SENATE

SATURDAY, JANUARY 15, 1944

(Legislative day of Tuesday, January 11, 1944)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

"God bless our native land!
Firm may she ever stand,
Through storm and night;
When the wild tempests rave,
Ruler of wind and wave,
Do Thou our country save
By Thy great might.

"For her our prayer shall rise
To God, above the skies;
On Him we wait:
Thou who art ever nigh,
Guarding with watchful eye,
To Thee aloud we cry,
God save the state!

"Not for this land alone,
But be God's mercies shown
From shore to shore;
And may the nations see
That men should brothers be,
And form one family
The wide world o'er."

Amen.

GERALD P. NYE, a Senator from the State of North Dakota, appeared in his seat today.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The Secretary, Edwin A. Halsey, read the following letter:

WASHINGTON, D. C., *January 15, 1944.*

To the Senate:

Being temporarily absent from the Senate, I appoint the Honorable CARL HAYDEN, a Senator from the State of Arizona, to perform the duties of the Chair during my absence.

CARTER GLASS,
President pro tempore.

Mr. HAYDEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

On request of Mr. GEORGE, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Friday, January 14, 1944, was dispensed with, and the Journal was approved.

MESSAGE FROM THE PRESIDENT

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

CALL OF THE ROLL

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

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

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

Aiken	Ferguson	O'Daniel
Andrews	George	Overton
Austin	Gerry	Radcliffe
Bailey	Gillette	Reed
Ball	Green	Revercomb
Barkley	Gurney	Reynolds
Bone	Hayden	Robertson
Brewster	Hill	Russell
Bridges	Holman	Shipstead
Brooks	Johnson, Colo.	Stewart
Buck	Kilgore	Thomas, Idaho
Burton	La Follette	Thomas, Okla.
Bushfield	Langer	Thomas, Utah
Butler	Lodge	Truman
Capper	McClellan	Tunnell
Caraway	McFarland	Tydings
Chavez	Maloney	Walsh, Mass.
Clark, Mo.	Maybank	Wheeler
Connally	Mead	Wherry
Danaher	Millikin	White
Davis	Moore	Wiley
Downey	Murdock	Willis
Eastland	Nye	Wilson

Mr. HILL. I announce that the Senator from Virginia [Mr. GLASS] is absent from the Senate because of illness.

The Senator from Virginia [Mr. BYRD] is absent because of illness in his family.

The Senator from Washington [Mr. WALLGREN] is absent on official business for the Special Committee to Investigate the National Defense Program.

The Senator from New Mexico [Mr. HATCH], the Senator from Wyoming [Mr. O'MAHONEY], and the Senator from Nevada [Mr. SCRUGHAM] are detained from the Senate because of slight colds.

The Senator from Pennsylvania [Mr. GUFFEY] and the Senator from Illinois [Mr. LUCAS] are absent on public business.

The Senator from Alabama [Mr. BANKHEAD], the Senator from Mississippi [Mr. BILBO], the Senator from Kentucky [Mr. CHANDLER], the Senator from Idaho [Mr. CLARK], the Senator from Louisiana [Mr. ELLENDER], the Senator from Nevada [Mr. McCARRAN], the Senator from Tennessee [Mr. McKELLAR], the Senator from South Carolina [Mr. SMITH], the Senator from New Jersey [Mr. WALSH], the Senator from Indiana [Mr. VAN NUYS], and the Senator from New York [Mr. WAGNER] are necessarily absent.

The Senator from Florida [Mr. PEPPER] is detained in Florida on public business.

Mr. WHITE. The Senator from Oregon [Mr. McNARY] is absent because of illness.

The Senator from Maine [Mr. BREWSTER], the Senator from Delaware [Mr. BUCK], the Senator from New Jersey [Mr. HAWKES], the Senator from Ohio [Mr. TAFT], and the Senator from Michigan [Mr. VANDENBERG] are necessarily absent.

The Senator from New Hampshire [Mr. TOBEY] is necessarily absent on official business.

The ACTING PRESIDENT pro tempore. Sixty-nine Senators have answered to their names. A quorum is present.

DEFERMENT OF DRAFT REGISTRANTS UNDER FEDERAL EMPLOYMENT

The ACTING PRESIDENT pro tempore laid before the Senate a letter from the Director of the Selective Service System, reporting, pursuant to law, in the matter of 18- through 37-year-old registrants deferred because of their employment in or under the Federal Government or November 15, 1943, which was referred to the Committee on Military Affairs.

DEFERMENT OF CONSIDERATION OF AIR COMMERCE LEGISLATION—RESOLUTIONS FROM MICHIGAN

The ACTING PRESIDENT pro tempore laid before the Senate resolutions adopted by the Board of Supervisors of Kent County, and East Grand Rapids Post, No. 311, the American Legion, both in the State of Michigan, requesting that consideration of House bill 3420, affecting air commerce and similar proposed legislation, be deferred until after the end of the present war, which were referred to the Committee on Commerce.

VOTES FOR MEMBERS OF THE ARMED FORCES AND MERCHANT MARINE

Mr. RADCLIFFE. Mr. President, I ask unanimous consent to present for appropriate reference and to have printed in the RECORD a resolution adopted by the City Council of Baltimore, Md., having a most worthy object, requesting the Congress to enact legislation to enable persons in the armed forces of the United States and the United States merchant marine to vote. I am heartily in accord with this resolution.

There being no objection, the resolution was referred to the Committee on Privileges and Elections and ordered to be printed in the RECORD, as follows:

CITY COUNCIL OF BALTIMORE,
Baltimore, Md., January 15, 1944.

Hon. GEORGE L. RADCLIFFE,
United States Senate:

I have the honor to inform you that the following resolution was adopted by the city council on January 10, 1944:

"Resolution 120

"Resolution requesting the Congress of the United States to enact legislation to enable persons in the armed forces of the United States and the United States merchant marine to vote

"Whereas many citizens of Maryland are now in the armed forces of the United States and the United States merchant marine and will be unable to vote unless legislation is enacted by Congress and the several States: Therefore be it

"*Resolved by the City Council of Baltimore,* That the Congress of the United States be and it is hereby requested to enact whatever legislation may be necessary to enable citizens of the United States, who are in the armed forces of the United States and the United States merchant marine, to vote in the coming primaries and elections; and be it further

"*Resolved,* That the chief clerk of the city council be and he is hereby directed to send a copy of this resolution to the President of the United States Senate, to the Speaker of the House of Representatives and to the Representatives from the State of Maryland in the United States Congress."

Very Respectfully,

EDWARD P. O'MALLEY,
Chief Clerk.

EDUCATION OF RETURNING SOLDIERS AND SAILORS—LETTER FROM THE GOVERNOR OF MASSACHUSETTS

Mr. LODGE. Mr. President, I ask unanimous consent to have printed in the

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

body of the RECORD, and appropriately referred, a letter which I have received from Governor Saltonstall, of Massachusetts, enclosing a letter from the commissioner of education, of Massachusetts, regarding the education of our returning soldiers and sailors.

There being no objection, the letters were referred to the Committee on Education and Labor and ordered to be printed in the RECORD, as follows:

COMMONWEALTH OF MASSACHUSETTS,
EXECUTIVE DEPARTMENT,
State House, Boston, January 12, 1944.

Hon. HENRY CABOT LODGE, Jr.,
Senate Office Building,
Washington, D. C.

MY DEAR SENATOR LODGE: At my request Julius E. Warren, commissioner of education, has examined the contents of Senate bill 1509, which concerns the education of returning soldiers and sailors. He has also conferred with various educational leaders in the Commonwealth.

I enclose herewith a report to me that he has prepared on this subject. It includes the points that he believes are essential if the bill is to achieve its objective of being of the most benefit to the returning veterans. He is, I am, and I feel confident that you are also, a firm believer in the principle that adequate and generous provisions should be made for the boys and girls of our armed forces to complete their education which has been interrupted by war service.

At the same time, we here in Massachusetts have always believed that the education of our children is a responsibility for local and State government, and I hope it always will continue as such. It therefore becomes mighty important in order to maintain this principle of government, and at the same time to recognize the responsibility of the Federal Government to take care of its war veterans, that the provisions in this bill make it clear that the administration of this act will be left in the hands of the individual States under general policies formulated in Washington. The ninth and tenth paragraphs of Commissioner Warren's letter point to the necessary provisions to carry out this principle of government.

I am taking the liberty of sending you this memorandum on this most important subject for your consideration. I know that the commissioner of education, or any of our State authorities will give you any further information that you may desire.

With kind personal regards, I am,
Sincerely yours,
LEVERETT SALTONSTALL,
Governor of the Commonwealth.

COMMONWEALTH OF MASSACHUSETTS,
DEPARTMENT OF EDUCATION,
Boston, January 10, 1944.

Hon. LEVERETT SALTONSTALL,
Governor of the Commonwealth,
State House, Boston, Mass.

MY DEAR GOVERNOR SALTONSTALL: At your request I have discussed with leaders of education in this State, senate bill No. 1509 (dated as of November 3) and with their help have analyzed the intent and purpose of the proposed law, together with the machinery for putting the program into operation. I am advised that since the bill was introduced it has been rewritten to include some changes which seem essential for efficient and economically sound operation.

Since the purpose of the bill is to provide for all war-service persons suitable opportunities to continue or to complete their formal education in approved educational institutions, and thus stop the gap caused by the war interruption of the various kinds of educational experience needed by young men and women who are to participate in the stable and effective operation of a democracy, I would report to you that, in my judgment, the bill as finally enacted should include the following provisions:

1. Availability of 1 year of educational experience to any war-service person honorably discharged after September 16, 1940, serving for a period of at least 6 months in the armed forces of the United States, in the merchant marine, or any of the auxiliaries thereto, who desires to continue or complete his formal education and who is qualified to meet the admission requirements of the educational institution or training agency which he selects and who continues to make in that institution satisfactory educational progress.

2. Participating educational institutions should include:

(a) Elementary and secondary schools; trade schools; scientific, technical, and vocational training institutions.

(b) Apprentice and in-service training opportunities in business and industrial establishments (which provide State and Federal compensation regulations) and operate under the supervision of the State board of war service education herein created by this act.

(c) Any institution of higher education, including junior colleges approved by the State board of war-service education herein created by this act.

3. Each war-service person should receive a maintenance payment of $50 a month if single; $75 a month if married, with $10 a month for each dependent child during such time as he may be in full-time attendance in an approved educational institution.

4. The approved educational institution should be paid from Federal funds the full amount of tuition, laboratory, library, and other fees regularly charged by such institution for each war-service person enrolled and in full-time attendance.

5. These payments should not be made for any given recipient over a period longer than 1 calendar year, except for certain specially qualified persons within quotas to be established by the national agency, who may receive such payments for a maximum period of 3 additional calendar years. The entire educational experience for each recipient should not extend beyond a period of 6 calendar years from the date of his discharge, with initial enrollment to be effected within a period of 12 months from the date of discharge.

6. The educational institution which has been approved by the State board of war-service education herein created by this act shall have the right—

(a) To determine qualifications for admission of war-service persons.

(b) To select from the applicants those whom it is willing to admit.

(c) To pass upon satisfactory progress of its war-service students.

7. Each war-service person shall be free to select the educational institution in which he wishes to enroll within or outside his State and choose the course or courses which he desires, subject to the approval of the educational institution concerned.

8. Machinery should be created in connection with the operation of this act which will provide educational and vocational counseling and guidance to the persons eligible for training.

9. For the Federal administration of this act there should be created an agency within the United States Office of Education whose function should be to formulate policies and procedures necessary to assure the effective operation of the program, to set up State quotas of trainees, etc., and to distribute funds through the appropriate educational agency set up within the individual States.

10. To carry out the provisions of this proposal within the State, a State should, by legislative enactment, designate any existing State board of education or create a new board to be called the State board for war service education. Pending such action by the legislature, the Governor should designate or create such a board whose functions would essentially be:

(a) Approval of educational institutions of the State.

(b) Setting up and maintaining guidance and counseling services to be available to the ex-service personnel in the State.

(c) Certifying persons who are eligible to receive various types of education and training.

(d) Determining fees to be charged for educational services wherever those fees are in doubt.

(e) Adopting rules and regulations necessary for the effective operation of the program within the State.

Respectfully submitted.

JULIUS E. WARREN,
Commissioner of Education for Massachusetts.

LACK OF RAILROAD CARS IN THE NORTHWEST FOR WHEAT SHIPMENTS

Mr. LANGER. Mr. President, I ask unanimous consent to have printed in the RECORD at this point, and appropriately referred, a number of telegrams which I have received relative to the boxcar shortage in North Dakota.

There being no objection, the telegrams were referred to the Committee on Interstate Commerce and ordered to be printed in the RECORD, as follows:

STREETER, N. DAK., *January 14, 1944.*

Senator WILLIAM LANGER,
Washington, D. C.:

Our elevator is blocked, and we are unable to get cars, so please do something.

FARMERS' COOPERATIVE ELEVATOR CO.,
WALTER SCHWARTZ.

FALKIRK, N. DAK., *January 14, 1944.*

Senator LANGER,
Washington, D. C.:

Elevator blocked; boxcars going to Canada. Get rid of Mr. Eastman; or do we have to come to Washington and clean house?

FARMERS' UNION ELEVATOR & MERCANTILE CO.

KILLDEER, N. DAK., *January 14, 1944.*

Senator BILL LANGER:

Grain-car situation has been deplorable; have been blocked continuous for months. Understand railroads requested furnish large number cars for Canadian shipments. This move most unfair when big amount our crop yet to move. Farmers short help; must move grain before spring. Your help appreciated.

KILLDEER EQUITY ELEVATOR CO.
OFFIDENT ELEVATOR CO.
KILLDEER GRAIN CO.

NOONAN, N. DAK., *January 14, 1944.*

Hon. WILLIAM LANGER,
United States Senator,
Washington, D. C.:

Elevator blocked; grain on ground; enormous amount in plain cribs. Farmers request you to vigorously protest against sending grain boxcars into Canada. Do something, BILL. Elevator carrying full capacity of cash grain. We need relief and immediately.

A. M. PAULSON, *Secretary,*
R. R. KLAMMER, *General Manager,*
FARMERS' COOPERATIVE ELEVATOR CO.

KRAMER, N. DAK., *January 15, 1944.*
Hon. Senator WILLIAM A. LANGER,
Washington, D. C.:

Please protect for us Mr. Eastman's 200-car-per-day order for Canadian grain loading. We have blocked elevator and 30,000 bushels wheat purchased that is still in farmers' hands.

KRAMER EQUITY ELEVATOR CO.,
E. F. TROTTER, *Manager.*

MINNEAPOLIS, MINN., *January 12, 1944.*
Hon. WILLIAM LANGER,
United States Senate:

Eastman has issued orders effective today Northwest railroads furnish 200 grain cars daily to Canadian Pacific and Canadian National. Will create additional hardship Northwest producer, with large number blocked elevators.

ATWOOD-LARSON CO.

COLGAN, N. DAK., *January 14, 1944.*
Hon. WILLIAM LANGER,
United States Senate,
Washington, D. C.:

We ask you to submit a complaint to the Administrator of the O. D. T. on their recent order requiring the railroads to furnish 200 boxcars per day to Canada. This order is unfair to all us country shippers. Elevators full of cash grain. Grain sold to arrive. If this recent order is carried out it will cause us country shippers a serious handicap. Some of the grain on the farms is going out of condition and should be moved at once. We believe that the American shippers should be given priority on the cars, being our elevators are blocked most of the time. This recent week we have been able to buy grain 2 days. Grain is loaded direct to car from pit whenever we have any cars. Will appreciate whatever you can do in our favor in regards to recent order issued by the O. D. T.

FARMERS ELEVATOR CO.,
O. D. BERVIG, *Manager.*

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. WALSH of Massachusetts:

S. 1647. A bill to amend the act approved March 2, 1895, as amended; to the Committee on Naval Affairs.

By Mr. BRIDGES:

S. 1648. A bill for the relief of Carroll Jesseman; to the Committee on Finance.

By Mr. REYNOLDS:

S. 1649. A bill for the relief of Pete Paluck; to the Committee on Claims.

By Mr. BONE:

S. J. Res. 106. Joint resolution granting permission to Charles Rex Marchant, Lorne E. Sasseen, and Jack Veniss Bassett to accept certain medals tendered them by the Government of Canada in the name of his Britannic Majesty, King George VI; to the Committee on Commerce.

By Mr. LANGER:

S. J. Res. 107. Joint resolution proposing an amendment to the Constitution of the United States relating to terms of office of President, and providing for nomination of candidates for President and Vice President, and for election of such candidates, by popular vote; to the Committee on the Judiciary.

AMENDMENTS TO THE REVENUE ACT

Mr. MEAD submitted an amendment; Mr. LANGER submitted two amendments; and Mr. WILSON (for himself and Mr. WHERRY) submitted an amendment intended to be proposed by them to the bill (H. R. 3687) to provide revenue, and for other purposes, which were severally ordered to lie on the table and to be printed.

Mr. O'DANIEL submitted an amendment intended to be proposed by him to the bill (H. R. 3687) to provide revenue, and for other purposes, which was ordered to lie on the table, to be printed, and to be printed in the RECORD, as follows:

TITLE X—PAYMENT OF POLL TAXES OF MEMBERS OF THE ARMED FORCES

SEC. 1001. The Secretary of War and the Secretary of the Navy are authorized and directed—

(a) To ascertain (1) the names and home addresses of all members of the military and naval forces of the United States whose legal voting residences are in States under the laws of which the payment of a poll tax or other tax or fee is required as a condition of voting in elections for electors of President and Vice President or for United States Senators and Representatives in Congress, and who are absent from their respective legal voting residences, and (2) the amount of such poll tax or other tax or fee, including any interest or penalties accrued because of nonpayment thereof, required to be paid by each such member of the armed forces as a condition to voting in the elections to be held during the calendar year 1944, for electors of President and Vice President, and for United States Senators and Members of Congress; and

(b) To tender to the appropriate election officials of such respective States, in advance of the last dates fixed by the laws thereof for the making of such payments, such sums as may be necessary to make the payments ascertained under paragraph (a) (2) to be required with respect to the members of the armed forces who have legal voting residences therein.

SEC. 1002. The amount of any payment tendered by the Secretary of War or the Secretary of the Navy under section 1001 with respect to any member of the armed forces, and accepted by the election officials of any State, shall be remitted by such election officials to the Secretary of War or the Secretary of the Navy, as the case may be, if (a) notwithstanding such payment by the Secretary of War or the Secretary of the Navy, such member of the armed forces is held by the election officials of such State not to be eligible to vote in such election, or (b) such member of the armed forces is found to have paid such poll tax or other tax or fee within the time allowed for such payment.

SEC. 1003. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

PRINTING OF MANUAL EXPLANATORY OF PRIVILEGES, RIGHTS, AND BENEFITS PROVIDED FOR MEMBERS OF ARMED FORCES AND DEPENDENTS

Mr. BONE submitted the following resolution (S. Res. 236), which was referred to the Committee on Printing:

Resolved, That the manuscript entitled "Manual Explanatory of the Privileges, Rights, and Benefits Provided for All Persons Who Are, or Have Been, Members of the Armed Forces of the United States, and All Those Dependent Upon Them," designated as Senate Document No. 96, Seventy-seventh Congress, be printed as a Senate document; and that 5,000 additional copies be printed for the use of the Senate.

OUR SECURITY AND THE ISLANDS OF THE PACIFIC—ADDRESS BY SENATOR WILEY

[Mr. WILEY asked and obtained leave to have printed in the RECORD an address entitled "Our Security and the Islands of the Pacific," delivered by him over radio stations in Wisconsin on January 14, 1944, which appears in the Appendix.]

ENCROACHMENTS ON PRIVATE ENTERPRISE—ADDRESS BY SENATOR MOORE

[Mr. ROBERTSON asked and obtained leave to have printed in the RECORD a radio address entitled "Private Enterprise Must Assert Itself Against Further New Deal Encroachments," delivered by Senator MOORE on December 23, 1943, which appears in the Appendix.]

ADDRESS BY SECRETARY KNOX TO THE BOY SCOUTS

[Mr. BRIDGES asked and obtained leave to have printed in the RECORD the address delivered by Hon. Frank Knox, Secretary of the Navy, at the annual dinner of the Greater Cleveland Council of the Boy Scouts of America, Statler Hotel, Cleveland, Ohio, January 14, 1944, which appears in the Appendix.]

VETERANS' LEGISLATION—STATEMENT BY WARREN H. ATHERTON

[Mr. CLARK of Missouri asked and obtained leave to have printed in the RECORD a statement by Warren H. Atherton, national commander of the American Legion, delivered before the Senate Finance Committee on January 14, 1944, which appears in the Appendix.]

INTO POLAND—EDITORIAL FROM NEW YORK DAILY MIRROR

[Mr. REYNOLDS asked and obtained leave to have printed in the RECORD an editorial entitled "Into Poland," published in the New York Daily Mirror of January 5, 1944, which appears in the Appendix.]

FRONTIERS OF POLAND—ARTICLE BY WILLIAM PHILIP SIMMS

[Mr. REYNOLDS asked and obtained leave to have printed in the RECORD an article entitled "Acid Test," written by William Philip Simms, which appears in the Appendix.]

THE TAX ON OLEOMARGARINE—ARTICLE FROM READER'S DIGEST

[Mr. MAYBANK asked and obtained leave to have printed in the RECORD an article entitled "Here's Why There's Nothing To Spread on Your Bread," published in the Reader's Digest of December 1943, which appears in the Appendix.]

LABOR'S POLITICAL AIMS—ARTICLE BY PHILIP MURRAY

[Mr. ANDREWS asked and obtained leave to have printed in the RECORD an article by Philip Murray, president of the C. I. O., entitled "Labor's Political Aims," published in the American magazine of February 1944, which appears in the Appendix.]

PERSONAL STATEMENT

Mr. GEORGE obtained the floor.

Mr. GILLETTE. Mr. President——

The ACTING PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Iowa?

Mr. GEORGE. I yield.

Mr. GILLETTE. I have asked the distinguished Senator to yield to me to make a very brief statement.

Mr. President, I have been concerned over various reports which have appeared in the news columns of the papers and in the special columns of writers pertaining to me, an experience common to all Members of the Senate. Ordinarily I have paid no attention to such reports and stories, however unfounded they may be. I have felt that it was unwise, and

would accomplish no good purpose, to speak of the matters publicly. But in this morning's issue of a Washington newspaper appears an article by a well-known columnist under the heading "Washington Merry-Go-Round" which purports to cover a reputed conversation between the Secretary of State, Cordell Hull, and me with reference to candidacy for the Presidency in the coming campaign. It speaks of a conversation which I was alleged to have had with the distinguished Secretary last week in which the matter of his suggested candidacy for the Democratic nomination was spoken of, suggested by me, and discussed between the Secretary and myself.

I wish to say unequivocally that I did not discuss, last week or last month or last year, or in the last 10 years, the candidacy of Cordell Hull or any other Democrat, for the Democratic nomination for the Presidency. There is not the remotest basis for the story which has been published today. As I have stated, I would not refer to it now were it not for the fact that this writer has brought in the name of the distinguished Secretary, and placed him in an unfortunate position, as a member of the President's Cabinet, with the statement that while he is occupying that position he is discussing, with me or with anyone else, his prospective candidacy, or his personal interest in a Democratic nomination.

Mr. President, I have read and reread the article, and, so far as I am concerned there are only two statements of truth in it. One is that I am white thatched; the other is that the distinguished Secretary is held in the highest esteem throughout the country, and especially for the success of his Moscow mission.

I thank the Senator from Georgia for permitting me to make this statement.

Mr. GEORGE. The Senator from Iowa need not be greatly concerned about any reference made by a certain columnist. Recently he has made statements about me which began with a lie and ended with a lie, and there is no improvement that I could make on the President's observation about this same columnist, that he is a chronic liar, except to say that the President was probably guilty of understatement. So I say to the Senator from Iowa that he need not be disturbed about anything that man may say about anyone, certainly about the distinguished Secretary of State, who is held in high esteem in this body, and throughout the country.

THE REVENUE ACT

The Senate resumed the consideration of the bill (H. R. 3687) to provide revenue, and for other purposes.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment which was passed over at the request of the Senator from Kentucky [Mr. BARKLEY].

The LEGISLATIVE CLERK. On page 69, after line 5, it is proposed to insert the following new section:

SEC. 123. Disallowance of certain deductions attributable to business operated by individual at loss for 5 years.

(a) In general: Supplement B of chapter 1 of the Internal Revenue Code is amended by adding at the end thereof the following new section:

"SEC. 130. Limitation on deductions allowable to individuals in certain cases.

"(a) Recomputation of net income: If the deductions allowable to an individual (except for the provisions of this section) and attributable to a trade or business carried on by him for 5 consecutive taxable years have, in each of such years, exceeded the gross income derived from such trade or business, the net income of such individual for each of such years shall be recomputed. For the purpose of such recomputation, such deductions shall be allowed only to the extent of $20,000 plus the gross income attributable to such a trade or business, and no net operating loss deduction shall be allowed.

"(b) Redetermination of tax: Upon the basis of the net income computed under the provisions of subsection (a), the tax imposed by this chapter shall be redetermined for each such taxable year to which this chapter is applicable and any excess thereof, resulting solely from the disallowance of the deductions specified in subsection (a), over the amount of the tax previously determined shall be assessed and collected as a deficiency.

"(c) Suspension of statute of limitations: Notwithstanding the provisions of section 275, any deficiency determined under subsection (b) for a taxable year preceding the fifth taxable year referred to in subsection (a) may be assessed within 1 year after the expiration of the time prescribed by law for the assessment of a deficiency for such fifth taxable year."

(b) Effective date of amendment: The amendment made by subsection (a) shall be applicable to taxable years beginning after December 31, 1938, but no deficiency shall be assessed or collected thereunder for any taxable year beginning prior to January 1, 1944."

Mr. GEORGE. Mr. President, the amendment which has just been stated was offered in committee by the Senator from Connecticut [Mr. DANAHER]. I do not see the Senator from Connecticut on the floor. Can the minority leader give me any information with respect to when he expects the Senator to be present?

Mr. WHITE. Does the Senator from Georgia refer to the amendment in which the Senator from Connecticut [Mr. DANAHER] is interested?

Mr. GEORGE. Yes.

Mr. WHITE. Can the amendment be temporarily passed over while I send word to his office that the amendment is in order?

Mr. GEORGE. Yes. I ask that the amendment be passed over temporarily, Mr. President. I should like to clear up these amendments as we reach them.

The ACTING PRESIDENT pro tempore. The amendment will be passed over.

The clerk will state the next committee amendment passed over. The amendment appears on page 99, and was passed over at the request of the Senator from Ohio [Mr. BURTON].

The LEGISLATIVE CLERK. In section 205, "Reduction of excess profits credit based on invested capital in certain brackets," on page 99, after line 9, in the first column of the table, after "Over $10,000,000", it is proposed to strike out the comma and "but not over $200,000,000"; in the same column, after the amendment just above stated, to strike out "Over $200,000,000", and in the second column, to strike out the last item in the column, "$10,200,000, plus 4 percent of the excess over $200,000,000."

Mr. GEORGE. Mr. President, an amendment is offered by the Senator from Ohio, which I am not at liberty to accept. Very frankly I think the amendment would result in cutting too deeply into the revenue, and I have made that statement to the Senator from Ohio. If the Senator wishes to press the amendment, though, I should like to have it disposed of at this time.

Mr. BURTON. Mr. President, I feel that the amendment should be pressed, and I hope that the chairman of the committee may be willing to take it to conference. I might state the nature of the amendment. The matter dealt with by the amendment has been brought to my attention by a number of Senators and a number of other persons. It relates to section 205 on page 99 of the bill, and relates to the size of the excess-profits credit. Under the law as it now stands, as we know, there are two types of excess-profits credits, one based on average earnings and the other based on a percentage of invested capital. This section does not attempt to reduce the credit based on average earnings, but picks out those taxpayers who base their credit on invested capital and reduces their credit, thereby increasing the excess-profits tax they will pay, although the distinction between themselves and the other type of taxpayers has been established for a long time, and they presumably have been treated on a comparable basis in the past.

It seems to me that this amendment as it stands, as it came from the House, by reducing the excess-profits credit solely as to that type of taxpayer who for various reasons chooses an invested-capital basis, is an injustice to him and is a discrimination against him as compared with the other taxpayers who have proceeded on the basis of average earnings.

Therefore I think there is a good argument to be made for the elimination of the entire section, and leaving the law as it is, but I am not pressing it quite that far. The Senate committee in proceeding with this matter saw the injustice of the proposed amendment as it related to the upper bracket. I argue that we should restore the existing credit not only in the upper bracket but in the bracket next to that, because I think the restoration is important not only to the largest taxpayers, the largest railroads, but to those who are smaller and may be affected by it in dollars to a less extent.

The nature of the situation is this: Under the present law the size of the credit varies with the size of the invested capital. It is on a basis of 8, 7, 6, and 5 percent: that is, if the taxpayer has an invested capital of not over $5,000,000 he is allowed a credit of 8 percent on it; if it is between $5,000,000 and $10,000,000 he is now allowed a credit of 7 percent on that portion of his invested capital between those figures. If it is between $10,000,000 and $200,000,000 he is allowed a credit of 6 percent on that

bracket. If it is over $200,000,000 he is allowed a credit of 5 percent on that excess. That is the present law. The provision adopted by the House of Representatives reduces those percentages in each of the three upper brackets. It reduces the 7 percent to 6 percent, the 6 percent to 5 percent, and the 5 percent to 4 percent.

As I have said, there is a reason for arguing against all of these reductions but the Senate committee discussed the upper bracket and after full consideration of those companies that have an invested capital of over $200,000,000, and therefore obviously are the larger companies, decided that the invested-capital credit should not be reduced in their case. Therefore the amendment that comes before us from the Senate committee restores the 4 percent to 5 percent in the upper bracket.

The amendment which I present does precisely the same thing in the next bracket, in the bracket between $10,000,000 and $200,000,000. My amendment restores the 5 percent to 6 percent. I believe that is a sound procedure. If we are going to restore the excess-profits credit for the upper bracket of $200,000,000 we should also restore it to the group that is next to it.

I may say that from the point of view of many railroads—and the matter came to my attention through some of the railroads reorganized recently in the city of Cleveland—there are some 76 class I railroads that fall in the group having invested capital of over $10,000,000 and not over $200,000,000. They do not receive the benefit of the committee restoration. They are penalized by the amendment, because they happen to be in a lower bracket.

I use one illustration: One railroad recently reorganized and back on its feet at the present time, under the proposed amendment would be permitted to earn for its common stock, before the excess-profits tap applied, only $1.02 per share. When we apply this excess-profits law and get all through the whole procedure, under the present law it would, in 1943, be allowed only $2.80 per share. Under the amendment proposed by the Senate committee it would be allowed only $2.08 per share. Under my amendment it would be allowed $2.43 per share. Whichever of these is allowed, it is an exceedingly small earning per share. Under those circumstances we have an illustration of the extent to which such taxpayers are now taxed, while doing a difficult job in these wartimes.

All I am asking is that we accept the Senate committee's amendment, which restores the upper bracket credit from 4 percent to 5 percent, and that we send the matter to conference in order that the conferees may also consider the effect of raising and restoring the present level of credit in the next bracket covering companies having an invested capital from $10,000,000 to $200,000,000. In that case I would restore the rate of credit from 5 to 6 percent.

I believe therefore that my amendment is thoroughly consistent with the needs of the situation, and that in conference is the best place to consider just how many dollars this will affect.

The Senator from Georgia, in referring to the matter, said that the committee feared that it would take away a great deal of income from the Government. As I understand it, the amount that it might take away has been estimated at between $60,000,000 and $70,000,000. It seems to me that there is a difference of opinion as to that. I stated the other day on the computation which I had made from the published committee reports that it would affect about $27,000,000. Whether it be $27,000,000 or $60,000,000 or $70,000,000 it seems to me that it is typically the kind of thing that should be weighed in conference.

I also urge this point, that the Senate Finance Committee, in discussing this matter, argued fully the point as affecting companies with invested capital of over $200,000,000. The committee did not argue the point as affecting the next bracket, from $10,000,000 to $200,000,000. The fact that the Senate committee has not recommended the restoration in both brackets does not represent a vote of the Finance Committee against restoring it. It merely represents absence of special action by the committee on that particular matter.

I believe that both brackets should be fully considered. In fact, I have been given to understand by some of those who took an active part in the committee deliberations that they thought at the time that the restoration voted by the committee would cover corporations with invested capital of from $10,000,000 up, not merely those with invested capital of from $200,000,000 up.

Therefore, Mr. President, I urge the adoption of the amendment which will restore the upper rates in both brackets.

The ACTING PRESIDENT pro tempore. Does the Senator from Ohio desire to offer his amendment?

Mr. BURTON. Yes, Mr. President; I offer my amendment and ask to have it read.

The ACTING PRESIDENT pro tempore. The amendment will be read.

The LEGISLATIVE CLERK. On page 99, it is proposed to strike out the matter appearing between lines 9 and 10, and insert in lieu thereof the following:

If the invested capital for the taxable year, determined under section 715 is:	The credit shall be:
Not over $5,000,000	8 percent of the invested capital.
Over $5,000,000, but not over $200,000,000.	$400,000, plus 6 percent of the excess over $5,000,000.
Over $200,000,000	$12,100,000, plus 5 percent of the excess over $200,000,000.

Mr. GEORGE. Mr. President, I sincerely regret that I am unable to accept the amendment for conference consideration, but there are very strong reasons why I cannot do so. I have the very greatest admiration for the distinguished junior Senator from Ohio and the purpose he has in view in presenting his amendment. It may well be that the invested capital credit should not be reduced as the House provision would reduce it; but there were strong arguments which compelled the House to take that action.

I desire to state very briefly the exact situation. Under the present law the credit on invested capital is as follows:

On the first $5,000,000, 8 percent. The House bill did not disturb that. The Senate Finance Committee approved that rate, and it remains as in existing law.

From $5,000,000 to $10,000,000, under existing law the credit is 7 percent on the invested capital. The House reduced the rate in that bracket to 6 percent and the Senate committee approved it.

Under existing law the credit on invested capital of from $10,000,000 to $200,000,000 is 6 percent. The House reduced that to 5 percent, and the Senate committee approved.

Over $200,000,000, the present law allows a credit on invested capital at the rate of 5 percent. The House bill reduced that to 4 percent. The Senate Finance Committee disagreed with the House on that item, and returned the credit on invested capital of over $200,000,000 to 5 percent. That would have the effect, Mr. President, of losing some revenue. The amendment which the Senator from Ohio has offered would have the effect of losing, according to the estimate made by the Treasury, approximately $61,900,000. The staff estimated the loss at a somewhat greater amount. However, accepting the Treasury's figures, there would be a considerable loss in revenue.

The reason why I cannot accept the amendment is not the mere loss in revenue. The situation is as follows—and I beg the Senator from Ohio to give me full credit in making the statement: If the Senator's amendment is adopted, the only corporations which would have their rate of credit on invested capital reduced materially would be those in the group having invested capital of between $5,000,000 and $10,000,000.

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

Mr. GEORGE. I am glad to yield.

Mr. BURTON. The way the table is set up, however, the reduction would be for all corporations, on that block of their invested capital, as I understand the matter. As I understand it, the reduction would apply to the small corporations, the middle-sized corporations, and the large corporations, because it would apply to that block of the invested capital in every case. Therefore, it would not apply only to the smaller corporations but would apply to all.

Mr. GEORGE. What the Senator has said is literally true; but the effect would be that giving the corporations having $200,000,000 of invested capital a higher rate would leave as a negligible matter the rate applicable to invested capital of between $5,000,000 and $10,000,000, because there is a difference of $190,000,000 there. The net effect of the Senator's amendment, if agreed to, would be to place the Senate in the attitude of having actually reduced the credit, insofar

as its effect is concerned, for corporations having invested capital of from $5,000,000 to $10,000,000.

It is true that the $200,000,000 corporation would have the same rate on its first $10,000,000; but it would have $190,000,000 of additional capital on which the Senator's amendment would give the benefit of the 6-percent invested capital rate, inasmuch as the benefit of the rate would apply to all of its invested capital above $10,000,000.

The Senate would do better simply to strike out the whole provision, and go to conference on it, rather than by amendment restrict the actual benefit insofar as it is very material to that group of corporations. When I say "benefit," of course I mean the contrary; because it would have the effect of reducing the rate on invested capital of between $5,000,000 and $10,000,000 from 7 percent to 6 percent. That group of corporations would be the only group which would have an actual reduction in the credit. Except to the extent that a $200,000,000 corporation would, of course, have the 6-percent rate on its first $10,000,000 of invested capital, the Senator's amendment would return to the 6-percent rate the group of corporations having invested capital of between——

Mr. BURTON. Between $10,000,000 and $200,000,000.

Mr. GEORGE. Yes; between $10,000,000 and $200,000,000. That is correct.

However, it would be better for the Senate, and I should infinitely prefer, to strike out the whole provision and to take it to conference, rather than to take to conference a proposal which I could not sustain in conference, and as to which I am satisfied the Senate conferees would be unable to withstand the argument of the House conferees when they said that, "All you have done now is to reduce the credit of the corporations having the relatively small invested capital of from $5,000,000 to $10,000,000," although, of course, such an amount sounds large to me. The Senator's amendment would give them an actual reduction of 1 percent in their credit; but would not give any reduction whatever, under existing law, to corporations having invested capital of from $10,000,000 to $200,000,000.

Mr. BURTON. Mr. President, I should simply like to emphasize again that the reduction to which the Senator has just referred does apply to the corporations having invested capital of between $5,000,000 and $10,000,000, but also applies to the large corporations, because all of them have the block of from $5,000,000 to $10,000,000 in their invested capital of $200,000,000, or whatever it may be. The rate would apply equally.

Mr. GEORGE. Mr. President, the Senator is correct; but the reduction would not amount to very much to a corporation having a large invested capital.

Mr. BURTON. In that connection, I emphasize that it is taken care of by the fact that it is allowed a credit in the upper bracket of only 5 percent. The House tried to make it 4 percent in the upper bracket. I am trying to leave the rates as they are now in both upper brackets, 6 percent and 5 percent. Although I believe that there is ground for the distinction I have made in my amendment in favor of the two upper brackets, I should be glad to concur in what I take it is the suggestion of the Senator from Georgia, that it would be preferable to take to conference an amendment which would strike out the entire section. I am glad to concur in that suggestion.

Mr. GEORGE. Mr. President, I should not care to do that; but the Senate conferees would be in a much more comfortable position before the country and in conference. What the Senate committee did was to say, in effect, that, in the judgment of the Finance Committee, 5 percent on invested capital is the minimum credit that should be allowed, and it should not be reduced below 5 percent. That action was taken by the Finance Committee, and it is not objected to here, so far as I know. However, in taking that action, the committee was simply determining what in its judgment was the minimum credit on invested capital that should be allowed, namely, 5 percent.

I do not dispute what the Senator has to say about the effect on earnings of certain railroads. That is not the point. The point is that if we adopt this amendment we will reduce the credit on only the block between $5,000,000 and $10,000,000; and, to the extent that that block is incorporated in any larger invested capital, of course, there would be that additional burden to bear, or that much less credit against excess-profits taxes. For that reason the committee could not accept the amendment. Furthermore, it would result in a reduction in revenue of an amount in excess of $60,000,000, according to the statement of the Treasury.

Mr. BURTON. Mr. President, I appreciate what the Senator from Georgia has just said, and I appreciate his desire to have a little more freedom in conference. Therefore, although I believe that my amendment does state a proper distinction, I believe it would strengthen my position and the Senate's position in the conference if we were to follow the suggestion which the Senator from Georgia brings to the attention of the Senate, that is, in lieu of my amendment, to strike out section 205. Therefore, I withdraw my amendment and move that section 205 of the bill be stricken out. The effect of this would be to restore the present excess-profits credits on the basis of invested capital, raising the whole question of discrimination, covering the point included in my amendment, and giving a little more freedom to the conferees to act upon the matter. I move, therefore, to strike out section 205.

The ACTING PRESIDENT pro tempore. The usual procedure would be to act first on the committee amendment, and then move to strike out the entire section.

Mr. GEORGE. The pending amendment is not to strike out the entire section. It is to strike out a particular item.

The ACTING PRESIDENT pro tempore. The Senator from Ohio withdrew his amendment to the committee amendment, and now seeks to strike out all of the House language in section 205.

Mr. GEORGE. Mr. President, I ask that the committee amendment be acted upon first. I believe that would be the usual procedure.

The ACTING PRESIDENT pro tempore. That is the usual procedure.

The question is on agreeing to the committee amendment on page 99, after line 9.

The amendment was agreed to.

Mr. BURTON. Mr. President, I now move to strike out section 205, as amended, which will also carry out the full effect of the committee amendment and give the conferees full opportunity to discuss the matter on its merits.

Mr. GEORGE. Mr. President, I should prefer that course, rather than to be put in an untenable position, but I will have to resist it, because it would result in a loss of revenue of about $100,000,000. I hope the amendment will not be agreed to.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Ohio, to strike out section 205 on page 99. [Putting the question.] The "noes" appear to have it.

Mr. BURTON. Mr. President, I ask for a division.

On a division, the amendment was rejected.

Mr. GEORGE. Mr. President, I ask that the Senate recur to the committee amendment on page 69, after line 5. The Senator from Connecticut [Mr. Danaher] has returned to the Chamber.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The LEGISLATIVE CLERK. On page 69, after line 5, it is proposed to insert:

SEC. 123. Disallowance of certain deductions attributable to business operated by individual at loss for 5 years.

(a) In general: Supplement B of chapter 1 of the Internal Revenue Code is amended by adding at the end thereof the following new section:

"SEC. 130. Limitation on deductions allowable to individuals in certain cases.

"(a) Recomputation of net income: If the deductions allowable to an individual (except for the provisions of this section) and attributable to a trade or business carried on by him for 5 consecutive taxable years have, in each of such years, exceeded the gross income derived from such trade or business, the net income of such individual for each of such years shall be recomputed. For the purpose of such recomputation, such deductions shall be allowed only to the extent of $20,000 plus the gross income attributable to such a trade or business, and no net operating loss deduction shall be allowed.

"(b) Redetermination of tax: Upon the basis of the net income computed under the provisions of subsection (a), the tax imposed by this chapter shall be redetermined for each such taxable year to which this chapter is applicable and any excess thereof, resulting solely from the disallowance of the deductions specified in subsection (a), over the amount of the tax previously determined shall be assessed and collected as a deficiency.

"(c) Suspension of statute of limitations: Notwithstanding the provisions of section 275, any deficiency determined under subsection (b) for a taxable year preceding the fifth taxable year referred to in subsection (a) may be assessed within 1 year after the expiration of the time prescribed by law for the assessment of a deficiency for such fifth taxable year."

(b) Effective date of amendment: The amendment made by subsection (a) shall be applicable to taxable years beginning after December 31, 1938, but no deficiency shall be assessed or collected thereunder for any taxable year beginning prior to January 1, 1944.

Mr. GEORGE. Mr. President, this amendment was adopted by a majority vote of the Committee on Finance. The distinguished Senator from Connecticut is interested in the amendment, and he will explain to the Senate its purpose.

Mr. DANAHER. Mr. President, the problem with which this amendment deals arises from the fact that the Internal Revenue Code expressly states:

In computing net income there shall be allowed as losses all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business.

The law does not expressly so state, but the intent is clear, and Congress has hitherto authorized a reduction of gross income by the cost of producing such income before the determination of tax liability. Notwithstanding the clear intent of the Congress in that respect, but because there has been no prohibition otherwise, many persons with large sources of income from dividends, salaries, or businesses seek to avoid the payment of taxes in the measure computable under the statutes by directing large portions of their income, or large blocks of capital, into collateral fields wholly independent of the source from which their original gross income was computable.

That is particularly true of that type of operation which may be called the hobby form of investment. Time and time again the Commissioner of Internal Revenue has sought to reach the losses which have been taken by individuals from the operation of hobbies. In every single case which has gone to the courts, so far as I know, and so far as research discloses, the Commissioner has lost, simply for the reason that the Congress has never made it plain that its intention is to permit as legitimate deductions the cost of operating a business which has produced income.

The Finance Committee took this question under consideration last year. It came before the Senate when the 1942 tax bill was before us. At that time the Senate adopted an amendment substantially similar to that appearing on page 69, line 14, of the bill now pending. The Finance Committee, by an overwhelming vote, has reported this particular amendment.

The chief difference between the amendment as drafted this year and that which was before the Senate last year is that we authorize a deduction of $20,000 before the amendment shall have application, instead of $10,000, which was the figure we adopted last year.

The amendment would operate in this way: In the year in which a tax loss is claimed by an individual from the operation of what I am here describing as a collateral venture, the Commissioner would be authorized to recompute the income of the particular individual for each of 5 years. If in the 5 preceding years there had been an annual loss in excess of $20,000 this amendment would propose that it be presumed that the individual did not engage in that particular venture for profit. If a person loses $100,000 in the aggregate over a period of 5 years with an annual loss in excess of $20,000, he certainly must be extremely naive if he convinces himself that it was a transaction entered into for profit.

When the recomputation is made in the fifth year there would be deductible from the net income subject to tax the excess above $20,000 up to the amount of the loss claimed in the fifth year, and the individual would be required to pay a tax only on the difference, or the excess between the $20,000 loss and the actual figure of loss, whatever it might be.

Mr. President, allow me to cite a typical case. In volume 8 of the decisions of the Board of Tax Appeals, at page 651, there appears a decision in the case of George D. Widener et al. against Commissioner of Internal Revenue. Involved in the case were the Widener horse racing stables. This particular decision was promulgated on October 8, 1927. It covered the 5 years from 1919 to 1922, both inclusive.

The receipts in 1919 were $54,000. I shall give only round figures. The expenses were $74,000. The deficit was $20,717, all of which was deductible in favor of the taxpayer. In 1920 the receipts were $70,600. The expenses were $177,000. The deficit was $106,000, deductible in favor of the taxpayer. In 1921 the receipts were $40,400. The expenses were $144,000, and the deficit was $94,000. In 1922 the receipts were $29,600. The expenses were $141,400, and the deficit was $111,800, all of which was deductible before taxes.

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

Mr. DANAHER. Yes; I am glad to yield.

Mr. TYDINGS. What would have happened to that hobby if it had been a success instead of a failure? Would the taxpayer have had to pay on his profit as a part of his income?

Mr. DANAHER. Yes.

Mr. TYDINGS. So, as I understand, if those who engage in side lines, as they might be called, sustain a loss they receive a credit for the loss only after the $20,000 point has been reached. Is that correct?

Mr. DANAHER. Yes. Then if in any one of the 5 years the business should in fact show a profit the entire chain would be broken, and this amendment would not apply.

Mr. TYDINGS. The loss must be for 5 consecutive years?

Mr. DANAHER. Five consecutive years.

Mr. TYDINGS. If there is a loss for 5 consecutive years, am I to understand the Senator to say that for tax-deduction purposes $20,000 of that loss in the fifth year is still deductible?

Mr. DANAHER. Yes; it is still deductible.

Mr. TYDINGS. Would that mean the average for the 5-year period, or is the $20,000 an arbitrary limitation?

Mr. DANAHER. The 5-year period would have nothing to do with it except from the standpoint of establishing the presumption that the business was not one which was entered into for profit. Further answering the Senator's question, the tax would be payable only to the extent that there were no disallowances above the $20,000, which we admit—and properly so—as a cut-off point at which this amendment would apply as a minimum.

Mr. TYDINGS. So the tax from $20,000 downward on the loss would not apply directly or indirectly.

Mr. DANAHER. That is correct.

Mr. TYDINGS. But any amount from $20,000 above would not be considered as a loss, and would therefore be taxable.

Mr. DANAHER. That is correct.

Mr. TYDINGS. And it must be 5 years hand running.

Mr. DANAHER. Yes.

Mr. TYDINGS. But, to illustrate, if in the fifth year the loss is $25,000, the taxpayer would be entitled to take a credit of $20,000 and would be denied credit only for $5,000. Is that correct?

Mr. DANAHER. That is correct. Allow me to give the Senator a typical case, and let me add further that there are manifold cases of this character.

The extent of loss to the Government's revenue is incalculable for the simple reason that we have never sought directly to reach these losses.

Mr. TYDINGS. Before giving me the case, will the Senator allow me to ask another question? I am thoroughly in the dark on this subject.

Mr. DANAHER. I yield.

Mr. TYDINGS. Whenever a man is engaged in two businesses of any consequence, is his secondary or smaller business considered to be in the category of a hobby or side line?

Mr. DANAHER. Of course not. The test is, Is he engaged in a trade or a business? That being the test, he may be engaged in a dozen businesses and that fact alone has nothing to do with it. The point is that for 5 consecutive years he takes a loss of $20,000 and in the fifth year we simply say to him, "You shall not take as a tax deduction for this year an amount of loss in excess of $20,000."

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

The PRESIDING OFFICER (Mr. TUNNELL in the chair). Does the Senator from Connecticut yield to the Senator from Maryland?

Mr. DANAHER. I yield.

Mr. TYDINGS. Allow me to cite a case to the Senator which will probably interest some Senators from the West, and, although it has not been called to my attention, it may interest some of those from the East.

For 10 or 15 years in my State of Maryland, there has been a tremendous upsurge in the desire of all classes of farmers to possess purebred dairy and beef cattle herds. A cow bears a calf about once a year, let us say. So if a man buys purebred stock he makes a considerable investment. Good bulls sell anywhere from $500 to $15,000 or $20,000 for top quality.

Without disagreeing with the horse-racing case cited in the Senator's argument, I am thinking about a legitimate business which is quite often conducted by a man who is engaged in other businesses. Considering the fact that the building up of a beef or dairy herd is a very slow process, and often entails losses until the owner of the cattle arrives at the point where his reputation is made, I am wondering whether the 5-year provision, as I understand the Senator's interpretation of it, would not include a class which I know he does not desire to include.

Mr. DANAHER. Allow me to say to the Senator from Maryland that after everything is said and done, the whole question is, Who is to bear the cost of the experimental operation and development of the herd? Is it to be the taxpayer with large sources of individual income aside from that which is involved in the development of the herd, or all the taxpayers of the United States?

Mr. TYDINGS. Will the Senator allow me to interrupt him at that point?

Mr. DANAHER. Yes.

Mr. TYDINGS. I am not familiar with the detailed facts except from general information and accounts carried in the newspapers, but I have in mind a farmer in Maryland who sought to obtain for himself one of the very finest herds of dairy cattle in the country. I believe he has been engaged in the business for about 15 years. For a long time he did not sell many of his cattle, except his inferior stock, but he studied breeding and worked on the subject and had the good fortune to sell single cows at prices from $5,000 to $8,000 and bulls for as much or more. As I have said, I am not familiar with the facts in this case, but I know it was a bona fide venture a long-time one, and that the loss entailed would have covered a period in excess of 5 years. Therefore it might be argued that the general public was aiding him in building up the herd by the exemption to which the Senator refers. On the other hand, when the herd did go into "pay dirt," so to speak, and he did make a profit, the tax was abnormally high that year because that was the "year of the harvest," so to speak. So I am wondering if the public in that particular case would not have gotten back what perhaps the taxpayer should have paid in the earlier years.

Mr. DANAHER. It is not different from exploring for oil; it is not different from conducting any other type of business operation. But let me, in order to clarify the matter, state a case to the Senator. I can assure him it is typical of those to which this amendment would apply. Let us suppose that there are two individuals and each has an income from salaries and dividends of $250,000. One individual has no losses to offset against this income, while the other has a loss of $50,000 from the operation of a racing stable or from the development of a herd of cattle or from the development of a herd of polo ponies—and we have had cases like that presented to us. Now let us assume that the loss of $50,000 occurs in the calendar year 1944, the present year, and that this is the fifth consecutive taxable year in which a net loss has been incurred from the operation of the racing stable or from the hobby; on his net taxable income of $250,000 the first individual, under the bill which has been reported to the Senate, would pay a Federal income tax of approximately $203,000, which would leave a net income to that individual of $47,000 after the tax. The second individual who was operating the side-line venture, who would have a taxable net income of $200,000 would pay an income tax of approximately $157,000 under the Finance Committee bill without this provision in it, and therefore he would have $43,000 left after taxes.

It is apparent that the individual who operates the racing stable is left with only $4,000 less than the first individual after taxes, and meanwhile he has his equity capital invested, and that the Government receives from the second individual $46,000 less in taxes. In other words, under the Finance Committee bill, without this provision, the United States Government—and that means all the taxpayers—would bear 92 percent of the net cost of the racing-stable hobby, while the individual taxpayer would bear only 8 percent of the net cost. If the Senate feels that that is not an utterly unconscionable situation in the light of the desperate need of our Government for revenue, then I am mistaken.

The Finance Committee has felt that we could not properly in these days of such need for revenue saddle the cost of 92 or 95 percent of the operations of these side-line ventures on the taxpayers of the United States, leaving the small difference to be expended by the individuals who engage in such ventures.

I should like to cite further to the Senator from Maryland a paragraph from the opinion of Commissioner Landson, of the Board of Tax Appeals, when the Widener case was before it. I quote from his opinion:

> None of the so-called business activities of the petitioners during the taxable years appear to have resulted in profit or to have been conducted with any hope of profit. Had these enterprises been conducted for gain there should have been some sales of proved and winning horses at profitable prices. It appears, however, that only those animals that had been tested and found wanting in speed were sold. Apparently all the sales set forth in the record were made not for the purpose of gain but to realize losses already manifest, in proved lack of racing qualities or to prevent further losses. * * *
>
> The taxes here in controversy were imposed by act of Congress at a time when the Republic was in desperate need of revenue.

That is identical with our present situation—

> Every good citizen values the privilege of contributing to the public income in proportion to his ability to pay.

But, as Commissioner Landson concluded:

> I am convinced that Congress had incomes such as we have under consideration in mind when it provided that there should be no deduction from gross income on account of personal expenses.

Right there we differentiate in our minds between the type of enterprise which yields the gross income from which losses may properly be deductible and that type of venture which purposefully is caused to result in losses on the side that have nothing to do with the original source of income.

> To permit these petitioners and others of their type to reduce their tax liability by the deductions of the costs of maintaining racing stables, expensive estates, and other similar activities, would result in a shifting of the burden of public taxation which it seems to me would be wholly inconsistent with the public interest. I am satisfied that these petitioners have not sustained the burden of proof necessary for us to find that the alleged losses were sustained during the taxable year in a business conducted for profit. I feel that the allowance of the deductions claimed would be contrary to the intent of Congress, detrimental to the public interest and a dangerous perversion of the sound and equitable principles upon which just taxation must rest.

I heartily concur in Commissioner Landson's observations.

Now, Mr. President, let me point further to section 123 at page 69 of the bill. The amendment which the committee has reported to the Senate would limit the deductible loss from the operation of the racing stable in the example I gave the Senator from Maryland to $20,000, so that the net taxable income of the second individual would amount to $230,000, and upon this sum a Federal income tax of $184,000 would be paid. The individual would be left after taxes the difference between $200,000 and $184,000 or $16,000. In this case the reduction of the tax paid as the result of the hobby loss would amount only to $19,000 while the reduction of income after tax would be $31,000. These two figures, of course, add to $50,000, the net cost of operating the hobby, and in this example the Government, or the taxpayers, would bear 38 percent of the net cost of the hobby as against 92 percent; while the taxpayer would pay 62 percent of the net cost as compared with 8 percent in the example I gave.

It seems to me, Mr. President, I have said enough to outline clearly what we seek to establish and the basis of fact upon which the committee action proceeded.

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

Mr. DANAHER. Gladly.

Mr. BURTON. As I understand the amendment, the computations made relate to the preceding 5 years.

Mr. DANAHER. That is correct.

Mr. BURTON. As I read the last subsection there would be no deficiency assessed or collected for any taxable year prior to January 1, 1944; so it is really prospective in its operations.

Mr. DANAHER. The Senator is absolutely correct; it would apply only to the year in which the loss is claimed, and that is this year.

Mr. BARKLEY. Mr. President, this matter is not quite so simple as the Senator who has explained it would have us believe. He has selected an outstanding breeder of thoroughbred horses, Mr. Joseph E. Widener, who has for many years been engaged in the breeding of fine horses and in racing them. The Senator has picked that out as a typical case

which would be affected by the amendment. It is not at all a typical case. There have been in this country very few Joseph E. Wideners who may have been interested in the development of thoroughbred horses, and there is nothing that I know of, morally or socially, against the development of thoroughbred horses, any more than there is against the development of thoroughbred cattle, or thoroughbred hogs, or thoroughbred men and women, for that matter We are all seeking excellence in the breeding of all sorts of live things, even including chickens and turkeys, and everything else alive.

There are many individuals in this country who are engaged in that sort of enterprise for profit, not as a side line, but as a business. All the individual in the so-called typical instance referred to by the Senator from Connecticut has to do in order to avoid the effect of the amendment is to incorporate, and some have already incorporated. It applies only to individuals.

Mr. CLARK of Missouri. Will the Senator yield?

Mr. BARKLEY. In just a moment. It applies only to individuals, so that every farmer who desires to develop a line of thoroughbred livestock, as the Senator from Maryland indicated a while ago in his question, may be compelled to take losses for 5 years in developing that thoroughbred line of cattle, or hogs, or horses, and in order to avoid the evil effects of this proposed amendment he would have to incorporate his farm and his land, and thereby he would escape the effect of it.

What the amendment does is to require the individual to have his taxes recomputed for previous years, if he has sustained a loss for 5 successive years. The fact that it is not retroactive now as to the last 5 years has no effect on the viciousness of it for the future.

Mr. DANAHER. Of course, the Senator understands that in the recomputation there would be no tax liability after 1943.

Mr. BARKLEY. I understand that. I now yield to the Senator from Missouri.

Mr. CLARK of Missouri. Mr. President, this is generally known as the "Marshall Field amendment," as I understand it. The idea has been that Mr. Field was engaged in the activity of starting newspapers and other publications around over the country for the purpose of influencing and, as some of us think, corrupting, the public mind, simply as a device to reduce his income taxes.

I may say that I voted for the amendment in the committee, under the impression that it would have some effect on Mr. Field's activities. It was on that basis that the amendment was carried in the committee. I should like to ask the Senator from Kentucky whether it is true or not that the amendment as at present drawn would apply to such a case as Mr. Field's.

Mr. BARKLEY. It is my understanding that Mr. Marshall Field has incorporated his newspaper enterprises, and therefore, it would not apply to him.

Mr. CLARK of Missouri. It would not apply to him?

Mr. BARKLEY. No.

Mr. CLARK of Missouri. Then, of course, I would be against the amendment. I should simply like to point out an illustration along the line of that suggested by the Senator from Maryland, a case with which I was very familiar. It was the case of my own father-in-law, the late Wilbur W. Marsh, of Waterloo, Iowa, who was probably the most prominent and most eminent breeder of Guernsey cattle who ever lived in the United States. He took all the prizes and all the cups, and was the first man ever awarded by the National Cattle Raisers' Association the title of "Master Breeder." When he died it so happened that his estate was insolvent, and in settling it up I discovered that while he had established a superlative reputation as a breeder of Guernsey cattle, while he had made great contributions to the development of the Guernsey breed of dairy cattle, had made very great contributions to that science, had won all the prizes, had established many records for selling a bull and a cow for the highest price ever established for that breed, he had lost a great deal of money through his activity. When I undertook to clear up the record of his activities for over 20 years I found that they had cost him and his estate something over $300,000, and that his great scientific development of the Guernsey breed of cattle had wrecked his own private business. Yet his contribution to the science of breeding was probably more important than his contributions in his business, important as that was.

It does seem to me that the fact that his primary business was as a manufacturer of cream separators should not have stood in the way of his being able to maintain his interest in the general dairying science to the extent of allowing him to make expenditures, if he desired to do so, for the development of a great breed of dairy cattle. It does seem to me that any amendment which would be calculated to stop such activities as that is an unfair amendment.

Mr. BARKLEY. Mr. President, I appreciate the Senator's contribution to the discussion. Let me point out that the amendment was originally called the "Marshall Field amendment," because in its inception it was intended to obviate the possibility that when Marshall Field, in his newspaper enterprises, lost money for 5 years and got a deduction in his individual income tax during those 5 years, he then would have to go back and recompute his taxes for the entire 5 years. But there is only one Marshall Field in the United States and only one Joseph E. Widener in the United States. The pending amendment would apply to everyone who had the initiative to start out on a new business, we will say, regardless of whether he had any other business, who had accumulated a sufficient amount of money to initiate a new business. It may be that he would have to make a great deal of research over a period of years in order to determine whether the business would be profitable. If such an individual has a loss during 5 consecutive years, and then in the sixth year has a profit, he must go back and recompute his taxes for the entire 5 years on an annual basis, and he can, under the amendment, be allowed a deduction of only $20,000 for the 5-year period. Not only is he required to pay the taxes——

Mr. DANAHER. Mr. President, that is not correct. Will the Senator yield?

Mr. BARKLEY. Let me finish my statement. He is required in the sixth year to pay the taxes on the profit he makes that year, and out of that sixth year profit he must pay the taxes assessed against him for the past 5-year period.

Mr. DANAHER. Will the Senator yield?

Mr. BARKLEY. I yield.

Mr. DANAHER. The Senator is just as wrong as he can be, and that is going a long way. Let me say to the Senator from Kentucky that the taxpayer would pay the taxes in the fifth year only on the excess of his profits above $20,000.

Mr. BARKLEY. I am not talking about the fifth year, I am talking about the sixth year.

Mr. DANAHER. That is equally true of the sixth year.

Mr. BARKLEY. Then what is the object of going back and recomputing his taxes for the 5-year period, unless it is intended to recoup for the Treasury some of the money he may acquire in the sixth year?

Mr. DANAHER. Will the Senator yield further?

Mr. BARKLEY. I yield.

Mr. DANAHER. Merely because of the fact that we all recognize that it is common experience that a business can be losing money in 1944, in 1945, and it may be in 1946, but all in the process of development; but if we are talking about some test by which to decide whether or not an individual has entered into a transaction for profit or not, we have created it by the standard we have fixed.

Let me say further to the Senator from Kentucky that he has said that this amendment in its inception was the "Marshall Field amendment," so-called.

Mr. BARKLEY. That is what it was called.

Mr. DANAHER. I do not know anything about the vulgar nomenclature to which the Senator refers, but it is not mine, and I will tell the Senator that, so far as I am concerned, this problem first arose back in the district of Connecticut, when it came to my notice in the case of Morton F. Plant against Walsh, collector, when Judge Thomas, then on the Federal bench in Connecticut, in 280 Federal Reporter, 722, handed down a decision which exempted Morton F. Plant from the payment of taxes. At that time I was busily engaged in attempting to make Mr. Plant pay his just share of the tax burden of the United States, and not charge off all his losses against the other taxpayers and from that time on I have been interested in trying to reach this problem. It has nothing to do with Marshall Field, and, so far as I am concerned, he is a department store.

Mr. BARKLEY. It was known, as the Senator from Missouri [Mr. CLARK] has indicated, when it was first brought in, as the "Marshall Field amendment."

Mr. CLARK of Missouri. I voted for it under that misapprehension.

Mr. BARKLEY. It is now known as the hobby amendment. It is designed to reach persons who have a hobby, but it reaches hundreds of thousands of persons in this country whose hobby is to try to make an honest living out of some business into which they have placed their money and in which they have exercised an initiative, in connection with which they recognized before they got into it that they might have losses over a period of years before the profit stage was reached.

Mr. DANAHER. I have no knowledge whatever of Mr. Field's losses in the newspaper field. For all I know he is making money. But I have the record of the case in which the Commissioner of Internal Revenue had to act in reference to Marshall Field in 1932. From 1924 to 1928, inclusive, the losses on Marshall Field's racing stables were as follows: On his American racing stables, in 1925 the loss was $130,000; in 1926 it was $134,000; in 1927 it was $72,000, and in 1928 it was $50,000. On his English racing stables, his loss in 1924 was $37,000; in 1925, $36,000; in 1926, $36,000; in 1927, $22,000, and in 1928, $51,000. I supply only round figures. I want to insist to the Senate that every single dime of that, to the extent of the taxability of the income as of those dates, was coming out of the American taxpayers, without his sharing in the losses which he thus absorbed in the interest of horse racing.

Mr. BARKLEY. Mr. President, it has been easy and would be easy for any Senator to pick out a few individuals of great wealth who interest themselves in some activity in which they may sustain losses. It is not in their behalf that I am speaking, although I do not think there is any rule of society or law or philosophy that ought to prevent a man from having a hobby if he wants one.

Mr. DANAHER. I want them to have hobbies.

Mr. BARKLEY. I have a hobby. I do not make any money out of it.

Mr. DANAHER. But I do not want the taxpayers to be called upon to pay 92 percent of the loss.

Mr. BARKLEY. Some man may think his hobby is a legitimate business.

Mr. DANAHER. In that case, if the gross income of the individual is derivable from that business, he may charge off the loss.

Mr. BARKLEY. This amendment was adopted rather nonchalantly by the Senate at the last session.

Mr. DANAHER. But not in the Senate Finance Committee in this session.

Mr. BARKLEY. I think it was. No one was heard on it. No one was invited before the committee to testify as to the effect of the amendment. The Senator offered it during the last days of the consideration of the bill, and it was adopted. In connection with the last tax bill, it was adopted by the Senate without much debate, and went out in conference, because the House of Representatives felt—I think properly so—that the Senate ought not to devote itself to these little chicken-feed things in order to clutter up a bill with apparently innocent amendments which affected hundreds of thousands of people in the United States.

I have in mind a man who is not incorporated, who has been for years interested in the sale of automobiles. He has not been able to sell a new automobile since the war started. No one knows how long the war will last. If that man should have sustained a loss during 5 years because he could not get the things to sell out of which he can make a profit, but is holding on by the skin of his teeth hoping that when the war is over he may be able to recoup by continuing his business as formerly, he would be penalized because of the fact that he has kept his employees, retained his business, although he has sustained a loss during the 5 years in which he was compelled to do business on a restricted basis.

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

Mr. BARKLEY. I yield. I do not wish to take a great deal of time, but I shall yield.

Mr. DANAHER. I realize the earnestness of the Senator from Kentucky, but the Senator cannot minimize this loophole in the tax law by calling it chicken feed. These cases are not chicken feed. These cases represent important money, and even in the horse-breeding section in Kentucky they would say "this ain't hay."

Mr. BARKLEY. Of course, the Senator realizes that if this were much of a loophole the Treasury would have recommended it. The Treasury did not discover it, and did not recommend it.

Mr. DANAHER. The Treasury did not want it. Let me point this out to the Senator from Kentucky. He talks about only a few cases. I have here in my hand the case files of a half a dozen or eight cases that are tremendously important, that will produce millions in revenue if we can reach them all. And if the Senator wants to examine them I will show them to him. I have a breakdown on each one of them right out of the books.

Mr. BARKLEY. The Senator might have a half a dozen or a dozen or even a hundred cases. But there are literally thousands of individuals in this country who are affected by this amendment, and the only way they can avoid the effect of it is to incorporate. Then they are free from it. Then it does not apply to them. Why should a stock breeder who starts out to build up a great herd of cattle, who buys expensive breeding cattle, who knows in advance that he cannot make any money out of it for 4 or 5 years, be required to incorporate his farm in order to avoid the provisions of this amendment, which he would have to do? If he is a corporation, the amendment does not apply to him. Then he gets his deductions for all 5 years. But if he is an individual and not a corporation, he is denied the deduction. Even after the 5-year period is over, under this amendment, he is denied any net deductions at all for any of the 5 years.

In my judgment, this is unfair to many individuals throughout this country, not only to those engaged in stock breeding. The Senator has pointed out a few people interested in horses. I presume the time has not come yet when mankind does not love a beautiful horse. I do not know that there is any ban socially on the excellence of a horse. I remember the time when I had to fight here year after year for a law which would encourage the breeding of thoroughbred horses because they were needed in the Cavalry of the Army of the United States. Now that we have mechanized our Cavalry somewhat, the need is not so acute; but we have not gotten far enough away from that period to eschew the pleasure of looking upon a beautiful horse, whether at a race or in a horse show, or whether some handsome gentleman like the Senator from Connecticut is riding such a horse, with mane and tail up in the air, prancing around here—I mean the horse. [Laughter.]

So far as I know there is no ban against horses, and somebody with money, somebody who can afford to take losses, must engage in that initiative enterprise or the thoroughbred horse industry, the thoroughbred cattle industry, the thoroughbred hog industry will deteriorate. But this does not apply simply to those who breed race horses, to those who breed cattle, or to those who breed hogs. It applies to every man who wants to go into the mining business, who may engage in research over a period of years. Such a man may take losses for 5 years, whether the business be the mining of gold, silver, iron, copper, or anything else. He may realize that he must take a loss. He may have $100,000 that he is willing to risk in that sort of venture. He takes his loss for 5 years. In the sixth year, we will say as an illustration, he is able to make a profit.

Mr. MILLIKIN. Very seldom.

Mr. BARKLEY. The Senator from Colorado says "very seldom." But let us suppose for the sake of argument that in the sixth year he does make a profit. Then the mere fact that he has had a loss for 5 years makes it necessary for him to go back to the Treasury and recompute his tax for all 5 of those years, and when a man's tax may be recomputed over a period of 5 years, it means that he does not know in advance what his tax is going to be during the 5-year period. He does not know at the end of the 5-year period what it is going to be for the sixth year, unless he goes back and recomputes it for those 5 years. And if he has had a loss in the industry or the enterprise during the 5 years, and has a gain in the sixth year or the seventh, he must pay his back taxes in the 5 years in which he sustained a loss out of the profits he has made in the sixth or the seventh year. All his profit might be wiped out in that year, merely because he was willing to risk his money in the enterprise and willing to take a loss for a number of years.

The same situation would apply to operations in the oil fields. The Senator from Oklahoma [Mr. THOMAS] represents an oil State. The Senator from Texas [Mr. O'DANIEL], who does me the honor to listen to my remarks, represents an oil State. The amendment would do

the same thing to a man drilling for oil, as an individual, over a 5-year period, unless he was willing to incorporate his business; but most of the oil-drilling operations are initiated by individuals, not by large corporations. Of course, in the case of either large or small corporations, the amendment would not apply; but if the operator of an oil well were an individual who had been willing to stake his all on his chances for success in drilling for oil, he might lose everything he had for 5 years and then in the sixth year strike a gusher. In that event he would be required to recompute his income taxes for the 5 preceding years during which he sustained losses, and would have to pay income taxes for those years with his profits out of the income for the sixth year, although in the sixth year he would also be required to pay his income tax in the bracket for which he had income in that year. So, out of that 1 year's income he would not only have to pay an income tax for that year, but also would have to pay income taxes for the 5 years in which he had no net income or profit. Certainly such an activity as drilling for oil is not a hobby. It is a great enterprise and business in the United States.

The amendment would effectively discourage the initiation of new business. Many types of business require years of operation before net profits can be realized. We all know that to be so. I might mention the case of apple growers. A man operating as an individual apple grower must first plant an orchard. If he operates on as large a basis as does the Senator from Virginia [Mr. BYRD] or former Senator Townsend, of Delaware, or other individuals who grow apples on a large scale, of course he would be required to take a loss during the first years of operation. He must undergo much expense during the first years. He must plant the apple trees, he must cultivate the soil, he must prune and spray the trees; he must do all the things calculated to develop an efficient apple orchard. Yet he would know when he planted the trees that in all likelihood he could not make a profit during the first 5 years, but that if he did make a profit thereafter he would be required to recompute his income taxes based on those nonprofit years, and would be required to pay taxes for those years. Certainly that would deter any individual from making the necessary investment required in order to bring about the development of an enterprise of that sort.

As I have already stated, the amendment would apply to livestock producers and persons engaged in similar enterprises or activities in which years of operation are required before it is possible to establish profitable operations.

The fact that the amendment would not be retroactive from now contains no virtue, in my judgment. The amendment would be retroactive at the end of the fifth year from now. If a man sustained losses in 1944, 1945, 1946, 1947, and 1948, and then in 1949 enjoyed a profit, the amendment would be retroactive for the 5 preceding years, even though he might have had losses during all those years.

It is impossible to arrive at any estimate of the amount involved under the operations of the amendment. As I said a while ago, the Treasury did not recommend it. I have asked the Treasury for an estimate of the income which would be involved by the operation of the amendment. It is utterly impossible for them to compute it. They do not know whether it would bring in any income; and if it would bring in any, they do not know how much it would bring in, because they have no basis upon which to calculate such income.

In many cases the enactment of the bill with the amendment as a part of it would not achieve the purposes for which the amendment is intended. Wealthy persons could avoid the effect of the amendment by incorporating such enterprises, as I have already said. All they would have to do would be to incorporate, and therefore they would be within the safety zone, and would not have to go back and recompute their losses for a preceding 5-year period.

As a matter of principle, I think the amendment is vicious, insofar as it would allow the Government to go back and require the recomputation of income taxes previously computed on the basis of losses incurred during a period of 5 years. If a man had made a profit during those years, and had deliberately defrauded the Government of the United States, the proposition might be a different one. Even in such a case, it is questionable whether a 5-year period is not too long.

At any rate, the amendment would operate in a different way in the case of deliberate fraud on the United States during a 5-year period, as contrasted to a case in which a man has had the foresight to enter a new adventure, whether it be in timber or mining or the raising of horses or cattle or hogs, or the growing of apples, or the automobile business. The amendment would apply to every individual who had not incorporated such an enterprise or activity, no matter what the business might be. The amendment would affect not merely side lines and hobbies, but it would affect every trade. Therefore, it seems to me the amendment is a vicious one.

All a man would have to do to avoid the operation of the amendment would be to incorporate his activity, so as to enable a corporation to carry on the transaction. The average man of whom I am thinking does not have a large amount of securities which he could turn over to a corporation which he might organize in order to "beat" the operation of the amendment and avoid its application. Rich persons could incorporate such enterprises, and could turn over to the corporations sufficient of the securities from which they derive income, in order to pay the expenses. But the average man does not have sufficient securities to do that. I am speaking of the average man, not simply those persons who have been able to accumulate large sums of money and to start out on some side line.

Mr. President, that seems to me to cover my objection to the amendment. I hope it will not be adopted. It seems to me to be extremely unfair. In an endeavor to hit at a few mountain peaks which the Senator from Connecticut [Mr. DANAHER] has described, in effect it would demolish a great many hills and hillocks throughout the United States among our people. I sincerely hope the amendment will be rejected.

Mr. THOMAS of Oklahoma. Mr. President, I am not a member of the Finance Committee. Hence, I am not acquainted with the intricacies of the provisions of the pending bill. The citizens of my State do not clearly understand the so-called "hobby amendment" or the so-called "Marshall Field amendment." They do understand the operations of their own businesses. A number of the citizens of my State have called this matter to my attention, and have indicated that if the amendment is agreed to and remains in the bill and becomes law, they will be forced to change very largely the course of their operations. I have in mind one oil man in my State. This particular man has made a rather large amount of money in drilling for oil. Recently he went to the central part of my State and purchased a large tract of grass land. The land is rough, and contains some timber of no value, and rock and gravel; but it seems that the grass is nutritive, and is adapted to use for grazing purposes. So this particular youngster, as an outlet for his activities and for his money, bought up this tract of ground in Murray County, close to Sulphur, Okla., and began to develop livestock, especially cattle. He did not seek to develop the dairy brand of cattle, but rather, the beef brand. He has now been operating for some years, and already has made an outstanding success. The ranch he operates now is one of the outstanding ranches in my State; in fact, I think I can say it is one of the outstanding ranches in the entire United States. He has spent a large sum of money in developing this ranch. He has a very commodious farm house and numerous barns, and the ranch is well-fenced. He has devoted his attention to the development of a high class white-face cattle. Each year he puts on an auction sale of about 50 head of cattle. The cattle he produces which would not be favored in an auction sale he sells on the regular commercial market. The auction sale is widely advertised, and between 1,000 and 1,500 persons attend the sale. If this amendment should become law, I do not think he could continue the operation of this ranch, if he must depend upon profits for the maintenance of the ranch. If he can charge off losses when he sustains losses, that is one thing; but as I understand, under the terms of the pending amendment, he could charge off only $20,000 a year. If I am not correct, I should like to be corrected.

Mr. BARKLEY. The Senator is correct. In other words, in the recomputation of the 5-year loss he would be permitted to charge off only $20,000.

Mr. CLARK of Missouri. In that way it becomes retroactive.

Mr. BARKLEY. Yes. It does not apply to the years up to now, but it applies to all the years in the future, when

there is a 5-year loss, and thus becomes retroactive.

Mr. THOMAS of Oklahoma. Mr. President, I cite this ranch as typical. There are a number of similar ranches in my State. This particular ranch is owned by Roy J. Turner. He held a sale last Monday, January 10. I knew the sale was to take place, and I desired to attend it, but because this bill was coming before the Senate I had to return to Washington. After the sale was over I telegraphed Mr. Turner for a statement as to how much he had received for some of the cattle he sold. I have a telegram from him dated yesterday, January 14. I had telegraphed to him asking for a statement as to the amount that the cattle which he sold brought at the auction sale. This is his reply:

Top bull thirty-eight thousand setting all-time new record.

As I understand, if this amendment should become law, no one would dare to pay $38,000 for a bull, because the bull might die, and he could charge off only $20,000 of the $38,000 price. So if my interpretation is correct, the amendment would set a price on prize bulls of not more than $20,000.

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

Mr. THOMAS of Oklahoma. I yield.

Mr. CLARK of Missouri. Offhand, it sounds like an outrageous proposal for anyone to pay $38,000 for a particular bull. Nevertheless, it is entirely true that in the cattle-breeding business, the dairy business, the horse business, and the hog-producing business, the selection of these very excellent specimens has tremendously improved the breed and advanced the whole science of food production in the United States to a very great extent.

Mr. THOMAS of Oklahoma. I submit this information in support of the contention that not all hobbies are losing ventures.

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

Mr. THOMAS of Oklahoma. I yield.

Mr. DANAHER. In the case which the Senator has cited, he has stated that he understands that this amendment would have such and such an effect. Please let me assure the Senator that in the very case which the Senator cites, the ranch owner would be able to deduct $100,000 losses, if the losses amounted to that much, plus $20,000, which we add. Obviously, it would be of no advantage whatever unless an individual had so much income that he took it from some unrelated source and put it into the particular venture to which the Senator refers. I can assure the Senator that this amendment has no application whatever along the lines suggested by him.

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

Mr. THOMAS of Oklahoma. I yield.

Mr. BARKLEY. In that connection, if he should happen to sell a $38,000 bull every year of the 5 years, which he might well do, he would not be permitted to take a loss in any one of those years of more than $20,000 on such a bull.

Mr. THOMAS of Oklahoma. Mr. President, it seems to me that those who advocate this amendment are presuming upon the alleged fact that some persons are dishonest in making their tax returns. If that is the theory upon which they proceed, that sets up one proposition. But in this particular case, Mr. Turner, at least this year, has made money. As he states, the top bull brought $38,000, setting an all-time new record for high prices for bulls. He also states that two bulls brought $20,500 each, and that one bull brought $11,000. He sold 50 bulls for $202,000. The average price for each bull was in excess of $4,000.

Mr. President, Mr. Turner is under the impression that if this amendment were adopted he would be so hampered that he would not dare to take a chance in trying to maintain this expensive establishment.

I have in mind another citizen of my State who, a few years ago, undertook as a hobby the development of pecans. Oklahoma is covered with wild native pecan trees. By grafting to those native trees a particular variety, the yield is greatly increased. The pecan business has been so improved in my State, mainly because one man had a hobby, that during the past year Oklahoma produced more than 20,000,000 pounds of pecans. Allowing 50,000 pounds of pecans to a car, there would be 400 cars of pecans. Those cars made into trains would make 8 trains of 50 cars each. In my State that is largely the result of the hobby of 1 man, who made a large sum of money in the development of a life-insurance company.

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

Mr. THOMAS of Oklahoma. I yield.

Mr. ROBERTSON. I am interested in the telegram which the Senator read, stating that one man purchased a bull for $38,000.

Mr. THOMAS of Oklahoma. That is correct.

Mr. ROBERTSON. Turner bulls are known all over the cattle-raising country, particularly among Hereford herds. Anyone who has a top Turner bull is assured of the sale of his livestock at the highest price; and when he pays $38,000 for a bull he gets about $8,000 worth of bull and about $30,000 worth of advertising. In his income-tax return he should deduct $30,000 for advertising.

Mr. THOMAS of Oklahoma. Mr. President, it is my fear that if this amendment should remain in the bill and become law, it would retard and discourage the activity in which a number of my constituents are now engaging. What I say about my constituents I could say about the constituents of other Senators.

I remember that some years ago an oil man came to my State from Pennsylvania. He had some experience, but he did not have very much money. He obtained leases on a large number of tracts of school land which were thought to have oil possibilities. He went to his friends back East and induced them to go into the venture with him and furnish money to drill wells. He did not organize a corporation. He enjoyed the confidence of his friends, and they furnished the money. He began to drill these school-land sections. I think he drilled more than 15 wells before he struck oil.

I am asked if the man to whom I refer is Mr. Marland. His name is E. W. Marland. Later he organized a company known as the E. W. Marland Oil Co. At one time his personal wealth was approximately $70,000,000. Later he became Governor of my State. He is well known in the oil world. He expended many millions of dollars of his friends' money and his own money before he struck oil.

Under the terms of this amendment, as I understand it, if it had been the law at the time when he struck his first oil well, it might not only have broken him but likewise his friends. I do not believe the Congress is justified in writing such a provision into the law. I am certainly opposed to it. It will stop many activities which in some years might be successful and in other years might result in a loss. If these men cannot be allowed to go on with a fair assurance of success and profit, I think they will go out of this class of business and go into some other more satisfactory and assured line.

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

Mr. THOMAS of Oklahoma. I yield.

Mr. BARKLEY. What the Senator from Oklahoma [Mr. THOMAS] has said is true, not only in connection with such enterprises as have been mentioned by him, and by me a few moments ago, namely, oil, minerals, and livestock, but during this war we have been trying to help small businesses in some way. We have legislated in their behalf and set up an agency to aid them. We know that many small businessmen have gone out of business and many others are hanging on by their eyelids, and taking a loss with the hope that when the war is over they will be able to reestablish themselves on a solid basis.

Leaving aside livestock of all kinds, minerals, oils, and metals of all sorts, it seems to me that we are doing small business no service by saying to the small businessman that if during this period of chaos he has been able to hang on by his eyelids in the hope that when it came to an end he would reestablish his business, and he has done so, the Government will go back over the 5-year period, recompute his taxes, and take away all the money he has made after the 5-year period in order to pay the taxes assessed during the 5 years of loss. It seems to me the possibilities for evil in this amendment are indefinite, widespread, and infinite. By its adoption we would attempt to nullify everything we have been trying to do by positive legislation in behalf of small business throughout the country.

Mr. THOMAS of Oklahoma. I thank the Senator for his contribution.

Mr. DANAHER. Mr. President, will the Senator yield to me?

Mr. THOMAS of Oklahoma. I yield.

Mr. DANAHER. Mr. President, I feel certain that the Senator from Oklahoma may have missed subsection (b) on page 70 of the bill, and I should like to read it. It reads as follows:

(b) Effective date of amendment: The amendment made by subsection (a) shall be

applicable to taxable years beginning after December 31, 1938, but no deficiency shall be assessed or collected thereunder for any taxable year beginning prior to January 1, 1944.

I merely wish the Senator from Oklahoma to realize the effect of what I have read.

Mr. THOMAS of Oklahoma. I thank the Senator.

Mr. President, it is my opinion that if this proposal becomes law it will bring to an end many activities which have heretofore been most beneficial to the country. I am advised that years ago Henry Ford used some of his money to experiment with soybeans. Earlier, soybeans were not thought to have any particular value. I can remember when cottonseed was thought to have no particular value. It was not worth hauling from the cotton gin. The cotton lint would be taken from the cottonseed and the cottonseed was condemned as being worthless. Now cottonseed is worth more than cotton lint. So years ago Mr. Ford, with plenty of money, began experimenting in order to ascertain what could be done with soybeans. As a result of his experiments, which no doubt cost him a great sum of money in the earlier years, many uses were found for soybean oil. In addition to the oil from the soybean the cake, the residue, is now most valuable. At one time the cake, which was the residue from the manufacture of cottonseed oil, was thought to be worthless, but now it is acknowledged to be one of the finest cattle feeds which can be found for fattening cattle and for the production of milk by dairy herds. The same thing is true of soybean meal. The soybean residue of meal taken after the oil has been extracted is now also one of the finest feeds which can be obtained in the cattle regions. I am doubtful if there would have been the progress which has been made in the uses of soybeans and cottonseed meal had it not been for men who were willing to make research experiment in order to see what could be done with the products to which I have referred.

I remember a colored man by the name of Dr. Carver who worked for years to find uses for the byproducts of peanuts. I do not know who financed him, but he had a laboratory; and no doubt someone furnished the money. That perhaps was the hobby of the man who furnished the money, although I am not speaking with any authority. But as the result of Dr. Carver's experiments with peanuts, he found more than 400 uses for them.

So it is my opinion that if the amendment shall be agreed to, it will tend to discourage men with means from doing research or in exploiting their hobbies.

The reasons which I have stated are sufficient to cause me to vote against the amendment.

Mr. President, as a part of my remarks, I ask to have inserted in the RECORD an article appearing in the Washington Times-Herald of about January 6, 1944. The article has a bearing on the pending subject.

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

In general it (meaning the Danaher or the so-called hobby amendment) affects everyone connected with racing, for when the root is injured, it is only a matter of time before the entire tree deteriorates. This bill is especially aimed at rich people who have hobbies, and whose losses in sustaining them continue over a period of 5 years.

WEALTH IMPROVES INDUSTRY

It is through this source of wealth that our livestock, which includes cattle, both in dairy and meat production; sheep, pigs, chickens, as well as the thoroughbred horse, remains of the highest quality. Who in ordinary circumstances could begin to stand the costs of our most select importations, let alone maintain the great breeding establishments?

It is asked, are these establishments necessary? If they were not, we would not have such horses today in this country as Sir Galahad 3d, Beau Fere, Rhodes Scholar, Imp. Blenheim, Challenger 2d, and others that are carried by men who have stood losses year after year, to benefit the entire country. In time of peace and in time of war, the entire thoroughbred production stands as an inestimable asset to the country. Millions of dollars have been turned over to War Relief centers since Pearl Harbor.

Large sums are lost in doing all this, and under existing laws, the owners have the right to make certain deductions when filing their income-tax reports. Under the proposed amendment, this privilege, to a certain extent, will be denied. The result would be the closing of some of the most outstanding breeding establishments in the United States. Likewise, the big owners would not operate on their present basis.

RECIPIENTS PAY TAX

It must be remembered that the present deductions are not entirely an evasion of income tax. The huge sums that are spent annually by breeders and owners for salaries, food, and other items, naturally go to individuals and corporations. Those individuals and corporations pay income tax. In other words, while taxes might be secured from the operators through this amendment, if they discontinue their activities the income enjoyed by employees and those who furnish supplies would be materially reduced. The Government, therefore, would suffer in the end, particularly after the war, since America today stands at the top in thoroughbred and livestock production.

Since the war there has been little competition from foreign countries other than South America. To destroy this position will be to harm foreign trade later. It is to us that England, France, and other nations will appeal for replenishments of livestock, particularly blood lines. And our present standards have been largely the responsibility of the wealthy, who are able to cope financially with the intrigues of breeding and nature.

ALL HOBBIES AFFECTED

This "hobby" amendment does not apply solely to those engaged in the breeding and raising of horses and livestock. It hits every conceivable hobby that the rich man has. It will affect many laboratories where experiments are being made that eventually help the general public. An example is Henry Ford. For many years he experimented with soybeans, and in the end found so many uses for them that the raising of the beans now stands out in the agricultural industry. There is no telling how much Mr. Ford spent on his experiment.

The question is, Would Mr. Ford have continued to experiment if the hobby amendment had been the law at that time? And it can be expected that wealthy people who have sponsored and supported our great supply of livestock would drastically curtail their activities if the amendment is enacted.

Mr. BURTON. Mr. President, I should like to propound a question to the Senator from Connecticut. Some little time ago I inquired of the Senator whether or not the proposed amendment is entirely prospective in its effect.

Mr. DANAHER. It is.

Mr. BURTON. As I understood the Senator to say, the effect of the last paragraph of the section is that, although it is applicable to taxable years beginning after December 31, 1938, no deficiency shall be assessed or collected thereunder for any taxable year beginning prior to January 1, 1944.

Mr. DANAHER. That is correct.

Mr. BURTON. I understand that to mean that in a tax return made say in March 1944, an examination might be made into preceding years, 1939, 1940, 1941, 1942, and 1943. However, there would be no deficiency assessed for those years, no matter what the situation might be, but there might be a tax assessed beginning with the year 1944.

Mr. DANAHER. That is correct.

Mr. BURTON. And then when we came to the year 1945 or the year 1946 there might be some retroactive effect, and some deficiency assessed, but the Commissioner would never go back prior to January 1, 1944.

Mr. DANAHER. The onset date would advance 1 year as the calendar year progressed. In speaking of the onset date I was speaking about a date with reference to which recomputation could be had for the purpose of determining whether or not presumptively the business was entered into for profit. That is all.

Mr. BURTON. So far as the taxpayer is concerned there might be recomputation made for the previous years, but he would not be assessed with a retroactive tax based on years prior to 1944.

Mr. DANAHER. That is correct.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 69, after line 5.

Mr. BARKLEY. Mr. President, 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:

Aiken	Ferguson	O'Daniel
Andrews	George	Overton
Austin	Gerry	Radcliffe
Bailey	Gillette	Reed
Ball	Green	Revercomb
Barkley	Gurney	Reynolds
Bone	Hayden	Robertson
Brewster	Hill	Russell
Bridges	Holman	Shipstead
Brooks	Johnson, Colo.	Stewart
Buck	Kilgore	Thomas, Idaho
Burton	La Follette	Thomas, Okla.
Bushfield	Langer	Thomas, Utah
Butler	Lodge	Truman
Capper	McClellan	Tunnell
Caraway	McFarland	Tydings
Chavez	Maloney	Walsh, Mass.
Clark, Mo.	Maybank	Wheeler
Connally	Mead	Wherry
Danaher	Millikin	White
Davis	Moore	Wiley
Downey	Murdock	Willis
Eastland	Nye	Wilson

The PRESIDING OFFICER. Sixty-nine Senators having answered to their names, a quorum is present. The question is on agreeing to the amendment on page 69.

Mr. AUSTIN. Mr. President, I should like to ask the Senator from Connecticut for his interpretation of certain language in the amendment. I think his

answer may make a great difference with my position regarding my vote.

Let us assume that in the year beginning January 1, 1944, which I understand to be the effective date of the beginning of the operation of the amendment, a taxpayer's income-tax report is reviewed for the purpose of finding out whether he had a hobby by virtue of which he took certain deductions from his gross income as a result of losses for 5 consecutive years preceding January 1, 1944. Let us assume that on recalculation there is a loss ascertained. Does the Senator interpret the language on page 70, in subsection (b) entitled "Redetermination of Tax," which ends with the phrase:

shall be redetermined for each such taxable year to which this chapter is applicable and any excess thereof, resulting solely from the disallowance of the deductions specified in subsection (a), over the amount of the tax previously determined shall be assessed and collected as a deficiency.

Does the Senator interpret that when applied to the illustration which I have assumed to cause the taxpayer to pay a tax as a deficiency based upon the amount of deduction above $20,000 provided for in section (a)?

Mr. DANAHER. Only for the year 1944. It is not retroactive; no deficiency could be assessed for 1940, for example, and a tax collected thereon.

Mr. AUSTIN. No; but it is all brought together in effect in one calculation for 1944; so that, in reality, the taxpayer would pay now on the income recalculated for the 5 preceding years, would he not?

Mr. DANAHER. Yes.

Mr. AUSTIN. That is the problem in my mind.

Mr. DANAHER. That is, to ascertain whether there is a basis for the presumption that the trade or business was in fact entered into for profit; but there is no liability for tax for the prior years to the extent of any losses previously taken.

Mr. AUSTIN. In the illustration I have assumed that it is a hobby and not a business, and I gather from the reply of the distinguished Senator from Connecticut that the tax calculated now, in 1944, on the deficiencies in each of the 5 preceding years would be much greater than it would be if the tax were calculated at the rate which prevailed in each of those years.

Mr. DANAHER. I have misled the Senator if he drew that from what I said——

Mr. AUSTIN. I did draw that conclusion.

Mr. DANAHER. Because the only deficiency would be for 1944 and it would be measured by the excess between $20,000, which we grant as a minimum exemption, and the loss this year; it has nothing to do with the other years.

Mr. AUSTIN. Let me ask the Senator another question.

Mr. DANAHER. The section which the Senator has quoted from is prospective in its operation so that in 1945, starting with the 1939 period for 5 years through 1944, the test would apply, and in 1945 the measure of loss between $20,000 and the actual loss would give rise to a claim for a deficiency to the extent of that difference.

Mr. AUSTIN. Is it the purpose of the amendment to give the taxpayer the benefit in some cases and the disadvantages in other cases of the average for 5 years, rather than to take the deductions on account of losses for 1 year?

Mr. DANAHER. No; there is no average about it. The taxpayer has the full advantage of the losses for 4 years, and in the fifth year he might make money, in which case the section would not apply at all.

Mr. AUSTIN. I understand. Very well.

Mr. BARKLEY. If the Senator from Connecticut will yield, while what he says is applicable to the past years, up to now, when we arrive at 1949, when we take the case of an individual who has had losses for 1944, 1945, 1946, 1947, and 1948, he would begin to figure his taxes in 1949. If he has had losses each year I have mentioned, from 1944 to 1949, then he recomputes his taxes for those 5 years, and the limit is $20,000 gross loss. Under the amendment, one is not allowed anything for any net loss for each of those 5 years.

Mr. DANAHER. So that we will both understand the Senator, will he please tell us what he means by a "gross loss"?

Mr. BARKLEY. What does the Senator mean by it? He says "gross income."

Mr. DANAHER. Of course.

Mr. BARKLEY. Gross income is the total amount of money one takes in.

Mr. DANAHER. Certainly; but there is no such thing as a gross loss.

Mr. BARKLEY. We figure a loss on his gross income, say, $20,000 annually. The Senator said that was the minimum, but that is the maximum.

Mr. DANAHER. I am trying to have the Senator understand, and make it plain to the Senator from Vermont, that we are talking about actual losses, and there is no encumbrance by any such term as "gross loss." It is actual loss.

Mr. AUSTIN. I wish to ask one more question. There is but one $20,000 deduction, and not five $20,000 deductions. Is that correct?

Mr. DANAHER. As of now. That is certainly so.

Mr. AUSTIN. And that will be true in the future, will it?

Mr. DANAHER. No; that will not be true in the future, for the reason that in 1949, to take the case which the Senator from Kentucky suggests, if for 5 successive years there shall be an annual loss of $20,000, if the loss be $100,000 in 5 years, there will be no penalty, there will be no deficiency, but to the extent that $100,000 of allowable deductions creates a difference between actual losses, let us say, of $125,000, there would be levyable a deficiency tax of $25,000.

Mr. AUSTIN. Will the Senator please state why a period of 5 years is selected for this calculation?

Mr. DANAHER. Simply because somewhere or other between youth and age, and night and day, we must draw a line, one of the things that is involved in every cut-off, in every excise, in every exemption for married couples, every allowance for dependent children, and what not. The tax bill is replete with cut-off periods, dates, or levels. So that is why we took this standard.

Mr. AUSTIN. The reason why my mind is groping on that point is that I cannot at this moment see why an effective amendment could not be considered which related solely to the future, beginning with January 1, 1944, and providing for a maximum amount of deduction of $20,000 loss per annum, looking to the future, and then have the incident closed with the annual calculation and payment of the tax. Why is it not done that way?

Mr. DANAHER. Let me suggest to the Senator from Vermont that a little while since—and I think this is as good time as any to bring out the point I intended to make sooner or later, anyway—I conferred with the Senator from Georgia, and supplied him with advices which came to me last evening. He told me that he felt it advisable that I state to the Senate exactly what is involved; and it bears on the Senator's question.

The situation is that the joint committee staff has gone over this language thoroughly, and felt that this was the best way to get at the point. On the other hand, the Treasury feels that very properly there may be cases where there should not be applied so automatic a standard as the $20,000 maximum on a 5-year basis might seem to imply.

The Treasury has, therefore, suggested that we go ahead with the committee action in this matter. The provision is not in the House text, it therefore will be in conference, and between now and the time of the completion of our action on the renegotiation section, and hence between now and the date of the conference, the Treasury will submit to the chairman of the committee to take to conference language which it feels will meet the very point the Senator from Vermont raises. While they had not the language in form at the present time, and since there are administrative problems which confront the Bureau of Internal Revenue which we of the committee constantly regard, as the Senator knows, I felt that their point was well taken. I had no earlier opportunity than a few minutes ago to tell the chairman of the committee of this information.

Mr. AUSTIN. Let me ask one further question.

Mr. DANAHER. Certainly.

Mr. AUSTIN. I wish to know if the Senator feels satisfied that the effect of the amendment, even in its present language, would be the same as if it provided for the future only, beginning on January 1, 1944, and in operation would mean an annual calculation which would give each one of the individuals who comes within the description a maximum deduction of $20,000 for loss, but would make each one who had a greater loss than $20,000 free to treat the surplus as income for each year in the future, payable in each year, and not reviewable at the end of 5 years?

Mr. DANAHER. That sounds like a reasonable approach to the problem. Certainly it is in the direction of what

we are all trying to do. What we really have in mind is that we think it is utterly unconscionable to allow any individual taxpayer to saddle the taxpayers of the United States, or saddle the Treasury, with 90 percent of the cost of operating a venture which does not yield to him the gross income against which he charges the loss. There cannot be any cavil on that point. That is the position of the committee.

Mr. WHITE. Mr. President——

The PRESIDING OFFICER (Mr. MURDOCK in the chair). Does the Senator from Connecticut yield to the Senator from Maine?

Mr. DANAHER. I yield.

Mr. WHITE. I wish to ask the Senator a question or two, because I find myself very much confused by the amendment.

In the first place, Members of the Senate have talked about hobbies. I take it this provision applies, as it now stands, not only to what might be called a hobby in the ordinary acceptation of that word but that it applies to all business undertakings.

Mr. DANAHER. Yes.

Mr. WHITE. For illustration, let us take a shoe manufacturer in my home town.

Mr. DANAHER. Is it a corporation or an individual?

Mr. WHITE. A corporation.

Mr. DANAHER. Then the amendment does not apply.

Mr. WHITE. It does not apply to a corporation?

Mr. DANAHER. It has nothing to do with corporations.

Mr. WHITE. Let us consider this manufacturer on the basis of an individual, then.

Mr. DANAHER. Very well.

Mr. WHITE. Suppose he manufactures shoes, and suppose, perhaps as a contribution to his shoe business, but entirely separate and apart from it, he goes into the business of manufacturing shoe findings—eyelets, shoestrings, rubber heels, and what not. Undoubtedly the man who starts in a business of that sort, something distinct from his previous occupation, faces losses in the initiation of the business. What I want to know is, if he proceeds along that line, and incurs, in fact, a loss of $25,000 a year for 5 years, does the section as it now stands mean that if in the sixth year his efforts come to fruition, and he shows a handsome profit, there must be a recomputation for the 5 lean years and that he can be allowed only $20,000 in offset for the whole period of time?

Mr. DANAHER. Let me point out to the Senator from Maine that if the man to whom he referred has no other income in the first year than the income from the business of operating a shoe-findings plant, then obviously he has no income, and there is no tax. But if he has $100,000 income from a citrus grove in Florida, and he charges off $25,000 of loss on the shoe-findings business against it, he pays a tax on the $75,000 of net income. This provision does not disturb that situation at all.

If he does that, however, for 5 consecutive years, and in the fifth year claims a loss of $25,000, we say that in the fifth year we will allow him $20,000; we will say that $5,000 must be treated as income and not deductible as a loss, and he pays a tax on that $5,000. The idea of it is that we are perfectly willing to have him exercise the poorest judgment in the world; he may dissipate all his assets he chooses in any venture he may select, but we have not the faintest intention of permitting him to exercise such poor judgment so continuously as that a transaction will be considered to have been entered into for profit, when the fact is that the taxpayers of the United States are going to have to pay 90 percent of the cost of it.

Mr. WHITE. Then, the Senator would presume a purpose in the main to operate this collateral or accessory business purely for the purpose of creating a tax loss. The thing about the proposal which disturbs me is that it looks to me as though it were merely a discouragement of ventured capital. I do not want to see anything done which will result in discouraging the American businessman from going forth on the high-road of adventure, engaging in new undertakings, and taking a chance in building up a business which may ultimately prove profitable. What troubles me about the amendment is whether it is not a discouragement of just that sort of venture.

Mr. DANAHER. Does the Senator know what the capital ventured is in some of the operations to which I have referred? The ventured capital of the individual is 8 percent, and the ventured capital at the expense of the taxpayer is 92 percent. In other words, the individuals in question are funding these enterprises at the expense of the taxpayers. Is that the Senator's idea of ventured capital?

Mr. WHITE. But the Senator's amendment is not limited exclusively to such cases as he has named.

Mr. DANAHER. It is not.

Mr. WHITE. But it covers the whole range of business.

Mr. DANAHER. It does.

Mr. WHITE. That is what I thought.

Mr. BURTON. Mr. President, will the Senator yield to me for one question?

Mr. DANAHER. Yes.

Mr. BURTON. But if this entrepreneur wishes to go into a venture of his capital and incorporates his venture as is so often done in these days, this proposal will have nothing to do with his money at all.

Mr. DANAHER. Except that if the corporation loses money he has to dip into his own pocket and provide the money to pay the loss.

Mr. GEORGE. Mr. President, I hope we may have to vote on the amendment. This is an amendment adopted by the Finance Committee, and I shall follow my rule of adhering to the judgment of the committee, unless it is a matter of vital principle. If the amendment is properly and strictly limited to those cases where the taxpayer deliberately reduces his otherwise taxable income by throwing away a part of it in any kind of manner he wants to throw it away, it is in my judgment a meritorious one. I therefore shall vote for it. I hope we may have to vote on it at this time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 69, after line 5.

Mr. BARKLEY. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DANAHER. Mr. President, I should like to make one thing perfectly clear, and that is that the committee did not ask the Treasury to take a position on this amendment. The Treasury did not announce any position on it, and what I had to say a few minutes ago with reference to my discussion with one of the Treasury representatives was purely personal between him, as one of the counsel for the Treasury, and myself.

Mr. BARKLEY. Of course, in that connection I think it ought to be said that any member of the committee, while a bill is under consideration in the committee, or any Member of the Senate who has an idea about an amendment and calls upon the Treasury to frame it in language appropriate to his idea, will receive such help as the Treasury can give him without any committal on the part of the Treasury.

Mr. DANAHER. Yes. Of course I want to make it clear that there is no Treasury action on it at all.

Mr. BARKLEY. And the same thing is true of the staff of the joint committee.

Mr. CLARK of Missouri. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CLARK of Missouri. The committee amendment now to be voted on is the amendment which has been discussed under the name of the Danaher amendment, but it is in addition to the House bill, and those who are in favor of the proposition advanced by the Senator from Connecticut [Mr. DANAHER] should vote "yea", and those who are opposed should vote "nay." Am I correct?

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

Mr. GEORGE. I think, Mr. President, the Senator from Missouri is correct.

Mr. CLARK of Missouri. I make the parliamentary inquiry, Mr. President, because of number of Senators have asked me as to how to vote with reference to the debate. Included as a committee amendment is the so-called Danaher amendment.

The PRESIDING OFFICER. The present occupant of the Chair is not advised as to who is the author of the amendment, except that it is reported as a committee amendment.

Mr. CLARK of Missouri. Mr. President, I think I have sufficiently cleared that question up. The committee amendment is the Danaher amendment. Those who favor the Danaher proposal should vote "yea," and those who oppose it should vote "nay."

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. BARKLEY (when Mr. CHANDLER's name was called). I wish to announce the unavoidable absence of my colleague. If present, he would vote "nay."

Mr. DAVIS (when his name was called). I have a general pair with the junior Senator from Kentucky [Mr. CHANDLER]. I understand that he would vote "nay" if present. I transfer that pair to the senior Senator from Michigan [Mr. VANDENBERG], who would vote "yea." Therefore I am at liberty to vote, and vote "yea."

Mr. THOMAS of Idaho (when his name was called). I have a general pair with the Senator from Florida [Mr. PEPPER]. Not knowing how he would vote, I transfer my pair to the Senator from New Hampshire [Mr. TOBEY], who, if present, would vote "yea." I am therefore free to vote, and vote "yea."

The roll call was concluded.

Mr. HILL. I announce that the Senator from Virginia [Mr. GLASS] is absent from the Senate because of illness.

The Senator from Washington [Mr. WALLGREN] is absent on official business for the Special Committee to Investigate the National Defense Program.

The Senator from Virginia [Mr. BYRD] is absent because of illness in his family.

The Senator from Alabama [Mr. BANKHEAD], the Senator from Mississippi [Mr. BILBO], the Senator from Idaho [Mr. CLARK], the Senator from Texas [Mr. CONNALLY], the Senator from Louisiana [Mr. ELLENDER], the Senator from Nevada [Mr. MCCARRAN], the Senator from Tennessee [Mr. MCKELLAR], the Senator from South Carolina [Mr. SMITH], the Senator from Indiana [Mr. VAN NUYS], and the Senator from New York [Mr. WAGNER], are necessarily absent.

The Senator from New Mexico [Mr. HATCH], the Senator from Wyoming [Mr. O'MAHONEY], and the Senator from Nevada [Mr. SCRUGHAM] are detained because of slight colds.

The Senator from Pennsylvania [Mr. GUFFEY], the Senator from Illinois [Mr. LUCAS], and the Senator from New Jersey [Mr. WALSH] are detained on public business.

The Senator from Utah [Mr. MURDOCK] is detained in one of the Government departments on matters pertaining to the State of Utah.

The Senator from Montana [Mr. MURRAY] is absent on official business.

The Senator from Florida [Mr. PEPPER] is detained in Florida on public business.

The Senator from Alabama [Mr. BANKHEAD] has a general pair with the Senator from Oregon [Mr. MCNARY].

Mr. WHITE. The Senator from Oregon [Mr. MCNARY] is absent because of illness. He has a general pair with the Senator from Alabama [Mr. BANKHEAD].

The Senator from Maine [Mr. BREWSTER], the Senator from Delaware [Mr. BUCK], the Senator from New Jersey [Mr. HAWKES], the Senator from Ohio [Mr. TAFT], and the Senator from Michigan [Mr. VANDENBERG] are necessarily absent.

The Senator from New Hampshire [Mr. TOBEY] is absent on official business.

The Senator from Kansas [Mr. REED] is unavoidably detained. He has a general pair with the Senator from New York [Mr. WAGNER].

I am advised that the Senator from Michigan [Mr. VANDENBERG] and the Senator from New Hampshire [Mr. TOBEY] would vote "yea" if present. Both Senators have been paired by transfer.

The result was announced—yeas 37, nays 26, as follows:

YEAS—37

Aiken	Davis	Robertson
Andrews	Ferguson	Russell
Austin	George	Shipstead
Bailey	Green	Thomas, Idaho
Ball	Gurney	Tydings
Bone	Holman	Walsh, Mass.
Bridges	La Follette	Wherry
Brooks	Langer	White
Burton	Lodge	Wiley
Bushfield	Maloney	Willis
Butler	Moore	Wilson
Capper	Nye	
Danaher	Reynolds	

NAYS—26

Barkley	Hill	Overton
Caraway	Johnson, Colo.	Radcliffe
Chavez	Kilgore	Revercomb
Clark, Mo.	McClellan	Stewart
Downey	McFarland	Thomas, Okla.
Eastland	Maybank	Thomas, Utah
Gerry	Mead	Truman
Gillette	Millikin	Tunnell
Hayden	O'Daniel	

NOT VOTING—33

Bankhead	Hatch	Reed
Bilbo	Hawkes	Scrugham
Brewster	Johnson, Calif.	Smith
Buck	Lucas	Taft
Byrd	McCarran	Tobey
Chandler	McKellar	Vandenberg
Clark, Idaho	McNary	Van Nuys
Connally	Murdock	Wagner
Ellender	Murray	Wallgren
Glass	O'Mahoney	Walsh, N. J.
Guffey	Pepper	Wheeler

So the committee amendment on page 69, after line 5, was agreed to.

Mr. GEORGE. Mr. President, I call up the next committee amendment which has been passed over, which is, according to my record, the amendment on page 114. I ask to have the amendment read.

The PRESIDING OFFICER (Mr. MCCLELLAN in the chair). The amendment will be stated.

The CHIEF CLERK. On page 114, in the table after line 11, it is proposed to strike out "2 cents for each 10 cents or fraction thereof," and insert "1 cent for each 5 cents or fraction thereof."

Mr. GEORGE. Mr. President, this is the admission tax, is it not? That is what I intended to bring up.

Mr. MEAD, Mr. LANGER, and other Senators addressed the Chair.

Mr. GEORGE. Just one moment, Mr. President, so that I can see what I have before me. I say to all Senators that I shall be glad to yield as soon as I can find out just where we are. Is the amendment the admission-tax amendment?

The PRESIDING OFFICER. The amendment is on page 114.

Mr. CLARK of Missouri. Yes; it is the admission-tax amendment.

Mr. GEORGE. I understand that it is the general admission-tax amendment. Mr. President, to the committee amendment an amendment has been prepared or will be prepared and offered by the Senator from Iowa [Mr. WILSON] and the Senator from Nebraska [Mr. WHERRY]. I shall be glad to take it to conference, since the matter will be in conference in any event. The Senate committee proposed one amendment, and I shall be glad to take to conference the amendment of the Senator from Iowa and the Senator from Nebraska to the committee amendment, if their amendment is agreed to by the Senate.

Mr. CLARK of Missouri. Mr. President, let me inquire what the amendment is.

Mr. GEORGE. The Senator from Iowa and the Senator from Nebraska merely wish to insert in the committee amendment the word "major" before the word "fraction." Their amendment does affect the matter; but at the proper time I shall be very glad to see how the amendment fits in with the amendment we have already made, inasmuch as I think it would be wise, since the matter will be in conference in any event, to allow it to go to conference for further consideration. I should be glad to pass over the amendment, but I desire to make that word of explanation at this time.

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

Mr. GEORGE. I yield.

Mr. CLARK of Missouri. I think this section should be passed over to the very last. Mr. President, I have the feeling that it would be an absolute outrage to increase greatly the tax on the legitimate theater and to those actors who have devoted their lives to the legitimate theater, which is, after all, a great American institution. After turning down the amendment—and I voted to do so—to increase the taxes on horse racing and on pari mutuels, it would be most unjust to increase the tax on the legitimate theater to the point where it might be a back-breaking burden. So I am opposed to the amendment. I wish that it might be passed over.

Mr. GEORGE. I was about to say to the Senator that I am agreeable to passing it over, particularly for the reason which the Senator has stated, and partly in connection with the subject of the tax on general admissions, in which the Senator from Iowa is interested. I shall be glad to take the whole matter to conference. I think the Senator from New York [Mr. MEAD] is interested in another feature of it. I shall be glad to pass this amendment over in view of the matter to which the Senator from Missouri has referred. The bill will still be before us on Monday, and by that time we may be able to devise an amendment which can go to conference, and which will avoid any further discussion.

Mr. MEAD. Mr. President, at this point I should like to say that I had an amendment which I intended to offer, and which I wished to have the Senate consider. The amendment was to strike out the Senate amendment on page 114, under section 1700 (a) in the table, so that what would be in the conference would be the old rate, namely, a 10-percent tax, and the House rate, namely, a 20-percent tax. I feel as does the senior Senator from Missouri, that in view of

the fact that this tax has remained as it is since the First World War, it ought to be given special attention before we double it.

Mr. GEORGE. That is the reason why I made the suggestion that it be passed over. The Senator from Iowa has an amendment on a different feature under the same item. The item has already been amended by the Committee on Finance. I thought we would try to get the amendments altogether, and see if we could not agree on an amendment which would be acceptable.

Mr. MEAD. That is entirely agreeable.

Mr. LANGER. Mr. President, I send to the desk two amendments to the pending bill and ask that they may be printed and lie on the table.

The PRESIDING OFFICER. The amendments will lie on the table and be printed.

Mr. MEAD. Mr. President, I ask that the amendment which I send to the desk, and which I shall offer later, be printed in the RECORD in connection with my remarks, so that the Senate may have an opportunity to consider it.

The PRESIDING OFFICER. The amendment will lie on the table and be printed; and without objection, it will be printed in the RECORD.

The amendment intended to be proposed by Mr. MEAD is, on page 114, in the table after line 11, to strike out the item in reference to section 1700 (a) regarding the tax on admissions.

Mr. MEAD subsequently said: Mr. President, earlier in the day, I discussed an amendment which will be considered on Monday in connection with the proposed tax on admissions. In connection with that matter, I had requested that a copy of the amendment be printed for the benefit of the Members of the Senate. I desire to have printed along with the amendment a very brief statement which explains the objective of the amendment I am supporting.

In that connection, Mr. President, the brief statement which I shall make at this time will, I believe, explain what the theater and the show industry in general have done in the past. In this catastrophic emergency, the theatrical industry of America has risen to unprecedented heights. In every essential war activity, including the recruiting of personnel, the sale of War bonds, the success of the U. S. O., and similar drives, the theater has been close to the heart and center of all these worthy enterprises. The stars of both the moving pictures and the legitimate stage have been generous with their time and their talents in entertaining our military personnel, both here and on our distant battle fronts. Song writers attached to the industry, like George M. Cohan in the First World War, and Irving Berlin today, have written inspiring songs; authors, directors, and producers have given to the country plays that portrayed the gallant sacrifices of our boys, and which have spurred on the Nation's war effort, and intensified the patriotic spirit of our people.

The present tax has not been changed since the First World War, and in my judgment it should not be increased at this time.

I desire to have the statement I have just made accompany my earlier explanation of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. OVERTON. Mr. President, I should like to ask the Senator from Georgia if we have completed the committee amendments.

Mr. GEORGE. Not quite. There are one or two controversial matters remaining. I will say to the Senator that I propose to dispose of every amendment possible this afternoon. I do not wish to carry over until Monday any committee amendment unless it is imperative.

Mr. OVERTON. I wish to ask unanimous consent to reconsider a committee amendment on page 114, in the table following line 11, in connection with war-tax rates. I think it will require only a short time to present it, and I should like to dispose of it.

Mr. GEORGE. I shall be very glad to do so as soon as I have finished with another matter in the same table.

Mr. President, there is another committee amendment in the table on page 114, under the item "Toilet preparations," under section 2402. I do not think it was finally disposed of.

The PRESIDING OFFICER. The request before the Chair is that the committee amendment in the table on page 114, relating to taxes on admissions, be passed over. Without objection, the amendment will be passed over.

Mr. GEORGE. Mr. President, there is another committee amendment on the same page.

The PRESIDING OFFICER. The Chair is informed that the amendment with respect to toilet preparations was agreed to yesterday. Is that the amendment which the Senator from Louisiana wishes to reopen?

Mr. OVERTON. No. It is in connection with the item "Furs," under section 2401.

Mr. GEORGE. As I understand, the Senator from Louisiana wishes to have reconsidered the vote by which some other item in this schedule was agreed to.

Mr. OVERTON. I refer to the item "Furs," under section 2401.

Mr. GEORGE. Mr. President, I ask unanimous consent that the vote by which the committee amendment in the table on page 114, under the item "Furs," was agreed to, be reconsidered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. OVERTON. I thank the Senator from Georgia.

This item is under section 2401, "Furs." The old rate is 10 percent; the rate in the House text 25 percent; and the rate under the Senate committee amendment 20 percent.

Mr. President, I do not wish to reopen this question in relation to the rate generally imposed on furs. In fact, I would have no objection at all if the House rate of 25 percent were retained; but I wish to reopen it in reference to one class of furs. I refer to cheap fur garments, which are necessary to be worn by people in the lower income groups and by working girls. As I understand, such garments sell at retail from $200 down. It is my thought that we ought not to impose such a high tax on very necessary and essential garments, any more than we should impose a tax on the suits which Senators wear, which probably cost an average of $100 to $150 a suit. These fur garments are necessary to protect girls and women in the low-income groups against the winter's cold.

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

Mr. OVERTON. I yield.

Mr. CLARK of Missouri. What does the Senator propose to substitute? Does he propose a differentiation, a bracket, or what?

Mr. OVERTON. I propose to handle it in the same way that the committee handled watches and alarm clocks. The amendment which I now offer is that after the numerals "2401" in the table on page 114, under the item "Furs", there be inserted "except as respects fur garments retailing for not more than $150."

Mr. CLARK of Missouri. I am very much interested in that subject. I simply wondered if the Senator was proposing to make a plea for the concerns which advertise, to the extent of three or four pages, mink coats at $5,600 and up in the New York Times and New York Herald Tribune every Sunday, notwithstanding the paper shortage.

Mr. OVERTON. I am willing to tax those garments 50 percent. If the Senator wishes to ask for reconsideration of the Senate committee amendment, I am willing to tax those expensive furs at any sum; but I do not want this high tax imposed upon garments which are necessary to be worn by people of very moderate means. They are just as necessary as are Senators' overcoats, most of which, I dare say, cost from $100 to $150.

Mr. CLARK of Missouri. The Senator flatters me very much.

Mr. OVERTON. I was not looking at the Senator. I was looking at other Senators when I said that. [Laughter]. I know that the Senator from Missouri wears a very comfortable overcoat. I was about to say that it adorns him, but I should say that he adorns it.

Mr. BARKLEY. I am glad the Senator added that last statement. I think the Senator from Missouri would adorn any overcoat worn by him, rather than being adorned by it. The Senator from Louisiana thought of it before I did.

Mr. OVERTON. Mr. President, I do not wish to present this in a spirit of levity. I am very serious about it. I do not think we ought to charge poor girls a 20-percent tax on garments which are absolutely necessary. I ask that fur garments retailing at $150 or less be exempt from taxation.

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

Mr. OVERTON. I yield.

Mr. BARKLEY. Does the Senator propose to exempt them from the increase, or the present tax?

Mr. OVERTON. I would be willing to go back to the old tax rate of 10 percent,

if the Senator from Kentucky thinks we should do so.

Mr. BARKLEY. No; I am merely trying to find out what is the Senator's intention.

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

Mr. OVERTON. I yield.

Mr. MALONEY. Would not the Senator consider the repeal of the entire tax on the low-priced coat? I know that in the section of the country from which I come a coat costing even $150 is not often considered a wintertime luxury. It seems to me that a 20-percent tax, or even a 10-percent tax, on a coat costing that much money is a pretty heavy tax. I hope the Senator will treat the thought seriously.

Mr. OVERTON. I thank the Senator for his contribution. I prefer complete exemption. Therefore, Mr. President, after the numerals "2401", on page 114, I move to amend by inserting the following: "(except as respects fur garments selling at retail for not more than $150.)"

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

Mr. OVERTON. I yield.

Mr. CONNALLY. When the Senator says "fur garments" does he mean garments manufactured entirely of fur?

Mr. OVERTON. A fur garment means a fur garment, and nothing else.

Mr. CONNALLY. Suppose half of the garment consisted of fur. The reason I suggest that is that in the hearings on the tax bill, the question has arisen repeatedly whether the garment consists entirely of fur or only partly of fur. We should use at least the words "the chief component of which is fur" or similar language.

Mr. MEAD. There is another section in the bill dealing with that point.

Mr. OVERTON. I understand this provision refers only to furs.

Mr. MALONEY. Does the Senator know what is the tax at the present time on a man's coat costing $150?

Mr. OVERTON. It is nothing whatever.

Mr. MALONEY. Can the Senator suggest any good reason why a woman's coat consisting entirely of fur, or partly fur, and costing $150, should be taxed?

Mr. OVERTON. No; I cannot.

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

Mr. OVERTON. I yield.

Mr. CLARK of Missouri. Does it make any difference whether it is a man's coat or a woman's coat? We know that a coat like George Marshall's raccoon coat is taxable.

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

Mr. OVERTON. I yield.

Mr. MALONEY. Many coats worn by women are only in part made of fur. There is a 10-percent tax on those garments, as I understand.

Mr. OVERTON. The tax would remain. My amendment would apply only to fur garments. They are wearing apparel.

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

Mr. OVERTON. I yield.

Mr. GILLETTE. I was about to interrogate the Senator on the very matter to which he has referred. His amendment refers to garments. There are all kinds of fur. A fur coat of the type to which the Senator has referred would be a necessity in many climates. However, there are other types of garments, such as neck scarfs and throws, which are purely a luxury.

Mr. OVERTON. I do not believe they can be classified as garments. I have no objection to my amendment being modified by inserting the words "fur coats" so as to make the amendment clear.

Mr. GILLETTE. It seems to me that a limitation should be placed upon the type of garment involved. If the Senator says "fur garments"——

Mr. OVERTON. I have in mind that fur garments are fur coats.

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

Mr. OVERTON. I yield.

Mr. MEAD. According to the rate, as I understand it, the tax applies on a garment of which fur is the chief material of value. That is in the law.

Mr. GILLETTE. That would apply to a fur worn around the neck, or to a scarf, or anything of that kind, which would be purely a luxury.

Mr. MEAD. First of all, it must be a garment, and then the chief material of value in the garment is the determining factor. So when real fur is the chief material of value in the garment—it must be a garment—it is then taxable under the amendment proposed by the Senator from Louisiana. That is already covered in the law.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana on page 114, in the item under "Furs," in the table after line 11.

Mr. GEORGE. Mr. President, I shall have to oppose the proposed amendment. It would result in a loss to the Treasury of from approximately $36,000,000 to $38,000,000, and it would let in a great many items of a purely luxury nature. A fur piece to be worn about the neck costing possibly $125 would be subjected to no tax, and someone who wished to buy a fur garment costing $160 would be required to pay a tax of 20 percent. It involves a kind of discrimination which I cannot justify.

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

Mr. GEORGE. I yield.

Mr. CLARK of Missouri. I should also like to invite the attention of the Senator and the Senate to the fact that this is a peculiar sort of item on which the O. P. A. has never been able to set a ceiling because there are different kinds and standards of furs, and different styles. Any O. P. A. ceiling, or attempt to regulate the price on such articles, can very easily be defeated by a change in style, mixture, and that sort of thing. It seems to me that to make an exception in this case as to price would simply mean, as the Senator said a moment ago, putting a premium on luxury items. It seems to me that everyone must recognize that furs, for all intents and purposes, are luxury items.

Mr. GEORGE. Mr. President, I fully agree with the Senator.

Mr. WHEELER. Mr. President, may I interrupt the Senator?

Mr. GEORGE. I yield.

Mr. WHEELER. I wish to confirm what the Senator from Missouri has said. I have talked with a person in my State who handles women's wearing apparel exclusively in one of the largest stores of the State and he told me that because there is no way by which the O. P. A. can fix a price ceiling on women's coats and other articles of that nature, there has been a tremendous rise in the price of those garments. The styles are changed. The articles which used to sell for $7 or $8 are now selling for twice that much, and those which were selling for $16, for example, are now selling for twice that much. Coats which formerly sold at that price have now doubled in price, and there is a tremendous difference in women's clothes of all kinds and character. There has been a greater rise in the price of articles of that kind than in almost anything else. That is the reason why dealers and jobbers have increased the prices of wearing apparel of that kind. They could not be reached under the O. P. A. ceiling because they change the types and styles, and so forth, of the articles.

Mr. GEORGE. I thank the Senator.

Mr. MALONEY. Mr. President, if my understanding is correct, the consumer pays this tax. The Senator from Montana would have us believe that the seller pays the tax.

Mr. WHEELER. Of course, the consumer pays the tax. I agree with the Senator's statement. But those who are asking for a reduction in tax, and have talked to me about the matter, are the manufacturers and others who are interested in selling. It is not the consumer. I venture the assertion that not a single, solitary consumer in this country has asked for a reduction, but that it is the manufacturer of furs who is asking for it.

Mr. MALONEY. I disagree with the Senator's contention that a $150 fur coat is always a luxury.

Mr. WHEELER. I have not said that it is a luxury; some other Senator said that; but certainly it is a luxury for a great many people in the United States. It may not be for the people of Connecticut, but it is certainly a luxury for people in my State, particularly for farmers. The farmers of my State will not be found buying fur coats and paying $150 for them. I would consider such a coat a luxury for a great many people in the United States.

Mr. CLARK of Missouri. With the permission of the Senator from Georgia, will the Senator from Montana permit me to interject a remark at that point?

Mr. WHEELER. Certainly.

Mr. CLARK of Missouri. What the Senator from Montana says is absolutely correct. In my capacity as a member of the Finance Committee I have not had one single letter or protest about this item from any wearer of furs, any purchaser of furs, or from any producer of furs. The letters I have had—and I must have had at least 200, and I have

had 15 or 20 interviews—have all come from the sellers of fur garments.

Mr. WHEELER. From the jobbers.

Mr. MALONEY. Mr. President, may I have just another word?

Mr. WHEELER. I yield.

Mr. MALONEY. I have talked with some consumers, and one in particular, who have purchased coats for $100. I do not know what kind of fur can be obtained for a hundred dollars, but the purchaser in this instance paid a tax of $10 on that particular coat.

I doubt that any coat in my family cost $150. I know, however, that in the cold northern part of the country many working women buy fur coats which cost in excess of $150. It is indicated to me that to obtain a worth-while coat—and by "worth while" I mean a warm and durable coat—it is necessary to pay in the neighborhood of $100. It seems to me that a 20-percent tax of this sort on that kind of garment is excessive.

Mr. WHEELER. Let me say that I come from a State which is fully as cold in the winter as any other State in the Union because in some parts of Montana the thermometer goes down to 45° or 50° or even 60° below zero.

Mr. CLARK of Missouri. Montana has the lowest recorded temperature in the United States.

Mr. WHEELER. Exactly. Montana has the lowest recorded temperature in the United States.

What I call attention to is this: The dealers have raised the price not only of coats but of garments of all kinds and character which are sold to women. They have taken advantage of the war to raise the price of women's apparel. If any Senator does not take my word for it, let him go to any store in the United States—in Connecticut or any other State—and ask whether or not the dresses that used to cost $16 do not now cost almost twice that, and whether dresses that used to be priced at $7 are now not priced much higher than that. The sellers have raised the prices because of the fact that the O. P. A. could not put a ceiling on garments because they changed the styles, the types, and so forth, so rapidly that it was impossible to do so.

Mr. GEORGE. Mr. President, I do not care to discuss the amendment further, but I hope it will not be agreed to. I think it would be most difficult of administration. There would be all sorts of price cutting all sorts of shifting of prices, to get away from the tax. The dealers could afford to reduce the price by $10 or $15, and then profiteer to the extent of $5. So the difficulty of administering the provision under the amendment would be almost incalculable.

We have dealt with this fur-tax matter for many years. In the present law there is a tax of 10 percent upon the garment if the chief component value is of fur. The bill imposes a straight fur tax and I hope that it may be approved without a break in the price, which would add to the difficulties of administration and greatly reduce the revenue.

Mr. OVERTON. Mr. President. I offered an amendment that I thought was very simple and easily understood and yet I find all sorts of curious arguments have been advanced against it. It was an amendment having to do with people of low income who must clothe themselves against the winter's cold not only in northern climates, as in the State of Connecticut, but even in the State where the present occupant of the chair [Mr. McCLELLAN in the chair] resides, the State of Arkansas, and down to the Gulf coast in the State of Louisiana. Even in those sections of the country, fur coats are necessary items of clothing.

The Senator from Georgia says that the amendment I have offered will include neck furs, and all sorts of fol-de-rol. I stated that I was perfectly willing to modify the amendment, and I do now modify it, so that instead of using the words "fur garments" the amendment will exempt "fur coats." There can be no misunderstanding as to what a fur coat is. A fur coat takes the same place for women that an overcoat takes for men.

Mr. CLARK of Missouri. Mr. President, I do not wish to interrupt the Senator, but I think that the last statement of the Senator should be called into question because there is a great difference of opinion as to what is a fur coat, whether it is a coat made wholly of fur or a coat with certain fur trimmings, a certain amount of fur around the neck, a certain amount of fur around the cuffs, or a certain amount of fur on the front.

Mr. OVERTON. I do not yield further to the Senator. It is not necessary. I understand his thought and suggestion.

I modify my amendment further and say "the chief component material of which is fur." I think that will settle the question. I want to remove every possible objection to the amendment.

Mr. CLARK of Missouri. Mr. President——

Mr. OVERTON. I will yield to the Senator after a while.

Mr. CLARK of Missouri. I merely want to ask the Senator whether he means the principal component as to area or value? That is another question.

Mr. OVERTON. The Senator may put his own interpretation upon it. If the Senator wants to vote against poor women getting cheap clothes and desires to go along with the manufacturer to raise prices on clothes and become copartners with them and have the Federal Government take the hard-earned money out of pockets of the poor when they try to clothe themselves against the rigors of winter, of course he can take such a position and present such an argument. I have merely offered a simple amendment.

Of course, there may have been lobbyists here. They have called upon me and upon every other Senator, I presume, but what they want is the tax on furs reduced from 20 percent as proposed by the committee down to 15 percent. I told them I would not listen to any of them, that I wanted a tax levied on expensive furs, I did not care how high it might go. But when it comes to taxing low-cost necessary garments, to be worn by poor girls and poor women and putting a 20-percent tax on articles of clothing which they need in order to protect themselves against the winter's blasts, I shall not be a party to it. When such a proposition is submitted to a vote I shall vote against it. There ought not to be any tax at all on cheap fur coats.

The Senator from Georgia says if the amendment is adopted it will be difficult of administration. I cannot see where difficulty of administration will attend such a proposition. It would simply apply to selling at retail. The tax would be paid by the consumer upon the sale at retail. If a fur coat sold for $150 or less no tax would be paid but if sold for more than $150 a tax would be paid. What difficulty would there be in the administration of such a provision as that? Many Members of the Senate who want to impose the tax would vote against a sales tax today, and yet this is a sales tax, a sales tax upon necessary garments to be worn by shop girls, office girls, girls who go down to the war plants to make munitions to enable our soldiers to fight. Senators want to tax them. I say it is an outrage. I say that all the arguments presented against it simply dodge the issue. The issue is, Do we want to tax a coat necessary to be worn by poor girls or do we not? That is all.

Mr. CLARK of Missouri. Mr. President, I had not intended to enter into a debate on this item, but I must say I am perfectly amazed at the intemperate and unreasoned attack upon everyone in the House of Representatives who voted for this provision, and upon every member of the Committee on Finance who has considered this proposition of the Senator from Louisiana.

Mr. OVERTON. Will the Senator yield?

Mr. CLARK of Missouri. Yes; although the Senator would not yield to me.

Mr. OVERTON. But I did yield.

Mr. CLARK of Missouri. Yes; but the Senator finally shut me off.

Mr. OVERTON. I yielded to everyone who desired to interrupt.

Mr. CLARK of Missouri. The Senator shut me off before he made his final attack.

Mr. OVERTON. I caught the Senator's point, and I modified the amendment to meet his criticism.

I have not attacked any Member of the House or any Member of the Senate.

Mr. CLARK of Missouri. The Senator walked directly toward me and shook his fist at me——

Mr. OVERTON. Mr. President——

Mr. CLARK of Missouri. Wait a moment; I have the floor. The Senator walked toward me and shook his fist at me and accused every member of the committee who voted for this provision——

Mr. OVERTON. I did not.

Mr. CLARK of Missouri. Of being in league with a gang of manufacturers for the purpose of trying to render naked a lot of deserving girls who wanted to wear fur coats. That is a reductio ad absurdum.

Mr. OVERTON. The Senator has misunderstood me, and when he rises tomorrow and reads the CONGRESSIONAL RECORD, he will find I did not make that statement.

Mr. CLARK of Missouri. I heard it.

Mr. OVERTON. This is the first time this was submitted. It was not submitted to the Finance Committee. I did not know anything about the fur tax until this bill was reported. This is the first time my proposal has been submitted. So far as I know, such an amendment as mine was not submitted in the House and was not submitted in the Senate Finance Committee.

Mr. CLARK of Missouri. That is what I was about to say, that the Senator from Louisiana apparently does not know anything about this subject. Unfortunately, the matter has just come to the attention of the Senator from Louisiana in the form of a suggestion that it is going to interfere with the price of muskrats in Louisiana. The Finance Committee has been considering this proposition from year to year. The technical questions, the spurious arguments, which the Senator from Louisiana says were raised by the Senator from Georgia and myself were simply technical matters which have been raised every time the subject of a fur tax has come before the Committee on Finance.

Mr. President, the subject of fur coats is one which has led to a great mass of technical decisions by the Treasury Department, and vast consideration by the Ways and Means Committee of the House and by the Finance Committee of the Senate, in the consideration of tax bills.

When one refers to a "fur coat," what does he mean? Does that mean a coat composed wholly of fur? Does it mean a coat of which a considerable part, or the principal part, as to area, is fur? Does it mean a mink coat or a muskrat coat? Does it mean a rabbit coat dyed, or does it mean a combination of furs dyed to imitate mink, or dyed to imitate some other fur, perhaps dyed to imitate sables?

Mr. President, those are very technical questions, which have been considered from year to year by the Finance Committee and by the Ways and Means Committee. The Senator from Louisiana comes in at the last moment professing that he never heard of the question until this bill had been reported in the Senate, although it has been mixed up in tax bills ever since I have been a Member of the Senate, for the past 10 years.

The Senator from Louisiana admits that he never heard of the subject until this bill was reported to the Senate, and he rushes in, in the interest of the muskrat industry in Louisiana, to protest, in the interest of the poor, barefoot girls of Louisiana, and to urge their necessity for fur coats.

Mr. President, I say that furs are no more a necessity than is wool, or any other particular commodity in this country, and that as a matter of fact furs, taken by and large, are a luxury.

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

Mr. CLARK of Missouri. I yield.

Mr. MALONEY. The Senator was asking questions about the meaning. I should like to tell him what it means to me. It means to me that when a school teacher, or a girl in a war plant, or any other woman, goes into a store to buy a $100 coat, she can buy the coat if she has the $100, its regular cost, plus another week's pay, or nearly a week's pay, in the form of a tax of $20.

Mr. CLARK of Missouri. No one has denied the burden of the tax on furs. No one has denied, on the other hand, that furs are a luxury.

Mr. MALONEY. I am willing to go along with the Senator from Louisiana on the higher taxes on higher-priced furs. But I insist that a hundred-dollar coat, or even a hundred-and-fifty-dollar coat——

Mr. CLARK of Missouri. What does the Senator mean by "a hundred-dollar coat"? I should be glad to have the Senator expatiate on his idea as to what a hundred-dollar coat is.

Mr. MALONEY. I am afraid I cannot go beyond that.

Mr. CLARK of Missouri. Does the Senator mean a hundred-dollar wool coat with a little fur on it? Does he mean a hundred-dollar fur coat? Does he mean a hundred-dollar wool or cotton coat, or rayon coat, or what-have-you, with a lot of fur down the front of it, with cuffs of fur? There are all sorts of differentiations.

Mr. MALONEY. I mean any kind of coat with fur on it that would be subject to this tax.

Mr. CLARK of Missouri. The Senator by that admits he does not know what the provisions of the present law are.

Mr. MALONEY. I have a general idea of what the provisions are, because I have discussed them with the Senator and have the benefit of the unusual understanding of the Senator from Missouri.

Mr. CLARK of Missouri. Mr. President, I do not profess to be an expert on the subject at all, but I have sat and listened in hearing on this subject in the Committee on Finance, and when the Senator from Louisiana comes in and attacks everyone who voted for the committee report on the theory, as he said a moment ago, that they may be willing to go in with the manufacturers to deprive poor working girls of the necessities of life, I deny that. I say this matter has been fought out year after year before the Finance Committee and before the Ways and Means Committee, and that every differentiation possible has been made, but the conclusion has been inescapable that furs are a luxury, and should be subjected to a luxury tax.

Mr. WHEELER. Will the Senator yield.

Mr. CLARK of Missouri. I yield.

Mr. WHEELER. When there is talk about the necessity of a fur coat, that covers a large range. There are certain kinds of fur coats which are not nearly so warm as wool coats.

Mr. CLARK of Missouri. Certainly, and everyone knows that.

Mr. WHEELER. It depends to a large extent on the nature of the fur coat. Take for instance a squirrel fur coat, made of little thin skins which tear so easily. There has been more of a racket against the women of this country by those who dye furs and misname furs than in almost any other line of women's goods.

Mr. CLARK of Missouri. Women who follow that particular form of luxury and vanity would be much warmer with wool coats, or rayon coats, or coats made of reprocessed wool. They wear the fur purely from vanity. It almost breaks my heart to contemplate the pathetic picture drawn by the Senator from Louisiana of the poor, freezing girls in semitropical Louisiana being harassed and bedeviled because they are not able to wear these necessary fur garments for their protection from the cold.

Mr. GILLETTE. Mr. President, will the Senator from Missouri yield?

Mr. CLARK of Missouri. I yield to the Senator from Iowa.

Mr. GILLETTE. I invite the attention of the Senator to another fallacy, the magic figure of $200. If a girl pays $210, then she is indulging in a luxury, and can be taxed anything up to 50 percent, but if she pays $190, it is a necessity, and it is a crime against the girl to impose the tax.

Mr. CLARK of Missouri. Certainly, and in addition to that, all the manufacturer has to do is to change the design.

Mr. GILLETTE. That is the point.

Mr. CLARK of Missouri. Or make a different combination of fake furs, and lower his sights a little on the price and save money at the same time, taking them out of one class and putting them in another. The Senator from Iowa is entirely correct.

Mr. OVERTON obtained the floor.

Mr. MALONEY. Will the Senator yield?

Mr. OVERTON. I yield.

Mr. MALONEY. I was about to ask the able Senator from Missouri if he thinks those inexpensive coats are a luxury, whether he is in favor of putting a 20-percent tax on ice cream cones.

Mr. CLARK of Missouri. I do not see any connection.

Mr. MALONEY. They are both the same kind of luxuries.

Mr. CLARK of Missouri. If anyone showed me that ice cream cones were absolutely a luxury, I might be in favor of that. As a matter of fact, I do not think they are. I think they are very nutritive, contributing to a good diet. I buy ice cream for my children when I can get it, on the theory that it contributes to their diet. I myself was raised in a dairy section, so I believe in the introduction of milk into the human system whenever possible. I believe that ice cream, along with cheese and milk and buttermilk, is a human necessity and not a luxury. If I have not answered the Senator, I shall be glad to expatiate further.

Mr. OVERTON. Mr. President, it is, indeed, very much to be regretted that the wonderful technical knowledge which the Senator from Missouri possesses in relation to furs was not utilized in the committee. I understand he is a member of the Finance Committee, which had the bill under consideration. I am quite sure that the Senator did not undertake in any way whatsoever to lessen the load and the burden placed upon what he says I designate as a poor, freezing, suffering girl. He ridiculed the girls from Louisiana. They are every bit as fine as the girls from Missouri. He may undertake to attempt to vindicate his position with such arguments, but I do not be-

lieve he could very successfully do so in my State of Louisiana.

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

Mr. OVERTON. I do not yield because the Senator did not yield to me, and I shall now take my own time to reply to him.

Mr. CLARK of Missouri. I did yield to the Senator.

Mr. OVERTON. Of course, a Senator may undertake to kill any amendment in a tax measure by raising the cry of "technicality, technicality." I have undertaken to overcome any possible objection that could be made to the amendment, and I have made the amendment a very simple one. Anyone of ordinary common sense, that is, unless he is a technical expert, knows what a fur coat is. You see them in the shop windows. You go into the shops and buy them, and your wives and your daughters buy them. A fur coat is a fur coat, and it is nothing else than a fur coat, whether, as the Senator from Missouri suggests, it be made of rabbit skin, or as the Senator from Montana suggests, it be made of the thin and porous skins of poor, little, delicate squirrels. Whatever skin it is made of, it is still a fur coat.

Of course if a Senator desires to kill an amendment which he knows ought to be adopted, and which he cannot successfully undertake to fight upon the ground that he does not wish, openly, at least, to make a distinction between the tax paid by milady, who goes out in a $2,000 or $5,000 or $10,000 fur coat, and the tax which will be paid by the woman who, as the Senator from Connecticut [Mr. MALONEY] said, has to go a considerable distance in the cold of winter to teach school, or to work in a war factory, and wears a very modest coat to protect herself against the cold—if a Senator does not wish to make a distinction between the rich, rare, and radiant furs which are worn by wealthy socialites, and the humble coats which are worn by the poor, then of course, the Senator is driven to squirrel arguments and to rabbit arguments, and to the exact, precise, composite material that enters into a fur garment. But a fur coat is a fur coat, and every Senator who votes on this question knows what a fur coat is.

Mr. CLARK of Missouri. Will the Senator please tell us what a fur coat is?

Mr. OVERTON. I have already described it in the amendment.

Mr. President, the Senator from Georgia said that there would be a loss to the Treasury $15,000,000 or $16,000,000. I am quite sure that he would not want to make that statement in reference to the amendment, as modified.

Mr. GEORGE. The estimate is that it would be somewhere in the neighborhood of $30,000,000.

Mr. OVERTON. Thirty million dollars taken out of the pockets of these poor struggling girls working in factories, working in offices, working in national defense plants all over the United States. Thirty million dollars taken out of their pockets.

Mr. GEORGE. Very well, Mr. President; when the Senator takes his seat I will have to argue this matter for a few minutes.

Mr. OVERTON. I shall be glad to have the Senator do so.

Mr. GEORGE. I have the right to conclude the argument.

Mr. OVERTON. Yes; $30,000,000 taken out of the pockets of these poor girls. That is what I am leveling my amendment against. I do not want that money taken out of their pockets. We can raise money, God knows, in other ways. We can increase the income tax, we can increase the corporation tax, but let us not take the money from the woman who has to buy a fur coat for $50, on which she would pay another $10 in tax under the committee proposal. If she were to buy a $75 coat she would have to pay $15 tax on it. If she were to buy a $100 coat she would have to pay a week's wages in taxes; that is, she would have to pay $20 in order to get the coat. The Senator from Georgia says $30,000,000. This vast sum is taken out of the pockets of these self-supporting girls and women annually by such a tax.

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

Mr. OVERTON. I yield.

Mr. MALONEY. Does not the Senator want to point out that in most instances the kind of coat he describes is used by the kind of girl he describes over a period of years, and is not bought every little while, as in the case of tax-free cloth coats?

Mr. OVERTON. Certainly. The girls and women to whom I am referring wear their coats year in and year out, 2 or 3 or 4 or 5 or 6 years, until the coats become shiny, but they do protect them. The coats supply them with some comfort. I do not care if the coat is a squirrel coat, as described by the Senator from Montana, or a rabbit coat, as described by the Senator from Missouri. Whatever it is, it affords some warmth to the wearer. But $30,000,000, the Senator from Georgia says, will be taken out of the pockets of these girls and women annually when they buy the coats to protect themselves in the cold of winter.

Mr. GEORGE. Mr. President, I do not want the Senator from Louisiana to put words in my mouth. I did not say that. The point that is pinching is that the money is being taken out of the hides of some fur manufacturers and fur fabricators and fur merchants. They are the ones who are objecting.

Mr. OVERTON. Is it $30,000,000 or not?

Mr. GEORGE. Oh, yes; fully $30,000,000 will be lost to the Treasury.

Mr. OVERTON. The purchaser pays the tax and the fur manufacturer does not pay the tax.

Mr. President, I submit the question.

Mr. GEORGE. Mr. President, I do not care to argue the question any longer. I consented to the reopening of a matter which was closed, and we have had this argument, if it may be described as an argument.

Anyone connected with the administration of the excise tax laws will say that the fur tax has been most difficult of administration. Originally under the taxes placed on furs rich people bought up the pelts themselves and had them made into fur garments, and escaped or tried to escape the tax. We placed the tax on the article of chief value in the garment. The chief value is in the fur. All sorts of manipulations have been attempted in connection with that tax.

Mr. President, it is regrettable that we are obliged to tax anyone, and especially place a tax on anything that becomes more or less of a luxury item. We are not confining this tax bill, and the Congress is not confining it, strictly to luxury items, but we have taxed luxury items. There is a tax provided in the bill on light bulbs, because the production of light bulbs is in such volume as to produce a considerable revenue. There is a tax on electric stoves. Such taxes are placed on articles for various reasons. In this particular instance, to classify according to value, will simply open the door to more administrative difficulties than the tax would be worth. I therefore hope the amendment will be rejected.

Mr. OVERTON. Mr. President, I ask for the yeas and nays on my amendment. There has been considerable discussion of it and I think we should have a record vote on it.

The PRESIDING OFFICER. The Senator from Louisiana asks for the yeas and nays. Is the request seconded?

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Louisiana as modified.

The amendment was rejected.

The PRESIDING OFFICER. Without objection, the committee amendment in the table on page 114, in the figures in the third line from the bottom, is agreed to.

Mr. DOWNEY. Mr. President, I send to the desk an amendment which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 122, between lines 13 and 14, it is proposed to insert the following new section:

SEC. —. Exemption of servicemen from cabaret tax.

(a) In general: Section 1700 (e) (1) (imposing a tax on cabarets, roof gardens, etc.) is amended by inserting at the end thereof the following: "No tax shall be imposed under this subsection on any amount paid by or for any patron or guest who is a member of the military or naval forces of the United States, or of any of the other United Nations, and is in uniform."

(b) Time of taking effect: The amendment made by subsection (a) of this section shall be effective with respect to the period beginning at 10:00 antemeridian on the first day of the first month which begins more than 10 days after the date of enactment of this act.

Mr. DOWNEY. Mr. President, the distinguished senior Senator from Georgia gave me some reason to believe that the amendment would be acceptable to him.

Mr. GEORGE. Mr. President, is the amendment one which relates to cabarets?

Mr. DOWNEY. Yes. The amendment would exempt from the 20-percent or 30-percent cabaret tax members of the armed forces who are in uniform when their food is served to them.

Mr. GEORGE. I have no objection to taking the amendment to conference, but I desire to point out to the Senator from California that it may be very difficult of administration. I should not want to bind the Treasury or the staff or any member of the conference beyond the fact that the amendment would be there for fair and open consideration. It may be that it would be rather difficult to administer, because no one would ever be able to check the cabaret in order to ascertain whether everyone who attended it during a certain period was in uniform and was a member of the armed forces. But insofar as the purpose of the amendment is concerned, I am glad to go along with it, and shall be very glad to take it to conference and see if it can be agreed to.

Mr. DOWNEY. Mr. President, I appreciate that very much. I should like to say to the Senate and to the distinguished chairman of the Finance Committee that I can imagine nothing more unhappy than to have the Treasury and the Congress say to the young men whom we are taking from their homes and their communities, and are training elsewhere in the United States or are sending abroad, that we are going to charge them 20 percent or 30 percent on the amount of food they buy in a restaurant, because they may want to dance there with their sweethearts or listen to a singer or to instrumental music. A great many of the cabarets of the Nation are patronized by soldiers and sailors who have only $25 or $50 a month to spend. To say to them that they must add to their food bill 20 or 30 percent of the cost of the food seems to me to be a rather ungenerous gesture toward the members of the armed forces of the Nation. I cannot conceive that the American people would want to charge that kind of a tax against the members of the armed forces who are away from their homes, seeking some entertainment wherever they may be stationed.

Mr. GEORGE. Mr. President, I fully agree with the Senator from California. I hope he did not misunderstand my statement. The difficulty would be to administer the amendment as against the cabaret owner. He would have a great deal of advantage. So far as the tax on the soldiers or sailors is concerned, I think it should be remitted entirely, and should not be imposed.

Such a tax is on the total bill. If it were merely on music or some other form of entertainment, the matter would be a different one; but the tax is on the total bill, which includes the charges for the food consumed. I fully agree with the Senator as to his purpose.

Mr. DOWNEY. Let me point out that when the soldier or sailor pays for the entertainment in the cabaret, he pays extra for all the entertainment he receives there, in addition to paying for the food he eats. He pays for the opportunity to dance with his sweetheart, and likewise he pays for the liquor he drinks, if he drinks any. In addition to that, to pay a tax of 20 percent or 30 percent on the food he consumes, merely because he desires a little entertainment before he goes abroad, would seem to me to represent a most extraordinary desire on the part of the Treasury to take money from the members of the armed forces, under the circumstances.

Mr. GEORGE. Mr. President, I should not want the Senate to gain the impression that the Treasury has such a purpose at all. I merely said I was not committing the Treasury, because I do not feel I should do so. I recognize certain difficulties relative to administering the tax as against soldiers and sailors only; but I am sure everyone has full sympathy with the objective and purpose of the amendment, and I am hopeful it can be worked out.

Mr. DOWNEY. I thank the Senator very much.

Mr. GEORGE. Mr. President, I should like to have a vote taken on the amendment.

The PRESIDING OFFICER (Mr. EASTLAND in the chair). The question is on agreeing to the amendment offered by the Senator from California [Mr. DOWNEY].

The amendment was agreed to.

Mr. ANDREWS. Mr. President, I send to the desk the amendment which I offer and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. At the proper place in the bill, it is proposed to insert a new paragraph, as follows:

> That no duty shall be levied, collected, or payable under the Tariff Act of 1930, as amended, with a respect to coconuts or coconut meat provided for in paragraph 758 of that act, entered or withdrawn from warehouse for consumption during the period beginning with the day following the date of enactment of this act and ending with the termination of the unlimited national emergency proclaimed by the President on May 27, 1941.

Mr. ANDREWS. Mr. President, after Pearl Harbor those who manufactured candy, pies, and cakes containing fresh coconut were no longer able to obtain from the Philippine Islands, from Guam, or from other islands in the south seas fresh coconut which is used in making those products, including Peter Paul Mounds, a coconut candy which is probably one of the most popular used by the members of our armed forces, and practically a part of the everyday make-up of the kit of edibles which our boys take with them into the fox holes.

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

Mr. ANDREWS. I yield.

Mr. CLARK of Missouri. The Senator did not submit the amendment to the Finance Committee; did he?

Mr. ANDREWS. I did not, because it was originally proposed to another measure. That measure has been sidetracked in the Senate, and we hoped we could obtain the desired result by submitting the matter as an amendment to the pending bill. I did not think anyone would object to it.

Mr. CLARK of Missouri. The effect of the amendment would be to modify the provisions of the tax on coconuts and coconut products which was established as an excise tax several years ago; would it not?

Mr. ANDREWS. That is correct.

Mr. CLARK of Missouri. Let me say to the Senator that I was one of the seven Senators who voted against that measure when it was passed; and I thought it was an outrageous thing for the Government of the United States to do at that time, because it was done immediately after the acceptance by the people of the Philippines of the Tydings-McDuffie Act. But I do not believe an amendment to the pending bill is the proper means of modifying that act—at the tail end of debate on a tax bill, without any consideration by the committee.

Mr. ANDREWS. We could not take it up until consideration of the various committee amendments had been concluded.

Mr. CLARK of Missouri. The Senator could have taken it up in committee. There was no opposition to doing that. I personally am very much opposed to changing previously existing laws, when the matter has not been presented to the committee at all.

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

Mr. ANDREWS. I am glad to yield.

Mr. DANAHER. I should like to advise the Senator from Missouri that when House Joint Resolution 171 was brought up, upon the basis of which the temporary suspension of the increase of social-security tax was had, the Senator from Florida did consult with me with reference to this general subject, as a rider to that measure. I then intended to offer the proposal of the Senator from Florida as an amendment. However, one of the members of the committee who was acting with reference to House Joint Resolution 171 asked me not to involve this particular subject in the consideration of the social-security bill, inasmuch as it was desired that we reach a vote on that measure before the close of December, and therefore I did not do it.

While it is true that it was only cursorily discussed at that time—I do not recall whether the Senator from Missouri was present—surely it was at least adverted to, and I was dissuaded from offering the amendment of the Senator from Florida on the grounds I mentioned.

Mr. ANDREWS. The Senator states the facts.

Mr. DANAHER. If the Senator from Florida will permit me, let me state, while I am on my feet, that there is much to commend in this particular proposal. It is temporary in nature, and applies only for the duration. It does not involve the Philippine situation or the Hawaiian situation. On the contrary, the venture has the approval of Judge Marvin Jones, of the War Food Administration, and of the War Department. It is my recollection that there is on file a letter from the Navy Department to the Committee on Ways and Means of the House.

Mr. ANDREWS. Also a letter from the State Department in favor of it.

Mr. DANAHER. I mention the letter by way of collaboration with the Senator from Florida only because I am satisfied that the representations he has made in connection with the matter are entirely correct. Let me add that in the State of Connecticut there is a branch of the industry to which he refers. It has done a very constructive job. It is

a sound company, and has been contributing largely to the war effort. In fact, at the present time almost all its output goes to the Army and Navy.

Mr. ANDREWS. Practically all of it.

Mr. DANAHER. Does the Senator know what percentage?

Mr. ANDREWS. No; but it is very high, I understand about 80 or 85 percent.

Mr. DANAHER. An enormous percentage of its entire product goes to the Army and Navy. The product is looked upon as of great value. I know no more about the subject than does the Senator from Florida himself, but I am glad to collaborate with him.

Mr. ANDREWS. I thank the Senator. The coconut meat which goes into this product cannot be produced in this country, but must be imported from the Central American countries and islands. The duty increases the cost, and therefore it will cost more to manufacture the product which is going to our armed forces. I believe that everyone who has been to the war fronts will admit that this is a most popular edible substance which goes to our boys at the front. Only about $100,000 would be taken from the duty paid on those commodities. I am perfectly satisfied that the Senator from Missouri will agree that if there are any who ought to have consideration under all the circumstances, we ought to remember those who are receiving the benefit of these products.

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

Mr. ANDREWS. I yield.

Mr. CLARK of Missouri. Let me say to the Senator that I was opposed to the excise tax on coconut oil when it was originally proposed. As I stated awhile ago, I was one of seven Senators, including the late Senator Harrison, of Mississippi, then chairman of the Committee on Finance, who voted against it. However, I do not believe that the thing ought to be repealed piecemeal. I shall not raise any objection, but I think the Senator from Florida or the Senator from Connecticut ought to have come before the Finance Committee and let us know what was being done in this connection. I was opposed to these provisions in the first place. I would be in favor of repealing them now; but I do not like this more or less clandestine way of modifying them.

Mr. DANAHER. Mr. President, will the Senator from Florida yield?

Mr. ANDREWS. I yield.

Mr. DANAHER. The Senator from Missouri is utterly reasonable in the position he takes. There is no question about that. I differ with him markedly in his use of the word "clandestine," because surely there was no secret about the interest of the Senator from Florida.

Mr. CLARK of Missouri. If the Senator from Florida will yield, I meant no reflection on the Senator.

Mr. DANAHER. I am sure of that. I am merely making the record.

Let me say further, Mr. President, in the time of the Senator from Florida, that I have in my hand a letter from Hon. Henry L. Stimson, which was addressed to Representative ROBERT L. DOUGHTON, chairman of the House Ways and Means Committee, with reference to this matter. The House was precluded from taking affirmative action because of the situation in the House in the past few weeks.

I read from Secretary Stimson's letter:

> The meat of the coconut is not used in any great quantity by the War Department. Coconut meat, however, is used extensively in the manufacture of candy and certain baking products, the available supply of which is to a large extent consumed by the Army. Furthermore the meat of the coconut yields a substantial amount of coconut oil, of which there is a shortage at the present time.

I skip some nonessential matter with reference to coconut shells.

> Coconuts in shells imported during the calendar year of 1940 (the last year for which figures are published) numbered 20,097,071, yielding tariff duties of $100,485.35. During the same year tariff duties on shredded and desiccated coconut meat amounted to $7,881. If suspension of tariff duties on these products would result in imports equal to those of 1940, which is somewhat doubtful, the fiscal effect of enactment of H. R. 1033 would be a loss in revenue of the amounts above indicated with a corresponding loss for any increase over 1940 imports. This loss is regarded as being insignificant when compared with the benefits to be derived from increasing the importation of coconuts and coconut meat.

The War Department has taken that position and made that much analysis of it. The Lend-Lease Administrator concurs in the general objective; and I can add no more. I have done this much simply in the hope of making the RECORD show what the situation is.

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

Mr. ANDREWS. I yield.

Mr. CLARK of Missouri. It seems to me, Mr. President, that a provision of this sort would upset the whole processing-tax arrangement as to coconuts and coconut products. I have said twice before, and I repeat, that originally I was opposed to the whole business, and still am opposed to it; but I do not think we can afford to upset the processing-tax provisions by a measure never considered by any committee, and with which no Member of the Senate, including the Senator from Florida, professes to be very intimately familiar now.

Mr. ANDREWS. Mr. President, we undertook to have the matter considered by the committee, as the Senator from Connecticut has just explained. If the tariff is wrong, it should not be very difficult to remove this particular phase of the tariff on coconut meat, which is used for a very worthy purpose. I could tell the Senate of a great many instances in which this product has helped our cause—even with the natives of north Africa and Sicily. The boys carry these little candy bars along with them as part of their day's rations. They hand them out to the people, and thereby make friends. Of course, they hand out other things.

This product is a very important food article. Perhaps the Senator knows that 15 percent of the energy in the human body comes from sugar or sweets.

This is a very important matter, and I hope that the Senate will adopt the amendment. The manufacture of these particular coconut candy bars and other products containing fresh coconut is now more or less suspended. The manufacturers do not know what to do. As the Senator from Connecticut has said, nearly all of these products go to our armed forces, and they should not be deprived of them.

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

Mr. ANDREWS. I yield.

Mr. CLARK of Missouri. I should like to ask the Senator a question before he takes his seat. Is this a proposal to suspend the current laws of the United States in the interest of some manufacturers of candy bars? Is that what it amounts to?

Mr. ANDREWS. I do not think so. Unless some relief is granted, the price will have to be doubled.

Mr. CLARK of Missouri. It is a particular candy-bar product; is it not?

Mr. ANDREWS. It is a candy-bar product.

Mr. CLARK of Missouri. It is a particular candy-bar product; is it not?

Mr. ANDREWS. It is one that can be purchased almost anywhere, in normal times. Perhaps that is not true now, because the Army and Navy have probably taken most of them.

Mr. CLARK of Missouri. So far as I am concerned, with all sympathy for the worthy efforts of the Senator from Florida, I must oppose amending a tax bill with the idea of taking care of particular producers of candy bars.

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

Mr. ANDREWS. I yield.

Mr. GEORGE. Is not this same matter covered in a bill now pending in the House?

Mr. ANDREWS. I understand that it is a part of House bill 1030. I have not gone into that particular phase of it; but we were asked to attach the provision to this bill, because this bill is under consideration, and will have some chance of passing in the near future. The Acting Secretary of State says that no objection to the enactment of the proposed legislation is perceived. No doubt the State Department would object if there were any danger of interference with the reciprocal trade agreements.

The Senator from Connecticut has read a portion of a letter from Secretary of War Stimson showing that it is a very important product. The proposed amendment has been so changed as to eliminate the objections which existed when it was first proposed as a part of House bill 1030. I should like to see it become a part of the pending bill. It would not involve any great cost to the Government, and I hope the amendment will prevail.

Mr. GEORGE. Mr. President, I am embarrassed by having to disagree with my very good friend the senior Senator from Florida, but I must oppose the amendment. I do not believe that it is

wise policy, I may say to my friend, to change existing law on a matter which on many occasions has been highly controversial, without a hearing, giving opportunity to those supporting it to present reasons why it should be changed, and an equal opportunity to those on the other side to offer their objections thereto.

We have had in this body, as the Senator from Missouri has properly pointed out, some very heated controversies over the question of the importation of oils and fats, especially coconut oil, copra, and coconuts. Both a tariff and a special processing tax are levied on the first processor of coconuts in the United States. Coconuts cannot be brought into the country without bringing the oil in. When the coconuts are compressed oil is obtained, and we get back into the same field of controversy. Since there is pending in the other House a bill dealing with the same subject matter and covering it precisely, it would seem wise not to press the matter because it is unquestionably a safe course to follow not to change existing law without giving an opportunity to those who propose the change to set forth their reasons, and those who oppose it to come before some standing committee of the Senate and make out their case.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. LA FOLLETTE. Another thought occurs to me, and I wonder what the Senator's reaction to it will be. It seems to me that this matter being one affecting the tariff, the Senate conferees would be given a futile task in attempting to put forward in conference any such amendment as the one proposed, the other House not having had an opportunity to act upon it.

Mr. GEORGE. I think the Senator is quite correct. I recall that the House conferees served notice on us that they did not relish or invite, and probably would not accept, any further actual changes in existing tariffs unless the House first had an opportunity to go into the matter. I therefore must oppose the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Florida [Mr. ANDREWS].

Mr. BAILEY. Mr. President, I hope the amendment will not prevail. As I understand, the proposed introduction of coconuts and coconut meat into this country duty free is, after all, a tariff matter. I do not think we should have a tariff matter in connection with the pending bill.

However, that is not the main question. There have always been those in this country who wished to import foreign products such as coconut oil and copra, as it is called, which is a form of coconut, in competition with the oils and fats which are produced here and which are very acceptable here. In Florida, for example, there has been a great fisheries development due to the ability of the fisheries to produce a high quality of oil which is used for commercial purposes. The amendment proposed by the Senator from Florida would result in coconuts being brought into the country duty free, and the fats and oils produced here would be displaced to that extent. Eventually the coastwise fisheries operations would be displaced. Those operations extend all the way from Maine to Florida, around the Gulf and into the Pacific. Why should we upset the public policy which has been well established for at least 7 years? The policy has worked admirably and has built up American industries. Why should we import foreign coconut products in order that the coconut oil may be made to displace our American oils and fats? I am somewhat amazed that the proposal should be made at this time.

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

The PRESIDING OFFICER (Mr. MCFARLAND in the chair). Does the Senator from North Carolina yield to the Senator from Missouri?

Mr. BAILEY. I yield.

Mr. CLARK of Missouri. The Senator said a moment ago that this is a question of national policy. I was about to call the Senator's attention to the fact that, as I recall, the last time this question was determined in the Senate it was determined by a vote of 63 to 7. I was one of the 7. I was one of the minority in a fight ably led on our side by the late Senator Harrison, of Mississippi, and led on the majority side by the Senator from North Carolina [Mr. BAILEY] himself, and it was decided that these provisions should be put into effect.

Before the Senator came into the Chamber I was objecting, not to the merits of this proposal, because I have always been opposed to the provision which the Senator has correctly stated was adopted as a matter of national policy, but I was objecting to it being repealed and altered as a rider on a tax bill of this nature without due consideration by the Senate.

Mr. BAILEY. I am very grateful to the Senator from Missouri for his statement. Since he has mentioned the controversy which took place several years ago, I may say that in that controversy I was quoted by the American Grange, the Farm Bureau Federation, and practically all the other farm organizations of this country, as well as by those engaged in the fisheries industries on our coasts, west, east, and south. I believe that nearly everyone agrees that the policy which we then established has worked with admirable success throughout the country. It has developed soybean production. It has developed the fisheries industry, and it has developed the production of oil-bearing nuts, foods, and seeds. I have heard of no complaint against it. But if there is complaint, it is my view that it should not be met here in connection with a domestic tax bill.

As I understand, the proposal is distinctly a tariff proposal. I do not know that I would say that the present tariff policy is one which I shall always sustain. I have consistently voted for the trade agreements. I voted for them with some misgiving as to the policy. The trade-agreement mode of treating tariffs is the established policy of the country at the present time. We ought not to break into that policy now by way of a domestic tax bill; and yet that is what is proposed.

Let us look at it very practically. Suppose at this stage we open up this revenue measure to tariff propositions, how long will it take us to get the measure through? There may be some changes I should like to have made in the trade agreements. If we undertake to set this precedent here and now, other Senators, no doubt, would have demands made upon them to bring forward tariff changes, disrupting the trade-agreement mode, and also tending to destroy this legislation. The President is telling us that some time within the next 6 months there should be another tax bill. Shall we open the matter up and have the tariff question shot through it? I do not think I need to argue that.

It happens that I read the CONGRESSIONAL RECORD a long time before I came to the Senate. Back in those days the tariff was the main question in this country, and the Congress spent most of its time discussing the tariff. I think I would be safe in saying that for 75 years the chief political question in America and in the Senate and in the House of Representatives was the tariff. If we want to revive that question and bring it back into the old congressional mode, I would be willing to consider that as a matter of policy, but I am unwilling to tolerate the thought of it in connection with the domestic tax bill.

Mr. CLARK of Missouri. Mr. President, will the Senator permit me for a moment?

Mr. BAILEY. I yield.

Mr. CLARK of Missouri. The Senator was a little late coming into the Senate during the discussion of this matter. He was in the lobby, perhaps, when this question was presented to the Senate. Although it does involve a matter of tariff and all the considerations the Senator has mentioned, yet it was presented to the Senate purely as a matter of facilitating the delivery to our troops around the world of certain candy bars which are apparently made by certain candy manufacturers in Florida and in Connecticut. I do not believe personally that it is justifiable to break down the whole practice of tariff procedure between the two Houses, merely to facilitate the distribution of candy bars to our armed forces, but that is really and essentially what the issue now is.

Mr. BAILEY. I will say to the Senator it may be candy, but it is not exclusively candy bars. Of course, I would not impugn the good faith of Senators who made that representation, but it is possible they were imposed on. It is also possible that they had not seen what I see in this proposal. We got rid of the coconut oil which was sold in competition with our farmers' and fishermen's oil, and now we propose to open the tent to let the camel's nose come in by way of bringing in coconut to be used in making candy for soldiers and babies. Of course everybody knows that if it comes in that way, it will be pressed into oil and there will be millions of money in the oil compared with dollars in the candy.

That is all I intend to say. I did not intend to be here this afternoon. I was upstairs resting, but I was notified that this question had arisen. So I have undertaken to discuss it not in any extensive way, but merely to state my thought upon coming into the Chamber and being informed that this proposal was before the Senate.

I hope that the amendment will be voted down as a matter of policy, for it would be very bad policy for the Senate to open up a domestic revenue bill to tariff propositions.

I promised to yield to the Senator from Florida.

Mr. ANDREWS. Mr. President, I want to say to the Senator from North Carolina that there is nothing produced on this continent which can take the place of coconut meat for use in the foods we are talking about. The adoption of the amendment would never interfere with anything else. Only a few thousand dollars are involved in the whole proposal. I thought this was a very innocent and a very simple matter, and frankly did not imagine there would be opposition to it because practically all the coconut which would come in under the proposal would go into the articles we have discussed, namely, candy bars, pies, and cakes which go to our boys in the Army and Navy, who take the greater portion of it. If this action is not taken it will probably cause a change entirely in the price of the articles and very likely make it more difficult to produce them. I am willing for the Senate to vote on the amendment now, and if we are not successful we will renew the effort later on.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Florida [Mr. ANDREWS].

The amendment was rejected.

Mr. BALL. Mr. President, I offer an amendment which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 148, after line 25, it is proposed to add the following new section:

SEC. 506. Distributions by personal holding companies.

(a) The last sentence of section 115 (a) of the Internal Revenue Code is amended by adding after the word "distribution," where it first appears, the following: "(to the extent of its subchapter A net income, whether or not a dividend as defined in the preceding sentence)."

(b) The amendment made by subsection (a) shall be effective for all taxable years beginning after December 31, 1941.

Mr. BALL. Mr. President, I discussed this amendment with the chairman of the committee. The 1942 act, so I am informed, amended section 115 (a) and provided that all distributions of personal holding companies would be considered as dividends and hence be taxable. That act did not make the exception made for other corporations for distributions of capital except in case of complete or partial liquidation. I understand the chairman of the committee is willing to take the amendment to conference for further study.

Mr. GEORGE. Mr. President, I should say that the Treasury does not approve the amendment, but I am willing to take it to conference and examine it further. The Senator from Minnesota has correctly stated the situation. At the present time any distribution of capital by personal holding companies not in complete or partial liquidation—not in complete liquidation, as I recall—is regarded as a dividend.

It has been a matter of controversy since the proposal was made. A great many people have presented the matter to members of the Finance Committee and to the committee itself. Frankly, as I have said, the Treasury has objected to the amendment, but I am willing to take it to conference because actually it involves a question of the distribution of capital and not of dividends.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Minnesota [Mr. BALL].

The amendment was agreed to.

Mr. TRUMAN. Mr. President, I offer an amendment which I ask to have read.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. At the proper place in the bill it is proposed to add the following section:

That section 710 (a) (1) (relating to rate of excess-profits tax) is amended to read as follows:

"(1) General rule: There shall be levied, collected, and paid, for each taxable year, upon the adjusted excess-profits net income, as defined in subsection (b), of every corporation (except a corporation exempt under sec. 727) a tax equal to whichever of the following amounts is the lesser:

"(A) 90 percent of the adjusted excess-profits net income, or

"(B) An amount which when added to the tax imposed for the taxable year under chapter 1 (other than sec. 102) equals the following percentages of the corporation surtax net income, computed under section 15 or supplement G, as the case may be, but without regard to the credit provided in section 26 (e) (relating to income subject to the tax imposed by this subchapter): On corporation surtax net incomes amounting to $25,000 or less, 40 percent; on corporation surtax net incomes over $25,000 but not over $50,000, 50 percent, or $10,000 plus 90 percent of the corporation surtax net income in excess of $25,000, whichever is the lesser; on corporation surtax net incomes over $50,000 but not over $75,000, 60 percent, or $25,000 plus 90 percent of the corporation surtax net income in excess of $50,000, whichever is lesser; on corporation surtax net incomes over $75,000 but not over $100,000, 70 percent, or $45,000 plus 90 percent of the corporation surtax net income in excess of $75,000, whichever is the lesser; on corporation surtax net incomes over $100,000, 80 percent, or $70,000 plus 90 percent of the corporation surtax net income in excess of $100,000, whichever is the lesser."

Mr. TRUMAN. Mr. President, I am not a tax expert, but the objective of the amendment is to keep the small corporations in business. The amendment was presented by my colleague in the Committee on Finance, but the Treasury objected on account of certain technicalities, and said it had not had time to work the matter out. I am hoping that the chairman of the Committee on Finance will take the amendment to conference, and work out some sort of arrangement so that the small corporations will not all be put out of business by the present excess-profits tax.

Mr. WHITE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Maine?

Mr. TRUMAN. I am glad to yield.

Mr. WHITE. Was the amendment submitted to the committee?

Mr. TRUMAN. It was, by my colleague.

Mr. WHITE. It was not approved by the committee?

Mr. TRUMAN. The Treasury objected to it.

Mr. WHITE. The Treasury objected?

Mr. TRUMAN. The Treasury representatives objected to it on technical grounds, and I thought they might be able to work out some sort of a compromise which would meet the intent of the amendment, if it could be taken to conference.

Mr. GEORGE. Mr. President, I regret that I cannot agree to take it to conference, because the amendment was presented by the senior Senator from Missouri [Mr. CLARK], who is a member of the Committee on Finance, and the committee passed on it. Objection was urged by the Treasury. The great difficulty about the matter, as I see it, is that there is no showing as to how it would affect revenue, or just what the effect would be.

Mr. TRUMAN. I understand that, and the Treasury could not furnish the information.

Mr. GEORGE. No; we could not get the information. The chairman of the Committee on Ways and Means has publicly stated—and I think I therefore may be able to assure the Senator that this course will be followed—that his committee would expect to commence work, as soon as the pending bill was out of the way, on a bill which would deal primarily with administrative, technical provisions, looking to the elimination of the inequities in the whole tax structure, and looking primarily to the simplification of our revenue laws, and of the requirements imposed on the citizen in connection therewith.

I really believe it would be better for the Senator to withhold his amendment, and let it come before the Committee on Ways and Means. I think he will have that opportunity within a reasonably short time. I do not know how it would affect the revenue in connection with the pending bill.

Mr. TRUMAN. I understand that, and I am perfectly willing to abide by the advice of the able and distinguished chairman of the Committee on Finance. I sincerely hope the matter can be worked out, because a great many of the small corporations are now being abandoned, turned into partnerships, and other things are happening, which is of vital interest if we are to maintain the small business structure of the Nation.

Mr. GEORGE. The Senator is quite right in that point, and this is a matter which will press itself upon the Con-

gress. Congress must consider the problem. I think the Senator is quite right in seeking to have it considered in connection with the tax bill, but I appreciate the fact that he is willing to bide his time until the next tax bill comes in.

Mr. TRUMAN. I am, if we can get some relief.

Mr. GEORGE. I thank the Senator.

The PRESIDING OFFICER. The Senator from Missouri withdraws his amendment.

Mr. TRUMAN. Mr. President, I should like to offer another amendment, which has to do with the sale of Government equipment. It proposes legislation, and I hope it can be attached to the pending bill, because I think it is of vital importance at this time.

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. It is proposed to insert at the proper place in the bill the following new section:

SEC. —. Sale of certain Government-owned production equipment.

Notwithstanding the provision of any other law relating to the disposal of Government property, any manufacturer having in his plant production equipment, title to which is in the United States and which was procured by that manufacturer for the account of the United States, or which was furnished by the United States, for the production of war supplies of the United States, shall have the right, at any time during which such production equipment is in the manufacturer's plant, to purchase such production equipment for amounts equal to the following percentages of the original acquisition price to the United States of such production equipment:

Manufacturing equipment 1 year of age or less, 80 percent;

Manufacturing equipment more than 1 year but less than 2 years of age, 65 percent;

Manufacturing equipment of 2 years of age or more, 50 percent.

For the purpose of determining the age of manufacturing equipment under this section, the date of manufacture of such equipment shall govern in each case. No warranty of any kind by the United States shall be construed to arise from such sale of such property.

Mr. TRUMAN. Mr. President, this amendment is offered for the purpose of making a concrete approach to reconversion. One of the difficulties that will be met as soon as the production emergency for war is over will be as to what is to happen to Government-owned equipment in war plants, and how we are to arrive at a conclusion which will be satisfactory for reconversion to peacetime work. I am merely offering the amendment for the purpose of setting up a concrete approach to what shall be done with Government equipment in the plants which may be reconverted to peacetime production.

Mr. WHITE. Will the Senator yield for a question?

Mr. TRUMAN. Certainly.

Mr. WHITE. As I read the amendment hurriedly, it seems to me the Senator is fixing an arbitrary price, and that the producer in whose plant the property is could not trade with respect to it except at the statutory figure. Is that correct?

Mr. TRUMAN. The Senator knows what will happen if some means is not found to prevent an immense amount of Government machinery and wartime production equipment, which cannot be ordinarily used in peacetime production, being thrown on the market. It is going to be pooled and sold at an outrageous discount, so far as the taxpayers' interest in it is concerned; then we will have a glut on the market of machinery and things of that kind, to such an extent that a great many of the factories will be completely put out of business.

I see the junior Senator from Michigan [Mr. FERGUSON] has just entered the Chamber, and I recall a case, with which he is familiar, of an immense amount of new equipment for the manufacture of wartime engines being junked by the Army. That equipment cost somewhere in the neighborhood of $600,000, and it was sold for $36,000, which is outrageous. I merely want some sort of a safety device, so that such things cannot happen between now and the time when we come to a real adjustment.

Mr. WHITE. I repeat, as I hurriedly read the amendment, it strikes me that the Senator has provided that "Manufacturing equipment 1 year of age or less," must be sold at 80 percent, and at no other price.

Mr. TRUMAN. That is correct.

Mr. WHITE. That seems a little arbitrary. I think that in some plants we might find the parties perfectly willing to pay more than 80 percent. Of course, in most plants it is going to be very largely a case of salvaging much of the material, much of the equipment, much of the machinery, and the Government getting for it what people are ready and willing to pay. If they do not dispose of it practically on that basis, we will have it left on our hands, deteriorating, until the value will have entirely disappeared.

Mr. TRUMAN. But if the material is dumped on the basis of the case which I have cited, we are going to have the situation of a great many manufacturers being put out of business.

Mr. BARKLEY. Mr. President, the question involved in the amendment is one of very broad policy.

Mr. TRUMAN. That is true.

Mr. BARKLEY. It is a question which is now being investigated by the Post-War Planning Committee of the Senate, of which the Senator from Georgia [Mr. GEORGE] is chairman. We have held hearings on this subject. It involves reconversion and involves cancelation of contracts. It involves an infinitely complicated problem of how best to demobilize our war efforts. It seems to me unwise now in this bill to undertake to fix a yardstick by which that problem can be solved. I can say to the Senator from Missouri that the subject is receiving the closest attention of the Post-War Planning Committee. It has also been gone into to some extent by other committees of the Senate. But I doubt the wisdom of trying to offer it to the pending bill without committee consideration, and I hope the Senator will not press his amendment. I can assure him that the subject which it covers is one in which we are all very much interested. We are seeking to work out the problem not only in the Senate but with the agencies downtown, the War Department and the Navy Department and all other departments. The proposal covers all the departments of the Government; not simply the Treasury. I hope the Senator will not press for action on his amendment at this time.

Mr. TRUMAN. Mr. President, what I am particularly interested in, I will say to the Senator, is that the Army and the Navy now are taking steps and disposing of immense amounts of property and machinery at ridiculous prices. Some stoppage ought to be put to that practice until the very thing that the Senator is talking about can be worked out.

Mr. BARKLEY. Even if that be true I doubt if we can at this time, in an amendment offered on the floor, fix an arbitrary figure at which this property should be disposed of. If the departments referred to are disposing of property now they are disposing of it under whatever law exists on the subject.

Mr. TRUMAN. They are doing it under the Emergency Act.

Mr. BARKLEY. I think this is not an appropriate time to try to fix a policy with respect to that subject.

Mr. TRUMAN. I think the Army and the Navy ought to be put on notice that the actions which they are taking now with regard to some of this material and machinery will be carefully looked into by the Senate and the House of Representatives, and that they ought to be very careful as to how they take steps along this line from now on. I am not particularly interested in any special piece of legislation, but I want to see that the interests of the Government and the public are protected.

Mr. BARKLEY. I share in that desire, and I am sure the committee and the Congress itself are going to be very watchful, if not critical, of the method by which this property is disposed of. The entire assembly of machines and buildings and everything else that the Government has invested its money in as a war activity are to be scrutinized. I can guarantee to the Senate that the Post-War Planning Committee, and any other committee that has jurisdiction of the subject, will go into it carefully and will be meticulous, I think, in attempting to protect the interests of the Government.

Mr. TRUMAN. With that assurance, Mr. President, on the part of the leader, I will be glad to withdraw the amendment, and leave the matter for future consideration.

Mr. President, I ask unanimous consent to offer an amendment on behalf of the senior Senator from Illinois [Mr. LUCAS] who cannot be present today. The amendment has something to do with the refund of tax on luggage, to avoid double taxation. The Senator from Illinois asked me to offer the amendment in his behalf. I do not

think it was ever presented to the Finance Committee.

The PRESIDING OFFICER. The amendment will be read.

The LEGISLATIVE CLERK. On page 136, after line 19, it is proposed to insert a new section reading as follows:

SEC. 311. Refund of luggage tax to avoid double taxation.

(a) Where prior to the effective date of section 1615, relating to retailers excise tax on luggage, any article subject to the manufacturers' excise tax on luggage imposed by section 3406 (a) (2) of the Internal Revenue Code has been sold by the manufacturer, producer, or importer, and is on such effective date held by a dealer and intended for sale, there shall be refunded to the manufacturer, producer, or importer the amount of the tax, or if the tax has not been paid, the tax shall be abated. Upon request, the manufacturer shall furnish to such dealer the amount of the manufacturers' excise tax paid with respect to such articles.

(b) As used in this section the term "dealer" includes a wholesaler, jobber, or retailer. For the purposes of this section, an article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made), and if for purposes of consumption, title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(c) Under regulations prescribed by the Commissioner, with the approval of the Secretary, the refund provided by this section may be applied as a credit against the tax shown by subsequent returns of the manufacturer, producer, or importer.

(d) When the refund, credit, or abatement provided for in this section has been allowed to the manufacturer, producer, or importer, he shall remit to the dealer who held on such effective date the article in respect of which a refund, credit, or abatement was allowed, so much of that amount of the tax corresponding to the refund, credit, or abatement as was paid or agreed to be paid by the dealer. Upon failure of the manufacturer, producer, or importer to make such remission, he shall be liable to the dealer for damages in the amount of three times the amount thereof, and the court shall include in any judgment in favor of the dealer in any suit for the recovery of such damages, costs of the suit and a reasonable attorney's fee to be fixed by the court.

Mr. TRUMAN. Mr. President, I am offering this amendment at the request of the senior Senator from Illinois who is unavoidably detained from the Senate at this time. After reading the amendment I was under the impression that it had some justification.

Mr. GEORGE. Mr. President, this particular amendment was not submitted to the committee, although the Senator from Illinois is a member of the committee. But the general subject, as it relates to the refund on several of what might be called, and properly have been called, war excise taxes, was brought to the attention of the committee, and there is some merit in the proposal. We were of the opinion that the matter could be handled subsequently much better than we could do so at this time. If this amendment is in the same general field, and I think it is, dealing only with one particular item or particular commodity or article on which this special tax is imposed, it seems to me it might go over until we consider the whole subject.

Furthermore, I understood that the Treasury did not favor this particular proposal. There are matters involved in this field, however, that will require study, and there unquestionably will be some legislation dealing with this very subject matter. But we are not ready to dispose of it. I suggest to the Senator from Missouri that he either not press the amendment today, or let it lie over until Monday at any rate. If the Senator from Illinois returns, we may be able then to reach some agreement with respect to the amendment.

Mr. TRUMAN. I am perfectly willing to have that done.

Mr. CLARK of Missouri. Mr. President, I should like to have the attention of the Senator from Georgia, the chairman of the Finance Committee. It is my intention at the proper time to move to strike out section 112 of the House bill, beginning on page 39 and extending down toward the bottom of page 41. It seems to me to be obvious that we cannot conclude the bill tonight. However, if the Senator from Georgia has any intention of going through with the conclusion of the bill, other than the renegotiation feature, I should like to offer the amendment at this time.

Mr. GEORGE. Mr. President, it is obvious that we cannot conclude consideration of the bill tonight.

Mr. CLARK of Missouri. I will say very frankly that it will be necessary to have a quorum present when the matter is considered, and I intend to ask for a yea and nay vote on the question of striking out section 112. I do not desire to interfere with the orderly consideration of the bill. But I thought it proper to call the attention of the Senator from Georgia at this time to my intention.

Mr. GEORGE. It is obvious that we cannot complete consideration of the bill tonight. There are one or two amendments perhaps on which a vote will be taken. I think for the most part the other amendments which have been exhibited to me or brought to my attention very few in number in fact now, can be disposed of without controversy.

But I am ready now, if agreeable to the majority leader, to conclude for the day consideration of the bill and amendments.

EXECUTIVE SESSION

Mr. BARKLEY. Mr. President, 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 MESSAGE REFERRED

The PRESIDING OFFICER (Mr. McFARLAND in the chair) laid before the Senate a message from the President of the United States submitting several nominations, in the Marine Corps, which were referred to the Committee on Naval Affairs.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF A COMMITTEE

The following favorable reports of nominations were submitted:

By Mr. WALSH of Massachusetts, from the Committee on Naval Affairs:

Capt. James E. Boak, United States Navy, to be a commodore in the Navy, for temporary service, while serving as the commander of an advanced naval base;

Capt. George R. Henderson, United States Navy, to be a commodore in the Navy, for temporary service, while serving in command of a fleet air wing;

Rear Admiral David W. Bagley, United States Navy, to be a vice admiral in the Navy, for temporary service, to rank from the 1st day of February 1944, and to continue during his assignment as commander, Western Sea Frontier;

Vice Admiral John W. Greenslade, United States Navy, when retired on February 1, 1944, to be placed on the retired list with the rank of vice admiral pursuant to an act of Congress approved June 16, 1942;

Capt. William M. Fechteler, United States Navy, to be a rear admiral in the Navy, for temporary service, to rank from the 3d day of December 1942;

Commodore Henry S. Kendall, United States Navy, to be a rear admiral in the Navy, for temporary service, to rank from the 15th day of May 1943;

Capt. Frank L. Lowe, United States Navy, to be a rear admiral in the Navy, for temporary service, while serving as Assistant Judge Advocate General;

Capt. John J. Ballentine, United States Navy, to be a rear admiral in the Navy, for temporary service, to rank from the 21st day of April 1943; and

Capt. Frederick G. Crisp, United States Navy, to be a rear admiral in the Navy, for temporary service, while serving as Director of Shore Establishments and Civilian Personnel, Navy Department.

REFERENCE OF TREATIES AND NOMINATIONS

Mr. BARKLEY. Mr. President, I submit the resolution which I send to the desk and ask to have read and considered.

The PRESIDING OFFICER. The resolution will be read.

The legislative clerk read as follows:

Resolved, That on calendar days of the present session of Congress when no executive session is held, nominations or treaties received from the President of the United States may, where no objection is interposed, be referred, as in executive session, to the appropriate committee by the Presiding Officer of the Senate.

Mr. WHITE. Mr. President, will the Senator from Kentucky yield?

Mr. BARKLEY. I yield.

Mr. WHITE. Am I correct in my understanding that the resolution is a usual and more or less routine one?

Mr. BARKLEY. Yes. It merely means that when the Senate is in session and there is no executive session, nominations or treaties sent to the Senate may be referred to the appropriate committees.

Mr. WHITE. Such a resolution is usually agreed to, is it?

Mr. BARKLEY. Yes.

The PRESIDING OFFICER. The question is on the present consideration of the resolution.

There being no objection, the resolution was considered and agreed to.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. If there be no further reports of committees, the clerk will state the nominations on the calendar.

THE MARINE CORPS—NOMINATION PASSED OVER

The legislative clerk read the nomination of Col. William P. T. Hill, to be Quartermaster of the Marine Corps, with the rank of brigadier general, which nomination had previously been passed over.

Mr. BARKLEY. Mr. President, the nomination of Colonel Hill to be Quartermaster of the Marine Corps, with the rank of brigadier general, has been passed over several times. I understand it is desired that the nomination go over again; but I wish to inform Senators who have asked that it go over that I think it has gone over about long enough, and unless there is some opposition to be expressed in the Senate to the confirmation of the nomination, I shall insist that the nomination be taken up and passed upon.

Mr. WHITE. Mr. President, does the Senator mean to have that done some day next week?

Mr. BARKLEY. Yes; early next week.

DEPARTMENT OF COMMERCE

The legislative clerk read the nomination of Josh Lee, of Oklahoma, to be a member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1949.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

UNITED STATES PUBLIC HEALTH SERVICE

The legislative clerk proceeded to read sundry nominations in the United States Public Health Service.

The PRESIDING OFFICER. Without objection, the nominations are confirmed en bloc.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. BARKLEY. I ask unanimous consent that the nominations of postmasters be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the postmaster nominations are confirmed en bloc.

Mr. BARKLEY. I ask unanimous consent that the President be immediately notified of the nominations confirmed today.

The PRESIDING OFFICER. Without objection, the President will be notified forthwith.

That completes the calendar.

THE REVENUE ACT

Mr. BARKLEY. I move that the Senate resume the consideration of legislative business.

The motion was agreed to.

The Senate resumed the consideration of the bill (H. R. 3687) to provide revenue, and for other purposes.

Mr. GEORGE. Mr. President, I wish to call attention to one matter which can be, and should be, disposed of now. It will be recalled that yesterday, on motion of the Senator from Colorado [Mr. JOHNSON], a certain section of the Finance Committee bill, as reported from committee, was stricken out, and a new section was inserted. I do not have before me the exact page number.

Mr. JOHNSON of Colorado. On page 50.

The PRESIDING OFFICER. The Chair is informed that the new section was inserted on page 50, line 11.

Mr. GEORGE. The amendment was agreed to.

The Senator from Pennsylvania [Mr. DAVIS] has offered an amendment to the amendment of the Senator from Colorado which was agreed to in lieu of the Finance Committee amendment. To the amendment of the Senator from Pennsylvania to the amendment of the Senator from Colorado the Treasury does not object; but I understand that the position of the Treasury is that the amendment of the Senator from Pennsylvania should go in as an amendment to the amendment of the Senator from Colorado. If the amendment of the Senator from Colorado, now included in the bill, is retained, the amendment of the Senator from Pennsylvania should become a part of it, or at least should go to conference, so that the matter presented in the amendment may be fully considered. The amendment of the Senator from Pennsylvania is, in substance, a part of the amendment which the Finance Committee first recommended, but it does not relate to the new matter. So it is a matter with which the committee is familiar, and on which the committee has really passed, although the final committee amendment was rejected, and a substitute for it was agreed to.

Therefore I ask unanimous consent that the vote by which the amendment of the Senator from Colorado was agreed to be reconsidered, so that the Senator from Pennsylvania may offer his amendment, which I hope will be agreed to.

The PRESIDING OFFICER. Without objection, the vote by which the amendment of the Senator from Colorado was agreed to is reconsidered, and the amendment is before the Senate.

Mr. GEORGE. Mr. President, I now ask unanimous consent that the amendment of the Senator from Pennsylvania to the amendment of the Senator from Colorado be considered and agreed to.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Pennsylvania to the amendment of the Senator from Colorado is considered and agreed to.

The amendment of the Senator from Pennsylvania [Mr. DAVIS] to the amendment of the Senator from Colorado [Mr. JOHNSON] is as follows:

At the end of the amendment offered on January 14 by the Senator from Colorado [Mr. JOHNSON], beginning on page 50 and ending with line 7, on page 57, add the following:

SEC. 115½. Reorganization by adjustment of capital and debt structure of an existing corporation.

(a) Section 113 (a) of the Internal Revenue Code is amended by adding at the end thereof a new paragraph, as follows:

"( ) Reorganization by adjustment of capital and debt structure of an existing corporation: If the reorganization of a corporation (other than a railroad corporation as defined in section 77m of the National Bankruptcy Act, as amended) in a receivership proceeding or in a proceeding under section 77B of chapter X of the National Bankruptcy Act, as amended, is consummated under a plan by adjustment of the capital and debt structure of an existing corporation rather than by transfer of the assets to a successor corporation, then, at the election of the taxpayer, notwithstanding the provisions of section 270 of the National Bankruptcy Act, as amended, the basis of such assets shall be the same as immediately prior to the reorganization and, for the purposes of sections 718 and 760, the reorganized corporation shall be treated as if it were a corporation which acquired the assets pursuant to a plan of reorganization, in exchange for the stock and securities and an assumption of the liabilities of such corporation as reorganized. This paragraph shall not apply if any of the persons who were shareholders of the corporation immediately before the reorganization are shareholders of the corporation immediately after the reorganization by reason of a continuing equity in the assets of the corporation attributable to such shareholders solely by reason of their ownership of stock. The term "reorganization," as used in this paragraph, shall not be limited by the definition of such term in section 112 (g)."

The election under this section shall be made under such rules and regulations as the Commissioner, with the approval of the Secretary, shall prescribe.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Colorado [Mr. JOHNSON], as amended.

The amendment as amended was agreed to.

Mr. DAVIS subsequently said: Mr. President, in respect to the amendment I offered to the amendment of the Senator from Colorado, both of which were agreed to, I desire to make a brief statement.

The effect of this amendment is to provide a rule for the determination of the invested capital and of the basis of the assets of a corporation following a bankruptcy or receivership reorganization where a new or successor corporation is not employed. It does not apply to railroad corporations, nor does it apply to any reorganization where the old stockholders' interests are preserved in whole or in part. It applies only to industrial reorganizations where the entire proprietary interest of the enterprise shifts to the corporation's creditors.

The amendment provides in such cases that the basis of the assets shall be the same as immediately prior to the reorganization, unadjusted for debt cancelation, and that such basis shall be the measure of the property paid in for the corporation's stock. The rule under existing law is unclear, and has impeded the orderly termination of many pending bankruptcy and receivership proceedings involving industrial corporations. The amendment provides the same rule as that now prescribed in railroad reorganizations and in the Johnson amendment with reference to industrials, where a new corporation is employed. It is similar to the provision contained in section 115 of the reported bill, but is much narrower in scope, and retains existing carry-overs. It is, therefore, believed to be free from objection.

Mr. MAYBANK. Mr. President, I have two amendments in connection with the tax on oleomargarine, which I had hoped to offer today. However, due to the lateness of the hour, and because some Senators who have been very much interested in the subject are not now in the Chamber, I shall delay offering the amendments until Monday.

RECESS

Mr. BARKLEY. I move that the Senate take a recess until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 4 o'clock and 38 minutes p. m.) the Senate took a recess until Monday, January 17, 1944, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate January 15 (legislative day of January 11), 1944:

PROMOTIONS AND APPOINTMENTS IN THE MARINE CORPS

Brig. Gen. DeWitt Peck to be a major general in the Marine Corps, for temporary service, from the 1st day of January 1944.

Col. Gerald C. Thomas to be a brigadier general in the Marine Corps, for temporary service, from the 7th day of December 1943.

Robert P. Smith, a citizen of California, to be a second lieutenant in the Marine Corps from the 31st day of October 1942.

The below-named citizens to be second lieutenants in the Marine Corps from the 7th day of August 1943:

Carl E. Walker, a citizen of California.

William L. Eubank, a citizen of Mississippi.

The below-named citizens to be second lieutenants in the Marine Corps from the 29th day of October 1943:

William H Dennen, a citizen of Virginia.

Charles H. Scholfield, a citizen of Missouri.

Jay T. Nichols, a citizen of Illinois.

Platoon Sgt. Arba K. Alford, Jr., a meritorious noncommissioned officer, to be a second lieutenant in the Marine Corps from the 17th day of November 1943.

Bevan G. Cass, a citizen of Pennsylvania, to be a second lieutenant in the Marine Corps from the 1st day of December 1943.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 15 (legislative day of January 11), 1944:

DEPARTMENT OF COMMERCE

Josh Lee, of Oklahoma, to be a member of the Civil Aeronautics Board in the Department of Commerce.

UNITED STATES PUBLIC HEALTH SERVICE

TO BE TEMPORARY SURGEONS

Aaron W. Christensen
Robert F. Martin
Theodore McC. Burkholder
Theodore L. Perrin
Harris Isbell
Rolla R. Wolcott
James F Lane
John N. Bowden
Ralph B. Hogan
Vernon B. Link
Norman H. Topping
Michael B. Shimkin

TO BE TEMPORARY SENIOR SURGEONS

Noka B. Hon
Hiram J. Bush
Eddie M. Gordon
Walter P. Griffey
Albert T. Morrison
Samuel J. Hall
Maurice A. Roe
Paul A. Neal
Kenneth R. Nelson
Vane M. Hoge

TO BE TEMPORARY MEDICAL DIRECTOR

Erval R. Coffey

TO BE ASSISTANT SURGEONS

Norman W. Wagner
Walter S. Mozden

TO BE PASSED ASSISTANT SANITARY ENGINEER

James G. Terrill, Jr.

TO BE TEMPORARILY PROMOTED TO SENIOR SANITARY ENGINEER

Vincent B. Lamoureux.

TO BE TEMPORARILY PROMOTED TO DENTAL SURGEONS

Francis A. Arnold, Jr.
George E. Waterman

POSTMASTERS

CALIFORNIA

Joseph L. Hewes, Encinitas.
Alice L. West, Rocklin.

DELAWARE

Florence E. Williams, Dagsboro.
Otto Dickerson, Milton.
Edna E. Conner, Townsend.

FLORIDA

Evelyn V. Morrow, Deerfield Beach.
Jennie D. Carlton, Nocatee.

GEORGIA

Charles P. Suber, Ben Hill.
Katherine F. Underwood, Cadwell.
Durell W. Knight, Dexter.
Edgar F. Allen, Folkston.
Bob H. Elliott, Milstead.
Julia E. Custer, Montrose.
Marie E. Harrell, Pearson.
Hubert H. Watson, Warner Robins.

INDIANA

Joshua Rothrock, Brooklyn.
Eva C. Brown, Burlington.
Frank A. Anderson, Deputy.
Madelyn O'Dell, Fillmore.
Dale E. Pherigo, Flat Rock.
Willard W. Goble, Freetown.
Leta McComb, Huntertown.
Louvisa E. Rainford, Lake Village.
Ina Belle Manges, Lapaz.
Lester A. Madden, Lynnville.
Winnie Johnson, North Terre Haute.
Andy Dillon, Otwell.
James H. Witherspoon, Sr., Patoka.
Leonora T. Anderson, Poland.
Ruth Kennedy, St. Bernice.
Grace Mitchell, Springville.
Harold T. Conrad, Zionsville.

KANSAS

Clarence F. Danielson, Clyde.
Roy W. Sanderson, Hamilton.
Paul D. Randel, Havensville.
Philip P. Voran, Kinsley.
Caleb A. Bodmer, Natoma.
May B. Lawson, Plains.
Clifford I. Percival, Smolan.
G. Lowell Kelley, White Cloud.

MINNESOTA

Peter L. Geris, Carlos.
Carl W. Appelquist, Dunnell.
Clifford E. S. Gunderson, Waubun.
William D. Banta, Wyoming.

NEW JERSEY

Pearl S. Richman, Malaga.
John C. Wiltsee, Monroeville.
Jennie Kapner, Mount Freedom.
Robert Francis Murray, New Market.
Edgar Kerris, Pine Brook.

NORTH DAKOTA

Max A. Wipperman, Hankinson.

OREGON

Gertrude K. McKinney, Elkton.
Dorathy V. Elliott, Florence.
Lois M. Brown, Langlois.
Clinton F. Trow, Ontario.

SOUTH CAROLINA

Luther L. Hadden, Duncan.

TEXAS

Claud S. Campbell, Borger.
Thomas L. P. Lindley, Fairfield.
Stella Gliddon, Johnson City.
Fannie E. Taylor, Murchison.
Marion J. Edwards, Rankin.
Robert E. Johnson, Round Rock

UTAH

Etta Moffitt, Kenilworth.

VIRGINIA

Russell D. Davis, Axton.
Cecil I. Bruce, Bastian.

WASHINGTON

John H. Thompson, Midway.
Roy W. Peterson, Parkland.
Fred Kelly, Woodinville.

SENATE

MONDAY, JANUARY 17, 1944

(Legislative day of Tuesday, January 11, 1944)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

Father of our yearning spirits, we thank Thee for every sacrament of beauty: For the rosy flush of the dawn which calls to holy dedication; for the noontide splendor which brings the heat and burden of the day; and for the quiet vesper of the evening which mirrors a realm where, beyond these voices, there is peace:

Once more in Thy great mercy the white scroll of a new day unfolds before us. We lift our hearts to Thee in the pure light of morning. We pray that this day our record may be kept unstained by any word or act unworthy of our best. As we take our place among our fellows, to face the tasks committed to our hands in these stirring and solemn times, grant that we may look all men in the face with the eyes of a brother. May no cloud of misunderstanding, no passing irritation, rob us of the joyful fellowship one with another in the partnership of the Nation to whose welfare our strength of mind and heart is dedicated. In troubled and anxious days still our minds, hush our spirits, and may Thy calm, O God, possess our souls. Amen.

ATTENDANCE OF SENATORS

JOHN H. BANKHEAD, a Senator from the State of Alabama; THEODORE G. BILBO, a Senator from the State of Mississippi; ALLEN J. ELLENDER, a Senator from the State of Louisiana; PAT MCCARRAN, a Senator from the State of Nevada; and MON C. WALLGREN, a Senator from the State of Washington, appeared in their seats today.

THE JOURNAL

On request of Mr. TRUMAN, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Saturday, January 15, 1944, was dispensed with, and the Journal was approved.

MESSAGE FROM THE PRESIDENT

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

NOTICE OF HEARING ON AUSTIN-WADSWORTH BILL (S. 666)

Mr. AUSTIN. Mr. President, the hearing on the Austin-Wadsworth bill, Senate bill 666, has been postponed from Tuesday, tomorrow, to Wednesday. The meeting will be held at 10 o'clock a. m. in the caucus room, 318 Senate Office Building. Due to unforeseen causes, it has become inconvenient for the Secretary of War to attend the meeting Tuesday, but he will attend Wednesday.

CALL OF THE ROLL

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