho	Hill	Pittman	Wheeler
Clark, Mo.	Holt	Radcliffe	White
Connally	Johnson, Calif.	Reed	Wiley
Danaher	Johnson, Colo.	Russell	
Davis	King	Schwartz	
Downey	La Follette	Schwellenbach	

Mr. MINTON. I announce that the Senator from Washington [Mr. BONE] is absent because of illness.

The Senator from Alabama [Mr. BANKHEAD], the Senator from Kentucky [Mr. CHANDLER], the Senator from New Mexico [Mr. CHAVEZ], the Senator from Ohio [Mr. DONAHEY], the Senator from Pennsylvania [Mr. GUFFEY], the Senator from Delaware [Mr. HUGHES], the Senator from Illinois [Mr. LUCAS], the Senator from Nevada [Mr. McCARRAN], the Senator from Arkanas [Mr. MILLER], the Senator from North Carolina [Mr. REYNOLDS], the Senator from Illinois [Mr. SLATTERY], the Senator from South Carolina [Mr. SMITH], and the Senator from Missouri [Mr. TRUMAN] are necessarily absent.

Mr. AUSTIN. I announce that the Senator from New Jersey [Mr. BARBOUR], the Senator from New Hampshire [Mr. BRIDGES], the Senator from Oregon [Mr. HOLMAN], and the Senator from Delaware [Mr. TOWNSEND] are necessarily absent.

The PRESIDENT pro tempore. Seventy-seven Senators have answered to their names. A quorum is present.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had passed the bill (S. 1450) to provide funds for cooperation with school district No. 13, Froid, Mont., for extension of public-school buildings to be available to Indian children, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 10413) to provide revenue, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. DOUGHTON, Mr. CULLEN, Mr. McCORMACK, Mr. COOPER, Mr. TREADWAY, Mr. CROWTHER, and Mr. KNUTSON were appointed managers on the part of the House at the conference.

The message further announced that the House had passed a bill (H. R. 8369) authorizing a per capita payment of $10 each to the members of the Red Lake Band of Chippewa Indians from any funds on deposit in the Treasury of the United States to their credit, in which it requested the concurrence of the Senate.

LEAVE PROVISION FOR POSTMASTERS CALLED TO DUTY WITH THE ARMED FORCES

The PRESIDENT pro tempore laid before the Senate a letter from the Postmaster General, transmitting a draft of proposed legislation to amend the act of June 25, 1938, entitled "An act extending the classified civil service to include postmasters of the first, second, and third classes, and for other purposes," which, with the accompanying paper, was referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES

Mr. TYDINGS, from the Committee on Appropriations, to which was referred the resolution (S. Res. 314) creating a special committee to find ways and means for an automatically balanced Budget, reported it without amendment; and, under the rule, the resolution was referred to the Committee to Audit and Control the Contingent Expenses of the Senate.