

HEARINGS
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BEFORE THE



**SELECT COMMITTEE ON INVESTIGATION OF THE
BUREAU OF INTERNAL REVENUE
UNITED STATES SENATE**

SIXTY-EIGHTH CONGRESS

FIRST SESSION

PURSUANT TO

S. Res. 168,

**AUTHORIZING THE APPOINTMENT OF A SPECIAL COMMITTEE
TO INVESTIGATE THE BUREAU OF INTERNAL REVENUE**

MARCH 14, 19, 20, 21, AND 24, 1924

PART 1

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**SELECT COMMITTEE ON INVESTIGATION OF THE BUREAU OF
INTERNAL REVENUE.**

JAMES E. WATSON, Indiana, Chairman

**JAMES COUZENS, Michigan.
RICHARD P. ERNST, Kentucky.**

**ANDRIEUS A. JONES, New Mexico
WILLIAM H. KING, Utah.**

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INVESTIGATION OF THE BUREAU OF INTERNAL REVENUE.

FRIDAY, MARCH 14, 1924.

UNITED STATES SENATE,
SELECT COMMITTEE ON INVESTIGATION
OF THE BUREAU OF INTERNAL REVENUE,
Washington, D. C.

The select committee met, pursuant to call, at 2.30 o'clock p. m., in the Committee on Finance committee room, Capitol, Senator James E. Watson (chairman) presiding.

Present: Senators Watson (chairman), Jones of New Mexico, King, Ernst, and Couzens.

Present also: Mr. D. H. Blair, Commissioner of Internal Revenue; Mr. C. R. Nash, Assistant to the Commissioner of Internal Revenue; Mr. J. G. Bright, Deputy Commissioner, Income Tax Unit; Mr. N. T. Hartson, Solicitor Internal Revenue Bureau; and Dr. T. S. Adams, tax expert, Yale University.

The CHAIRMAN. The committee now meeting was appointed by the Senate, pursuant to a resolution introduced by Senator Couzens providing for an investigation of the Internal Revenue Bureau of the Treasury Department.

The committee met yesterday informally, and after some discussion, decided to ask Commissioner Blair and such assistants as he cared to bring with him to meet with us to-day for the purpose of outlining a plan of procedure or a program to be pursued by the investigating committee.

Senator COUZENS. I would like to ask Commissioner Blair if he has any suggestions, in view of the discussion that I had with him several weeks ago, as to how best to proceed to get at the results, with the least possible interference with the conduct of the Internal Revenue Bureau.

Senator KING. And, Mr. Commissioner, while answering the suggestion of Senator Couzens, please have in mind what I am about to propound, in view of the fact that I offered the resolution for the investigation of the department, in which I charged that it was alleged that there was inefficiency and waste in the Internal Revenue Bureau, that the method of making refunds in the ascertainment of and the settling of accounts of taxpayers was inefficient and productive in many instances of fraud and corruption, or the opportunity for corruption—and that latter language is included in one of the "whereases" of Senator Couzens's resolution, although it is not a part of the resolution itself as passed; and in view of the further fact that it was stated in that and in another resolution that frauds were committed upon the

Government by reason of allowances for depletion in the returns on mines, particularly coal mines; the charge also having been made that employees who had separated themselves from the service had done so for the purpose of drumming up business against the Government, and that they and lobbyists and so-called experts and whatnot were bringing actions against the Government, claiming to have influence with the department to secure refunds, because my resolution contemplates an investigation to learn to what extent those things exist. We want to ascertain from you whether or not machinery should be established to pass upon these claims in the open, instead of by a sort of star-chamber proceedings; that instead of the methods which were employed in the past, to have a court with judicial powers to pass upon the claims, which you may make against others and the claims which the taxpayers would make against the Government, for refunds on account of illegal and improper assessments.

Those are the charges embraced in my own resolution, and I think this committee will want to inquire into those things. After having answered the Senator's suggestion, will you state how we can best, in your opinion, make an investigation of those charges to which I have referred?

STATEMENT OF D. H. BLAIR, COMMISSIONER OF INTERNAL REVENUE.

Senator COUZENS. You have my question, Mr. Commissioner, have you not?

Commissioner BLAIR. Yes.

Senator COUZENS. All right; you may proceed now.

Commissioner Blair. The first question was as to how you could best proceed to get at something definite and concrete. I do not think that you can get an intelligent understanding of this situation in your own minds, that is, a picture of the Bureau of Internal Revenue, and for that reason I have brought a chart showing the organization of the bureau, a copy of which I have placed before each of you.

I really think you could get a better idea of the bureau by taking a little time to go through it, and I should like to invite the committee, at any time to suit its convenience, to go through this bureau and see just what the problems are that we are up against.

The bureau is located in seven different buildings, scattered pretty nearly all over the city of Washington. Five of those buildings are temporary buildings. One is on Louisiana Avenue; one at Sixth and B Streets, known as Building C; another large building at Fourteenth and B Streets, where most of the income-tax work is done, a temporary building; another known as Building 5, at Twentieth and C Streets; and then in the Treasury Building we have some offices; my own office is in the Treasury Building, the solicitor's office; and the office of the committee on appeals and review is in the Interior Building. Then we have annex No. 1, which is a fireproof building, just opposite the Treasury Building and next to the Riggs Bank. All of those buildings except the Treasury, the annex No. 1, and the Interior Building are temporary buildings.

From No. 5 building at Twentieth and C Streets, in which we have a large number of people, to the building at Sixth and B Streets I should

say it is 2 miles, and quite a number of the buildings are at least a mile away from the commissioner's office.

The CHAIRMAN. How many persons are employed in the bureau, in the aggregate?

Commissioner BLAIR. In the city of Washington?

The CHAIRMAN. In the Internal Revenue Bureau.

Commissioner BLAIR. Between five and six thousand—about 5,700.

Senator KING. You mean just in the District?

Commissioner BLAIR. That is in the District. There are something over 19,000 altogether, including collectors' offices. Since last July we have reduced our force by some 2,000 people.

Senator KING. It seems to me that there ought to have been a material reduction following the war, because during 1918, 1919, and 1920 you were collecting double the amount of revenue that you are collecting now.

Commissioner BLAIR. Yes, sir; but the work on those very returns has been done in the last two or three years; but the Government had to have the money during the war, and in 1920 they made what is known as a superficial audit and sent out their assessments, with the idea of getting money quickly, and then having the returns audited accurately afterwards. Some one said, "They needed the money badly, and they shock the tree and got the easy fruit." Then the audit and the determination of the difficult questions concerning invested capital and other things were left, and that work was hardly commenced before the last month of 1920 and the early part of 1921. While it is true that we collected more money, the very work on those returns is the thing that has thrown us behind, and that superficial audit, which was necessary, I think, was the thing that has given us the most trouble up to the present time.

Prior to 1917, for the year 1916, there were about 450,000 income-tax returns filed. The organization, of course, was small. For 1917 it jumped to 3,824,000.

Senator ERNST. The 450,000 tax returns were filed when?

Commissioner BLAIR. Those were for 1916. Those were returns filed in 1917 for the year 1916. For the year 1917, it jumped to 3,824,000; in 1918, it jumped to 4,742,000; and in 1919, it jumped to 5,652,000.

Senator KING. But a good many of those returns did not get you any revenue.

Commissioner BLAIR. That is, of the returns filed, some were nontaxable, and some were the small returns on less than \$5,000.

In 1920, it jumped to 7,605,000; in 1921, it exceeded 8,000,000 returns. In 1922 it was not so great. There were 7,575,000 returns filed in that year.

The force in 1917 and 1918 was not adequate. Men who ought to have been doing that work, or who were best suited for the doing of that work, were in the war, and they were obliged to get anybody they could; the law was new; nobody knew anything about it. It was complicated.

Senator JONES. My recollection is that the statement was made that there were not enough auditors in the country to really do the work during that time.

Commissioner BLAIR. I think that is true, Senator Jones. Somebody has said that the automobile has made us a nation of mechanics.

The income tax law is going eventually to make us a nation of accountants; but they did not exist at that time, and there was nobody to do the work. The result was that it just accumulated and piled up. They had no machinery; they had no organization. I think they did a marvelous piece of work in 1920 to get this thing organized and in shape, and they built up a good machine for the doing of this work, but that machine was not in complete operation until the last of 1920. In that time, the income tax returns were piling higher and higher, and we have been trying to clean up that situation during the last three years.

The CHAIRMAN. How many cases remained unadjusted at the time that you became Commissioner of Internal Revenue?

Commissioner BLAIR. I can not give you the exact number, Senator Watson. I did not know just what the purpose of this meeting today was, but what I want to do is to ask you to permit me to file, within a few days, a brief history, showing just those facts. I should like to supplement any statement that I may make today by filing a written statement with you. I will prepare that statement very quickly, and will file some day next week, if permitted to do so.

Senator KING. I move that he be permitted to file that statement.

The CHAIRMAN. Certainly; you may do that, by consent.

Senator KING. Proceed and bring the matter on up, unless you desire to make the statement in your own way.

Commissioner BLAIR. The bureau is making rapid progress within the last year and a half in getting these cases closed. We believe, and we are confident, that, in spite of all the obstacles, by the end of the next fiscal year we can have this work reasonably current.

Senator KING. That means by June, 1925?

Commissioner BLAIR. Yes.

Senator ERNST. Mr. Blair, in your judgment, have you all of the assistance that you now need in your bureau?

Commissioner BLAIR. I am basing the statement I have just made on our present organization. I think last year we did cut our forces more than they should have been cut. I think we could have held many of the men to good advantage. You will remember that our appropriation was cut some \$3,500,000, and we reduced our forces very materially. I think some of those men could have been held to very excellent advantage to the Government.

Of the 1917 returns, for example—and I want you to understand that this includes the little returns, the big ones, the non-taxable ones and all—we have closed 99.7 per cent. I give you the per cent, because, when it gets into millions, the number looks large. There are still pending in the bureau 9,135 1917 returns.

The CHAIRMAN. The other day, Mr. Gregg, representing the Treasury—a very intelligent young man, too—said before the Finance Committee that there were 68,000 of those cases, and that they are being adjusted now at the rate of 14,000 a month.

Commissioner BLAIR. Mr. Gregg had the figures of last December in mind, and I had the 1917 and 1918 figures in mind, instead of the 1917 only because those are the correct figures for 1917 and 1918.

Senator KING. He may have been giving the aggregate number of cases that are being disposed of every month, rather than the number which might be allocated to the 1917 returns.

Commissioner BLAIR. Yes. He was correct as to the approximate number of cases which we are disposing of every month.

Doctor ADAMS. But his figures included the 1917 and 1918 cases?
Commissioner BLAIR. Yes. That was in December. That statement is exactly correct as to last December, but those figures included 1917 and 1918, not just 1917.

Now, of the 9,135 1917 cases, there are 8,553 that are through the audit, but, under the law, we have to give the taxpayer 30 days' time in which to perfect his appeal. There are only 582 cases for 1917 that are not audited actually. Those are now in the process of audit. As to the 1918 cases, there are 99.5 per cent of those cases completely audited and behind us.

Senator JONES. What is the nature of the cases that are not yet audited; I mean in a general way?

Commissioner BLAIR. The cases that are not audited are the difficult cases, usually. Mr. Bright can tell you about those cases better than I can.

Mr. BRIGHT. Those cases probably cover the returns of the larger corporations that we have in the country, those with natural resources, and the other complications of the law, such as amortization claims, coming into 1917 and 1918, and claims in invested capital where intangible values have been involved. The taxpayers for the past two or three years have been building up data to prove that value, one largely following another, asking for additional time in which to compile further information to prove their contentions as to these intangible items that have a value.

Commissioner BLAIR. You understand that under the law they had until this March to file claims for amortization. We could not prevent that, and some of them did not come in until very late to file their amortization claims. Under the law, as I say, they had until March of this year to file those claims.

Senator JONES. How many unaudited 1917 claims have you?

Commissioner BLAIR. Five hundred and eighty-two that are not yet audited.

Senator JONES. And for 1918?

Commissioner BLAIR. Two thousand one hundred and fifty-six; and 1919, 50,091.

Senator JONES. It will not be difficult, will it, to audit the claims for 1918 or 1919 after you have fixed the invested capital for 1917?

Commissioner BLAIR. That simplifies it very much, and that is the reason that subsequent years are much easier. The invested capital is fixed, and the March 1, 1913, value is fixed. The difficult engineering problems that come up in connection with fixing the invested capital, for example, are behind us, and that makes the subsequent years much easier than those two years.

Senator JONES. After you have really fixed it for one year it is a matter of mathematical calculation, practically, for subsequent years, is it not?

Commissioner BLAIR. Yes; that is true.

Doctor ADAMS. Commissioner Blair, would you have any correction to make on that? There has been some recalculation of the engineering work for 1918. Some of these depletion cases have been ordered adjusted, have they not?

Commissioner BLAIR. Yes. Take the copper cases, for example. There have been a number of those that have had to be corrected.

Doctor ADAMS. I merely raise that question in view of your statement, because some of those earlier valuations are still coming up for correction in a certain number of cases.

Commissioner BLAIR. We find that in some instances the values were too low; in other instances the values were unreasonably high, and some of those values have been corrected, and are being corrected.

Doctor ADAMS. And with respect to those very difficult amortization values, you will recall that both the taxpayer and the Government had until March, 1924, to make them?

Commissioner BLAIR. Yes, sir.

Doctor ADAMS. So that some of those would still have to come up?

Commissioner BLAIR. Yes, sir; there have been some filed in the last week or two.

Doctor ADAMS. I mean that you have that work ahead of you?

Commissioner BLAIR. Yes; until March 3 they had the privilege of filing them.

Senator KING. Do you mean that when they were audited, that that meant a settlement? You stated that there were some five hundred and some odd which were unaudited. How many of those have been audited, but are not settled?

Commissioner BLAIR. There are 8,553 audited, but not settled.

Senator KING. All the rest are settled?

Commissioner BLAIR. Yes, sir; that is for the year 1917.

Senator KING. Do you think there will be a repercussion in any of those cases which have been audited and settled? Do you think they will come up again and demand refunds and returns, aside from those 8,000? In other words, is the slate clean for 1917?

Commissioner BLAIR. Under the law there is first the five-year statute, and then there is another provision in the law which gives a man two years after payment, if we assess an additional tax against him, to file a claim, and we can not tell until the two years are up whether or not the claim will be reopened. That is one of the most difficult things that we have to contend with.

Senator KING. Out of these 8,000 cases audited and unaudited for 1917, you will have to wait for two years—

Commissioner BLAIR. Yes; two years yet.

Senator KING. After the last payment?

Commissioner BLAIR. Yes; from the date of the last payment.

Senator KING. Before those cases are finally closed?

Commissioner BLAIR. Before we can absolutely close them.

The CHAIRMAN. There is no way in which you can prevent that, is there?

Commissioner BLAIR. No, sir; and that is one thing that has caused us the most trouble and the most delay. We just have two complaints in the bureau—one is that we do not open cases, and the other is that we do.

Senator JONES of New Mexico. When you have a claim audited, Mr. Commissioner, does that mean that at that time you have assessed whatever additional amount the audit shows due to the Government? Does the assessment follow immediately upon the conclusion of that audit?

Commissioner BLAIR. What is known as an A-2 letter is sent out on the conclusion of the audit, showing how much tax we estimate is

due. Then, under the law, we must wait 30 days and give the taxpayer a chance to protest the amount which we claim he owes. He generally appeals, and we have to have a hearing before the committee on appeals and review.

Senator JONES of New Mexico. And the assessment of the tax does not come until after they appeal?

Commissioner BLAIR. No; the assessment does not come until after the appeal.

Senator KING. With respect to these 8,000 and plus cases unsettled for 1917, does your auditation indicate that you will get something, or that the refunds will exceed the payments?

Commissioner BLAIR. I am of the opinion that the additional taxes—I do not know about these particular 8,000 claims; Mr. Bright probably does—but our experience is that the additional tax far exceeds the refunds. There will be a refund in some of the cases, no doubt, but I am sure there will be more additional taxes than there will be refunds.

Mr. BRIGHT. I should say that that is true with respect to the 8,000 cases, that the additional tax disclosed will exceed any over-assessment.

Senator KING. But representations have been made to me and, I am sure, to other Senators that many of these corporations, a great many of these cases included in that eight thousand plus, are bankrupt; that is to say, the business is bankrupt, and you get nothing, even where it is conceded that your demand is due. In many instances, where, if the corporations were not defunct, they might contest it, the statements brought to me are that most of them are defunct, or at least many of them.

Mr. BRIGHT. Well, I would not say most of them, by any means.

Senator KING. Well, I will strike out the word "most," and say a good many of them.

Mr. BRIGHT. Yes; quite a number of them; but we get a great deal even out of cases that are bankrupt. Mr. Hartson can tell you more about that, because that is in his particular department.

Mr. HARTSON. Yes.

Senator ERNST. Did you say that these eight thousand plus cases are for the years 1917 and 1918?

Mr. BRIGHT. No; these are 1917 cases.

Senator ERNST. There is one point that I want to get your opinion about, Mr. Blair. If this business were your own, and if you were running it as you do the Bureau there now, from your experience there, what help, in addition to what you have, would you obtain, if any?

Commissioner BLAIR. If the business were mine, I would get the ablest lawyers and the most skilled accountants that could be had, and I would pay them adequate salaries. I would put them in such a position that they could work together, instead of being scattered all over the town, where they can not have the close supervision that you would have in a big plant of your own, whether it was a manufacturing plant, or anything else.

Senator ERNST. Along that same line, would you ask that there be any lawyers added to your force, or any additional accountants?

Commissioner BLAIR. We do need a few more lawyers at the present time. We are getting along fairly well with our accountants now, are we not, Mr. Bright?

Mr. BRIGHT. Yes. As to the capabilities of some, on our larger cases we could still use 50 expert accountants on our most difficult cases, in order to have a clean-up of the invested-capital features of it.

Commissioner BLAIR. We need in connection with those enormously big cases accountants that have had broad business experience. A man may have kept a set of books successfully, but he is lost when he gets into the big cases that we have.

Mr. BRIGHT. We must have those who have had the best training, in other words.

Senator ERNST. Because your men have to go up against the very best experts in the United States, and they have to measure swords with them constantly?

Commissioner BLAIR. Absolutely. Take our solicitor's office. The men there are up against the ablest lawyers in the whole country constantly. Those lawyers have prepared one case, while the men of the solicitor's office are hearing case after case, just as fast as they can get to them.

Senator JONES of New Mexico. What are you doing with the capital-stock tax? Is that also held in abeyance for an examination of the invested capital and a determination of the other questions?

Mr. BRIGHT. Senator, that does not come directly under our division.

Commissioner BLAIR. That work, however, is practically current. The estate tax, the capital stock, and the typical cases of those miscellaneous taxes are practically current today.

Senator JONES of New Mexico. How can they be when, as I remember the statute, the amount of the capital stock is based upon the invested capital and surplus?

Doctor ADAMS. No; the fair value of the capital stock.

Senator JONES of New Mexico. Oh yes; the fair value of the capital stock, but I assume that that would be the same as the invested capital—

Commissioner BLAIR. Not necessarily.

Senator JONES of New Mexico. And the surplus.

Commissioner BLAIR. The invested capital is the physical property itself, and the market value of the stock, of course, is the stock that represents the property; but in large companies you have that fixed by the market quotations. If you take the United States Steel Corporation, we can fix the fair market value of that stock, because it is quoted on the market, and we take those market values.

Senator JONES of New Mexico. So, then, the two branches are not working together?

Commissioner BLAIR. They operate independently.

Senator JONES of New Mexico. I mean that the one does not base its work on the work of the other.

Commissioner BLAIR. No; absolutely, although we do frequently confer when there is a disputed question.

Senator JONES of New Mexico. Yes.

Commissioner BLAIR. It happens that the capital stock tax is operated from the building down at Sixth and D Streets, and the other at the other end of the town; but when we have disputed questions, they do get together and compare notes as well as they can.

Senator JONES of New Mexico. How do you get at the fair market value of a stock which is not quoted on the market?

Commissioner BLAIR. They have a rather complicated formula, Senator Jones, for that.

Senator ERNST. And does it not vary?

Commissioner BLAIR. They base it on earnings, and they take into consideration quite a number of things, but earnings has a very important bearing on that proposition. If it is a closely held corporation, they base it on earnings. Do you know what else, Mr. Bright?

Mr. BRIGHT. There are three principal methods of determining fair value. One is the capital stock and surplus; the other is market value, if the stock is listed on the exchange; and the third is earnings; that is, capitalizing the earnings on a basis of from 10 to 15 per cent. It is based on a comparison with other similar businesses.

Senator ERNST. The bureau has no fixed method in regard to that?

Mr. BRIGHT. No; it has not.

Senator ERNST. But the bureau uses that plan which will enable it to fit the facts to the case which is before it, does it not?

Mr. BRIGHT. That is it exactly, Senator.

Mr. HARTSON. They generally follow the rules that a court would follow in determining a fact on the evidence. Those things that a court would listen to in determining that are followed.

Senator JONES of New Mexico. Have you been able to work out any formula as to the weight to give to the different factors?

Mr. HARTSON. It depends upon the business. In some businesses you can adjust the fair value by just taking the capital and the surplus. In other businesses you get it by taking the market quotations; and then there are still other businesses where you would adjust it by the relative earning power, and as to the other businesses you would have to take two or three of these elements into consideration, in order to arrive at it. It is not nearly as difficult, on the average to determine the invested capital for the income tax as it was before. I may say, though, that for 1922 the capital stock return is completed, and we have got a start on the 1923 returns.

Senator JONES of New Mexico. Then, it is more a question of how much capital stock the corporation has, is it not? I might state here that the reason for a great many of these questions is the fact that in the Finance Committee we have under preparation a bill now, and we are trying to get information which will be of use to us in drafting that bill.

Commissioner BLAIR. I think it would be worth your while to let me send to you the head of the capital-stock tax division, a man who we think is an expert and very capable, and whose advice will be worth more than the advice of any other person who has been in the business.

Senator JONES of New Mexico. What is his name?

Commissioner BLAIR. Drake.

The CHAIRMAN. You may bring him up here at our next session.

Senator JONES of New Mexico. Yes.

Mr. HARTSON. This further suggestion might be made, Mr. Commissioner. No doubt the Senators are conscious of this, but the capital stock taxes were returned on quite a separate return from the income taxes; so that there is that separation in grade. It should have been in a different portion and under a different title of the revenue law, and it is returnable in an entirely separate way.

Senator KING. It seems to me that to segregate these accounts as is indicated by your replies to Senator Jones's questions would make for inefficiency and result in unnecessary expense, if the same auditors or the same force that dealt with one aspect of the case should deal with the case in its entirety. Is not that so?

Mr. HARTSON. My answer to that question, Senator, would be no, for this reason, that the law itself is segregated under different titles, with entirely different provisions, different rates, different theories of taxation, and different methods for determining the taxes. The auditor who is reviewing and considering income-tax returns need know nothing of, and would only be confused by, having the capital-stock tax return right before him at the same time. Why? Because the law is different in regard to that, and it contemplates an entirely different type of tax.

The CHAIRMAN. Is there any way in which you can change the law so as to bring about the situation that Senator King has described?

Mr. HARTSON. The Government needs revenue. You could abolish the capital stock tax and increase the rates on some other forms of tax.

Commissioner BLAIR. Yes; that would save the filing, which would be more agreeable to most corporations.

Doctor ADAMS. Senator Jones will probably remember that before the revenue bill of 1921 was passed the House recommended that the tax on capital stock be abolished, and a similar tax be raised by raising the rate on the income tax. That was in the bill in the House. I do not know whether that was in the Senate bill or not. There is this distinction: the capital stock rate is coming from corporation, whether they have any income or not, and I fancy, if I may suggest it to Mr. Hartson, the subdivision is not such where they were subject to different taxes as in those cases with respect to the income tax itself. I mean this capital stock tax is a very different thing here, but it so happened that the capital stock tax is the most effective way to administer taxes. I won't say it is necessarily the most just, but it is the way of getting through and done with it. I think probably the thought in your mind was as to the different bureaus in the income tax section.

Mr. HARTSON. As Doctor Adams has suggested, I think the general belief is that it is efficiently administered, and the reason for that is because of its ease of administration. That is shown by the fact that we are practically current with the capital stock tax.

Commissioner BLAIR. And that is true of the estate tax and all of this list of miscellaneous taxes, like tobacco and the luxury taxes of various kinds, which yield \$930,000,000 a year to the Government, and yet all of that part of the bureau is current.

Senator KING. The telephone, telegraph, admissions, etc.?

Commissioner BLAIR. Yes.

Senator ERNST. Mr. Blair, would it not be a good idea in your statement, in view of the direction this examination has taken, to just point out where the work is practically current and just where it is not, with the suggested remedy? I think that would help us very much.

Commissioner BLAIR. Yes; I will call your attention to that in the statement that I make here.

Further, in reference to what Senator King said, we have simplified the procedure in the bureau. We have consolidated it, so as to make fewer units. We have abolished two deputy commissions which were allowed under the law, because we felt that the bureau could be more economically administered by consolidating all miscellaneous taxes and estate taxes.

Senator KING. What were those?

Senator ERNST. I will read them to you—all estate taxes, and the capital stock taxes, as well as the taxes on tobacco, miscellaneous, stamp taxes, etc.

The CHAIRMAN. No; they have not been abolished.

Commissioner BLAIR. No; they have not been abolished. The estate tax and the capital stock tax were administered under one deputy commissioner, and these other miscellaneous taxes under a second, and the income tax under a third. We have now put all of the taxes, except the income tax, under one deputy commissioner, Mr. Robert M. Estes, of Kentucky. Then we consolidated the accounts unit, which was a deputy commissionership, with the supervisor of collectors' offices, and made one unit of that, now called the accounts and collections unit. That has resulted in a big saving to the Government, and I think a much more efficient administration of that office. That office has charge of all the collectors' offices and all the accounts.

Senator JONES of New Mexico. Mr. Chairman, I should like to ask the Commissioner this question: How many of the corporations that made a return are not actively engaged in business?

Commissioner BLAIR. As was suggested by Doctor Adams a moment ago, that some of these corporations have no income, this incorporation tax is really a tax on capital.

Mr. BRIGHT. Answering that question, Senator Jones, the 1921 returns filed by corporations were 375,000. Of that number approximately 50,000 reported no tax, inactive or subsidiary corporations not producing any revenue.

Senator JONES of New Mexico. I have forgotten the law, but eleemosynary and church organizations do not even make current returns, do they?

Commissioner BLAIR. No.

Senator JONES of New Mexico. There are less than 400,000 corporations in the United States making returns?

Commissioner BLAIR. Yes.

Senator JONES of New Mexico. Does that include those organized within the last year, as well as all others in existence?

Mr. NASH. Senator, for the year ended December 31, 1923, 420,860 corporations filed corporation income returns.

Senator KING. Have you found any evasions by corporations of the provisions of the law requiring a filing of those returns?

Mr. NASH. Yes; we find evasions every day.

Commissioner BLAIR. And we have collected some very large amounts as a result of detecting evasions on the part of corporations.

Senator KING. I should think there must be many evasions if the number making returns was only 400,000, because I was reading the other day the number that were organized last year in the United States, and my recollection is that it exceeded 100,000 corporations in all of the States of the Union. Then, when you take into account

the multitude that have been organized from one or two or three years, and some of them 30 or 40 years, I think that must be so.

Commissioner BLAIR. But many of them have gone out of business, too.

Senator KING. Oh, yes!

Commissioner BLAIR. I have no doubt that many more are organized than go out.

Senator JONES of New Mexico. Those corporations are the ones which make an income tax return. What have you to say as to the number of corporations making a return for capital stock tax?

Mr. NASH. That is shown in the annual report.

Mr. HARTSON. That can be developed very readily, Senator Jones. We will make a note of it.

Senator JONES of New Mexico. While you are looking that up, if I remember correctly, the 1921 returns, that is, the returns filed in 1922 but for the 1921 taxes, only about half of the corporations making returns showed any actual net profit subject to tax. Does that accord with your recollection?

Mr. BRIGHT. Yes, sir.

Senator JONES of New Mexico. So that as to that, half of the corporations making returns for income tax purposes have really paid those capital stock taxes out of capital rather than out of earnings?

Mr. BRIGHT. Those not having incomes would have to.

Doctor ADAMS. If it is not actively engaged in business, it is not subject to tax, but otherwise your statement is correct.

Senator JONES of New Mexico. What I have in mind is this: I own most of the stock of a little corporation down there. All that it has in the world is a town site. It has not sold a lot for several years. All that we are doing is paying the taxes out of our own pockets, but we have to make a return, on account of this franchise tax and the capital stock tax.

Mr. HARTSON. You do not, unless you are doing business, under the law. Many corporations are not actively engaged in business.

Senator JONES of New Mexico. They do not pay anything?

Mr. HARTSON. Not under the law. Unless they are engaged in business or doing business they are not subject to the capital stock tax. That raises some nice questions as a matter of law.

Senator JONES of New Mexico. This corporation is alive and we do not want to surrender the charter, but as a matter of fact, it is not doing any business whatsoever. We have not made a sale for several years, but we have been paying a small tax every year.

Doctor ADAMS. The Treasury Department has recommended the abolition of the capital stock tax for the very reason you speak of, and others.

Senator JONES of New Mexico. I am asking that, because I say that my mind is running in that direction, that we ought to raise that revenue in some other way. In other words, I believe in putting this tax burden upon those who are able to pay the tax. It seems to me clearly that when a corporation is not earning anything it should not be required to pay any tax.

Senator KING. It seems to me, Mr. Chairman—and I submit this to Doctor Adams and Commissioner Blair and these experts here—that it is a pretty dangerous thing not to require corporations to make

returns, although they persist in saying that they are alive, but are moribund and doing no business. It is a dangerous thing to permit them not to file returns, because a multitude of corporations to-day may spring, like Minerva from the brow of Jove, and develop into good paying concerns.

Doctor ADAMS. They have to make returns.

Mr. HARTSON. They have to make returns. I do not want you to misunderstand me on that, but they are not subject to the tax.

Senator JONES of New Mexico. There is another thing that I want to bring out about the necessity of making returns by these corporations, and by individuals as well, who do not actually pay any tax. Of course, I know the purpose for which they are required to make returns; but is the opportunity for fraud any less by the fact that they make returns? As a matter of fact, is it not just as easy to make out a false return as it is to falsely make out no return?

Mr. HARTSON. I think not, as a matter of law. I will answer that as the legal officer for the bureau.

Senator JONES of New Mexico. That is what I am getting at.

Mr. HARTSON. We find, Senator Jones, in our penal work—and that involves the enforcement of these penalty provisions of the law and prosecuting criminally those who have attempted wilfully to evade this income and revenue law—that perjury is a thing that they are much more frightened about, and are more careful not to commit, than they are a mere avoidance, or just a failure to make any move at all—that is, a passive acquiescence. One is a positive thing, made under oath, which carries a penalty for violation or stating a falsehood under oath.

Senator JONES of New Mexico. Yes.

Mr. HARTSON. An other man may be merely negligent or forgetful.

Senator JONES of New Mexico. How do you handle those returns where, on the face of them, they show no taxes due? Do you reaudit those returns?

Mr. HARTSON. Those returns, Senator, are audited first in the field by the collectors' offices when they are filed. Of course, the bureau has to act through its agents, and the agents are spread all over the country, in districts. Those returns are audited there, and there is a local force to check the apparent accuracy of those returns. In other words: a deputy collector or internal revenue agent in that same locality can check against that return and determine whether the facts as alleged to be true on the return are true.

Senator JONES of New Mexico. Now, right there, the names of these corporations can be obtained from the various States where they are organized, and would it not be just as easy and effective to have your agents in the field determine the question as to whether a corporation should have made a return or not as it is for them to determine, in a superficial way, whether it has made an accurate return or not?

Mr. HARTSON. I should say, in answer to that, that the fewer discretionary problems that may be settled by the bureau employee the better the enforcement of the law. In other words, let the law answer it, rather than an agent or a deputy collector in the field; and I should say that, from my experience in the bureau, it leads me

to believe that the average man who can be induced to remain in the service in the field is not such a man as can, in every case, settle these very complicated and very difficult questions, particularly so when they can be very readily decided by the law itself.

Senator JONES of New Mexico. Yes; that is true. It must entail an enormous expense to handle these returns from which you get no revenue; and, if we could devise some plan to cut off that, it would not only save your time but would save expense.

Mr. HARTSON. It would cost more, it seems to me, to charge a deputy collector with the duty of going out and determining whether a return should have been filed than it does to audit a return that has been filed, to see whether there is no tax, and check its accuracy.

Senator JONES of New Mexico. But it is the duty of that same representative to determine whether all of these corporations have made returns or not, is it not?

Mr. HARTSON. That is correct, and he has before him a sworn statement, to start out with, as having some weight. A taxpayer ordinarily is presumed to tell the truth.

Senator JONES of New Mexico. Yes; but he still looks after those who have made no sworn statement, does he not?

Mr. HARTSON. Oh, yes.

Senator JONES of New Mexico. While he is looking at some of those who make no returns, why could he not just extend that activity? Can we not devise some plan of getting rid of this enormous number of returns that must load down your files with things that produce no revenue?

Senator ERNST. Senator, as a practical business question, I think so. There is no question about that.

Senator JONES of New Mexico. You may have a better insight into it than I have; but the purpose of my question is to get at the facts, and I am asking the people who are right in touch with the situation.

The CHAIRMAN. How many of those are filed in a year, approximately?

Mr. HARTSON. I can answer that; I have the figures here, and I also have the figures on the question that Senator Jones asked a moment ago.

As has already been stated, there were 420,860 returns, corporation income returns, filed for the calendar year ending December 31, 1923; and for the same period of time the capital-stock returns numbered 439,958. There is a difference in favor of the capital-stock returns of approximately 19,000—close on to a difference of 20,000 returns.

Senator KING. That would mean that there were 20,000 who were making no profit and had no income?

Mr. HARTSON. That might be true, and it might be taken up also on the question of consolidated returns. That might make a difference between the two items.

Senator ERNST. What do you mean by "consolidated" returns?

Mr. HARTSON. Under the income tax law a single corporate group, composing a holding company, for instance, and many subsidiaries, file what is known as a consolidated return.

Senator ERNST. Oh, yes; I know.

Commissioner BLAIR. Sometimes there are two or three or even four hundred corporations in a consolidated group.

Senator ERNST. How many?

Commissioner BLAIR. I have in mind one case where there are 400. What do you think is the largest number, Mr. Bright?

Mr. BRIGHT. I think that one case is the largest number.

Senator JONES of New Mexico. I think it was brought out in some of our hearings somewhere that Armour & Co. had something like 700 different lines of activity.

Doctor ADAMS. One railroad company, testifying before the Treasury Department one time, testified that they had, I think, 728; in any event, over 700 underlying corporations represented in their system, for which they made one return.

Senator KING. Mr. Chairman, Commissioner Blair started out to show the number of returns not audited. We got them for 1917 and 1918.

The CHAIRMAN. Yes.

Senator KING. And we interrupted Mr. Blair; Senator Couzens asked a question.

Senator COUZENS. Yes; I think we ought to let the commissioner go ahead and finish his general statement.

Senator KING. Yes.

Senator COUZENS. Otherwise, there will be so much interruption that we will never be able to connect it up.

Commissioner BLAIR. In the statement which I will file with you next week, if I may, I will bring the matter right up to date and give you the status of the claims in each year.

Senator KING. That will be all right.

COMMISSIONER BLAIR. I can give it to you now, if you like.

Senator COUZENS. At that point, Mr. Commissioner, will you tell us just how you think we ought to proceed to conduct this investigation of your bureau?

Senator KING. That is, how best to investigate you in your transgressions and inefficiencies, etc.?

Commissioner BLAIR. I think the first thing to do is to go and see the property. I think the first thing you ought to do is spend a little time in looking over the field. Go right into the bureau and see what the men are doing and what an enormous task they have to perform.

We are eager to have suggestions as to improvements and methods. We had an expert from the outside come in last year and go through the units very carefully, Mr. Rounds, from the Federal Reserve, who has had a large experience in reorganization. He is an expert in that sort of thing. He went through our entire bureau and made some suggestions which were helpful to us.

When I first came in I had the Bureau of Efficiency send some men through, and they spent quite a little time there. Then, we had a man of our own, whom we brought from California, and he went through it, and we are constantly making changes. When we see that there is a waste of money we try to check it up.

Senator KING. The charge is often made that the Treasury Department as a whole—not so much your bureau—has an old-fashioned, archaic method of accounting, and that you more or less partake of that antique method. I have no information about that, but when I read the reports of the Treasury and try to get at the condition of the Treasury, it seems to me that if anybody had tried to make that report complicated and to prevent the giving of full information as to

the conditions in the Treasury they could not have been more successful.

Commissioner BLAIR. Well, I am not an expert accountant myself, but we have gotten the best accountants we could. We have gotten them from commercial enterprises. We have gotten men everywhere we could get them. We have gotten the best accountants that were available, and we are making an effort to simplify the work and to do it efficiently. I know that there are places where it is not claimed to be so at all.

Now, you asked a question awhile ago about men on the inside conspiring with people on the outside. That has happened; it will continue to happen as long as you have an organization as big as this, and have men on the inside with small salaries.

Senator KING. Or big salaries, for that matter.

Commissioner BLAIR. Or big salaries, for that matter, because it happens in private business as well as in Government business.

Senator KING. Yes.

Commissioner BLAIR. But we have an organization known as the intelligence unit, which spends its time watching that very thing. We have caught quite a number of men. I filed with Senator Couzens the other day, when we discussed this matter, a list, showing that we have been alive to that situation, and we have convicted a number of men. We have quite a number of cases pending now against men who have attempted to defraud the Government in one way or another. I should like to file that with you, because I think the public does not know that we are working very seriously and earnestly to prevent that sort of situation. Men do go outside, and they do solicit business, but as soon as we catch one of them soliciting business, we disbar him from practice before the Treasury Department.

Yesterday a taxpayer came in and said, "I received a letter from a man who recently went out of the bureau." In 10 minutes I had the letter in the hands of the disbarment committee, and told them not to give him a temporary card, and to say that he was not admitted. We have disbarred a large number, and we are going to prevent that thing, if we can.

Senator KING. Do you not think it would be a good idea to admit no one to practice, even before your bureau, unless he is a lawyer of standing and has been admitted to the bar?

Commissioner BLAIR. Well, that would simplify our problem very much, but many of these problems before the bureau are either accounting problems or engineering problems.

The CHAIRMAN. And they do not require the services of a lawyer.

Commissioner BLAIR. Well, they need the expert knowledge. That is the only thing.

The CHAIRMAN. That is the point.

Commissioner BLAIR. Lawyers, as a rule, are not good accountants, and very few of them are engineers. There are questions of depletion in the case of coal mines, and all sorts of things that come up, and those matters can only be determined by engineers. I have thought of that very thing myself, Senator King, and I have sometimes thought that we ought to do it, anyway; but there are two sides to it. It would certainly enormously simplify our problem of practice before the bureau if it could be done properly.

Senator COUZENS. Have you any statement, Mr. Commissioner, as to just how we could secure this information as to the operations of the bureau?

Commissioner BLAIR. I think, if you will give us just the kind of information you want, I will have the expert in that particular line come down and give you all the light he can. For example, Senator Jones asked about the capital stock tax. I will send Mr. Drake, who is the head of that division, down here at once, and if there is any other particular department about which you want information, I can send you the best man that we can get in that department.

The CHAIRMAN. There is one thing that I would like to ask you about, because it has been much discussed in the public press recently and has been talked about among Senators. That is the \$123,000,000 refund which was referred to in the newspapers. People think that is a very large refund. Now, for what purpose was that refund made, and what end did it serve?

Commissioner BLAIR. That came from a report which we are required to file, under the law. The appropriation act requires us to file with the Ways and Means Committee a list of the refunds made during the year. Those were filed last December. I do not know who got them out. They are supposed to be confidential.

Senator JONES of New Mexico. By the way, will you let us have a copy of that report which you made for the Ways and Means Committee?

Commissioner BLAIR. That was made last December.

Senator JONES of New Mexico. Yes.

Commissioner BLAIR. And it has been dormant ever since, and somebody got it out.

Senator JONES of New Mexico. Could you let us have a copy of it?

Commissioner BLAIR. Yes; I think we can go to the Ways and Means Committee and get it.

Senator JONES of New Mexico. That was for one year, was it, Mr. Commissioner?

Commissioner BLAIR. Yes; that was for one year.

Senator JONES of New Mexico. Let us have it for different years.

Senator KING. All reports.

Senator JONES of New Mexico. A copy of all of those reports as to refunds.

The CHAIRMAN. Are you permitted to give that out?

Commissioner BLAIR. Well, I do not know.

Mr. HARTSON. I am inclined to think not, except under the authority of the provision contained in the appropriation bill, which carries a provision requiring the Treasury to submit to the House of Representatives a report each year, on which report refunds are given.

The CHAIRMAN. Does not that same law require that this report shall be filed with the Finance Committee of the Senate?

Mr. HARTSON. I think not.

The CHAIRMAN. Then we are discriminated against.

Commissioner BLAIR. Since you are speaking of those refunds—

The CHAIRMAN (interposing). Wait until I find out whether or not, in your judgment, it is illegal for you to permit us to have that information.

Commissioner BLAIR. Well, if it is legal, I want to furnish it to you. I have no objection in the world to your having it.

The CHAIRMAN. Certainly.

Commissioner BLAIR. I would like you to have it.

The CHAIRMAN. Yes.

Commissioner BLAIR. But if it is against the law I do not want to furnish it.

Mr. HARTSON. Mr. Commissioner, on that point Mr. Nash calls my attention to this: That appropriation bill, which contains this provision, requires that the Treasury submit the report to Congress. Of course, that is the Senate and the House.

The CHAIRMAN. I was wondering if that were not so.

Mr. HARTSON. That is in the appropriation bill. That is not a matter of internal revenue law.

Senator JONES of New Mexico. There is no impropriety in it whatever.

Mr. HARTSON. There is no impropriety in it.

Mr. NASH. Senator Jones, I will say this in that connection. That is a very voluminous report, and copies are on file with the Ways and Means Committee. For 1921, we have been unable to find the bureau's copy, and the clerk in charge of the Ways and Means Committee seemed to be a little bit reluctant to permit us to make a copy over there. The copies of the 1922 and 1923 reports are on file in the bookkeeping and warrants division of the Treasury. There is just one copy in the Treasury files. Now, it would be quite a task—it would take several months, probably—to prepare duplicates of those reports.

Commissioner BLAIR. If you would send over there, I think you would be entitled to it, and could get it without any trouble, by asking that it be sent to this committee from the Ways and Means Committee.

Senator COUZENS. Can photostatic copies be made of it?

Mr. NASH. It is a voluminous report.

The CHAIRMAN. Was it a refund of \$123,000,000?

Commissioner BLAIR. I think it was.

The CHAIRMAN. How about the collections? Were you getting at the same time any additional taxes?

Mr. NASH. I have not the statement of that with me, but there were over \$600,000,000 in additional taxes that are assessed and reported for collection during the same period. The refunds amount to about 12 per cent of the additional taxes.

Senator KING. But how much additional taxes will you collect?

Mr. NASH. The additional taxes that were assessed for the last fiscal year, and which have not as yet been collected, because there are some contingencies that enter into it. As mentioned heretofore, we find, after we make an assessment, that some one is bankrupt, or there are some cases in which it is necessary to bring suit.

Senator KING. Well, are you getting any additional taxes?

Mr. NASH. Yes, sir. On the additional assessments that were made during the fiscal year of 1922, we have realized over \$300,000,000. We are still working on the assessments that were made for last year, and we are compiling statistics showing how much has been collected on them.

Commissioner BLAIR. Since you are on this subject, Senator Watson, I want to call your attention to the fact that many of the large refunds which were published in that list were refunded under decisions of the Supreme Court of the United States. The largest one on the list was refunded under the case of Schwab v. Doyle, decided by the Supreme Court.

Senator ERNST. To what amount?

Commissioner BLAIR. \$9,000,000, I think.

The CHAIRMAN. Can you find out which of those refunds were made pursuant to a decision of the Supreme Court?

Commissioner BLAIR. I think Mr. Hartson can tell you practically all that were made, but I happen to notice some of them that I remember, that were made under that decision.

The CHAIRMAN. Or other court decisions, if there were any.

Mr. HARTSON. There are a good many, Senator, and that is another thing which has not been mentioned here, but which is very material.

The bureau establishes, through regulation, a precedent, an interpretation of the law, and many of them require some sort of a determination; somebody has to make up his mind as to what course is to be pursued. A tax is paid, and some one taxpayer takes it to court, and maybe after two or three years, the court determines that the bureau's interpretation thereupon was wrong. Amended returns come in, and refund claims are filed, and, of course, under the authority of that decision, if it is a competent tribunal, we do refund the money. Under this decision that the commissioner has spoken of, in Schwab v. Doyle, they ran into many millions of dollars on refunds, because it involved a complete departure from anything that the bureau had theretofore interpreted the statute to mean.

Senator JONES of New Mexico. What is the principal question involved in that case?

Mr. HARTSON. It involved the retroactivity of the estate tax law. It seems that the estate tax law took effect September, 1916, and they said that all gifts made in contemplation of death should become a part of the gross estate of the decedent. The bureau interpreted that to mean that all gifts made prior to the effective date of that act, but where the death occurred after the effective date of the act, became taxable, if it is shown that the gift was made in contemplation of death.

The Supreme Court, in Schwab v. Doyle, said that that law had no retroactive effect, and only applied to gifts made subsequent to the effective date of the act. We had a refund in the State of New York of \$9,000,000 and another one in California that involved a \$3,000,000 refund. There were many of them of smaller amounts, all of which had been collected on the theory that if the decedent died after the effective date of the act, then had he made a gift prior to the effective date of the act, in contemplation of death, that that property constituting the gift should become a part of the gross estate and become taxable. It was a disputed question; it was one about which the best legal minds of the country had sharp differences of opinion.

Commissioner BLAIR. The Woodward case is another estate case, in which there was a large amount refunded. That was a case which held that the estate tax paid was deductible from gross income. We in

the bureau had held that it was not deductible, but the Supreme Court of the United States held that it was. I think the case was taken up. It was the case in which Senator Underwood's father-in-law was interested, I think, and we had to make a very large number of refunds under that decision. The amounts were not so large as in the case of Schwab v. Doyle, but were probably more numerous. That all results in readuits and extra work, and it can not be helped.

Mr. HARTSON. There are a number of decisions which can be pointed to as requiring the bureau to refund taxes.

Another situation which has not been mentioned here, which finds its way into this \$125,000,000 refund, is the unit property estate ruling. Some States of the Union have unit property statutes permitting the husband and wife to jointly own or each have a vested right in a half interest of the estate during marriage. In most States there is just one tax levied on the income from the gross estate of the two; but these five States, under the opinion of the Attorney General, having the unit property law, permitted the taxpayers there to split their income, and the husband filed a separate return from the wife, dividing it between the two. That cut down the taxes very largely on some of the large incomes. There were very large refunds, instead, made on that as the basis.

Senator KING. Did the Supreme Court decide that?

Mr. HARTSON. No; that was the Attorney General's opinion.

Senator KING. I think he is wrong in that.

Mr. HARTSON. Before the Finance Committee, Senator King, there was presented the recommendation from the Treasury that even in the unit property States they be not permitted to file separate returns, to eliminate that very thing you mentioned, but you will recall that that was stricken out of the bill before it left the House.

Senator KING. When it comes to the Senate, we will draw swords on that.

Senator COUZENS. I want to make this statement for the record. I do not believe the press should be excluded at this point.

The CHAIRMAN. I do not think so generally, but he is mentioning the names of individuals now.

Senator COUZENS. These men go around and tell the newspapers these things, and if they tell the newspapers, why should they not tell us, and let us get at the truth of the matter?

Senator ERNST. You mean who?

Senator COUZENS. These men that the commissioner is talking about, that have been fired, and have caused so much trouble, going and telling the newspapers, and the newspapers writing it up. There has been a lot about it in the New York World, a whole series of stories.

Senator JONES. May I make this suggestion, that, after all, we are trying to outline our work.

Senator COUZENS. Yes; I understand that, Senator, but the commissioner is making some statements as to the origin of this generally bad impression that exists, and I think that is public property. It would go a long ways toward bringing it out in the public mind as to what the cause of this situation is.

Senator ERNST. I think that is correct.

Senator COUZENS. And the press ought to be here when it is said, so that the press can not say that when these matters were dealt with they were excluded from the room.

The CHAIRMAN. The only reason I hesitate is because he was mentioning a man's name in the matters that had been dealt with up to this time, I think, very properly, and ought to go to the press, and I took the liberty of asking those gentlemen to come in here.

Commissioner BLAIR. I did not know that they were in here at all.

The CHAIRMAN. I agree with Senator Couzens, as far as the general proposition is concerned, that the press ought to be invited in. Senator JONES of New Mexico. I think so, but after we get started on this.

Commissioner BLAIR. There is one other thing in this connection, and I do not know whether it can be helped, but we ought to face it without the publication in big headlines, which disorganize the unit. You see things published about what is going on here, and people go out into the corridors instead of sticking to their jobs; and many of them think, "Well, I am going to lose my job next," and it disorganizes the bureau. But for that reason I have no objection to it.

I think that is a serious matter. That is a very delicate machine that we have. We have had these troubles to contend with before. The employees get excited and they do not work. When things go smoothly we get a big output. You can tell it; it is just like a barometer.

Senator ERNST. Would there be any objection to holding it and putting it in your statement? Why not put all of these things that have been whispered about in your statement just exactly as you have stated them to us?

Commissioner BLAIR. I think I had better cover it in my statement because I can make the statement with care and I want to picture it just as it is.

Mr. HARTSON. The question has been asked here several times, and I know the commissioner would like to squarely state it, and that is how the Bureau of Internal Revenue can assist this committee in properly getting at the bottom of the information that you want to have.

I think the commissioner will agree with me that this is probably the most helpful method that can be followed on the part of the bureau, namely, that we take Senator King's resolution, the preamble and the whereases in that resolution; that we study that between now and the first of the week, and that the commissioner's written statement, which he has asked permission to file here, contain, generally speaking, as nearly as possible and in as much detail as can possibly be contained in a written statement, the helpful information in respect to those rather vague and indefinite and intangible charges. In addition to that, when the commissioner comes back to this committee at its next meeting, he bring with him the heads of his departments who are intimately in contact with the many facts that are set forth in that statement and who know from personal contact with these points generally just exactly what the conditions are. Those men can be inquired of by members of the committee and the statement that the commissioner himself makes can be amplified by questioning these individuals. That must necessarily be limited, so far as the bureau's offer is concerned, in the first instance, to a limited number of men, to the men who are in charge of that work. On the other hand, if it develops through questioning these others that additional men are needed from the unit, I know

the commissioner will cheerfully have those come as well. But that does seem to me to make an issue here, and that is what we need. We have had charges made. Now, let us meet them. It is true that the charges are vague. It is extremely difficult to know just what there is behind them, and as squarely as is humanly possible I am sure the commissioner would like to meet them. I think if that were possible they can be met with the best advantage.

The CHAIRMAN. I would now like to ask Doctor Adams if he has any suggestions to make that would be of assistance to us.

Doctor ADAMS. Mr. Chairman, I have not given any thought to that as yet. I think you should take these charges that you hear against the bureau sometimes and try to ascertain the truth about each one of those things.

There are questions that have been brought out here today, such things as insiders tipping off outside lawyers. There are questions about delays and about the supplementing of returns. I saw some statements in the paper this morning about secret rulings, rulings which are not disseminated.

I think it would be very easy to list those things and try to get the facts with respect to each one of them, and what I think personally is even more important, the remedy for each one of them.

Commissioner BLAIR. I think that, in addition to the things that are contained in Senator King's resolution, if you would give us a list of the things that are in your minds, or that have been brought to you, it would be helpful. We do not know what has been brought to you, but I do know, just as a matter of common sense, that disgruntled people and dissatisfied people will come to you; you will hear from a thousand people, but you must remember that there are hundreds of thousands of people that have dealt with the bureau and have nothing to complain of. They say nothing. The disgruntled man, whether he has been discriminated against in taxes or otherwise, is the man who complains; and I have no doubt that there are some instances in which there is ground for complaint. We are just as anxious to cure those things as anybody can be.

Senator COUZENS. It seems to me, Mr. Chairman, inasmuch as Senator King has stated that numbers of people have been to him—and no doubt others have been to the other members of the committee; I know they have been to me, and I have had letters of complaint—that these witnesses and these complainants ought to be called in to testify.

The CHAIRMAN. I think so.

Senator COUZENS. And after hearing what they have to say, this testimony should be submitted to the department, and let them answer it.

Senator ERNST. I imagine that is exactly what you would like to have, something definite to answer.

Commissioner BLAIR. Yes, indeed.

Senator ERNST. Because I think your observations are absolutely correct. They are indefinite, and you do not know what to prepare for.

The CHAIRMAN. Are there any further questions?

Senator COUZENS. I have made some notes here. Could you, Mr. Commissioner, give us some typical cases, without the names of the taxpayers, but identifying them by numbers or alphabetically, which

originated in your office, say in 1917, what processes have been gone through since then, and why it has taken so long, from 1917 to 1924, to conclude them? You can get a copy of these questions from the stenographer, because I did not write them out.

Commissioner BLAIR. Yes; I will be glad to give you that.

Senator COUZENS. I am going to ask a number of these things, and you can get the questions just as I propound them from the stenographer, and you can prepare some of these things and submit them to us.

Commissioner BLAIR. I will give you some of the typical cases and will give you a history of what happened.

Senator COUZENS. Yes.

Commissioner BLAIR. And that may enlighten you more than anything else.

The CHAIRMAN. I had that in mind, that you take an instance of that kind, run it through, and give us the various steps, telling us just what happened and why it happened.

Senator COUZENS. Have you a simplification board?

Commissioner BLAIR. Yes; that is a board appointed by Congress.

Senator COUZENS. I assume that you can have the head of that board, or have one member of it, to come down here and tell us why there has been this great delay in some of these typical cases that we desire to know about.

Commissioner BLAIR. Yes; I am sure the chairman of that board will be glad to come. He may not be as intimately acquainted, perhaps, with the details as Mr. Bright or Mr. Nash would be, but I am sure he will be glad to come at any time he is asked to come.

Senator COUZENS. Would it be a difficult job to give us the names of the lawyers and the tax experts, whether lawyers or otherwise, who practiced before the bureau, and the names of the firms they represent? I think that probably is too big a job.

Commissioner BLAIR. That is a pretty big job.

Senator COUZENS. But could you state, for instance, those names beginning with the letter "C" and those whose names begin with the letter "G," or something of that kind, as typical examples of the kind of individuals, and whom they represent in their practice before the bureau?

Commissioner BLAIR. I do not know how many there are. It would not be difficult to give the names of those who are enrolled to practice. That would be a comparatively easy thing, but as to whom they represent, that would be impossible, except by going into an individual case and dig out the file to determine who the taxpayer's representative was in that particular case. I do not know of any record that the bureau keeps, under a man's name, or under a lawyer's name, for instance, as to the case he is appearing in before the bureau. There were no accurate records kept in regard to the people that practiced before the department until July, 1922. The regulations of practice were amended in January, 1922, but it took some time to get them in operation. From July, 1922, we have complete and accurate records. Prior to that, we had not a great deal.

Senator ERNST. You do not have anything like a court docket, which shows, when you turn to the case, the attorney in the case? You have nothing of that sort?

Commissioner BLAIR. No, sir.

Senator COUZENS. Then, suppose, as a starter, we just require the names of the lawyers and the tax experts that are practicing before the bureau, without regard to whom they represent, and then we can determine afterwards if we want the other information.

Mr. HARTSON. You might call the man himself, and he could probably testify as to whom he represented.

Senator KING. We can not call them all.

Commissioner BLAIR. No; you would sit here a long time if you did that.

Mr. HARTSON. That would be easier, possibly, than to go through the files of these several millions of cases down there.

Senator COUZENS. Has the bureau a set of printed rules which define the qualifications of those permitted to practice before the bureau?

Commissioner BLAIR. Yes, sir; we have, and I would be glad to furnish you with a copy of the regulations. We have amended them and made them stricter at the time we amended them.

Senator COUZENS. I think we would like to have that.

The CHAIRMAN. Yes; that is entirely proper.

Senator JONES of New Mexico. Is it necessary for any practicing attorney to be formally admitted to practice in your department?

Commissioner BLAIR. Yes, sir; he has to be enrolled to practice before the Treasury Department. We have a committee on enrollment and disbarment. It is not a bureau committee, but a Treasury committee.

Senator JONES of New Mexico. The fact, then, that a man who is an active practitioner at the bar would not qualify him to practice in your department?

Commissioner BLAIR. No; he has to apply and has to have a power of attorney now.

Senator ERNST. Does he have to be an active practitioner to practice before your department?

Commissioner BLAIR. No; he does not.

Senator JONES of New Mexico. He does not have to be admitted to the bar?

Commissioner BLAIR. No.

Mr. HARTSON. It is attorney, accountant, or agent. A man qualifying in either of those respects may appear as an expert.

Senator KING. Have you not observed that a large number of your employees have resigned after they had gotten hold of some information and learned, perhaps, that an illegal assessment had been made, which, if called to the attention of the board would result in a refund being made; that they have resigned, have slipped out and have gone to the taxpayer, gotten the case from him, presented it, and were paid for it?

Commissioner BLAIR. I have no doubt that that has been done.

Senator KING. I heard of a case the other day.

Commissioner BLAIR. We are trying very hard to prevent that.

Senator KING. I learned of a case the other day of a man in Texas, who was not acquainted with these things, and had been overcharged \$200,000; it was apparent on its face, and one of your employees immediately resigned and slipped down to Texas, got hold of this man, and received a percentage amounting to \$80,000.

The CHAIRMAN. Senator King, is there any way to prevent that? Senator JONES of New Mexico. Did he violate a statute in doing that?

Senator ERNST. If he did not want to resign, he could have employed some lawyer to do it.

Senator KING. I am trying to find out what the situation is in that respect.

Commissioner BLAIR. We are trying to prevent it, and we are in a measure preventing it. I do not think we will ever get to the point where we will entirely prevent it. I think one answer to that is that Barnum was right.

The CHAIRMAN. What proportion of your time is taken up by Senators and Representatives coming up there and bringing their constituents with them to talk over tax cases with you?

Commissioner BLAIR. Well, I hardly know. Quite a good deal of my time is taken up in that way. I have quite a long list of callers every day.

The CHAIRMAN. Every day?

Commissioner BLAIR. Oh, yes; quite a long list of callers every day. Sometimes I have not a minute which I can give to real work from 9 o'clock until 1. I try to keep them out in the afternoon, but I can not refuse to see a Senator or a Congressman if he comes there in the afternoon. I try to reserve the afternoon for work, but I can not always do it.

Senator COUZENS. Does the fact that these Senators and Representatives come down there influence you in any way?

Commissioner BLAIR. No; I do not think any man has ever influenced me, consciously, on a tax case.

Senator COUZENS. What advantage is there in having a Representative or a Senator come down there with a constituent?

Commissioner BLAIR. Well, they feel that they can not refuse a constituent. A constituent always feels that they should accompany him.

Senator COUZENS. But it does not help them any, as a matter of fact?

Commissioner BLAIR. No; it does not.

Senator COUZENS. As a matter of fact, the greater benefit accrues to the Senator.

Commissioner BLAIR. Well, he does this for his constituent. As a rule—there are some exceptions to this—but as a rule, the Congressmen and Senators never argue a case. They come up there and introduce the man and say, "This is one of my constituents." Occasionally one comes up and wants to argue the case, but as a rule they are most courteous and most ethical about it. They understand that I understand that they are introducing a constituent from home, and they do not expect him to have any favors.

The CHAIRMAN. What he says is for home consumption?

Commissioner BLAIR. Yes; what he says is for home consumption. I always treat it so, at any rate.

Senator COUZENS. Could your bureau devise any method whereby the taxpayers could be notified that it is unnecessary to pay a solicitor or any agent any commission to get returned to him honest overcharges or payments made as a result of honest errors?

Commissioner BLAIR. Well, I gave a statement to the press one time, and I do not often give a statement to the press, Senator Couzens, as you and I have a different view about that; I like to stay out of the press, but I gave out a statement to the press publishing one of these 40-60 agreements, which one of these tax experts outside was having signed, by soliciting business and calling attention to the fact that the taxpayers were being buncoed, and that if they had meritorious cases, and a large refund coming to them, under the law, they would get it for them. I said there was no use to pay any such man that sum. I gave out that statement because I thought it ought to go out.

Senator JONES of New Mexico. Right in that connection, the pension law has a provision limiting the amount of fees that a person may receive who is practicing before the Pension Bureau. I wish you would consider the advisability of our putting something of that kind in this revenue law.

Commissioner BLAIR. We have already, in a measure, done that in our regulations before the department. We make a man state what his fee is, and if it is on a contingent basis, we make him state what the contingent fee is, and we call his attention to it if it looks like an outrageous holdup.

Senator JONES of New Mexico. Should not Congress, in legislating, fix a percentage or something of that sort that could be published to the entire country, in the same way that it is done with respect to the Pension Bureau?

Senator COUZENS. The difficulty with that, Senator, is that the amounts vary so much that if you were permitted to collect, say, 10 per cent on a small claim and 10 per cent on a large item, the large item would be outrageous.

Commissioner BLAIR. In the Pension Bureau the maximum amount to be charged is stated.

Senator KING. And it is probably always the maximum amount.

Senator ERNST. But that is very small.

Senator JONES of New Mexico. I offered that merely as a suggestion.

Commissioner BLAIR. It is a matter worthy of consideration.

Senator JONES of New Mexico. I think so.

Commissioner BLAIR. It is a difficult matter to deal with.

Senator JONES of New Mexico. It is.

Commissioner BLAIR. You have, perhaps, a case that does not involve very much, but which does require a great deal of work, and 50 per cent fee is not a big fee. You might have an easy case, like the one I spoke of a while ago, of the man getting \$80,000 for nothing.

Senator ERNST. For stolen information.

Commissioner BLAIR. One per cent would represent a high fee for the work he actually does; so it is a most difficult thing to get a rule that is fair.

Senator JONES of New Mexico. Why not do this, then—provide that the commissioner shall fix the fees to be allowed in each case, based upon the amount of work done and the responsibility in connection with it?

The CHAIRMAN. The commissioner then would have a lot of trouble on his hands.

Senator ERNST. He would, indeed. He could not do anything else.

Senator COUZENS: He might assign somebody to do that. I think that is a good suggestion.

Commissioner BLAIR. How far does the committee on enrollment and disbarment assume to regulate fees, do you know, Mr. Hartson?

Mr. HARTSON. I think there is no attempt whatever made to do it.

Senator COUZENS. Do you not think it would be a good thing to make an attempt to do that?

Mr. HARTSON. As a question of policy, I am inclined to think it would. The difficulty that the bureau confronts, however, is its inability to regulate and exercise proper control and supervision over those who do not practice openly before the bureau. Take this case that Senator Jones spoke of, or Senator King, the \$80,000 case. That case should not have happened if the facts were properly presented to the bureau, because that is clearly in violation of the regulations of the bureau, and the probability is that that man did not dare to appear in that case. The bureau could not keep him from resigning. We had no information that he was going to resign, or of his knowledge in that particular case. He goes down there, and he gives some information to the taxpayer, and then the taxpayer takes it to some accredited practitioner, who might conceivably be innocent of the whole scheme.

Senator JONES of New Mexico. Why would it not be feasible to provide in law that it shall be a criminal offense for anyone who is not a legalized practitioner before the department to receive any compensation for work in such cases as we have been speaking of?

Senator ERNST. I may get a man at my home to go over the accounts and to get my case ready for other accountants. There is a lot of work to be done in connection with some of these cases. You can not prevent dishonest employes from stealing information. He may go to a man and say, "I can give you some information which will result in a big saving." He gives him that information, and the saving results, through the use of attorneys, and no one would ever know what happened between this employee and the man who got the information.

Senator JONES of New Mexico. Well, we have not many criminal laws that are not violated.

Senator ERNST. I think there have been just such cases, and if it is possible to do anything to prevent them, we ought to do it. I think you can prevent an employee from stealing information.

Senator JONES of New Mexico. The reason I am bringing up the question is to try to get our different minds to meet on it, and see if something can not result.

Senator ERNST. I am trying to make it clear as to the regulation of fees. I do not see how it is possible to do it. I do not think it would serve the purpose that you have in mind by attempting to regulate the lawyers' fees.

Senator COUZENS. I would like to know if the commissioner or his staff has any recommendations to make that might be incorporated in the law, or otherwise, to avoid the necessity of such costly service to the taxpayer occasioned by the employment of accountants, attorneys, and experts of all kinds. Complaints have come to me that it costs enormous sums to get a refund from the Government, on account of having to retain so many experts.

Senator KING. And lawyers.

Senator COUZENS. And lawyers, and so on. It seems to me that that is something that thought ought to be given to.

Commissioner BLAIR. Thought is being given to that, Senator Couzens. We are now, in the field, having our field men examine the returns for 1920 and 1921 at one examination. That simplifies the thing for the taxpayer in the way of employing accountants, and so forth, and also saves the Bureau a great deal of money. If we can once get this work current, it will be more cheaply done, both to the taxpayer and the Government, because when a thing is fresh in the minds of everybody, the truth can be gotten at more easily and at much less expense. The secret of it is, gentlemen, to get your work current.

Senator JONES of New Mexico. And I suppose your correspondence regarding these long-pending cases takes an awful lot of time?

Commissioner BLAIR. It does, and you get then this situation: Here is a big case that comes into the Bureau. It came in, say, three years ago, and you have had a group of accountants working on it. The case was not completed; something happened, and the accountant resigns and goes out. The next year you have to put a new man on it. The turnover is terrific. What is our turnover, Mr. Nash?

Mr. NASH. It has been 30 per cent.

Commissioner BLAIR. You see that makes it difficult.

Doctor ADAMS. Your turnover must be much higher than 30 per cent. Taking into consideration the men at the head of these units, it has been much more than that.

Mr. NASH. From the men at the immediate top, it is higher, but taking the auditors and the clerks in the income tax unit, it has run about 32 per cent for last year.

The CHAIRMAN. That is to say, as fast as a man develops ability and he becomes known on the outside, he is hired by some private corporation or firm?

Commissioner BLAIR. Of course. Here is a fellow that comes in and devotes his time to this work. He goes to school at night, and he works like a dog and masters this income tax business. He is down at the bureau. The taxpayer comes in and he sees him doing the work, and how he handles it, intelligently and quickly, and "There is a bright fellow; he would be worth a lot of money in our business." We are paying him \$3,000, and they will pay him \$10,000.

Senator COUZENS. I understand from the list that you furnished me the other day of cases of discrepancies that were discovered, that there has been delay in securing prosecution; is that correct?

Commissioner BLAIR. Yes, sir; there has been. I told you of a conviction the other day. I expected the sentence in that case, but the attorney for the defendant was ill to-day. I got a note since I came down here to-day, and I wanted to be able to tell you about it, that the sentence was postponed again in the Rickmeier-Underwood case.

Senator COUZENS. Is there any delay on the part of the Department of Justice in the handling of these cases?

Commissioner BLAIR. These cases are handled through the district attorneys, usually, and not in the Department of Justice itself. Of course, that is a branch of the Department of Justice.

Senator COUZENS. Do you get prompt cooperation in prosecuting these cases from the district attorneys?

Commissioner BLAIR. The district attorney has a very congested docket here in the District, but he has shown a fine spirit of cooperation. They are frightfully behind with the work, and we have to take our cases when we get to them. We have not reached our cases as promptly as we would like to, but I do not think there is any lack of cooperation on the part of the district attorney here. He has a tremendously big docket, and he has not reached the cases.

Senator KING. In line with the Senator's remarks, did you find any defalcation for criminal acts on the part of your employees in other parts of the United States, which result in prosecutions and convictions?

Commissioner BLAIR. Quite a number; yes. There have been quite a number. I can not give you the exact number now, but I can get you a statement showing just what is being done in that respect. Human nature is the same the world over.

Senator KING. Oh, yes. Excuse me, Senator. I did not mean to interrupt you.

Senator COUZENS. Yes. Could you give us the number of cases that you have had of dishonesty in your field employees, and also on the part of employees in the District?

Commissioner BLAIR. I can give you a list of the prosecutions. Now, we run up against this situation sometimes, and it is a very delicate situation to deal with: There is something that we think is wrong in a certain place in the bureau. We can not get the proof of it to save our lives, and we either transfer that fellow or ask for his resignation, or something of that kind. There have been cases of that kind, where we felt that things were not going right, but we could not get any proof, and we got rid of them in some way.

The CHAIRMAN. Have you your own secret service?

Commissioner BLAIR. Yes, sir.

The CHAIRMAN. In the bureau?

Senator JONES of New Mexico. How much of a secret service?

Commissioner BLAIR. We have about 60 men. They are scattered around over the country.

The CHAIRMAN. How many have you right in the bureau?

Commissioner BLAIR. Well, it varies from three to six or eight. We have more than that in the entire department.

Mr. HARTSON. From a dozen up to about thirty, they range, in the District.

Commissioner BLAIR. We call them in when there is something here that needs special attention. We have to get new men, because the old ones become known.

Mr. HARTSON. In that same connection, it might be interesting to point this out, that the commissioner has found frequently that taxpayers themselves, through fear or through the apprehension that their case might be jeopardized before the bureau by any disclosure of claimed irregularities, do not cooperate with the bureau officials in bringing to light these irregular things that are taking place, and which come to their knowledge. It is only occasionally that a taxpayer will come in and say, "I think John Smith in the bureau can be reached," or that "he wants to be sweetened up a little." It is only

in the most exceptional cases that that occurs; and they do not want their names used; they want to keep out of it; they do not want the slightest point made of it at all, or any publicity whatsoever.

Commissioner BLAIR. We often get intimations, but they are so indefinite that we can not act on them; but occasionally a taxpayer comes up and gives us something definite, and we catch the man every time when the taxpayer does that.

We have to have help from outside people, and a great many of them do help us in that respect, because the fellow that is doing the grafting does not come to us; he goes to the taxpayer outside.

We had a case of a woman who telephoned a taxpayer in New York, saying that there was an overassessment going out, and saying that for a consideration she would get the returns out and close them out. A taxpayer called immediately on the phone. We arranged to have one of our secret-service men pose as the taxpayer. She came up, delivered the papers, and took the money, and of course we got her.

Take this Rickmeier-Underwood case in which they pleaded guilty recently. There was a tax there of considerably over a million dollars that the man on the inside proposed to the man on the outside, or the reverse, that they would get relieved of. A very reputable lawyer, who represented the taxpayer came immediately to me and told me the facts. They were wanting \$160,000 to turn the deal. I got the fake money from the Treasury, with the exception of \$2,000, which I got myself, and sent a man over. He came up there and delivered the papers, and we got him. He has pleaded guilty.

We have numerous cases of that kind. We are catching every one we can.

Senator COUZENS. One of the complaints that were spoken of, I think, by one of the Senators, and also by Professor Adams, was on the question of your decisions, made by the Board of Appeals. Complaint is made that these decisions are not published. Is there any reason why all of these decisions should not be published?

Commissioner BLAIR. We publish all decisions now. We formerly did not do it. The committee has so much work that it can not sit down and write a long legal opinion. If you turn these committee-men loose to write opinions they would want to write a real judicial opinion.

Senator KING. To prove that they are lawyers?

Commissioner BLAIR. Yes. We have a number of cases coming over the desk every day, and they can not write those long opinions, but we have a list of secret rulings, and things of that kind. Last December I made an order that every ruling that had not already been passed upon should be published, and they are all published now. I think, perhaps, that should have been done a long time ago. It has been the custom since.

Senator JONES of New Mexico. Were all of these decisions in all cases made public?

Commissioner BLAIR. Yes; they are published in a weekly bulletin which we get out.

Senator KING. Each one of these refunds is shown, together with the amount?

Commissioner BLAIR. No; that is not the decision of the committee. These are the decisions as to the facts and the law in the case.

Mr. HARTSON. There are no amounts or taxpayers' names mentioned in these rulings. They are solely for the purpose of informing the taxpayers generally throughout the country of the position taken by the bureau.

Senator KING. Suppose John Jones should pay a tax of \$100,000, and it goes through the regular machinery that you have provided for it, and then later it has been decided that he has been overtaxed \$50,000, or suppose it develops that he has not been taxed enough and he has to pay another \$25,000. Is there a publication of that decision?

Commissioner BLAIR. If the committee passes on it, or the solicitor passes on it, the substance of the opinion is published. The principle is published.

Senator JONES of New Mexico. The name and the amount involved are not published?

Commissioner BLAIR. The name and the amount involved are not published, but the principle on which it is decided is published, so that every taxpayer who has a similar case has knowledge of that opinion.

Senator KING. Suppose it does not reach the higher tribunal; suppose I am an applicant for a refund, and my case goes along for a little while and you decide that I am entitled to \$25,000, and that it is paid to me?

Commissioner BLAIR. If it is a question of audit, or a mistake in audit or something of that kind, that is not published. That is not committee opinion. There is no opinion rendered.

Senator KING. I have had many complaints to the effect that opportunities for fraud exist, and fraud has been committed there, in which some of these subordinates have ordered refunds and their decision has not gone to the higher officials there, and the money has been paid out, and perhaps it was illegally paid out.

Senator COUZENS. Could that happen?

Senator KING. The subordinate official was passed over, or was corrupt and did not stand up sufficiently for the rights of the Government.

Commissioner BLAIR. It would be very difficult for that to happen. The reaudit must be reviewed, and it must pass through so many hands that it would be most difficult to corrupt everybody along the line.

The CHAIRMAN. How many hands does it pass through?

Mr. BRIGHT. Five—that is, in the simple cases.

The CHAIRMAN. Yes.

Mr. BRIGHT. Going through the simple process that Senator King referred to, of the audit coming in the auditor's hands who made the original audit, passing through his unit sheet, and then the section sheet to a review section, and there reviewed by the reviewer and approved by his chief.

Senator KING. Not connected with the first audit?

Mr. BRIGHT. Not connected with the first audit.

Doctor ADAMS. Am I not correct in stating that any refund or any change involving over \$50,000 must be submitted to the solicitor's office?

Commissioner BLAIR. Every refund involving over \$50,000 must go to the solicitor's office.

Senator KING. Who is the chief solicitor?

Commissioner BLAIR. Mr. Hartson. I do not know the names of the other members of the committee very well. You asked a question about the committee on appeals and review. That is simply a committee designated by the commissioner to act for him. Of course, the law provides that all appeals shall be made to the commissioner. The commissioner can not hear them; it is physically impossible, of course; so this committee is designated by the commissioner, and I want you to see how the work is increasing for various reasons.

During the last month the committee on appeals and review passed on as many cases as we passed on in the whole of the years 1920 and 1921 together. That is partly due to 250-D, allowing repeals, and due to the greatly increased output of the unit, the auditors.

Senator KING. And I suppose due also to the fact that precedents have been established and cases fit those precedents.

Commissioner BLAIR. Yes, sir; and they take them up with that committee.

Senator COUZENS. Are the hearings on those appeals before this board of appeals held in public or secretly?

Mr. HARTSON. They are privately held; necessarily so, because at the time of the hearing on an appeal there is a complete, open discussion of the tax liability, the amount, and the name and everything connected with it. If the taxpayer desires to have some person or persons present it is entirely proper for him to bring anybody he wants to bring with him.

Senator COUZENS. Of course he can, but what I am thinking about is this: If all of these details are gone into in a regularly established court, why should they not be gone into in public so far as the Internal Revenue Bureau is concerned?

Mr. HARTSON. Because the law permits it.

Senator COUZENS. Do you not think it would be a good thing to correct the law or amend the law so that you would have the same publicity that takes place in a Federal court or a State court?

Commissioner BLAIR. The new revenue bill has a provision which creates a court for the hearing of these cases. I do not know whether there is any provision in that that they shall be held in private or not.

Mr. HARTSON. It is a question of whether the taxpayer has any rights of a confidential nature in regard to his own private business.

Senator COUZENS. He certainly has not when he is using a public tribunal, in my judgment.

Mr. HARTSON. There is a difference of opinion on that.

Senator JONES of New Mexico. It seems to me that when any question is raised calling for a decision as to the amount of tax that he ought to pay he ought to be willing to have that question decided in the open. You may say what you please about the ordinary tax returns which never raise any question, and which do not require any judicial decision. So far as I am concerned I am perfectly willing to have them all a matter of public record, but it seems to me that quite a distinction can be drawn just along that line; but whenever a taxpayer calls for a readjustment contrary to the audit of the bureau that readjustment should be made in public.

Mr. HARTSON. I think that might be. I can easily conceive how that may be helpful from the standpoint of the bureau.

Senator KING. I am in favor of publicity. If you set up a court of review at all, then any man who says, "I have been wronged by the Government," ought to submit his evidence there as anybody else would.

Senator JONES of New Mexico. In the open.

Senator KING. In the open.

Senator JONES of New Mexico. The thought had not occurred to me before, but I think we might draw a line there in making these returns public.

The CHAIRMAN. The only trouble about that, in my judgment, is, that if you publish the returns, it will show that a comparatively few men are making a great deal of money and have a very large return, which will give demagogues a chance to go out and harangue the multitude for the purpose of stirring up the classes against the few.

Senator JONES of New Mexico. Yes; I appreciate the force of that; but is there any distinction between making these returns generally public and making the proceedings on review public?

The CHAIRMAN. I think so; yes.

Senator KING. Senator Watson—of course, this is purely academic—here is the answer, whether it is complete or not: I think the public has a wrong idea in most instances as to the earnings of a man. When a man dies, it is published immediately that he is worth \$25,000,000 or a hundred million, and when you come to get the inventory of his estate, it is found that he is worth only five million. I remember some years ago when Governor Flower of New York died, it was reported that he was worth \$25,000,000, and when his estate was probated it was found that he was worth only \$400,000 or \$500,000. The public has an exaggerated idea of these fortunes, and if you publish these returns, you will find that instead of exciting the multitude to anger and resentment at the big incomes, the public will say, "Well, they are not such big incomes, after all."

Senator JONES of New Mexico. The estate tax returns are made public, are they not?

Mr. HARTSON. There is some question about that, Senator Jones, as to whether the law applies to the estate tax or not. I doubt whether it does.

Senator COUZENS. One of the Rockefellers died recently, and I saw every item of his estate listed in the New York Times.

Doctor ADAMS. And in the New York probate court.

Mr. HARTSON. And they are not ordinarily private records in the States.

Senator COUZENS. What difference does it make whether you publish it after a man has died or when he is alive? What is your opinion about that difference?

Senator JONES of New Mexico. The dead man can not make a kick.

Mr. HARTSON. Of course, it is all a matter of public record in every State in which a man dies. His estate has to be probated, and an inventory made by appraisers has to be filed as a matter of public record, and can be inspected by anybody.

Senator COUZENS. I ask you, Mr. Solicitor, what is the difference in publishing a man's record after his death and not publishing it when he is alive?

Mr. HARTSON. You are asking me on a question of policy? On the question of policy, I see no distinction, in principle.

Senator COUZENS. What part, if any, do your deputy collectors play in the decision of these cases. Do they play any part at all?

Commissioner BLAIR. The deputy collectors play a very little part. Mr. Nash can tell you more about the deputy collectors than anybody else in the United States. He has charge of them.

Mr. NASH. The smaller income-tax returns, those of incomes of \$5,000 or less are audited in the collector's offices, and the assessments are made there, and whatever small adjustments there might be. The forces in the collector's offices comprise both clerks and deputy collectors. The clerks are civil service employees. The deputy collectors are the personal appointments of the collector. There may be some deputy collectors assigned to the work of auditing these smaller income tax returns. Whatever decisions they make would be based upon regulations or Treasury decisions which have been published. It would be a very rare case where they would be called upon to make an original decision.

Senator COUZENS. You say "the small returns." How small?

Mr. NASH. Returns where the net income is \$5,000 or less.

Senator COUZENS. In such a case the deputy collector has a right to make a settlement, based on rules issued by the Treasury Department?

Mr. NASH. Yes, sir.

Commissioner BLAIR. Those are rules made by the collector's office—all of them.

Senator COUZENS. Does it not appear strange that any clerk out of the six or seven thousand employed in the Internal Revenue Bureau, or any deputy collector, may know the income and the income tax paid by any citizen, and any Member of Congress can not obtain the same information? I mention this because I do not think there is any secrecy about these things. You can not pledge this number of employees to secrecy as to the income tax paid by an individual any more than you can pledge the executive session votes of the Senate to secrecy.

The CHAIRMAN. Well, that is rather a forcible illustration.

Senator COUZENS. Well, we are a little below the average, I will admit; but it seems to me that if all of the clerks of the Internal Revenue Bureau have access to all of these records, and the public has not, it creates a perfectly ridiculous situation. A thousand dollar or a twelve-hundred-dollar clerk can have all of this information, and yet the public, whose interest is paramount, may not have it. In other words, that situation invites bribery and things of that sort in an effort to obtain this information.

Commissioner BLAIR. Of course, that is a matter entirely for Congress; but this might be said in answer to that: You are a chemist; you are manufacturing chemicals; you have secret processes and you have clerks in your employ to whom you are paying \$1,200 a year and you have laborers who are working and mixing those chemicals and making your product every day. They know all about what is in it, but the public does not know it, because it is—

Senator KING. Some little loyalty on the part of the employees?

Commissioner BLAIR. Yes. Of course, they reveal it sometimes, as they sometimes do in income-tax matters.

Senator COUZENS. The bureau has a system of making arbitrary assessments, as I understand it, after a mere superficial audit, in order to protect the Government against the running of the statute of limitations. Is that correct?

Commissioner BLAIR. Well, yes and no. In 1917, the law provided that you shall have 30 days after the A-2 letter goes out to file an appeal or to object to a proposed assessment. Now, the statute expires on the 15th of March, and a letter goes out between the 15th of February and the 15th of March. If you give him 30 days, the statute will expire; so we have been obliged in the cases that come in in those 30 days to make the arbitrary assessment, and we always permit the taxpayer to file a claim, so that he can be heard.

Mr. HARTSON. He is given an opportunity to file a waiver first.

Commissioner BLAIR. Of course, he can always file a waiver, in which case the arbitrary assessment is not made. That has amounted to very little this year, and we feel that there will be no necessity for it in any year after this, because the work is becoming so nearly current, or will after this year. We do not think there will be any necessity for it next year, and there was very little necessity for it this year.

Doctor ADAMS. All taxpayers are given an opportunity to file a waiver before an arbitrary assessment is made.

Commissioner BLAIR. Yes, sir.

Doctor ADAMS. I want to get that straight. I understood you to say before you put on arbitrary assessment, you warn the taxpayer and say that you are going to do it, and would like to have a waiver.

Mr. BRIGHT. I think there have been very few instances where we have made an assessment, without giving the taxpayer a notice of the assessment, with the request that he file a waiver.

Doctor ADAMS. I do not know the differences; I only want to get it straight. I hear of an enormous amount of complaint on this point, that taxpayers, out of the blue, got some big assessment, and it subsequently transpires that what you wanted was a waiver and that really the assessment had not been carefully made. I have heard that from a number of reliable people, and I wanted to get your statement on it.

That was true in March a year ago.

Senator COUZENS. You handle the Prohibition Bureau, do you not?

Commissioner BLAIR. Yes, sir.

Senator COUZENS. I understand that there was some testimony given before a committee of the Senate to-day which, if I am correctly informed, charges that some member of the Department of Justice was requested to investigate the Secretary of the Treasury in regard to liquor transactions. Did you ever hear of any such case as that?

Commissioner BLAIR. No; I did not know there was any such thing. Let me have that again, Senator.

Senator COUZENS. I say, before another committee of the Senate to-day, a witness testified, who was formerly with the Department of Justice, that former President Harding had instructed the department to make an investigation of Mr. Mellon's relations with the liquor warehouses, etc., and particularly in the New York district, if I am correctly informed. Do you know of any investigation that

was made in the Prohibition Bureau by the Department of Justice in that connection?

Commissioner BLAIR. No; I do not know of any that has ever been made.

Senator COUZENS. You have never heard of any such investigation?

Commissioner BLAIR. No.

Senator COUZENS. That was the testimony given before the Daugherty committee to-day.

Mr. HARTSON. Who was that—Gaston Means, Senator?

Senator COUZENS. Yes; I think that was the witness.

The CHAIRMAN. Who was that witness?

Mr. HARTSON. Gaston Means. I assume so from following the public press. His name has been featured in the press.

Senator COUZENS. So far as I am informed, I have nothing further to ask at this point.

The CHAIRMAN. Then, may we not adjourn?

Senator KING. I think we ought to take up some of these matters with Doctor Adams.

Senator COUZENS. I would like to suggest, Mr. Chairman, that the Commissioner and his staff be excused for the balance of the day.

The CHAIRMAN. All right; you may come back at our call. Our next meeting will probably be on Monday, Mr. Commissioner.

Commissioner BLAIR. I can come whenever you desire me. I want to prepare this statement for you as quickly as I can. I will write it out so that I may have it ready on Monday. I will go ahead with it, at any rate, and have it for you, and I will come here at your call.

The CHAIRMAN. If we want you on Monday we will let you know.

Commissioner BLAIR. We will come when you notify us.

The CHAIRMAN. The committee will stand adjourned and will meet next at the call of the Chair.

(Whereupon, at 5.05 o'clock p. m., the committee adjourned, subject to the call of the Chair.)

INVESTIGATION OF THE BUREAU OF INTERNAL REVENUE.

WEDNESDAY, MARCH 19, 1924.

UNITED STATES SENATE,
SELECT COMMITTEE ON INVESTIGATION OF THE
BUREAU OF INTERNAL REVENUE,
Washington, D. C.

The committee met, pursuant to call, at 2 o'clock p. m., Senator William H. King presiding.

Present: Senators King, Jones of New Mexico, Ernst, and Couzens.

Present also: Mr. D. H. Blair, Commissioner of Internal Revenue; Mr. C. R. Nash, assistant to the Commissioner of Internal Revenue; Mr. J. G. Bright, Deputy Commissioner, Income Tax Unit; Mr. N. T. Hartson, Solicitor Internal Revenue Bureau; and Dr. T. S. Adams, tax expert, Yale University.

Senator KING. The committee will be in order.

Senator COUZENS. I would like to ask Colonel Drake a few questions.

Senator KING. You may proceed, Senator.

Senator COUZENS. Colonel Drake is the president of the Standard Steel Car Co., of Pittsburgh, and was formerly assistant to the president of the Gulf Oil Corporation.

STATEMENT OF J. FRANK DRAKE, PRESIDENT OF THE STANDARD STEEL CAR CO., OF PITTSBURGH, PA.

Senator COUZENS. I have not put anything in the record that you wrote me, Colonel, because I thought you probably could state it best in your own way. You might state for the committee now your connection with the Treasury or with the Bureau of Internal Revenue, how you became connected with it, what you have done since you have been connected with it, and what, if any, part you took in the management of the bureau.

Colonel DRAKE. As I have written to you, under date of March 14, Senator Couzens, I am president of the Standard Steel Car Co. of Pittsburgh, Pa., and was formerly assistant to the president of the Gulf Oil Corporation. The Mellons of Pittsburgh have a substantial interest in said companies and consequently I came into contact occasionally with Hon. A. W. Mellon prior to the time when he became Secretary of the Treasury. When the Secretary came to Washington, March 4, 1921, I accompanied him and assisted him for a time in a private, confidential capacity by endeavoring to secure accurate information as to the qualifications of persons who were being considered for some of the more important positions in

the Treasury Department. In order to render the greatest possible service in this regard I made such a study as time would permit of the nature of the various positions to be filled and the particular qualifications which men should have in order to fill them. In this way, as time went on, I acquired a knowledge of the Internal Revenue Bureau, and particularly of the Income Tax Unit, and became familiar to some extent with the problems of administration confronted by the bureau. Much has been accomplished in the way of solving those problems, but I believe that it lies within the power of Congress alone to correct what I regard as the most serious defects in the present system of administration. Some of these defects and my recommendations for their correction are as follows:

The salaries paid in the bureau are woefully inadequate. This results in a big labor turnover which has most disastrous effects, as it does in any other business. It is particularly disastrous in the Income Tax Unit because it tends to reduce production and delay tax collections and at the same time causes dissatisfaction among the taxpayers. Secretary Mellon and, I believe, his immediate predecessors have been cognizant of this situation and endeavored to correct it by requesting larger appropriations, but Congress has refused such requests. Until Congress changes its attitude and sees the wisdom of sanctioning a more liberal policy so far as salaries in the bureau are concerned, it is idle to expect the close approach to 100 per cent efficiency which we would all like to see.

Another very serious obstacle to efficient administration is the fact that the various branches of the bureau are scattered over a large area in Washington, there being no less than seven different places where the bureau is doing business, some of them being at a remote distance from others. I believe that administrative efficiency would be increased 25 per cent if all of the said branches could be housed in one building. Furthermore, it would be a great convenience to taxpayers. The Secretary of the Treasury has called attention to this situation repeatedly, and I believe there is now before Congress a request for an appropriation sufficient to provide for such a building.

I indorse most heartily the present move for a Board of Tax Appeals which shall function as a judicial body independent of the Internal Revenue Bureau and guarantee to the taxpayer both a judicial and expeditious decision of his appeal. In order that this board may accomplish all that is desired it is most essential that adequate salaries be paid.

The three defects above mentioned I regard as vital and fundamental compared with any others that may exist. I believe firmly that if the special committee, as a result of its investigation, can induce Congress to enact the legislation necessary to correct them, it will have rendered a great constructive service and that the solution of the chief problems of administration in the Internal Revenue Bureau will have been obtained.

Senator COUZENS. I would like to ask you some questions about your experience with the method of handling depletions in the bureau. I understood from some talks that I have had with you that you have some ideas in that connection.

Mr. DRAKE. I do not know very much about the details. Of course, that has been left to the engineers of the Gulf organization and also to the accountants whom we employed on the case. I just

have some very general ideas, as I have expressed them to you, and I do not know enough about the details, really, to have an intelligent opinion of how the valuations are made up. If you wish to ask me some specific questions, perhaps I can aid a little.

Senator COUZENS. It is recorded in the Congressional Records, through correspondence between Senators and the Treasury Department that certain claims were filed by the Gulf Oil Corporation.

Mr. DRAKE. Yes.

Senator COUZENS. And they were allowed, prior to the administration of Mr. Mellon; is that correct?

Mr. DRAKE. That is correct.

Senator COUZENS. Can you tell us about when those claims began, when they ended, and if they were paid?

Mr. DRAKE. No; I can not. The Gulf Oil Corporation employed Ernst & Ernst, of Cleveland, Ohio, and they handled the whole case, and have all of the details. Mr. A. C. Ernst is head of that concern, and I would respectfully suggest, if you want all of the details, you call Mr. Ernst. I am sure, Senator, that the Gulf Oil Corporation would have no objection toward giving you any figures of any kind pertaining to their case. I mean, it would not be necessary to go to the department. I think they would give you everything that you wanted, and I think it would be a very interesting discussion you would have, because there are a great many points there that would be of interest.

Senator COUZENS. I want to bring this up, because it might be used as a basis to get at what appears to be the incorrect law or incorrect construction of the law, or a wrong rule of the department. I understood you to say, during one of our conversations, that you believed that the depletion credit had been too great.

Mr. DRAKE. Yes; and they cut that down, as you will remember. I think it was in 1921. There was no limit prior to the 1921 law, as I understand it, but in 1921, I believe they limited it to the net income of each property, and in the present bill now before Congress I believe the Treasury has recommended that that limit be cut right in two.

Senator COUZENS. That means 50 per cent of the net earnings?

Mr. DRAKE. Yes, sir.

Senator COUZENS. That is the maximum that would be allowed for depletion in oil properties?

Mr. DRAKE. Yes. Personally, I believe that cut should be made, to be frank about it.

Senator COUZENS. Mr. Chairman, Mr. Drake has suggested that we get Mr. Ernst here, and I wanted to have it appear in this record that he is no relation to Senator Ernst.

Senator KING. He is from Cleveland, Ohio.

Mr. DRAKE. Yes. I was saying, Senator, that Mr. Ernst handled the Gulf Oil Corporation case when it was before the bureau. It was disposed of before the present administration, and any questions that you want to ask him about that case, I believe that the Gulf Oil Corporation will not have the slightest objection to his giving you all the information you wanted.

Senator KING. What official in the department handled that case?

Mr. DRAKE. I have not the slightest idea. I presume there must have been a lot of them. Usually, in those big cases, there would be 50 men to handle them, I should imagine.

Senator KING. That is to say, it would have to go through the hands of 50 men there?

Mr. DRAKE. I would say so in some of the large cases. That number would not be said to be at all high, I should say in some of the large cases, but that is merely a guess.

Senator KING. That is, where there are controversies?

Mr. DRAKE. Well, I would not say that that was only where there were controversies.

Senator KING. Is it not a fact that in many important cases where refunds have been made, they have been handled by a comparatively few men, perhaps not to exceed six or seven?

Mr. DRAKE. I do not know.

Senator KING. Did not your investigation go far enough to enable you to determine that fact?

Mr. DRAKE. I never investigated the thing in particular.

Senator KING. You did not investigate, then, the detailed operation of determining taxes and settling controversies or making refunds?

Mr. DRAKE. Well, I do not know just what you mean by detailed examination.

Senator KING. Well, so that you could determine who did it and the method that was followed.

Mr. DRAKE. My experience has been rather superficial, because it was limited practically to what I gave you in my statement there, because I have my own line of business that I am trying to take care of, and this is just a little service that I have been able to render down here.

Senator KING. Have you any further questions, Senator Couzens?

Senator COUZENS. I think Colonel Drake has brought out the fact that he was not an official of the department, and therefore had no right to examine into any of the records of the department.

Mr. DRAKE. No; I have never seen a return of any kind.

Senator COUZENS. His duty was just to pass upon the personnel or the heads of the various units there.

Mr. DRAKE. Just in a general way, and more particularly during the first year, Senator, when everything was new down here, and the appointments had to be made.

Senator COUZENS. I want to suggest, Mr. Chairman, that I thought Colonel Drake would probably be a valuable witness to you, as, according to your original resolution, the principal complaints, as I recall it, are the allowances for depletion.

Senator KING. Yes.

Senator COUZENS. And discovery, and as Colonel Drake has had some experience and has some facts in connection with that matter, I thought maybe you would like to ask him some questions.

Senator KING. Yes. The two principal grounds for investigation as set forth in my resolution, were the questions of amortization, depletion, obsolescence, credits, allowances for losses in mines and in capital, and also the method of settling claims. My idea was that there should be a court, that it should be open, and that no claim should be settled in private where there was controversy, but they should be settled openly, just as it would be in a court, to see whether or not it was proper, and whether the machinery was sufficient for determining all of those controversial questions, for the purpose of

ascertaining the amount due, and whether or not refunds should be made.

Mr. DRAKE. This subject is so complicated that it requires a man who has made a special study of it to talk about it intelligently, and that is one reason, of course, why Ernst & Ernst would be capable of telling you about it, because they have a large organization, and their men in that organization are familiar with those problems.

As I stated to Senator Couzens before you came back, Senator King, he asked me point blank what I thought about a reduction of the limit of depletion, that is, in the present law recommended by the Treasury, and I told him I thought it should be made.

Senator KING. That is to say, they have been allowing too much?

Mr. DRAKE. No; I say that the law is not restricted quite as much as it should be. That is the reason I supposed that the change was being made.

Senator COUZENS. You say that prior to 1921, there was no law covering depletions, but it was rather a rule promulgated by the bureau, and that since 1921, they have limited the depletions to 100 per cent of the net income?

Mr. DRAKE. Of each property.

Senator COUZENS. Of each property?

Mr. DRAKE. Yes.

Senator COUZENS. And now in the bill coming from the House, there is a provision making it 50 per cent of the net income as the maximum allowed for depletion?

Mr. DRAKE. Yes.

Senator COUZENS. And that is a matter that Colonel Drake recognizes as right?

Mr. DRAKE. I certainly do.

Senator KING. Have you investigated it to determine how they they reach the amount that should be allowed for depletion?

Mr. DRAKE. No.

Senator KING. What was the basis of it?

Mr. DRAKE. No; I have never gone into that personally.

Senator KING. Nor the corporations which have obtained large reductions on account of depletion?

Mr. DRAKE. Well, just what do you mean by that, Senator?

Senator KING. The corporations which have availed themselves of the construction placed upon the law and have secured reductions in their assessments on the ground of depletion.

Senator ERNST. What is your question about it? I did not catch it.

Mr. DRAKE. Neither did I.

Senator KING. Did you investigate the situation sufficiently to ascertain what companies those were that obtained reductions on account of depletion?

Mr. DRAKE. No.

Senator KING. Did you investigate any of the companies that got refunds?

Mr. DRAKE. The Gulf Co.?

Senator KING. No; any of the companies.

Mr. DRAKE. No; because I had no right to.

Senator KING. Then, you just say so.

Mr. DRAKE. I never went into that at all.

Senator KING. I did not know what was the basis of your recommendation of 50 per cent.

Mr. DRAKE. Just the experience of the Gulf Cos. as I have stated. It was merely an opinion. It was my suggestion that if you were to call Mr. Ernst or the men in his organization, you would be able to get an intelligent view of this depletion question. I really am not qualified to give that to you, Senator, I am frank to say.

Senator KING. They have been the ones who have been advocating, or at least securing large credits or deductions on the ground of depletion. I do not say improperly, but they have been representing that side.

Mr. DRAKE. I do not know as to that.

Senator KING. Well, they represented the Gulf Oil Corporation.

Mr. DRAKE. I have never heard that the Gulf Oil Corporation made any move toward asking for any refund, or took any part in getting any through. I do not think they ever did.

Senator KING. No; but did they get credits or reductions from their assessments for depletion or obsolescence?

Mr. DRAKE. Every production oil company has.

Senator KING. Exactly so, and Ernst & Ernst would represent that side of the matter?

Mr. DRAKE. Yes, sir.

Senator KING. The corporation side of it.

Mr. DRAKE. Of course, they are in general business. They do not just work for the Gulf Oil Co. They are a large firm of accountants that do general accounting work.

Senator COUZENS. I remember people saying, Colonel, that you speeded up this Gulf Oil Co.'s case so as to get it out of the way before Mr. Mellon took office.

Mr. DRAKE. I did not speed it up, but I said to Ernst & Ernst that this case must be closed before the Secretary, before Mr. Mellon, takes office, regardless of how much the Gulf Oil Co. sacrificed. That is just what I told him.

Senator COUZENS. When you said that, did you know how much the Gulf Oil Co. claimed?

Mr. DRAKE. No; we had not completed it. That was in January, 1921.

Senator COUZENS. It was known, however, that Mr. Mellon was to be the Secretary of the Treasury at that time?

Mr. DRAKE. Well, it was not exactly known, but it was just supposed. It was not settled, so far as I knew, at the time, but we just did not dare to take that chance.

Senator COUZENS. I am not suggesting that there was any improper reason. I just want to find out.

Mr. DRAKE. I am very glad to have you bring that out.

Senator COUZENS. I just want to find out if, when you were speeding up this case, you arrived at any conclusion as to the method that was to be used in arriving at the depletion asked for by the Gulf Oil Co. when they asked for their credit.

Mr. DRAKE. No. You see, there really was not time to go into anything. As I recall it, they just filed their schedules as fast as they could. That is my recollection of it. This was three years ago; and of course I did not handle the details at all; but there was not any time to go over them again.

Senator COUZENS. You were assistant to the president of the company at that time?

Mr. DRAKE. Yes.

Senator COUZENS. What was the refund that was allowed by the bureau?

Mr. DRAKE. I do not remember. It was something like \$3,800,000; but there were 14 corporations embraced in that, and it covered a great many years.

Senator COUZENS. You said you were in such a hurry about getting this thing through so as to not embarrass the Secretary that you waived any question of claims that the Gulf Oil Co. might have, in order to get it out of the way. Can you say how much in money you waived?

Mr. DRAKE. I do not know, but Mr. Ernst can tell you that.

Senator COUZENS. As I understand it, the corporation has no objection to Mr. Ernst telling us fully how they arrived at these methods, etc.?

Mr. DRAKE. Not in the slightest degree. I can not speak for that corporation, of course, but I would say that I do not think they would impose the slightest objection, and would be glad to assist your committee in any way that they could.

Senator KING. Did you aid in preparing the tax returns of this corporation?

Mr. DRAKE. Not in the slightest degree.

Senator KING. Or for the subsidiary corporations?

Mr. DRAKE. Not in the slightest degree.

Senator KING. Who prepared the returns?

Mr. DRAKE. Ernst & Ernst.

Senator KING. They were familiar with tax matters?

Mr. DRAKE. Yes; that is their business.

Senator KING. That is their business?

Mr. DRAKE. Yes.

Senator KING. Did they prepare the returns under which your corporations paid more to the Government than they ought to have paid? Were they not made out legitimately and properly, according to the provisions of law, to secure reductions, abatements, and so forth?

Senator ERNST. Mr. Chairman, I understood him to say two or three times that he does not know how those reports were prepared.

Mr. DRAKE. You are referring to the original return now?

Senator KING. Yes; that is what I am speaking about.

Mr. DRAKE. The original returns were employed by the company. Nobody was employed on those original returns.

Senator KING. That is what I was asking you about. I thought you said Ernst & Ernst were employed on them.

Mr. DRAKE. No; they prepared the amended returns which were filed, and upon which these refunds were based.

Senator KING. Yes.

Mr. DRAKE. You see, that whole question of depletion was inserted in the law in 1918 for the first time, so that nobody on earth knew anything about it. The oil companies themselves did not know how to interpret it, and, as I recall it, the final interpretation of that law was not made until about December, 1919, which was long after

they had filed the 1918 return, and it was inevitable, in the nature of things, that all producing oil companies would have to get refunds.

Senator KING. Was each of these a producing oil company?

Mr. DRAKE. No; a part of them. I should say half of them. There was a consolidated return, of course.

Senator KING. Do you recall how that \$3,800,000 was allocated?

Mr. DRAKE. No, I do not.

Senator KING. Whether to producing oil companies or selling oil companies?

Mr. DRAKE. I think it was divided amongst practically all of them. I do not remember in what proportions.

Senator KING. Do you recall the amount which was refunded, the ratio which it bore to the entire tax?

Mr. DRAKE. No; I do not remember it. I would hate to give a guess on this.

Senator KING. All right, if you do not know.

Mr. DRAKE. But Mr. Ernst can give you those figures exactly.

Senator KING. All right. Did you make sufficient investigation of the workings of the Department to feel justified, as a business man, to make recommendations, other than the two recommendations contained in the letter which you read?

Mr. DRAKE. No, because, Senator, I regard that first recommendation of mine as absolutely fundamental. It is just like the foundation of a house. If I may be pardoned in making a personal allusion, taking my own case, where the companies of which I happen to be president employ not quite so many as there are in the Internal Revenue Bureau, but pretty nearly as many, and where I have full authority to employ and discharge and fix salaries. It is a pretty difficult proposition to handle companies like that, even with supreme authority of that kind. Now, when you are confronted by a condition such as you are in the Internal Revenue Bureau, where, first, you have the Civil Service Commission, with its limitations and restrictions, and with the difficulty, under the civil service regulations, of getting rid of employees, we will say, who are moderately inefficient; and then add to that the fact that inadequate salaries are paid, and furthermore the political element which may enter into it—I mean by that the pressure that is brought to bear upon the officials of the bureau by various people, Members of Congress and others, to appoint this, that, and the other man—you take that combination and, believe me, it is remarkable that they have accomplished what they have. I do not believe it will be possible to secure the efficiency that you desire to obtain in that bureau until Congress takes hold of that proposition and appropriates adequate salaries. I think that is the foundation of your whole structure.

Senator COUZENS. You think that more efficient men would take the civil-service examination if there were higher salaries? Is that your idea?

Mr. DRAKE. Yes, indeed, sir.

Senator KING. To which categories of employees are you referring to now?

Mr. DRAKE. I refer to practically all the important positions that there are down there, and there is a great number of them in all branches of the bureau, Senator.

Senator KING. Did you find that that organization was top-heavy? Did you not find, in other words, a superfluity of employees?

Mr. DRAKE. No, sir; I do not think you can say that. That is not my impression. I would not say that.

Senator ERNST. Do you think there is a shortage?

Senator KING. Did you not discover when you made your examination that there were substantially as many employees in the buildings here in Washington devoted to the work of the Treasury Department or the Internal Revenue Bureau as there were at the peak of the revenues? That would be along in 1918 and 1919, when the revenues were nearly twice as much as they were at the time you made your examination.

Mr. DRAKE. You see, Senator, in 1920 and 1921, and along there, that was the time when there was an enormous accumulation of the past years. That work had accumulated and it certainly would need all of the people of their organization in order to ever get current. Of course, when the stuff came in every year, with more returns each year, the situation was very difficult. I presume, of course, that you could have gotten this all from the officials of the Internal Revenue Bureau. Certainly they would give it to you if you wished.

When your first revenue producing law was passed, which was in 1917, there was practically no organization at all. That was passed as a war measure, and they had no organization to cope with it, and nobody knew how to interpret that law or administer it. That, of course, was during the war, when men were being drafted into the service, and others were volunteering; business was shorthanded, and it was always difficult to recruit men here in those positions. The same thing was true in 1918. So that, so far as my recollection serves me, in 1917 and 1918 there probably was not a great deal of thought given to it except to keep the machinery moving, to get in the money, which was, after all, the thing that they needed. Therefore, back in 1919 and 1920, you had those big years all accumulated, and still each year rolling up, while they were trying to get from under the load. I think they really have accomplished a great deal. I think that the men in the previous administration really did a splendid piece of work in doing as well as they did, with all of the things that they had to cope with, and with the tools that they had to use.

Senator KING. Would you care to state whether you made any recommendations to Mr. Mellon as to inefficient agencies or individuals or instrumentalities in the Internal Revenue service?

Mr. DRAKE. I do not remember about that, Senator. I presume I must have talked with him. You see, I have not been here very much since 1921. That was the year in which he was building up his organization, when I devoted most of my time to it, and he was pretty busy. I tried to make such recommendations that I thought would be helpful, but it was principally to find out the qualifications of the men for particular positions, because he did not have time to do that.

Senator KING. That is to say, there were applicants for the important positions in the department, and you were trying to ascertain what the duties of those particular positions were and the qualifications and competency of those applicants?

Mr. DRAKE. Yes, sir; that is it exactly.

Senator KING. I see.

Mr. DRAKE. Because there was no one in the bureau whom he knew, and he did not know whom to rely on, and whom not to rely on.

Senator KING. Did you find great political pressure from Senators and Congressmen and from political organizations in favor of particular individuals to occupy some of the positions there?

Mr. DRAKE. I think that is so, Senator.

Senator KING. And that is one of the evils which you found to exist?

Mr. DRAKE. Well, you can call it that. There is no question but what it handicaps the work of the bureau, to speak frankly.

Senator KING. I agree with you. I do not think there is any controversy about that.

Mr. DRAKE. This question of housing is really a very serious matter. I can not conceive of trying to run a business in that sort of way, spread all over the city.

Senator KING. Did you find that the Treasury Building, the building known as the Treasury Building, if all other agencies of the Government were taken from that building—I do not know whether they have been now or not—would have sufficient room for the discharge of the duties of the Internal Revenue Bureau?

Mr. DRAKE. Do you mean to ask if that building would be large enough?

Senator KING. Yes.

Mr. DRAKE. I do not think it is. I do not think it is designed right. It is a very old building. I imagine the officials of the Internal Revenue Bureau must have some very interesting figures that they can give you on that, but with an organization of that size my impression would be that that building would be very inadequate.

Senator KING. Well, Colonel Drake, I take it, then, your work there was not so much that of an efficiency expert, or to point out the defects of that system, but it was rather to examine the qualifications of those applicants who were being pushed by politicians for positions?

Mr. DRAKE. Well, and others, too. I would not say that they were all pushed by politicians.

Senator KING. Oh, I understand.

Mr. DRAKE. But I could not help, during that time, arriving at some opinions, which I have expressed to you here, as to what are the fundamental defects of the bureau. As I said, I could imagine what a proposition it would be for any business to try to labor under those handicaps and try to produce results. I think they have done remarkably well, when you consider everything.

Senator COUZENS. I wonder if Doctor Adams would not like to ask some questions of Mr. Drake while he is here.

Doctor ADAMS. I would like to ask Mr. Drake particularly about his feeling that the salaries should be advanced all along the line. I would like to have a careful statement about that. Did you feel at times that the upper positions, what you might call the key positions, are very much handicapped for that reason?

Mr. DRAKE. The way I feel about it is this: The so-called key positions, and there are many of them, it would take a great deal of time to tell just where they start, but the men filling those positions ought to be paid several times what they are getting there. Then,

as you go further down the bureau, the percentage of increase would naturally be less, because when you get down to the average run—I am speaking now of the auditors and accountants and employees of that kind—there is a bigger field to go out and get those men; but even there, I do not think they are paid as much as they ought to be.

Doctor ADAMS. Do you think that if the key positions were remunerated so that more efficient men could be secured and held, some saving in the lower positions could be had?

Mr. DRAKE. I certainly do, because you can imagine what would happen to a business if they had any turnover in their important positions, as happens in the Internal Revenue Bureau. You would wonder how the business could run at all.

Senator KING. Has not that turnover been the result in part, and in a very large part, of the fact that some of these people occupying key positions have gotten information in regard to taxes, and have been offered by taxpayers larger salaries to go out and prosecute claims for them against the Government?

Mr. DRAKE. Well, that may be so, Senator, but my point is that if you paid those men what they ought to be paid, so that you can compete with those outside concerns, then the men would stay in the bureau.

Senator KING. Do you not think that that situation is really what might be denominated an emergency, not a continuing one, but that by reason of the passage of that new law, with its complexities and the difficulty in interpreting it, there were bound to arise a good many complications and controversies, and that many of the employees who would have been entirely satisfied with their positions if it had not been for this law and the chance that they saw for getting a large compensation to prosecute claims against the Government, took advantage of that condition when it arose?

Mr. DRAKE. Undoubtedly, there is a good deal of truth in that, but my point is that, at least in my opinion, a large proportion of the ablest men who have gone out from the bureau, attracted, if you might say so, by more lucrative positions, would have preferred to stay there if they had adequate salaries, even at a little less salary than they got on the outside.

Doctor ADAMS. Do you feel that if the salaries were raised somewhat, it would be fair to pass such legislation prohibiting employees resigning to take up private work of Federal taxation?

Mr. DRAKE. I certainly do; but I think until that time comes, it is not fair to do it, because that means that a lot of the good men that you have now, you would not get otherwise.

Senator KING. Do you not think that the men, by regulation, ought to be prohibited after resigning or severing their relations with the department, from prosecuting cases within, certainly, one or two years, in any event?

Mr. DRAKE. Well, I think there is a good deal to be said for that.

Senator KING. Has it not become a scandal—the resignation of many incompetent persons, who got some information, secretly or otherwise, which enabled them to secure employment from the taxpayers, and thus obtained very large fees?

Mr. DRAKE. Well, of course, I do not know, Senator. There may be some such cases, but I believe it is a very small percentage in

comparison with all of the men that have gone out. My experience with the men here in the bureau is that they are a very conscientious bunch of men, and that, of course, in any large number of men you are bound to have people who are dishonorable, but I think, by and large, they are a splendid bunch of men.

Senator KING. Have you any idea of the number of persons who have severed their relations with the Treasury Department, and who are now prosecuting claims against the Government as experts, as tax collectors, as advisors, or as attorneys?

Mr. DRAKE. No, I have not.

Senator COUZENS. In talking of the heads of departments there, do you happen to recall the name of H. J. Schermerhorn?

Mr. DRAKE. I never heard of him.

Senator COUZENS. The head of the sales tax division.

Mr. DRAKE. I never heard of him.

Dr. ADAMS. I would like to ask one rather technical question of Colonel Drake. It is interesting to know that Colonel Drake approves of the proposed reduction of the discovery or depletion allowance, which will be in some cases cut in half. I wondered if he thought that the basis on which that allowance is made is a sound and helpful one. You see, the discovery depletion allowance involves the valuation of the oil well within 30 days of its discovery. It involves a valuation, a thing always desirable to avoid, if you can.

Senator KING. But which, of course, is purely arbitrary and fictitious, in any event?

Doctor ADAMS. I was wondering whether your experience has led to a conclusion that you personally hold that we could get some other basis for this allowance by which we would all be much better off?

Mr. DRAKE. No; that is such a deep question that I do not feel qualified to really answer that. I think you would be better qualified to answer that question than I.

Senator KING. Doctor Adams, I did not go into that question, because I saw that Colonel Drake was, perhaps, not familiar with that matter.

Mr. DRAKE. I have an opinion, just the same as anyone who knows just a little about these things, but these are complicated matters.

Senator KING. Yes; I think so. Did you select Elmer Dover?

Mr. DRAKE. No, sir.

Senator KING. Were you there when Mr. Dover's activities were at their height?

Mr. DRAKE. Yes, sir. I mean I was here occasionally, but not very often.

Senator KING. What position did he have there?

Mr. DRAKE. He was one of the assistant secretaries of the Treasury, having to do with matters in the Internal Revenue Bureau, a position which Judge Moss now has.

Senator KING. What changes did he make?

Mr. DRAKE. I don't remember them all. I think he made some changes in personnel in some of the key positions.

Senator KING. Are those persons whom he inducted into positions still there?

Mr. DRAKE. I think not. Perhaps some of them may be, but some of them are not.

Senator KING. Will you care to say what influences were behind Mr. Dover, to your knowledge, in procuring his appointment?

Mr. DRAKE. I really do not know.

Senator KING. He was not your recommendation?

Mr. DRAKE. Certainly not.

Senator KING. That is all I have to ask.

Senator ERNST. I do not desire to ask Colonel Drake any questions.

Senator COUZENS. I think that is all, Colonel, for the present, unless you have something that you want to volunteer to the committee.

Mr. DRAKE. Do you wish me to remain in the room at all? I would like to catch the 5 o'clock train.

Senator KING. Unless you want to stay, you are at liberty to go.

Senator COUZENS. As long as Mr. Blair is here, I thought that he might want to make comment on some of these things.

Senator KING. I think we had better ask Mr. Blair if he is ready to submit that report.

Commissioner BLAIR. Yes, sir; I have it right here. I have five copies of it. There is the general report you asked for, giving the cases decided by the courts, as they affect reversals and refunds and other matters.

Senator KING. Mr. Blair, as far as you know, is there anything here that ought not to be given to the newspaper men?

Commissioner BLAIR. I do not see any objection. I have no objection to its being published, any part of it.

Senator KING. I would not want to interrogate Mr. Blair about that report until I have had a chance to read it.

Commissioner BLAIR. Yes; I think you ought to read it. It covers the situation pretty fully.

Senator COUZENS. Do you want to comment on anything that Colonel Drake has said, Mr. Commissioner?

Commissioner BLAIR. No; I do not. I think I have commented on the question of housing. I did that before.

Senator COUZENS. Yes?

Commissioner BLAIR. And I have done it somewhat briefly in this report. I think on the question of salaries I have covered that fully.

Senator ERNST. This is a very full report, Mr. Chairman, considering the time in which he has gotten it up.

Commissioner BLAIR. I have another report as to the people practicing before the department. You asked to have that filed, with the regulations governing that practice.

Senator KING. Yes.

Mr. NASH. Here is the list of people practicing before the department, with a copy of the regulations.

Senator KING. Are these separate reports?

Mr. NASH. Those are the individuals, the names and addresses of individuals admitted to practice.

Senator KING. How many are there?

Mr. BRIGHT. The total is somewhere in the neighborhood of 18,000.

Senator KING. That are practicing before the department?

Mr. BRIGHT. Not actually practicing now, but who have at some time appeared before the department. Some of those on the list are now dead.

Senator KING. Within what period have they practiced before the department?

Mr. BRIGHT. Since the time the regulations started, in 1884.

Senator COUZENS. Have you the antecedents of these men at all? Have you a record of these men, where they came from, or whether they worked in the department or not?

Mr. BRIGHT. As to whether they ever worked in the department?

Senator COUZENS. Yes.

Mr. BRIGHT. That can be checked back against the personal records. That record is not disclosed in this report.

Senator KING. Then, there is nothing, as I understand it, in these 27,000 names to show which of the 20,000 ever worked in the department?

Mr. BRIGHT. No, there is not. The list is divided into three parts—those actually admitted to practice, those who have applications pending, and those who have been disbarred.

Senator KING. How many applications are pending, according to this list?

Mr. BRIGHT. I have not counted them.

Senator KING. Have you any idea as to that number and the number who are practicing who have been employed in the department?

Mr. BRIGHT. I have not. I can find it out for you, probably, in a short period of time.

Senator KING. If it meets with the approval of Senator Ernst and Senator Couzens, I would be very glad if you would give us the number who have been employed in the department.

Mr. BRIGHT. The number of attorneys and agents who are now practicing before the department, and who are ex-employees?

Senator KING. Yes; the number of applicants pending of ex-employees?

Mr. BRIGHT. Yes.

Senator COUZENS. That means the names, how long they worked in the department, and what position they occupied while in the department?

Mr. BRIGHT. That would involve quite a search.

Senator KING. Let the record show that there are 800 applications pending for admission to practice before the department.

Senator ERNST. That is just the statement of the clerk.

Senator KING. That is the statement of the clerk of the committee. That is approximate.

Doctor ADAMS. I would like to ask the Senator if he thinks he wants to have the record of the length of time they were employed in the department. That may be a long job.

Senator COUZENS. I do not care so much about the length of time they worked in the department, although that might give us an indication of the turnover, and might be generally valuable to the department to see what the turnover is. However, so far as I am concerned, I am only interested in whether they work in the department, and what position they occupy in the department. Of course, that is important.

Doctor ADAMS. I think you could get at pretty well the question of the turnover by getting the records of the positions that you are interested in. Take a position, and see how many occupants it has had in the last three years, say.

Mr. NASH. Senator Couzens, would you mind saying just what you do want in reference to this?

Senator COUZENS. If I understand the committee right, they would like to have these lists, a separate list showing those who worked in the department, and what position they occupied in the department.

Mr. NASH. We had better take these lists back and designate them.

Senator KING. Yes; just make a memorandum on the lists themselves.

Mr. NASH. Yes.

Senator KING. And show how many have been disbarred.

Mr. HARTSON. I think the commission's report shows about two hundred.

Senator KING. Within what period?

Mr. HARTSON. Since the records have been kept, two years ago.

Commissioner BLAIR. Since July, 1922. There were no accurate records kept back of July, 1922, but we have been checking up since that time, and have kept a pretty careful record since then. The new regulations that we got out became effective early in 1922, and we got them in full operation by July.

Senator KING. What proportion of those disbarred have been disbarred since 1922?

Mr. HARTSON. All of them.

Commissioner BLAIR. Every one on that list that Mr. Hartson speaks of has been disbarred since that time.

Mr. HARTSON. Yes. That 200 does not include all of those who who have been disbarred. Included in the 200 are those that have been disbarred and those that are pending now on charges, where claims are still pending in regard to their disbarment. I do not know what proportion that would be of the 200.

Commissioner BLAIR. Does that include those that have applied and who have been denied admission in the first place? I think it does give the number that have applied and have been denied admission.

Senator ERNST. They are included in that same list?

Commissioner BLAIR. I understand so.

Senator ERNST. What are the general reasons that you advance for disbarring and for refusing applicants permission to practice?

Commissioner BLAIR. Well, soliciting business and any unethical practice that we hear of. This is not a bureau committee; it is a Treasury Committee. I have never appeared before the committee, but I do know that one of the most common things, because I frequently get the complaints and turn them over to that committee, is that some man has been soliciting business and representing often that he had influence with the Department. We immediately, if he is an applicant for admission, deny him a temporary card even, and if he is admitted, we bare the fact before the committee, and they act upon it.

Senator KING. That is a committee which you appoint, is it?

Commissioner BLAIR. No; I do not appoint it, although I do suggest the representatives of the bureau who go on it. They are

appointed by the Secretary of the Treasury. He has asked me for suggestions. Three of the members are now from the bureau, where formerly there were only two.

Senator KING. Do you know, Mr. Hartson, of any other reason besides soliciting business for which they are prohibited from practicing there?

Mr. HARTSON. Senator, there are more flagrant reasons than that. There have been instances, I believe, where individuals who have already been admitted, or who have applications pending for admission, who have come in contact with somebody in the bureau, and where there is money passed, or there is a charge out; and the committee of special intelligence has been put on those cases, and they have appeared before them as representing the taxpayer. Then, I know of an applicant on the outside to form a contact with a man on the inside, and many disbarments result from that. That is another form of soliciting, of course.

Commissioner BLAIR. In those cases we also prosecute.

Mr. HARTSON. Yes.

Commissioner BLAIR. You will find in this report a reference to those cases, giving one or two examples, and also giving the number of cases that are under prosecution, or the number that are pending, and the number disposed of. That is in this report that I submitted to you.

Senator COUZENS. Do you know anybody by the name of J. H. Schermerhorn in the department?

Commissioner BLAIR. Yes, sir.

Senator COUZENS. How long has he been in the department?

Commissioner BLAIR. Five or six years. He was here when I came here. He was down in the sales-tax unit.

Senator COUZENS. Is he there yet?

Commissioner BLAIR. Yes.

Senator COUZENS. Do you know anything about his antecedents, what he did, or where he came from?

Commissioner BLAIR. No; I do not.

Senator COUZENS. Does any of your staff know that?

Mr. NASH. He has been in the bureau a number of years. He was appointed assistant to Deputy Commissioner Holden, and just before Mr. Holden died he acted as acting deputy commissioner for a while until we abolished that unit; and when we merged the sales-tax unit with the miscellaneous unit he was made head of the sales-tax section of the miscellaneous unit, and that is the position he now holds.

Commissioner BLAIR. Yes.

Senator COUZENS. What salary does he get?

Mr. NASH. I am not sure. I think it is between \$4,000 and \$4,500.

Senator COUZENS. Who is his immediate superior officer?

Mr. NASH. Mr. Estes.

Senator ERNST. How long has he been under Mr. Estes?

Mr. NASH. Since about the 15th of last June.

Commissioner BLAIR. That entire unit was transferred to Mr. Estes, as a matter of economy, and there were two deputy commissionerships abolished. I only mentioned one of them. One of the transfers to Mr. Estes's unit was the sales tax, and the other was the miscellaneous tax.

Senator ERNST. Was that in June, 1923?

Mr. NASH. The sales tax unit was abolished in June, 1923, and added to the miscellaneous unit, and the tobacco and miscellaneous units were abolished on December 15. A part of it was added to Mr. Estes's unit, and the rest of it was kept right under the commissioner's office.

Senator COUZENS. Have you any record here, or could you get any record of the refunds, showing the aggregate, since 1921, for depletion and discovery?

Mr. NASH. That record is not available here, but we can secure it.

Mr. BRIGHT. As to the total amount of depletion allowed, it is of course possible to furnish it, but it would be rather a difficult task.

Senator KING. They aggregate hundreds of millions of dollars, do they not?

Mr. BRIGHT. The amount claimed?

Senator KING. Yes.

Mr. NASH. It would not aggregate hundreds of millions of dollars in refunds.

Senator KING. No, no.

Mr. BRIGHT. No; not in refunds.

Senator KING. No; in deductions which have been allowed.

Mr. BRIGHT. You would like to have a report of the total amount of depletion claimed by taxpayers whether allowed or not. As to the amount claimed by taxpayers on returns, in some instances the Bureau has allowed the entire claim, and in other instances only a part of it. In some case the bureau has increased the amount calimed.

Senator COUZENS. You say it would be a great job to find that out?

Mr. BRIGHT. I think it would take months of search, and it would take every employee that we have in the Bureau to get it in that length of time, Senator.

Senator COUZENS. Even if you should just confine your search to oil companies, would you find it as difficult a task as you outline?

Mr. BRIGHT. Limited to oil companies alone for the year 1921?

Senator COUZENS. And 1922?

Mr. BRIGHT. 1921 and 1922?

Doctor ADAMS. I think that is covered pretty well in the published statistics. For instance, there is a separate deduction for exhaustion, amortization, and depletion. That, the, is classified by different types of industries, and one of those industries shown in mining and quarrying. I guess oil is not sufficiently distinguished there.

Mr. BRIGHT. If you would confine it to the corporations alone for those two years, we probably can file that.

Doctor ADAMS. Exhaustion, amortization and depletion.

Mr. BRIGHT. They are under those three headings, I do not think they are seperated in the published statistics.

Senator COUZENS. Will you look it up and just report what you can find. Never mind going into it until you can tell us how much of a task it is.

Doctor ADAMS. You are anxious to get the total amount of the depletion for several representative years for oil companies and mining companies? Is that what you would like?

Senator COUZENS. Oil companies in particular.

Doctor ADAMS. Oil companies in particular.

Senator COUZENS. I believe they are more under discussion, and particularly in view of the fact that the Bureau recommended that the depletion be cut down under the law to 50 per cent of the net revenue, as I understand it.

Mr. BRIGHT. Do I understand it correctly now, that it is for 1921 or 1922?

Doctor ADAMS. You would not have it for 1923.

Mr. BRIGHT. No; the 1923 returns have not been received.

Senator COUZENS. Would there be as much difficulty in arriving at the depletion of coal mines as it would be in regard to oil properties?

Mr. BRIGHT. Well, there are just as difficult engineering problems attendant.

Doctor ADAMS. There is this difference, is there not, that where an application is made for depletion on a coal mine, it stays.

Mr. BRIGHT. Yes.

Doctor ADAMS. Whereas, on the oil, it is cropping up always?

Mr. BRIGHT. That is true, especially with reference to new discoveries.

Senator KING. Is it not true that many of the coal mines, notwithstanding the depletion, have a value that is increasing? Take some of the anthracite mines. The depletion is so light, measured by the rise in value that the rise in value more than compensates for the depletion?

Mr. BRIGHT. I do not think depletion is based on value of that kind. Depletion is based entirely on the value as of March 1, 1913.

Senator KING. But you could credit it with depletion, could you not?

Mr. BRIGHT. Yes.

Senator KING. Is it not a fact that some properties have increased in value, notwithstanding the depletion?

Mr. BRIGHT. That is probably so.

Senator KING. You take a standard value, after you have fixed it regardless of its increase in value?

Mr. BRIGHT. Yes, sir.

Senator KING. Is it not a fact that some mining properties, because of additional discoveries, have greatly enhanced in value since the fixing of the value by the department?

Mr. BRIGHT. That may be true in regard to precious metals.

Senator KING. And you still maintain their standard value as of that date, regardless of new discoveries?

Mr. BRIGHT. Only in precious metals would discoveries be allowed, under the regulations.

Doctor ADAMS. It is difficult to get a discovery in the technical language of the statute, Senator, for a mine of that kind, as distinguished from an oil mine. A few mines do get them, Senator, but there are not many discovery allowances in the mining industry.

Senator KING. Is it not a fact that the number of mining corporations and oil corporations reporting profits during 1918, 1919, 1920, 1921, and 1922 is inconsiderable, compared with the number that were operating, due to the failure to report because of the enormous amount allowed for depletion losses and various other grounds?

Mr. BRIGHT. I have no figures on that to verify it. I do not know whether it is true or not.

Senator KING. Senator, I interrupted you.

Senator COUZENS. No; I do not think I have any further questions right here.

I might say that we have a report from the Sergeant at Arms that he got service on two out of three witnesses, whom we planned to have to-morrow. One of them is ill in New York, and can not come; so I told the Sergeant at Arms to have him tell us when he could come, when he will be well enough to come.

Senator KING. There are many questions that I would like to ask, but until I read this report, it may be a work of supererogation, and I think it would not be wise to start on those matters now.

Mr. NASH. The committee asked the other day for a copy of the regulations which define the qualifications of those permitted to practice before the bureau.

Senator KING. Yes.

Mr. NASH. Here they are. The committee also asked for some typical cases which originated in the office in 1917, and which have been in the process of adjustment for several years. We are giving you a brief covering something over 30 of those cases and the various matters involved.

Senator KING. Have you any other matters, Mr. Nash?

Mr. NASH. Yes; a question was asked as to arbitrary assessments, and I am submitting these for examples. What you call the arbitrary assessments were made several years ago, and the practice has since been discontinued.

Senator KING. I do not just recall what that alluded to.

Mr. NASH. Senator Couzens said that the bureau has a system of making arbitrary assessments, as he understood it, after a mere superficial audit, in order to protect the Government against the running of the statute of limitations, and he wanted to know if that was correct. Now, that was a practice several years ago, and there were some cases in March a year ago.

Commissioner BLAIR. There were a good many cases a year ago.

Mr. NASH. Yes.

Senator COUZENS. When did you discontinue the practice of making those arbitrary assessments?

Mr. NASH. There have been very few, if any, made this year.

Mr. BRIGHT. There have been no so-called arbitrary assessments made this year. It was necessary to make 3,000 assessments without compliance with the provision of the 1921 act allowing the taxpayer 30 days in which to protest. These assessments were, however, based on a field examination reviewed in this office, or on a complete audit of the return in the bureau, on information furnished by the taxpayer, and were not so-called arbitrary assessments.

Senator COUZENS. When did you stop the practice of making arbitrary assessments? When were they last made?

Mr. BRIGHT. That practice was stopped in 1921, except for a period preceding March 15, 1923, when, in order to prevent a tolling of the statute on the 1917 returns, assessments was made based on field agents' report without examination of the reports as to their correctness. The agent had made an examination in the field and submitted the report, and not having sufficient time to examine the

report before the tolling of the statute the amount recommended by the field agent was placed on the list.

Senator COUZENS. You have not done any of that since March, 1923?

Mr. BRIGHT. Only in those cases where bankruptcy is threatening, and that, of course, is required under the statute.

Doctor ADAMS. And in fraud cases.

Mr. BRIGHT. Yes; and in fraud cases.

Mr. NASH. The Senator also asked if we could give him the number of cases involving dishonesty on the part of our field employees, and also on the part of employees in the District. I have a statement from the head of the special intelligence unit on that.

Senator KING. According to this memorandum, the following figures relate to cases handled by this unit, showing dishonesty on the part of employees in the Bureau of Internal Revenue during the past three years [reads]:

Number of employees separated from the service as a result of investigations involving dishonesty outside of Washington, 726.

Number of employees separated from the service as a result of investigation involving dishonesty in Washington, 79; total of 796.

On the question of arbitrary assessments, this memorandum states that:

The policy adopted at the inception of the work called for an intensive audit of all cases in the office where possible and in the field where examinations of taxpayers' books was deemed necessary. By this policy an attempt was made in thousands of cases to complete the audit of a return by correspondence. Taxpayers were thus subjected to numerous inquiries for information, which was often difficult or impossible to obtain from such records as they had at that time.

Due to slow progress obtained under this policy and the pressure for additional revenues, a change was proposed early in 1919, and made effective the latter part of that year, of making a superficial audit of all returns, particularly the larger returns, disallowing for the most part all deductions for depletion, amortization, etc., and assessing the resulting additional tax. It was thus hoped to immediately bring into the Treasury the large bulk of additional revenues due as a result of taxpayers filing returns containing apparent gross errors in the excess-profits tax returns, which errors were caused by their unfamiliarity with the provisions of this new law. These errors were principally the adding to capital account of unexplained additions and the failure to deduct from capital items which could not legally be included in capital. Through this plan it was thought that the few controversies arising as a result of this action could be disposed of at a later period in the adjudication of claims in abatement. By this superficial audit a large portion of the returns for 1917 and 1918 were temporarily closed between the latter part of 1919 and the early part of 1921. The immediate effect of this policy, however, was not the payment of large amounts of additional tax into the Treasury but the receipt of an avalanche of claims in abatement of taxes assessed, accompanied by protests on the part of taxpayers. Thousands of cases closed by this audit were later sent to the field, with the net result that practically all cases for 1917 and 1918 involving additional taxes in any large amount were subsequently reopened.

To correct the situation created by the superficial audit policy legislation was recommended and enacted in the revenue act of 1921 (section 250D), providing reasonable opportunity for taxpayers to protest and appeal before assessments were made by the unit. An exception to this policy was necessary in some 36,000 cases for the year 1917, where the collection of the tax appeared to be in jeopardy because of the possibility of the tolling of the five-year statute of limitations with respect to that year. For the year 1918 it has been necessary to make 3,000 such assessments. These, however, have only been made after intensive audit and are not arbitrary assessments.

Mr. NASH. Another question was asked as to the secret rulings, and our answer to that question is this: The published rulings of the

Bureau of Internal Revenue are contained in the Internal Revenue Bulletin, which is issued weekly. This bulletin has for its purpose the informing of taxpayers and their counsel as to the trend of official opinion in the administration of the Bureau of Internal Revenue. It would be a literal impossibility to undertake to publish the rulings made in every case decided in the Bureau of Internal Revenue. Before any ruling is published it is necessary to delete the names and figures which would give unauthorized information of the affairs of the taxpayers. Thousands of cases are ruled upon every year, and by far the greater part of them contain no novel questions, which would be of general interest to taxpayers. Wholly aside from the impracticability of digesting and making ready for publication all rulings made in every case decided, the expense would be unjustifiable, and the resultant mass of rulings would serve only to confuse taxpayers, and would thus defeat the very purpose sought to be obtained in publishing rulings. Many cases are audited and closed without any rulings other than the computations made in the course of audit and announced to the taxpayer by letter or certificate of overassessment. It is therefore the policy of the bureau to publish only such rulings as will serve to guide the taxpayer and the employees of the bureau in the proper determination of their cases. This policy is summed up in a statement, which is printed on the cover of each issue and which reads as follows:

The rulings reported in the Internal Revenue Bulletin are for the information of taxpayers and their counsel as showing the trend of official opinion in the administration of the Bureau of Internal Revenue; the rulings other than Treasury decisions have none of the force or effect of Treasury decisions and do not commit the department to any interpretation of the law which has not been formally approved and promulgated by the Secretary of the Treasury. Each ruling embodies the administrative application of the law and Treasury decisions to the entire state of facts upon which a particular case rests. It is especially to be noted that the same result will not necessarily be reached in another case unless all the material facts are identical with those of the reported case. As it is not always feasible to publish a complete statement of the facts underlying each ruling, there can be no assurance that any new case is identical with the reported case. As bearing out this distinction, it may be observed that the rulings published from time to time may appear to reverse rulings previously published.

Officers of the Bureau of Internal Revenue are especially cautioned against reaching a conclusion in any case merely on the basis of similarity to a published ruling, and should base their judgment on the application of all pertinent provisions of the law and Treasury decisions to all the facts in each case. These rulings should be used as aids in studying the law and its formal construction as made in the regulations and Treasury decisions previously issued.

In addition to publishing all internal revenue Treasury decisions and all formal solicitor's opinions, it is the policy of the Bureau of Internal Revenue to publish all rulings and decisions, including memorandum opinions of the Solicitor of Internal Revenue and recommendations of the committee on appeals and review, which, because they announce a ruling or decision upon a novel question or upon a question in regard to which there exists no previously published ruling or decision, or for other reasons are of such importance as to be of general interest. It is also the policy of the bureau to publish all rulings or decisions which revoke, modify, amend, or affect in any manner whatever any published ruling or decision. In many instances memorandum opinions of the Solicitor of Internal Revenue and recommendations of the committee on appeals and review are not of gen-

eral interest because they announce no new ruling or no new construction of the revenue laws but simply apply rulings already made public to certain situations of fact which are without special significance. It is not the policy of the bureau to publish such memorandum opinions and recommendations. Therefore, the numbers assigned to the published memorandum opinions of the Solicitor of Internal Revenue and to the published recommendations of the committee on appeals and review are not consecutive. No unpublished ruling or decision will be cited or relied upon by any officer or employee of the Bureau of Internal Revenue as a precedent in the disposition of other cases. Unless otherwise specifically indicated, all published rulings and decisions have received the consideration and approval of the Solicitor of Internal Revenue.

It should be pointed out that the present bulletin service is the outgrowth of a bulletin service which was initiated in the year 1919, and which was issued for the confidential and exclusive use of officers and employees of the Internal Revenue Service. It was not until some time in 1920 that the bulletin was made available to the general public. Since then, it has been the policy to publish an ever-increasing number of rulings. It has never been the policy to settle cases on the basis of rulings the publication of which was withheld. The settling and closing of old cases with as little delay as might be necessary to their proper consideration has been considered of the first importance, and for administrative reasons a relatively small number of rulings which were made prior to the adoption of the present liberal policy in regard to publication, and which might be considered by some to be of general interest, have never been published.

Senator KING. Mr. Blair, may I ask you with respect to the number of cases of dishonesty found outside of Washington, for what positions persons were fitted generally?

Commissioner BLAIR. Revenue agents. I have not gone into that report fully, but I know that some of them are revenue agents and inspectors. I presume there were also some deputy collectors. Don't you think so, Mr. Nash?

Mr. NASH. I did not hear the question.

Commissioner BLAIR. He asked as to those people separated from the service on account of dishonesty, what class of employees they were, and I said there were some revenue agents and inspectors, and I think there were also some deputy collectors.

Mr. NASH. Yes, sir.

Commissioner BLAIR. I know we had one or two cases of deputy collectors.

Mr. NASH. Deputy collectors in the field, some revenue agents and inspectors in the field, and some auditors in the bureau.

Senator KING. Were there any defalcations as to money collected?

Mr. NASH. There have been defalcations of money collected among deputy collectors.

Senator KING. What have they amounted to?

Mr. NASH. I have not any figures on that, and I do not carry those figures in my mind, but, as I recall, we had some cases in your State, Senator Couzens, of deputy collectors collecting these excise taxes, admissions and taxes on jewelry, and destroying the tax return and keeping the money. Our intelligence men, in connection with Collector Woodward, worked on it for several weeks,

and that money has been recovered from their bondsmen. Of course, we have never been able to ascertain if we really did get all that was embezzled.

Senator COUZENS. Are the bondsmen professional bondsmen, or are they fidelity bonds?

Mr. NASH. They are surety bonds given by the deputies to the collectors. The collectors are held liable for the collections, by the Treasury Department.

Senator COUZENS. Does he take a personal bond or a corporation bond?

Mr. NASH. That is optional with the collector.

Senator COUZENS. Have you had to resort to collecting from any collector as a result of these defalcations on the part of the subordinates?

Mr. NASH. No, sir; the collector usually has been able to indemnify the Government, taking action against the bonding companies of the deputies.

Senator COUZENS. Then, in practice, the deputy collectors usually require a bonding company bond, is that it?

Mr. NASH. The collectors usually require a surety bond from their deputies.

Senator COUZENS. So you have no figure showing the aggregate loss to the Government by reason of these defalcations?

Mr. NASH. I have not any figures available. I will be glad to see if I can make such a figure for you.

Senator COUZENS. Have you any record of the defalcations in the District of Columbia?

Mr. NASH. We have not had any of what you would call defalcations in the District of Columbia. The cases that we have had in the matter of dishonesty were in the settlement of tax cases, in not properly settling the cases, and not in the actual taking of money from the Government.

Senator COUZENS. When a case is settled, does the dishonest man get a rake-off in view of the settlement that is made; is that the idea?

Mr. NASH. Well, usually, he has had the consideration of the taxpayer.

Senator COUZENS. Have you any record of the number of complaints that have come to the department from taxpayers in regard to these exemployees charging them fees for getting their claims allowed?

Mr. NASH. I do not believe any record has been kept of such complaints. I have seen several such complaints.

Senator COUZENS. I gather from that answer that they are not very general, then.

Mr. NASH. They are not; that is, there are not many of these claims coming through my immediate office.

Commissioner BLAIR. I think there are comparatively few. I transmit them to the committee on enrollment and disbarment. They are turned over to them.

Mr. NASH. Yes, sir.

Commissioner BLAIR. And they could probably give us an accurate list of those.

Senator COUZENS. Will you suggest to them to have that list prepared, so as to have it ready when they are called upon, in case they are called upon?

Commissioner BLAIR. Yes.

Senator KING. Have you any accurate or satisfactory method of checking your agents in the field, your deputy collectors and their agents with a view to determining irregularities, defalcations and embezzlements?

Mr. NASH. Yes, sir. A deputy collector carries a serially numbered receipt book, and whenever he accepts a payment from the taxpayer, he is required to give the taxpayer a receipt, and turn the duplicate of the receipt, with the remittance, in with his daily report.

A record is kept of receipts, and the deputy is held accountable for every receipt which is issued to him. If he spoils a receipt or defaces it in some way he must return the original and the duplicate of that receipt. The collections go through his division chief to the chief field deputy and to the collector's office, and the collector's offices are audited periodically by auditors from the bureau at Washington.

Senator KING. I am prompted to ask that question by reason of the fact that I have had many complaints made to me—I judge between 100 and 200 within the past three years, in my State and outside of it, but mostly outside of my own State—from persons, some of whom I know and know to be reputable men, to the effect that they had paid their taxes for a given year, and they would show me demands, in some instances, for a second payment, the contention being made that they had not paid, or, at least, if they had paid there was no evidence of it, and they have had to pay twice. To what extent have you found that condition to exist?

Senator ERNST. Did they pay without taking a receipt?

Senator KING. Well, in many instances they had lost the receipt. They may have moved away, or had a fire, or something of that nature.

Senator ERNST. I should think the check books or something of that kind would be sufficient evidence.

Mr. NASH. There is no necessity, Senator King for any taxpayer to pay a tax twice. There were some instances in your State of Utah; during 1919 and 1920, due to the fact that three States in that section constituted one collection district. In March, 1919, they instituted a new accounting procedure in collectors' offices. We also had the new war revenue act, and thousands and thousands of taxpayers' returns were coming in which theretofore had not come in. Every collector's office was undermanned. They could not get help. There was just a deluge of business, without any machinery to take care of it, and consequently the accounts in all the offices were in a demoralized condition. While they were in that condition the Treasury Department undertook to establish a collection district in each State. Then we had an office in Utah, and we established an office in Boise, Idaho, and another office in Helena, Mont., and the accounts were unscrambled as best they could be at that time.

I worked for three months in Montana about two years ago, trying to straighten out that mess, and I came in contact with some of the conditions there, and I know the condition which you cite existed, where a great many taxpayers who apparently had paid were receiving bills, because the credit was in Idaho and the debit in Montana, or vice versa. That condition has been almost entirely straightened out, but there are still individual cases coming up which, if the tax-

payer will get in touch with the collector, can be adjusted. There is no necessity for any taxpayer to pay his tax twice.

Commissioner BLAIR. There was a similar situation, Senator, in New York City, where they consolidated two big districts.

Senator KING. I was going to say that I have had complaints from New York.

Commissioner BLAIR. Things were finally corrected there.

Senator KING. And I have had one or two from North Carolina,

Mr. NASH. That condition was true in a great many districts; yes.

Commissioner BLAIR. There was a consolidation of two districts in North Carolina, too.

Senator KING. I want to ask you, Mr. Commissioner, whether or not the political appointments by the deputy collectors in the various States have not made for inefficiency in your organization?

Commissioner BLAIR. Well, that is a hard question to answer. I adopted the policy of not appointing any deputy collector except on the recommendation of the collector, because we held the collector responsible for the office. I have not appointed any deputy collector on the recommendation of anybody except the collector himself; and I think the collectors, as a rule, have tried to get efficient men.

I had quite a great deal of trouble when I first came in about the age-limit proposition. There was an attempt in many of the collectors' offices to put in men that were over 55. A rule had been made prior to this administration that nobody over 55 should be appointed, and I adhered strictly to that rule. Mr. Frazier was then supervisor of collectors' offices, and I know he told me that that pressure would be brought, and I withstood it. It was a very great pressure for several months after I came here.

I think that was very helpful in getting a better class of men, because there were many older men who had rendered faithful service, and who thought they were entitled to a position as deputy collector.

Senator KING. Since the new administration came into power is it not a fact that, by one means or another, your collectors have forced out of office, out of positions, persons who had taken the civil-service examination and have filled those positions with those who are not within the civil service?

Commissioner BLAIR. I do not think there has been a great deal of that. I know that our collector in North Carolina is being criticized most severely now because he has kept former employees in the office, and he has kept all the efficient men that he had in that office. They are still there. I think that is true generally throughout the collectors' districts.

Senator KING. Do you mean to say that you have attempted to maintain the civil-service status of employees in your organization?

Commissioner BLAIR. Yes, sir; we have maintained it.

Senator ERNST. According to my experience, it has been well done.

Senator KING. What have you to say in respect to the so-called agents in the various districts? There has been no civil service there.

Commissioner BLAIR. In connection with the agents?

Senator KING. Yes; the agents and deputy collectors.

Commissioner BLAIR. Well, the deputy collectors are not under the civil service.

Senator KING. Yes; I understand.

Commissioner BLAIR. There has been no attempt to enforce the civil-service regulations as to them, because they are not under the civil service.

Senator KING. How many deputy collectors are there in the United States?

Mr. NASH. About three thousand.

Commissioner BLAIR. But as to the agents, the civil-service regulations have been enforced.

Senator KING. Is it not a fact that a great majority of those three thousand deputy collectors—

Mr. NASH (interposing). Just a minute. Let me correct that.

Senator KING. Have they not been purely political appointments, without reference at all to ability and competency?

Commissioner BLAIR. No; I do not think they have been appointed without reference to ability. I presume very largely there were political appointments. They are the men who are recommended by the collectors, and they are not under the civil service, and I suppose the big majority of them would be classed as political appointments, but certainly not without reference to their fitness for the work.

Senator KING. Are you able to determine whether those who are holding positions under the classified service render better work than the political appointees in the same class of work?

Commissioner BLAIR. Well, they are not in the same class of work. The work of the agents is quite different from that of the work of the deputy collectors.

Senator KING. I appreciate that, but as far as there is any similarity in the positions, can you determine, and have you determined, whether the political appointees render as good service as the civil service appointees, that is, those who come under the classified service?

Commissioner BLAIR. That is a hard question to answer. I know some of the—

Senator KING. The point is this: We are asked to make recommendations.

Commissioner BLAIR. I understand.

Senator KING. We may want to recommend that all of these be put under the civil service, and we would like your judgment as to whether that would be wise or unwise.

Commissioner BLAIR. In Washington, for example, the deputy commissioners are not under the civil service, yet they are the most earnest, faithful, helpful workers I have ever seen. Mr. Nash is an example. None of the deputy commissioners are under the civil service. Mr. Bright is another example.

Senator KING. How many of them have been appointed by the present administration?

Commissioner BLAIR. All of them. I appointed all of the deputy commissioners.

Senator KING. They are all political appointees?

Commissioner BLAIR. Well, no; I would say not, because I appointed them because of their efficiency.

Senator KING. Well, they were all indorsed by Republican officials?

Commissioner BLAIR. No, sir. I appointed them or selected them without any recommendation. Nobody indorsed Mr. Bright. I sent for Mr. Nash and brought him here. I got Mr. Frazier to look into it, and he went out there. I think he interviewed him, because I knew of Nash's record as an assistant supervisor of collectors' offices, and I believed that he was one man that could render the best service to the bureau and administer it well. And I did not make any mistake when I brought him here.

Senator KING. Mr. Blair, I have heard it stated that you have tried to live up to the civil service, and had been independent in your administration, but that at times your efforts had been circumvented, and obstacles have been placed in your way. If you would tell us in regard to that, we would be glad to have you do so, particularly as to Elmer Dover and others who tried to block your activities to secure better service.

Commissioner BLAIR. Well, of course, he was not my appointee, but he was really my superior officer.

Senator KING. He tried to interfere with your operations in the department?

Commissioner BLAIR. Yes; he wanted to make the appointments in a different way. I felt that the law gave me the authority, and while I yielded in a few cases, I finally saw it would not do. I took the bit in my teeth and appointed the men, and refused to yield to him.

Senator KING. I congratulate you.

Commissioner BLAIR. At times I had a pretty hard time standing the pressure.

I think I should call your attention to the fact that Mr. Nash and Mr. Bright, about whom I have spoken, were both in the bureau before I came.

Senator KING. Yes.

Commissioner BLAIR. And while the positions which they hold now are not civil-service positions, they were in the civil service and in the bureau at the time they were put in the positions which they occupy now.

Doctor ADAMS. In other words, their original appointment was made under the civil service?

Commissioner BLAIR. Their original appointments were made under civil service, and I took them because of their efficiency.

Senator KING. Do you not think it is in the interest of good government and of efficiency to promote men who have a civil-service status?

Commissioner BLAIR. I do, indeed.

Senator KING. And to fill the higher positions by promotion, rather than by the induction of political appointees into those positions?

Commissioner BLAIR. We in the bureau stand absolutely for efficiency. From the day I came up to this day, that has been true, with a few exceptions, which were appointed at the suggestion of Mr. Dover, and those men are all out now.

Senator KING. What have you to say with respect to deputy collectors in the field generally. You said there were about three thousand of them?

Mr. NASH. I wish to correct that. There are 4,727.

Commissioner BLAIR. Those appointments have all, as I have stated, been made on the recommendation of the collector himself. Now, I have no way of comparing their efficiency with some other men, because the class of work of the deputy collector is quite different from that of the revenue agent, who is under the civil service. The revenue agents and the inspectors are all under the civil service, but the deputy collectors are not. There is no way of comparing their efficiency, because we have not had the two working side by side:

Senator KING. From whatever contact you had with them, and whatever chance you have had for observation of their work, would you say it would be better to have them under the civil service?

Commissioner BLAIR. Well, I do not know.

Senator KING. Would you still have them political appointments?

Commissioner BLAIR. I am quite satisfied that civil service for the bureau is a good thing as to the collectors' offices. If you have a collector who has the backbone to stand up—and most of them have—and select good men, I think you can get, considering the salaries paid, splendid results in selecting his own men.

Senator ERNST. Not only that, Mr. Blair, but are there not many strong reasons in favor of a collector having a deputy collector in whom he has confidence and not have someone placed in that position with whom he is not familiar and whom he might not be willing to trust.

Commissioner BLAIR. I think there is that side of it. The collector needs to have around him men who work with him.

Senator ERNST. Absolutely.

Commissioner BLAIR. And cooperate with him. He finds that his bond is responsible, and he is responsible for the conduct of the office.

When I first came here there were a number of Congressmen who tried to induce me to appoint deputy collectors in different districts. I have refused in every instance to do it, and some of them became very angry at the start, but they saw the wisdom of it and after the first two or three months I had no pressure brought upon me to have that done.

Senator KING. While it is a rather complicated revenue law which the deputy collectors have to deal with, more or less, do you not think it would be better to have their men continued in office than to have these political appointments, men introduced into the service to administer this law who are unfamiliar with the revenue law.

Commissioner BLAIR. It is possible, but I doubt whether you could get, with the salaries paid to the collectors, better men than the collectors, are, as a rule.

Senator ERNST. Mr. Blair, that is assuming, in the first place, that when a collector appoints a deputy, he appoints someone who is not familiar with the service; and is it not a fact that many of the deputy collectors are men who are thoroughly experienced in the service, and who received their appointments because of that very fact? Is not that the fact?

Commissioner BLAIR. In many of the offices they kept the best deputies that they had. They have not changed in many instances. I know that in my own State they have kept quite a number of deputies that were in because they were efficient.

Senator ERNST. I want to say, while you are here—and I have had not a little experience in that—how that works in my own State, and I think it makes not only for the security and the protection of the collector, but it makes also for efficient service, that the collector be given full power and authority to select his own deputies. The collector who knows his business, and most of them do, is anxious to get splendidly qualified men and men of high character, because so often he must rely upon them. He does not want inefficient men or mere politicians; so that to-day, in looking at it and considering the offices with which I am familiar, the deputy collectors are men of very great ability and the collector himself depends upon them in their recommendations, because, in many instances, they are far better posted than the collector himself.

Senator JONES of New Mexico. The collector being a political appointee, do you not think pressure would be brought to bear upon him to make political appointments?

Senator ERNST. Well, you and I know that, as long as there are Democrats and Republicans, and one side is out and the other is in, that when the outs get in they are going to have their own friends there, when they can get them; but what I want to emphasize is that, in my experience, the men who are in those higher positions under the collectors are efficient men; they are frequently men who have spent years in the service and who have demonstrated their efficiency and integrity, and for that very reason are selected by the appointee, who is a political selection for the position of collector.

Senator COUZENS. What salary do these deputies get?

Commissioner BLAIR. It varies somewhat.

Mr. NASH. The entrance salary for the field deputies, that is the men who are investigators, is \$1,500, and it goes up to a maximum of \$2,500. The average for the service is about \$1,800.

The entrance salaries for office deputies, stenographers, clerks, etc., are \$1,000, and they run from \$1,000 up to probably \$2,000 for the ordinary positions. They go up to a maximum of \$3,600 in the supervisory positions.

Senator COUZENS. Have you had any general complaint from the residents of these districts about the conduct of the deputies?

Mr. NASH. We have an occasional complaint about the conduct of the deputies, the same as we have as to any employees.

Senator COUZENS. We are talking about these political appointments. I do not find that there is the same objection to them as the Senator from Utah does, because I know you get some good men, even though they are political appointees; but is your percentage of complaint greater with respect to that class of employees than it is as to employees selected from the civil-service lists?

Mr. NASH. I could not say that it is.

Mr. ADAMS. Are their duties as difficult?

Mr. NASH. The investigating duties are not as difficult, because the deputies work in the smaller cases, that is, on the smaller income-tax cases. The excise-tax cases are not as difficult as the income-tax cases or the estate-tax cases. The revenue agents work upon them.

and the work of the deputies in the office is routine clerical work, the same work as is performed by the civil service clerks.

Senator ERNST. Gentlemen, with the temptations with which these officers in the Internal Revenue Bureau are subjected, by reason of the prohibition law, I think their record is perfectly remarkable.

Senator COUZENS. I am afraid you do not know what the record is, Senator.

Senator KING. These officers that we have been talking about have nothing to do with the prohibition law.

Commissioner BLAIR. No.

Senator ERNST. I know that, but what I mean to say is this, that under the way in which the revenue laws are now being enforced, a dishonest deputy collector may become quite rich, and the point I am trying to make is that when you consider their temptations, their record is a remarkable one.

Senator KING. Senator, as a matter of information, what does the ordinary deputy collector in a State have to do with the enforcement of the prohibition law?

Senator ERNST. He may make appointments.

Senator COUZENS. You mean the deputy may make appointments?

Senator ERNST. No; I know how the appointments are made, but he can by opening his eyes or shutting them make a great deal of trouble in many ways.

Senator KING. I might state that those who are enforcing the prohibition law are entirely disassociated with those who are collecting the revenue and levying the taxes. They are entirely two separate forces, those enforcing prohibition and the deputy collectors. The deputy collectors have nothing to do with the prohibition law.

Commissioner BLAIR. No; that is a separate organization.

Senator ERNST. That is a separate organization, but who appoints your distillery warehouse guards?

Commissioner BLAIR. Well, we have——

Senator ERNST (interposing). Who appoints those?

Commissioner BLAIR. Well, we have storekeeper-gaugers in the service.

Senator ERNST. Who appoints those storekeeper-gaugers, and who appoints the guards?

Commissioner BLAIR. The warehouse guards are appointed by the collectors and the storekeeper-gaugers are appointed by the collectors from civil-service lists.

Senator ERNST. Suppose there are dishonest officials appointed. They have every opportunity for fraud, which would make them rich. I know whereof I speak, and under their present temptations, I am surprised that not many more of them have gone wrong.

Senator COUZENS. Your trouble is that you do not know how many of them have gone wrong.

Senator ERNST. That is quite right, but you might say the same thing about bankers. Some of them have been going wrong, but, of course, a great many of them have not been. I am only judging by the fact that they have not been discovered.

Senator COUZENS. Oh, that is different. You mean there have not been many discovered.

Senator ERNST. Why, of course.

Senator COUZENS. That is different. Very many of them have gone wrong.

Senator ERNST. I am only judging by the fact that, so far as we know, they are innocent.

Senator KING. Commissioner Blair, coming back to the proposition that we have been discussing, have you any recommendation to make with respect to the appointment of the deputy collectors?

Commissioner BLAIR. No; I would not feel prepared to make a recommendation to change it. I do not know what the result would be.

Mr. HARTSON. If you will permit me, I think this is a pertinent thing to say on this point now under consideration. The commissioner has suggested it, and I would like to have an opportunity to emphasize it, namely, that the Collector of Internal Revenue, of course, theoretically and really is the collector of taxes in the district. He collects on the basis of an assessment that is made by the Commissioner of Internal Revenue. It is the collector's duty, under the law, to collect that assessment. He has individual personal responsibility for the collection of that assessment, and is liable personally, under his bond, for any failure to collect, through lack of diligence on his part to see that that assessment is collected, so he can only act through his deputies. When he is personally responsible for his deputy's failure to act for him, that is a matter of some concern for him to know who his deputy is, and that is material here in considering this point.

As has already been pointed out, the bond of the deputy runs to the collector. The collector, though, is the man who has to answer to the United States Government if that deputy does not collect. So that should be considered, and I think emphasized on this point.

Senator KING. Mr. Blair, before we leave that matter, complaints have been coming to me because of the duplication of your agents and collectors. I have been in Wyoming, in Montana, in Idaho, in Arizona, and in Utah, and at the same hotel there would be one or two deputy collectors and one or two agents, who would be doing the same thing. When I say, "Doing the same thing" that is so in a way, yes, but one individual could have done the work of the two. You have an agent, and you have a deputy collector. You send an agent from Salt Lake City down to St. George, 200 miles at a great expense. You send the collector down to collect \$10, and it costs you more than you get.

It seems to me that there is an unnecessary duplication, especially in small districts, such as some of these are. I suppose in a large area, it would be smaller in proportion.

There should be coordination in the work of these two, between the agent and the collector, or the collector and the agent. You do have too many agents and too many collectors in some of these places, as I have discovered, and according to complaints that have come to me by men who are in the service. Now, how far you have corrected that evil, I do not know.

Commissioner BLAIR. We have, I think, to a large extent.

Senator KING. That was a very serious situation two or three years ago.

Commissioner BLAIR. The local agent is looking after the collection of the income tax. He is responsible to this office here in Washington.

Of course, the deputy collector is collecting taxes that go into the collector's office and certain miscellaneous and other taxes. There ought not to be much duplication, and I think there is very little duplication.

Senator KING. Well, but the deputy collector can collect all of the tax; he does not need the agent to do the collecting.

Mr. NASH. Senator King, the functions of the agent and the deputy collector are not at all similar.

Senator KING. Why are they not?

Mr. NASH. The agent is sent out upon specific instructions from Washington to verify the income-tax return of an individual or corporation or an estate. A deputy collector is searching for delinquent taxes, both income and excise, and special taxes, etc. The deputy collector is not roaming at random over a State, but the State is organized into divisions consisting of a certain number of counties, and then the divisions are again organized into zones, consisting of a small number of counties. A deputy is assigned to a zone consisting of two or three counties, for which he is held responsible. He makes his report through the division chief to the collector.

The internal revenue agent is not interested in collections. He makes none. He makes investigations and reports facts to Washington, so that they can adjust an income tax case. After investigation the tax is determined, and then sent out to the collectors for collection.

One of the duties of a deputy collector is to make collections wherever the taxpayer has not voluntarily paid his tax. The collector makes out a bill against him. He sends him a bill by mail. If he sends it two or three times, and it is not acknowledged, the deputy will call upon that taxpayer and present the bill in person. But a very small proportion of our collections come from a deputy.

Senator KING. I have seen in many cases a deputy collector and an agent visiting the same person, when one of them could have done it. They frequently go together, too.

Mr. NASH. You might find a deputy collector in a business institution, in a commercial business, which is probably paying a half a dozen different kinds of internal revenue taxes. An agent would be in there investigating their income tax or estate tax. He does not investigate any other kind of tax. Usually, the deputy collector is not qualified technically to make an exhaustive examination of an income tax, but he might investigate a jewelry tax or these taxes on wearing apparel, etc., that we have had since 1918.

The deputy collector is a \$1,500 or an \$1,800 man, and the agent gets anywhere from \$2,500 to \$3,600. The latter is not engaged in collecting small taxes. It might occasionally happen where you would have an agent and a deputy in the same business, but that is not usual at all.

Senator ERNST. I would like to ask you if in the larger cities and towns, they ever conflict.

Mr. NASH. We have an occasional conflict on the income of an individual around \$5,000. With the deputy collector we draw that line at \$5,000. That is the dividing line between 1040-A and the 1040 returns. That is for the sake of having a division. We will say that the deputy collectors will examine and verify the 1040-A returns, and that the agents will examine the 1040 returns. That

does not mean always that the deputy collector is not qualified to examine a return of more than \$4,000, or that we do not want an agent to investigate a return of less than \$5,000. An agent's instructions, when he goes into a place of business, is to verify all of the individual returns of the officers, the higher employees in that business, in connection with his examination.

Senator COUZENS. I would like to make a record of this, and then turn it over to Mr. Blair.

I have a communication here from Milledgeville, Ga., dated February 21, 1924, from the Milledgeville Coca-Cola Bottling Co. It is addressed to you, Mr. Commissioner, and several others in your bureau, and has reference to an additional assessment, 1918 of \$559.02 against the Milledgeville Coca-Cola Bottling Co., and it proceeds as follows:

The taxpayers in letters and sworn statements dated November 12, 1923, and January 6, 1924, protested against the assessment proposed for the year 1918 and outlined reasons therefor.

In office letter of February 28, 1924, there appears to have been no consideration given to this appeal except to paragraph seven which had reference (suggested only) to the adjustments made at conference May 16, 1922.

If it be in order, the taxpayer would respectfully request opinion of the department on each of the paragraphs in our letter of November 12, 1923, before the additional assessment is demanded.

In this case the taxpayer overpaid income tax by a very large amount for so small a corporation, and to get refund for overpayment was obliged to send representative to Washington, D. C., on four different occasions. At last on May 16, 1922, there was an adjustment made and accepted by both Government and taxpayer resulting in a refund. This was considered final. For some reason, unknown to taxpayer, a field auditor was sent here November 9, 1923. The field auditor did not have the calculations as made by the department at the time of the conference in Washington May 16, 1922, neither did the taxpayer have these calculations, and from the results of the statements gotten up by the field auditor it appears that no two men can calculate the same tax from the same set of books and get the same result (rather an intricate problem, isn't it?).

Office letter of January 22, 1924, relative to refund for the year 1919—\$21.31, does not agree with field auditor's report, page 8—refund for 1919—\$92.08.

Why this difference?

With due respect, the taxpayer requests the information as to the policy of the department and the departmental rulings, as to just when a case is closed, and how many times the taxpayer is required to submit books and records? In this case the records are almost worn out—having been inspected and audited by Joel Hunter, L. S. Fowler, four times by the department at Washington, and one time by field auditor, and yet there is more to come.

Awaiting a prompt reply to this letter with advice and assurances as to how we will be required to proceed to get our refund, due 1920, and not have to pay the proposed assessment of \$559.02 for 1918, which is neither, in the opinion of the taxpayer, correct, right, nor just.

Senator ERNST. Is that addressed to the Commissioner of Internal Revenue?

Senator COUZENS. Yes; it is addressed to the Commissioner of Internal Revenue.

Senator ERNST. How did it get into your possession?

Senator COUZENS. He sent it to me. I assumed that there would be no objection to replying to that.

Commissioner BLAIR. No, sir; I assume a reply has been made.

Senator COUZENS. You can reply to it, as to the cause of this situation.

Commissioner BLAIR. I will find out, if I can.

Senator KING. May I say that I have had hundreds of letters of complaint and some far more serious than that, and some not quite

so serious. I am getting them almost every day with regard to similar conduct on the part of officials of the Internal Revenue Bureau.

Senator COUZENS. I mean that there are no legal objections to telling us, are there, in view of this being sent to the committee?

Commissioner BLAIR. No; I will give you the best answer I can on that. The department and a taxpayer can not always agree on those things, and as examinations are made new things develop. I will go into this case and see what I can find out and make a report to you.

Senator COUZENS. I have nothing more.

Senator KING. As far as I am concerned, I want to finish on this question of the civil service. You have no recommendation, then, as I understand it, Mr. Commissioner, in that respect?

Commissioner BLAIR. With respect to deputy collectors?

Senator KING. With respect to deputy collectors.

Commissioner BLAIR. No, sir.

Senator KING. The placing of them under the civil service?

Commissioner BLAIR. No, sir; and I want to say right here, Senator King, that I mentioned two of the deputy commissioners as having come up through the civil service.

Senator KING. Yes.

Commissioner BLAIR. While they are my appointees, they were in the bureau and had come up through the civil service. I have only three deputy commissioners now. There were five men when I came in, and Mr. Mires was also in the service and was advanced. He is the deputy commissioner in charge of accounts and collections.

Mr. NASH. In reply to Senator Couzens—

Senator KING. State what his question was, so that we may have it in the record.

Mr. NASH. He asked whether we could devise some method whereby the taxpayers could be notified that it is unnecessary to pay a solicitor or an agent any commission to get returned to him honest overcharges or payments made as the result of honest errors.

This is a memorandum showing the facilities that the bureau has for assisting taxpayers.

Senator ERNST. That should go into the record.

Senator KING. Yes.

(The memorandum referred to is in the possession of Senator Couzens.)

Senator JONES of New Mexico. How many people are sitting in your bureau deciding questions upon these income-tax returns?

Commissioner BLAIR. There are practically 20 members of the committee on appeal and review. There are perhaps 60 men in the solicitor's office.

Mr. HARTSON. Yes; I should judge so.

Commissioner BLAIR. There are around 60 that pass on questions of law. I could not tell you accurately how many auditors we have.

Senator JONES of New Mexico. I do not mean that, but I mean the number of people engaged in deciding questions.

Commissioner BLAIR. The committee on appeals and review is entirely engaged in hearing appeals and deciding cases on appeal. That consists of approximately 20 men.

Senator JONES of New Mexico. Those cases are on appeal from whom?

Commissioner BLAIR. From the unit. The case is audited and heard before. If there are any points of difference, the auditors, after going over the case, decide it. We have a committee down there that goes over the cases, and then if the taxpayer is not satisfied he appeals to the committee on appeals and review, which is an appellate body designated just to listen largely to appeals on the facts.

Senator JONES of New Mexico. But if the auditor makes a finding satisfactory to the taxpayer, that is the end of it, is it not?

Commissioner BLAIR. Mr. Bright can tell you just what that procedure is.

Mr. BRIGHT. After the auditor has finished with a case it is reviewed by his section auditor.

Commissioner BLAIR. The section unit auditor reviews the case.

Senator JONES. And if the section unit auditor adjusts the case to the satisfaction of the taxpayer, that ends it?

Mr. BRIGHT. No, sir.

Senator JONES. Then where does it go?

Mr. BRIGHT. It then goes to the review section of the division, an entirely separate section, with a separate set of auditors, having a separate chief, and there a review auditor reviews the case, and if he then passes it, it then goes on to the taxpayer.

Senator JONES of New Mexico. You call him the review auditor?

Mr. BRIGHT. The review auditor.

Senator JONES of New Mexico. How many of them are there?

Mr. BRIGHT. Depending upon the section. I can give you the number in the personal audit division.

Senator JONES of New Mexico. To illustrate what I think would be better than to go about it in this rather loose way, I think we had better have a studied statement of it, an accurate statement of the procedure and the number of people in each class of officials that are handling these cases. What I am after is to get at the magnitude of the proposition.

Mr. BRIGHT. I think that is necessary, because, in a certain class of cases only a certain number of auditor and reviewers are employed. In the larger classes, there is a greater number employed.

Senator JONES of New Mexico. In order to get the problem which I have in mind before the commissioner and others in his bureau, I want to state that, if it is practical to do so, I would like to see the machinery down there of this general nature, that wherever there is a protest made by the taxpayer and wherever there is a readjustment of the taxes, I should like to have those tax returns and the whole procedure subject to public inspection. Of course, you can not have it public under the law as it is now. I quite understand that, and I am not condemning any action heretofore taken by the commissioner or anyone under him; but it does seem to me that where there is a controversy between the Government and a taxpayer, the controversy ought to be decided in public, or, at any rate, the public should have access to the facts which are in controversy. I do not believe you can ever eliminate the question of fraud and that sort of thing until some such procedure is brought about. I do not see how it would be practicable to have a public court room procedure, but it may be so.

When you get a case up to these 20 people that you speak of or the board of appeals such as is provided for in the present bill as it came from the House, I think that then, wherever a taxpayer has a controversy with the Government as to the amount of his tax, he should be willing that the entire facts should be brought out before the public, or, at any rate, accessible to the public. I do not think a man has a right to complain of any action on the part of the bureau in making an assessment, an additional assessment, for instance, unless he is willing to disclose his whole case. It seems to me that we might be able to work out something of that kind, and that is why I am asking for this information regarding the number of people handling these matters, etc., to see if we can not devise some scheme whereby on any controverted question the facts involved and the decision involved shall be subjected to public inspection.

Doctor ADAMS. I want to ask the commissioner or Mr. Bright or some one else connected with the Bureau this question: What is the proportion of cases in which these controversies occur? My impression would be that of the taxpayers who pay in excess of, say, \$25,000, probably three-fourths of them come in for some readjustment, do they not, or what proportion would you say?

Mr. HARTSON. I would say a greater percentage than that.

Mr. BRIGHT. No; I would not say that.

Doctor ADAMS. Who come in for a hearing on some kind of an adjustment.

Mr. HARTSON. They may come in, Doctor Adams, but I do not believe that any additional assessment, in the general line of cases, is acquiesced in by the taxpayers.

Mr. BRIGHT. That is a different matter.

Mr. HARTSON. That is the controverted thing from which an appeal lies, and from which this adjustment that the Senator has spoken of arises. That is all controverted.

Doctor ADAMS. I wanted to get at the magnitude of this problem. Senator JONES of New Mexico. Yes.

Doctor ADAMS. Senator Jones is trying to solve a very difficult question, as I see it, which is how to get rid of this constant charge of grafting and improper influence, by suggesting some form of publicity for it. I think everybody wants to try to cure that evil. This publicity procedure, as I see it, will be difficult because of its magnitude, and I wanted to have some expression of opinion on that.

Senator ERNST. Doctor Adams, if made public, how would that prevent it?

Doctor ADAMS. I do not know. I had not given any thought to it until this question of publicity was mentioned here as a cure for this big problem. My impression is that most all concerns with taxes above \$25,000 get in for some sort of discussion or conference, usually in the way of a protest.

Mr. BRIGHT. Wherein there is a question of additional assessment.

Doctor ADAMS. Yes.

Mr. BRIGHT. Yes.

Senator JONES of New Mexico. Those are cases that I think ought to be tried out in public. If your auditors recommend an additional assessment, and that is accepted by the taxpayer, we have every reason to believe that the public interests and the private interests of the taxpayer have been properly cared for.

Senator ERNST. But, Senator Jones, what will that accomplish by having a public hearing?

Senator JONES of New Mexico. My dear sir, would it not obviate a whole lot of these rumors that we have been hearing around here about people having influence on some individual in the department, and all that sort of thing? When we hear a case in open court, where the public has access to all the facts in the case, I submit it is a greater safeguard to the public interests than to the individual. We do not want to impose undue burdens on these individual taxpayers, and if they are arbitrarily assessed for additional taxation, we want to know about that. If it should appear that the taxpayer comes in and shows that there was no substantial ground for the additional assessment, that ought to be published, and the commissioner would, if brought to his attention. I know that he can not supervise all of these decisions. I used to sign decisions at the rate of four or five hundred a month myself in the Interior Department, and I know how you have to rely on subordinates; but in every controverted matter it does seem to me that the whole case ought to be subject to public inspection.

Senator ERNST. You mean to have the same trial as you would have a trial of a case in court?

Senator JONES of New Mexico. Not necessarily that trial, but to have the papers in the case, the facts in the case, subject to public inspection by anyone who may suppose that there is something wrong about it.

Senator ERNST. So that all of the facts may be known, the figures and everything?

Senator JONES of New Mexico. Yes, sir; the whole thing, and I submit that no taxpayer has a right to insist upon secrecy of his tax return if he is raising a controversy with the Government as to the amount of the tax that he is called upon to pay.

Now, I would like to ask the gentlemen from the Bureau, together with the commissioner, if you could formulate some plan to bring that about. I think if you could the committee would like to have it in order to consider it, because personally I feel compelled to try to do something along that line. It may be that if we would just simply declare in a public law that whenever a taxpayer protests against any action of the department, his tax return and all of the actions of the department officials should become public, that might do without going further; but I rather believe that might be limited in some way to cases which come up to the higher point, something of that sort, and that we should properly have those hearings in public.

Mr. HARTSON. That might very well be done by amendment to the present pending bill, wherein, for the first time, this court of appeals is established. That, in a sense, would correspond to what has been done with the committee on appeals and review within the bureau. In other words, with legal authority, there has been established in the bureau a similar board, which does not have the same powers that this board is to have, but operates in possibly an indetical field or in the same general stage of the discussion. That could be done by an insertion of that provision that proceedings in these particular appeals should be a matter of public record. It is not so stated in the present draft.

Senator JONES of New Mexico. Would it be advisable to carry that down to even another level?

Mr. HARTSON. Doctor Adams has raised a point there which was brought out by my attempted answer to his question. I think that practically the entire operation of the bureau in Washington in the auditing itself is engaged in these cases, and that the great majority of the work is subject to controversy, a great many of the taxpayers coming in by correspondence, in many cases by personal appearance, and some of them by counsel, and they attempt to dispute the proposed action that the commissioner is about to take. Even in small amounts, amounts not up to a thousand dollars, there is controversy. That is what the bureau is doing down there, trying to settle some of those controversies, and it runs all through the entire functions of the bureau.

Now, it is question of policy for Congress to determine, whether they want to throw it all open—and they have the power to do it—or, as the Senator suggested, be limited on some definite lines, which might confine their limits within the jurisdiction of this appeals board.

Doctor ADAMS. Has the bureau ever given serious thought to the general question of preventing charges of graft? Five out of six of these cases raise very difficult questions, about which honest men would differ frequently in equal proportion. If it is decided one way, there are charges of one kind, and if decided the other way, there are charges of the opposite kind.

Senator ERNST. Well, you know we are having a lot of five to four decisions.

Doctor ADAMS. I know, but these are real problems, and you have it in the department. The men differ; a nice point comes up, and millions of dollars, perhaps, turn on the hearing. Now, has the department ever thought of methods of preventing or anticipating charges of graft in connection with those things? How can it be done?

Mr. HARTSON. The bureau has given thought to that, Doctor Adams. The commissioner and I have frequently discussed that. I have some personal views about it, and I know the commissioner feels much the same way as I do about it.

Personally, I have had a considerable experience with fraud-order cases; I mean in charges that the commissioner was making against taxpayers for having fraudulently understated their incomes when they made their returns. I worked in the appeals division, solicitor's office, for some time, and I have thought that there would be less fraud originally in making out a return if the return was subject to public inspection.

Senator JONES of New Mexico. That is the idea.

Mr. HARTSON. I think if the taxpayer knew that his neighbor would be able to come in and look at that return, and that he would be in a position to criticize it, if necessary, it would act as a moral influence on him, and would have a psychological effect on him when he made out his return, whereas, if he knows it is a secret thing, there might be some motive which would cause him to understate it. That is a thing to be considered. I think, to make a return a matter of public record, would prevent, in many cases, a fraudulent understatement of the original return.

Senator JONES of New Mexico. Let me ask you, what is the volume of fraud charges?

Mr. HARTSON. Relatively speaking, it is small, Senator Jones. I can not answer that.

Senator JONES of New Mexico. Well, of course, it is small relative to the whole number.

Mr. HARTSON. Yes. How many returns are filed in a year?

Mr. NASH. Something over seven million.

Mr. HARTSON. At the present time, the cases in which there is a charge of fraud are around 500. That does not mean that many other cases do not involve fraud, but that is the number of cases in which the charge of fraud has been made, and which are either now on hearing or on appeal.

Mr. ERNST. Is that 500 out of 7,000,000?

Mr. HARTSON. Five hundred out of 7,000,000. That is not a proper comparison there. I simply state the two figures for such use as you might make of them. There are around 500 cases pending in the Solicitor's office in which the charge of fraud is made. That does not mean court cases alone. Some of them are court cases, where criminal prosecutions are being had against the taxpayers for perjury in making out their returns, but it involves ad valorem penalties, etc.

Senator KING. Of those 7,000,000, perhaps 3,000,000 or 4,000,000 are in connection with incomes of less than \$2,000?

Commissioner BLAIR. Yes; but the period covers more than one year.

Mr. HARTSON. These 500 cases do not involve just one year. There is the total number of cases that are pending.

Senator ERNST. In how many years?

Mr. HARTSON. For the entire period within which the income tax law has been in operation, because some of those cases are older than five years, and they may not have discovered fraud for a number of years afterwards. There is no limitation, on the commissioner, in making the assessment for fraud penalties when fraud has been determined.

Senator COUZENS. How did you discover those fraud cases?

Mr. HARTSON. In most cases they are discovered by the revenue agents in the field.

Senator COUZENS. And it is possible that there are a great many more frauds which have not been discovered?

Mr. HARTSON. I think that is entirely possible.

Senator KING. When you come to examine many of these returns which have not been examined yet, you may find many more cases of fraud?

Mr. HARTSON. I think that is true.

Senator KING. Because, I understand in 1918, 1919, 1920, 1921, and 1922 there were thousands of cases there and no one to examine them.

Mr. HARTSON. Relatively speaking, the number of cases unsettled is greater as you approach the present date, of course, but it is true that in some of these cases in which the audit is not yet completed, fraud may be suggested.

Senator JONES of New Mexico. Where the amount involved is very small, does that have to go through the same procedure as the case involving larger items?

Mr. HARTSON. Are you speaking of fraud alone?

Senator JONES of New Mexico. No; adjustments.

Mr. HARTSON. No; it has already been suggested here that in cases where the net income is under a thousand dollars, the return does not come to Washington for audit. They are settled in the offices in the respective districts, by the collectors.

Senator JONES. Yes; but after they get to Washington.

Mr. HARTSON. After they get to Washington?

Senator JONES of New Mexico. Yes.

Mr. HARTSON. The procedure in those cases is the same, but due to the different amounts involved the history of the case is entirely different. In other words, a small case may have a dozen or twenty different questions in it, which require settlement. It may be a natural resource case, or there may be a number of different questions in it for settlement. The taxpayer, by reason of the small amount involved in the case, may be satisfied with raising one question, and then paying the additional amount, if anything is found, but a very large taxpayer would insist that every point be settled, due to his right to have all of these things determined. The history of the case may be different, because he might insist on a thing in a large case which he would waive in a small case.

Senator JONES of New Mexico. That is what I was getting at. I wanted to get before you the question as to whether it would not be only feasible but wise to have those small cases stopped lower down, so as to give the cases----

Senator ERNST. Pardon me, but before Senator Couzens leaves I would like to know to what time the committee will adjourn when it does adjourn to-day.

Senator COUZENS. Two o'clock to-morrow.

Senator JONES of New Mexico. I want to pursue this inquiry a little further, but not to any great extent. In the court procedure of the country, certain cases are stopped with justices of the peace. For instance, in most States, a justice of the peace has final jurisdiction over an ordinary account, involving only \$200, the district court having jurisdiction over cases involving a larger sum, and only cases involving considerable sums, are carried to a still higher court. I remember very well when New Mexico was a territory, the Supreme Court of the United States had jurisdiction on appeal of cases from the Territory where \$5,000 or more was involved.

Could we not apply that procedure somehow to the business of the Internal Revenue Bureau, that some of those cases should end with certain officials, that the cases involving larger amounts shall proceed a step higher, and then, when you get to the very large amounts, that there shall be an open court hearing, the same as any ordinary trial.

I am merely suggesting this for consideration, because I do feel that it is extremely important that some different system be worked out; and again I want to say that I am not criticizing what has been done, because, under this law, with the provision as to secrecy of returns, I see no way of criticizing the bureau for its present practice, but we are seeking light, with a view of remedying the law and the procedure.

Mr. NASH. Senator Jones, may I say that out of something over 7,000,000 returns filed, over 5,000,000 stay in their respective collec-

tion districts. There is something over 1,250,000 returns, in number, that come to Washington. Since last July, we have been following an audit procedure somewhat different than that which was followed heretofore, in that we have auditors at our files, who give these returns a preliminary audit, and about 70 per cent of the personal returns are settled at the files. That is, the adjustment is made right at the files, without putting them through our intensive audit machinery, and only about 30 per cent of the personal returns go through the entire machinery. That practice has relieved the strain on the machine to a great extent. We have just finished the files audit for 1921, and instead of about 700,000 personal returns going through the entire audit machinery, there are something over 180,000 just starting to go through. I think we have had in mind something along the line that you are suggesting; that is, to keep a great deal of the chaff out of the machine.

Senator JONES of New Mexico. Yes; I was just wondering if it would not be feasible and advisable to make another stop, where you could shut out another 70 per cent of what is left.

Mr. NASH. Senator Jones, I might say this: When you start the audit of a return, you do not know how much is involved. That is, you know how much tax appears on the face of the return, but before you get through with it, it might amount to a great deal in excess of what you started out with.

Senator JONES of New Mexico. Of course, I would not want to stop this procedure where anything of that kind was likely to happen.

Mr. NASH. No.

Senator JONES of New Mexico. Now, you only let the cases involving a thousand dollars or less, is it?

Mr. NASH. It was \$5,000. This year we changed our figures to \$15,000 gross income, which gives us a fairer division, and brings the more important returns to Washington. We found on the \$5,000 net income basis, a great many returns that would have, say, a hundred thousand gross return in the field, and did not receive proper attention.

Senator JONES of New Mexico. I am inclined to think your subsequent view is the better.

Mr. NASH. Taking the \$15,000 gross now, it leaves a relatively small number in the field, but brings the more important returns to Washington, which heretofore stayed in the field.

Doctor ADAMS. In case of the salaried men, these deductions would probably be only on 10 or 15 per cent; so that \$15,000 gross might give a great many cases of \$12,000 or \$13,000 net income remaining in the field.

Senator JONES. But I do want to repeat, and I feel very keenly the fact that there should be a procedure between the Government and citizens involving the payment of any considerable sum of money, either way, which would enable the public to scrutinize it.

Mr. HARTSON. Doctor Adams, how is it with the returns in England?

Doctor ADAMS. With the returns in England?

Mr. HARTSON. Yes.

Doctor ADAMS. They are handled by the local board.

Mr. HARTSON. I know, but is the procedure before the board public?

Doctor ADAMS. The procedure before the board, as I understand it, is public, but there are, of course, the auditors of Somerset House, which corresponds to the bureau here, and they can challenge the returns and check them, just as they do here, and have a discussion between the board of inland revenue and the taxpayer, just as we have here. In Great Britain, they feel that they get a great deal out of this board, both in affording the publicity and protecting the taxpayer.

Senator JONES. Let me ask you this: Are the corporation returns, involving \$15,000 gross, audited in the field?

Mr. NASH. No, sir; all corporation returns and all partnership returns are audited in Washington. That is, they are audited in Washington first, and if something develops in the audit which necessitates a field investigation, they are investigated by the revenue agents.

Senator JONES. The committee will adjourn at this point.

(Whereupon, at 4:50 o'clock p. m., the committee adjourned until tomorrow, Thursday, March 20, 1924, at 2:00 o'clock p. m.)

INVESTIGATION OF THE BUREAU OF INTERNAL REVENUE.

THURSDAY, MARCH 20, 1924.

UNITED STATES SENATE,
SELECT COMMITTEE ON INVESTIGATION OF THE
BUREAU OF INTERNAL REVENUE,
Washington, D. C.

The committee met, pursuant to call, at 2.15 o'clock p. m., Senator James E. Watson (chairman) presiding.

Present: Senators Jones of New Mexico, King, Ernst, and Couzens.

Present also: Mr. D. H. Blair, Commissioner of Internal Revenue; Mr. C. R. Nash, assistant to the Commissioner of Internal Revenue; Mr. J. G. Bright, Deputy Commissioner, Income Tax Unit; Mr. N. T. Hartson, Solicitor Internal Revenue Bureau; and Dr. T. S. Adams, tax expert, Yale University.

The CHAIRMAN. I would like to ask Mr. Nash a few questions before you start in on whatever you have in mind to do.

STATEMENT OF MR. C. R. NASH, ASSISTANT TO THE COMMISSIONER OF INTERNAL REVENUE—Continued.

The CHAIRMAN. You testified yesterday in regard to the number of persons in the Income Tax Unit that had been prosecuted.

Mr. NASH. Yes.

The CHAIRMAN. Or in the Internal Revenue Service?

Mr. NASH. I submitted a memorandum which had been prepared by the Chief of the Intelligence Unit in reply to a question of Senator Couzens.

The CHAIRMAN. Did you explain yesterday over what period of time that extended?

Mr. NASH. No, sir; I did not answer any questions at all; I just submitted the memorandum.

The CHAIRMAN. Do you know over what period of time it extended: was it over one year, two years, three years, or what?

Mr. NASH. Why, I imagine that extended since Mr. Blair took office in 1921.

The CHAIRMAN. Over a period of three years?

Mr. NASH. Yes.

The CHAIRMAN. Does this statement specifically designate how many were prosecuted each year?

Mr. NASH. It does not designate how many were prosecuted each year, but a statement has been prepared to cover Mr. Blair's term of office.

Doctor ADAMS. The statement says, if I may be allowed to say so, that it deals with charges of collusion on the part of employees of the Internal Revenue Bureau and with persons outside of the Government service during the past three years.

Mr. NASH. Yes.

Doctor ADAMS. It aggregates, apparently, over the three years.

Mr. NASH. Yes.

The CHAIRMAN. I read in the paper, and it was not set forth—it all came on us at once; I want to ask if any of those cases occurred in the Prohibition Enforcement Unit and other units of the Internal Revenue Bureau. Explain that for the record specifically.

Mr. NASH. In the Income Tax Unit there were 116 employees separated from the service outside of Washington and 38 employees in Washington were separated from the unit.

Senator ERNST. How many?

Mr. NASH. Thirty-eight. There were 15 prosecuted who were employed outside Washington on income-tax work and 10 prosecuted who were employed in Washington in the Income Tax Unit.

There are 75 cases outside of Washington now pending and 35 cases now pending in Washington.

In the Prohibition Unit there have been 331 separations from the service outside of Washington, and 12 separations in Washington.

There have been 22 prohibition employees prosecuted outside of Washington and 4 prohibition employees in Washington, and there are 210 cases pending outside of Washington and 12 cases pending in Washington affecting prohibition employees.

Senator ERNST. You already gave part of those figures, the prosecutions.

Mr. NASH. Yes, sir.

Senator ERNST. You already have given us the figures for the prosecutions.

Mr. NASH. Yes, sir.

Senator ERNST. They are included in the totals which you first gave?

Mr. NASH. Yes, sir.

The CHAIRMAN. If there is no other question—

Mr. NASH. There are 448 employees who have been separated from the service as the result of investigations of alleged collusion—

Senator COUZENS. Collusion with whom?

Mr. NASH. With the taxpayers in case of the Income Tax Unit, and in case of the Prohibition Unit, the people desirous of obtaining permits, or getting action on permits.

Senator COUZENS. Getting action on permits?

Mr. NASH. Yes.

Senator COUZENS. Not in collusion with bootleggers, only those who want to get permits; is that it?

Mr. NASH. It might be collusion with bootleggers; the bootleggers are sometimes interested to get permits.

Senator COUZENS. But what I mean is do you separate between those who desire to get permits and those who desire to smuggle something from other countries, or across the border from some foreign country?

Mr. NASH. There might be collusion or conspiracy in such case.

Senator COUZENS. As I remember the testimony yesterday—it was given orally, and not taken from that report—there were about some 790, as I remember who were separated from the bureau, and no distinction was made between those who were separated from the Income Tax Unit and those who were separated from the Prohibition Unit.

The CHAIRMAN. That is what I am asking now.

Senator ERNST. He has just gone into that.

The CHAIRMAN. I understand that he says something over 400 were separated from collusion, which includes some of those who wanted to smuggle into the country.

Mr. NASH. It might.

Senator COUZENS. Those who wanted to get permits to release from warehouses, or it might be collusion with the taxpayer in the Income Tax Unit.

Mr. NASH. Yes, sir.

Senator ERNST. There is nothing here to show that, is there?

Mr. NASH. No, sir; not to show the specific nature of collusion.

Now, there 149 employees that have been prosecuted on collusion charges; and there are 597 cases of this kind that are pending and not yet completed.

Senator COUZENS. Five hundred ninety-seven cases?

Mr. NASH. Yes, sir.

The CHAIRMAN. Pending where?

Mr. NASH. I assume a number of them are pending in the courts and some of them are pending in the Special Intelligence Unit.

Senator COUZENS. Do you prosecute these cases with your own attorneys, or do you have to get attorneys from the Department of Justice?

Mr. NASH. The cases are referred to the United States Attorneys in the respective collection districts. However, our solicitor's office does assist the United States attorneys in the prosecution of some cases.

Senator COUZENS. There is none, then, that is referred directly to the Department of Justice; they are all referred to the district attorneys; is that right?

Mr. NASH. Inasmuch as the United States attorneys are under the Department of Justice, all litigation is under the Department of Justice.

Senator COUZENS. I understand.

Mr. NASH. They are referred to the United States attorneys of the separate districts.

Senator COUZENS. I understand; but what I was trying to get at was whether here in Washington you refer any of these cases direct to the Department of Justice.

Mr. NASH. We do not, because they are not in position to prosecute. The district attorney is the one to prosecute.

Senator ERNST. The district attorney of the District of Columbia?

Mr. NASH. That is in the District of Columbia, the district attorney of the District of Columbia.

Senator COUZENS. So if there is any delay in these 500 cases, there is none of it chargeable to the Department of Justice direct?

Mr. NASH. As such, no; only the district attorney.

Senator COUZENS. Is there any undue delay in prosecuting these cases?

Mr. NASH. I think there is a great deal of delay in the prosecution of these cases in court, Senator Couzens; there is a very long docket before all Federal courts of the country. That is a matter of public knowledge, and these cases, the prohibition cases and other cases, in which the Government is interested, have to take their turn along with the other litigation that the United States courts conduct. There is delay in these cases.

Senator COUZENS. How many of these five hundred and odd cases are in the District of Columbia?

Mr. NASH. A relatively small number. I can not answer that definitely without the figures before me. It would be a relatively small number of the entire number that would be pending in the District.

The CHAIRMAN. Do you know how many cases there are pending in the whole United States, in all the Federal courts, for the violation of the liquor law?

Mr. NASH. No, sir; I do not.

The CHAIRMAN. Do you, Mr. Mr. Hartson?

Mr. HARTSON. I do not know; no, sir; I do not.

Senator ERNST. The Department of Justice can give you a pretty close figure.

The CHAIRMAN. This last estimate you gave covered the prohibition-enforcement features?

Mr. NASH. That is with respect to employees?

The CHAIRMAN. Yes.

Mr. NASH. Yes, sir.

The CHAIRMAN. Anything further of Mr. Nash?

Senator COUZENS. No, I have nothing further.

The CHAIRMAN. Then who do you want to call, Mr. Couzens?

Senator COUZENS. Mr. Edward H. Batson. Is Mr. E. H. Batson here?

Mr. BATSON. Yes.

STATEMENT OF MR. EDWARD H. BATSON, ATTORNEY AT LAW, 705-12 SOUTHERN BUILDING, WASHINGTON, D. C.

Senator COUZENS. Will you give the stenographer your correct name and address?

Mr. BATSON. E. H. Batson, Southern Building, Washington, D. C.

Senator COUZENS. Were you formerly in the department under investigation?

Mr. BATSON. Pardon me, Senator.

Senator COUZENS. Were you formerly in the employ of the Internal Revenue Bureau?

Mr. BATSON. I was.

Senator COUZENS. In what capacity?

Mr. BATSON. In various capacities, Senator, up to Deputy Commissioner of Internal Revenue. I came with the department in February, 1918, and occupied various positions, being made deputy Commissioner of Internal Revenue in charge of the Income Tax Unit about the 1st of June, 1921.

Senator COUZENS. Will you tell us what the various posts were you held in the bureau from the time you entered it until you left?

Mr. BATSON. I came in as a lowly claims examiner, examining income-tax claims, and I was on that work for about six months, and I was then assigned to reviewing claims that had been decided by other examiners. I was on that work, perhaps, six months, and then I was made what is known as assistant head of the Claims Division, a division which, of course, as the name implies, is engaged in the adjustment of income-tax claims.

Another six months and I was promoted to the staff division, a division engaged in the hiring, training of employees. I was six months at that. In November, 1920, I was made assistant deputy commissioner of Internal Revenue.

On February 28, 1921, I was made Acting Deputy Commissioner of Internal Revenue, and on June 1 made deputy commissioner.

Senator COUZENS. Then you resigned from the department on what date?

Mr. BATSON. I resigned January 15, 1923, more than a year ago—a year ago this last January.

Senator COUZENS. From the beginning were you a civil service appointee?

Mr. BATSON. I was.

Senator COUZENS. What is your business now, Mr. Batson?

Mr. BATSON. I am a lawyer.

Senator COUZENS. And are you engaged in any activities before the bureau?

Mr. BATSON. I have some cases before the bureau, quite a number of cases, Senator; yes, sir.

Senator COUZENS. Probably how many?

Mr. BATSON. Probably 40 or 50 or more; I did not give it any thought.

Senator COUZENS. Then you have not complied with the law with respect to practicing before the bureau within two years?

Mr. BATSON. I do not understand that to be the law, Senator, except with respect to certain classes of cases. I understand the law to be that I am prohibited from prosecuting, for a period of two years, any claims which were pending in the bureau while I was connected with it; and in my judgment I think I have fully complied with that law.

Senator COUZENS. Yes; and that is the law. The claims must have been pending under that statute.

The classes of claims you have dealt with were not pending in the bureau when you were a member of the bureau?

Mr. BATSON. Not to my knowledge, Senator. I have run onto one or two cases which were in the office when I went out, but I would not handle them; I have refused such cases; I do not want anything to do with anything that was pending during my time or of which I have or had any knowledge.

Senator COUZENS. You stated a while ago that one of the first posts you occupied in the bureau was reviewing the claims that had been passed upon by others; is that correct?

Mr. BATSON. My first position was that of adjusting the claims.

Senator COUZENS. Yes.

Mr. BATSON. And the second position was a little promotion: they thought I had attained more proficiency, I suppose, and I was assigned to reviewing the work of other examiners who had adjusted

claims. It was not the practice to make one man the sole judge as of a claim; his work was reviewed.

Senator COUZENS. How many reviewed these claims?

Mr. BATSON. Now, Senator, I can not tell you. You see, I have not examined a claim since 1919. I suppose that no less than four men examined those claims in those days before they were passed. Just how many see them now I can not tell you, but I imagine at least three; possibly four.

Senator COUZENS. Could you, Mr. Nash, tell us how many review the claims now?

Mr. NASH. The claims are handled in a different manner now than they were when Mr. Batson was in the claims section. The claims are handled in connection with the return and the return is reaudited by any of the regular auditors in the Income Tax Division. The adjustment is reviewed by the section unit auditor and then passes to the review section and is again reviewed by a reviewer and the head of the review section; and if it involves more than \$50,000 the entire case goes to the solicitor's office for a final review.

Senator COUZENS. Do you consider that system better than the system in vogue when Mr. Batson was there?

Mr. NASH. We handle the cases faster.

Senator COUZENS. Do you remember the person who succeeded to your particular position when you resigned from the bureau?

Mr. BATSON. Yes, sir.

Senator COUZENS. What is his name?

Mr. BATSON. E. W. Chatterton.

Senator COUZENS. Is he still in the bureau?

Mr. BATSON. He is not.

Senator COUZENS. How long after you resigned did he resign?

Mr. BATSON. I resigned January 15, 1923, Senator; and it is my understanding—my impression—that Mr. Chatterton left about June the same year. He was there about five or six months.

Senator COUZENS. From the time you left until the time he left did you have any relations with him in the bureau?

Mr. BATSON. I can not recall that I had any relations with Mr. Chatterton.

Senator COUZENS. You were there frequently, were you not?

Mr. BATSON. Yes, but I did not have any relations with him. It did not become necessary and I do not know that I should have anyway.

Senator COUZENS. You never appeared before him with any claims afterwards?

Mr. BATSON. Let me remove a misapprehension you may have, Senator. The Deputy Commissioner does not pass on those claims; it would be impossible. He is a general executive in charge of the work. He is a sort of director, but as far as passing on the claims, he does not do it, and I do not know of any other deputy commissioner that had, except perhaps in a very complicated case where there was a very bitter contest and there would be some complaint made maybe to the Commissioner, and the Commissioner would come over and ask Mr. Batson or Mr. Chatterton what was to be done, that there seemed to be a serious conflict. If there were, the deputy commissioner might hear the parties and possibly suggest or pass on it with the suggestion that it be referred to the solicitor if it was a matter of law.

I did not feel competent to settle those disputes between technical men. You get away from the subject and into the executive end of it, and a deputy commissioner would be foolish to try to pass upon a very complicated case. I did not do it and I do not know of any other deputy commissioner who has ever done it to any extent.

Senator COUZENS. You would have a great influence in cleaning up a case, would you not?

Mr. BATSON. Oh, yes. In other words, if a case was brought to my attention that upon complaint or otherwise showed that it had been unduly delayed, I would telephone to the head of the division in charge, the section chief in charge, and tell him I thought the case ought to be adjusted, it had been delayed long enough, or I saw no reason why they should not speed it up.

Senator COUZENS. Where is Mr. Chatterton now?

Mr. BATSON. Mr. Chatterton is in New York, Senator. I do not know just where; I know about where he is.

Senator COUZENS. Is he in like work with you?

Mr. BATSON. Oh, no.

Senator COUZENS. He is not?

Mr. BATSON. He is with a private concern.

Senator KING. With a law firm?

Mr. BATSON. He was not; Mr. Chatterton was not a lawyer and I think he is with English Brothers, a realty firm, or something of that sort. Just what his work is I do not know.

Senator KING. Is he practicing before the department?

Mr. BATSON. He is not to my knowledge. I do not think he ever has.

Senator COUZENS. Are you working for any clients that had claims before the bureau when you were there?

Mr. BATSON. I am not working for any clients in connection with any claims that they had before the bureau while I was there, to my knowledge, Senator. Everything that I am handling so far as I know are matters that have come up since I left. I would not knowingly handle anything else.

Senator COUZENS. But you may have some clients that you met while you were at the bureau, would you not?

Mr. BATSON. I do not have a single client that I know of that I met while I was in the bureau; no. I will tell you how most of cases come if you would like to know.

Senator COUZENS. I would be very much interested.

Mr. BATSON. Usually from reference, out of town reference to represent clients who simply want local counsel who is familiar with the procedure more than anything else.

Senator COUZENS. How do these references come to you?

Mr. BATSON. I suppose they know me by reputation; I do not know.

Senator COUZENS. It seems to me rather strange that these lawyers from out of town would suggest to their clients that they go to you when you had not been set up here very long as a practicing lawyer.

Mr. BATSON. I do not know that there is anything strange about it, Senator; it might appear that way but I do not think so.

Senator COUZENS. Did you write to any lawyers drawing their attention to the fact that you were engaged in this line of business in Washington.

Mr. BATSON. No, I did not; unless you would say that—I would like to show you my announcement card and my stationery, and my personal cards, the only ones I have ever used, sir.

Senator COUZENS. Mr. Batson's announcement card says:

Edward H. Batson announces that he has resumed the practice of law with offices in suite 712, Southern Building, Fifteenth and H Streets N. W., Washington, D. C.

Did you send these cards out to law firms throughout the country?

Mr. BATSON. I sent them to my old home men who knew me when I was practicing in Kansas City. I sent some to lawyers that I knew; I sent some over to New York, Senator, not very extensively.

Senator COUZENS. I would like to know how these lawyers got your name to refer these people to you.

Mr. BATSON. I suppose they heard of me in connection with tax matters. Of course, I was pretty well known in matters that pertain to taxation.

Senator COUZENS. How did you get known like that concerning taxation; because of your position in the bureau?

Mr. BATSON. I suppose so, Senator; yes, sir.

Doctor ADAMS. Does not the deputy commissioner personally sign a great deal of the correspondence?

Mr. BATSON. He signs a great deal of it personally, and a lot of it goes out over his signature signed by subordinate officials in type-writing "E. H. Batson, Deputy Commissioner," by the chief of the section who signed it.

Senator COUZENS. That is probably the way these lawyers knew of your position.

Mr. BATSON. I suppose that is one source of their information; yes.

Senator COUZENS. Have you any suggestion as to how the efficiency of the bureau could be improved?

Mr. BATSON. I had hardly expected such a question, Senator; but I studied that very proposition for five years, and gave it a lot of thought. Since getting out I have sort of been content to "let George do it." I am interested in it. I do think this: That above all you must look after your employees a little better; you must house them better; you must pay them better.

Senator KING. Do you mean by housing putting the employees of the Treasury Department that are now in one or more buildings into one building?

Mr. BATSON. Precisely. You have this sort of a situation here. You have a factory turning out a very delicate product. If they want a part, or a screw, they have to send out to this place for it; if they want something else they have to send to that place; and if they want an additional thing they have to send to a third place.

The buildings they occupy are very much crowded; the danger of fire is enormous; and it is necessary to keep the bulk of the returns in one fireproof building and send to the other buildings just enough "raw material" to keep the "mechanics," so to speak, busy; and you have to cart them back and forth. That cannot be helped; that is the situation; nobody is to blame.

Senator COUZENS. If properly housed could the force be reduced?

Mr. BATSON. Well, within a short time, yes, Senator, but I should not say that it could be reduced right now by getting into a new building.

I think the peak of this situation has passed and I think if the bureau is separated and given reasonable facilities and the money to better pay its employees, that it is but a question of time when they will pull out. They have been under a full load by reason of this war condition. I remember when I was in charge for the two years the returns, for instance, that came in in the spring of 1921, truck loads of them—I had them piled up on tables and on the floors until along in August, with no place to file them, and the only way we were ever able to get them away was to find some temporary space in some old building and move out some of the oldest returns to replace with the newer ones. That is occurring right now every year, to my knowledge.

Senator KING. A witness the other day testified, as I recall it, that with proper housing facilities, assuming the work now being done would be continued at that time, you could reduce the force 25 per cent.

Mr. BATSON. Well, I think the Colonel is a little optimistic. I think it can be done inside of a year if there are proper housing facilities. You could not just move these people into a new building and say "Now we are going to cut your force 25 per cent," and expect to go right off.

Senator KING. You now occupy three buildings—the Treasury Department Building proper, the one across the street that you call the annex?

Mr. BATSON. Yes.

Senator KING. By the theater?

Mr. BATSON. Yes.

Senator KING. And another one. Say now that the Veterans' Bureau were allocated to the Treasury Department, would that building provide the housing facilities that were necessary to discharge the duties of the Treasury Department?

Mr. BATSON. If you mean to give the Bureau of Internal Revenue the Veterans' Building you would have your housing problem solved. I figured on that very thing once myself. I think it would hold them; I think it would be a wonderful thing.

Doctor ADAMS. You do not mean the prohibition unit, too?

Mr. BATSON. I do not know that it means the whole thing, because they are not related subjects at all.

Doctor ADAMS. Do you think the possibility of higher salaries for some of the key men would enable the savings among other employees to make up for their salaries?

Mr. BATSON. I do not catch your question, Doctor.

Doctor ADAMS. In other words, most of the witnesses called seemed to think that higher salaries are necessary. Does that mean that your total appropriation would be higher, or that the higher salaries for some men would enable savings to be made so that the bureau could get along with its present appropriation, or perhaps even with smaller appropriations?

Mr. BATSON. I do not know an employee there that is overpaid.

Doctor ADAMS. Then you think it is necessary to have larger appropriations?

Mr. BATSON. For the better class of men particularly.

Doctor ADAMS. If you had more better class men could you spare a considerable number of the subordinate men being paid smaller salaries?

Mr. BATSON. Eventually, Doctor, but not right off. I have heard that advanced before. It sounds good, but it is not practical.

Senator KING. Isn't it your experience that it would not be long after they got one increase before they would want another increase?

Mr. BATSON. People are never satisfied, Senator. Real human beings are never satisfied; and you can not expect men to sit down there and pour over these returns, go through these complicated cases, cases that are complicated even to the best talent of the commercial world, for a mere pittance when they meet figures running into the millions of dollars, and hundred of thousands of dollars; you can not expect to keep them satisfied.

Senator KING. Don't you think they would take into account this fact: That this is a contingency; that when these returns are audited and settled; when we get back to Mr. Harding's "normalcy" that they will feel that they have their positions and whatever advantages accrue from retirement, and the limited hours which they work, and the freedom from the combats and contentions and difficulties encountered in private activities?

Mr. BATSON. I never regard any Government job as certain, Senator.

Senator KING. Well, it is as certain as civil service can make it?

Mr. BATSON. I know; at least I have heard of any number of employees who have been discharged not because of any wrong doing, but because a reduction of personnel was necessary. A number of them were good employees, too.

Senator KING. The personnel was greatly increased by reason of the war from 37,000 in the District to over a hundred thousand. Obviously there must be a reduction in the civil-service list, as well as in the noncivil-service list.

Mr. BATSON. The personnel of the Income Tax Unit was never sufficient, no matter how much you increased it; it was never sufficient to cope with the situation. I remember when I came in in 1918 I looked about the room. I saw the lame, the halt, and the near blind. They were trying to make high-class auditors out of school-teachers. They could not compete with the commercial world. People who were not in the Army were drawing enormous salaries, and we were struggling along for a year and a half or two years with that class of employees, and we never were able to get real men—people of experience—until after the war really when there was a depression in business. Then we were able to get a few for the price we were authorized to pay; and through all that period this congestion was accumulating.

The CHAIRMAN. As rapidly as men became expert in your department they were gobbled up by private corporations?

Mr. BATSON. We could not hold them; we could not tell them to get to work or else get out and take a pick and shovel.

Doctor ADAMS. Do you regard the constant resignation of men as responsible in any material way for delay in settling cases?

Mr. BATSON. I do not know what the resignation rate is at this time, but two and three years ago the resignation feature was something terrible. I think the turnover was at one time around 35 per cent or around 37 per cent a year. I do not know what the resignation situation is now, but it is bad enough, from all I gather.

The CHAIRMAN. What is it now, Mr. Nash?

Mr. NASH. About 20 per cent.

The CHAIRMAN. Now?

Mr. NASH. Yes. The gentleman in charge of the Atlanta (Ga.) office was in my office this morning and told me that out of 70 employees, since last August he has had 27 resignations.

Senator KING. Were those collectors?

Mr. NASH. Agents and inspectors, the men who are examining income-tax returns in the field.

The CHAIRMAN. What salary do they get on an average?

Mr. NASH. They average about \$2,500.

Senator KING. What is the maximum they get?

Mr. NASH. \$4,000 for inspectors and the man in charge gets from \$4,000 to \$5,000.

Mr. BATSON. I think it will average less than that, from my knowledge, about \$2,500.

Mr. NASH. The field agents at Atlanta average \$2,500, but the general average over the country is less than that because a great many of them enter at \$1,800, which is the entrance salary, and we have been able to make only one promotion a year. We made a promotion a year ago last March, and we made a second promotion on March of this year; and we have been severely criticized by the appropriations committee and the Bureau of the Budget for doing it.

Doctor ADAMS. I would like to ask Mr. Hartson whether it is necessary to keep constantly after a case to get action on it.

Mr. HARTSON. I think not. Within the past few years they have inaugurated inventory systems, and they have been checking up the divisions to see that they keep as near current with their work as possible.

Doctor ADAMS. Mr. BATSON, speaking from your experience as a tax lawyer, do you think it is really necessary to get a tax lawyer to keep after an important case if you want to get a really prompt examination of it?

Mr. BATSON. I do not think so, Doctor.

Senator COUZENS. What do people get a tax lawyer for if it is not to expedite their cases through the department?

Mr. BATSON. They usually get a tax lawyer, I suppose, Senator, for the same reason that a man gets a doctor when he is sick.

Senator COUZENS. Then the taxpayers are sick.

Mr. BATSON. In many cases, yes; they do not understand the complicated law; and you can not expect them to understand it, as often as it is changed.

Senator COUZENS. Have you any suggestions as to how the organization of the bureau might be corrected so as to speed it up?

Mr. BATSON. I think from my observation, and it is only an observation at the most, Senator, that they are doing very well over there in the way of organization and reorganization and tightening up. I have noticed that they have eliminated a lot of sections that were considered necessary during the war; they are coordinating sections and making the organization more compact. It strikes me they are on the right road, Senator.

Senator KING. Is it more than two; are there more than two sections combined there?

Mr. BATSON. I am speaking now from observation over a period of a year. I see they have abolished several sections and combined other sections, and so on.

Senator KING. Are you speaking of the Income Tax Unit or referring to the units of the bureau as a whole?

Mr. NASH. I think, Senator King, you have in mind Mr. Blair's testimony that we have abolished the sales tax unit.

The CHAIRMAN. Yes.

Mr. NASH. And the miscellaneous tax unit, the tobacco and miscellaneous unit, and the old supervisor of collectors' offices, and have made consolidations so that we now have three deputy commissioners where we formerly had five deputies and a supervisor.

Within the Income Tax Unit we are reorganizing all the time, as Mr. Batson has explained, abolishing sections here and there, and creating new sections. It is just a constant reorganization. There is a constant reorganization going on, and has been for the last year.

The CHAIRMAN. What is the purpose of it?

Mr. NASH. To perfect a better organization. We have a great big machine that has a certain volume of work going through it. You can not tear that machine to pieces all at once without interrupting your work; so wherever we see weak spots we patch it up; we abolish a section here and another one there, or combine sections. That has been going on through the organization in the last year, and still we are keeping up our normal output.

Senator KING. Mr. Nash, when the war came on, as you know we were collecting in revenue approximately a billion dollars—as a matter of fact a little less than that. With the advent of the war we increased the revenue to five, six, seven and eight billions of dollars. Obviously with the excess profits tax and all of these provisions for taxation passed as war legislation it would call for an enormously increased personnel in that department. When we began to reduce, as we have, the taxes have got down now to approximately four billions of dollars—not all taxes, but I mean taxes and miscellaneous receipts, probably two billions from taxation, the reduction in the personnel ought to be very great, but there is no very great reduction taking place yet, is there?

Mr. NASH. There is not because you can not gauge the personnel by the amount of the collections. The largest collections we had were during the years 1918, 1919, and 1920, when we were building up our organization. The money came in and was put into the bank, but the accounting work was not done; we did not begin to get a good start to audit those returns until 1920; and it was 1921 before the big job of auditing was under headway, and the work that we have been doing since 1921 is auditing the returns that were filed during 1917, 1918, 1919, and 1920; and the cost of the operation ought to be properly allocated to the war years and not to the present years. One-half of our organization to-day is not working on current work.

Senator KING. You have got to-day probably 40 to 50 per cent more in the department than you had in 1913, 1914 and 1915?

Mr. NASH. Yes, sir; and we have 100 per cent more work.

Senator KING. Approximately how many employees did you have in the whole Internal Revenue Service in the years 1913, 1914, and 1915; that means in the field and all collectors, agents, deputy collectors.

Mr. NASH. My figures only go back to 1917, Senator, but in 1917 we had 5,053 employees in the service.

Senator KING. What time of the year was that, June, the end of the fiscal year 1917?

Mr. NASH. That would be I presume at the beginning of the fiscal year 1917.

Senator KING. Then you mean by that the 1st of July, 1916, because that is the fiscal year for 1917?

Mr. NASH. Yes, sir; I think that would be it.

Senator KING. You are not sure about that?

Mr. NASH. In 1918 the personnel increased to 9,597.

Senator KING. That is in the field and in the District?

Mr. NASH. That is the entire bureau, Washington and outside of Washington. 1919, 14,055; 1920, 18,440; 1921, 20,141; 1922, 21,388; 1923, 21,275; 1924, 19,632.

Senator KING. Then you have increased from 5,000 to 19,000; you have got now a 300 per cent increase?

Mr. NASH. Yes, sir.

Senator KING. I do not think you have reduced enough; that is my opinion, but that is an opinion only.

Mr. NASH. Well, Senator —

The CHAIRMAN (interposing). Did you have enough during the peak period?

Mr. NASH. Mr. Batson explained that we put on the people we could get who could do this work. If we had been able to get more people of the right kind in 1920 and 1921, we would not have on our hands now all this back work. Another thing to be taken into consideration is the fact that prohibition has come into existence since 1913 which accounts for some of the increase.

Senator KING. How many are there in the prohibition personnel?

Mr. NASH. Somewhere between three and four thousand.

Doctor ADAMS. Is it not higher than that, Mr. Nash?

Mr. NASH. I will get that figure in just a minute.

Senator KING. That is an important element; I am glad you mentioned that.

Mr. NASH. There are about 3,500 people in the prohibition service.

Senator COUZENS. Is there any red tape in the bureau that you think might be eliminated?

Mr. BATSON. I do not know what you mean, Senator, by red tape; what do you mean, useless unnecessary procedure?

Senator COUZENS. Yes.

The CHAIRMAN. Or cumbersome procedure.

Mr. BATSON. Well, I cut all of it I could find and all I could cut through; and I think the men in charge are continuing to do it wherever they find any tape; but you do not dare cut too much red tape in connection with these cases. Otherwise you would have a laxity. I deem it highly important that these cases be reviewed by these three competent persons.

The CHAIRMAN. In war time, Mr. Batson, and subsequent periods there was complaint among Senators and Representatives on their part that if they would go down there for a constituent to see the commissioner he would send them over to some other person and that person would send them to still another, and that person would send them to still another, and so on and they could never find the person who had the authority to decide the thing or to take it up for first consideration.

That may be an exaggerated statement, but, of course, there were many instances of that kind.

Mr. BATSON. They sent you all over town to these various buildings.

The CHAIRMAN. Yes, sent you all around. Now, do you know to what extent that has been eliminated?

Mr. BATSON. That condition can not be avoided so long as the Senator or the Representative labors under the impression that he must first discuss it with the President or the Secretary of the Treasury.

The CHAIRMAN. Yes.

Mr. BATSON. The work is downstairs, and if he insists on starting upstairs I suppose that can not be overcome.

The CHAIRMAN. Of course, he does not know where to go; he has to go to the commissioner; then the commissioner should direct him.

Mr. BATSON. It is a very embarrassing situation where they have to send them all over town, but it just can not be helped.

The CHAIRMAN. There is complaint of lack of efficiency. Could the department more efficiently conduct its business if you now cut its personnel to any considerable extent?

Mr. BATSON. No; I think it absolutely dangerous to cut its personnel at this time.

The CHAIRMAN. That is what I wanted to find out.

Mr. BATSON. In my humble judgment I think it would be dangerous.

Senator KING. Senator Couzens asked a very pertinent question and I am not satisfied with your answer, Mr. Batson, although I am not criticizing you. I mean I want to go a little further. Suppose that you had absolute authority down there and it was a private business that you were conducting, yet having to do the same thing that the Internal Revenue Bureau now is doing, do you mean to say there are no economies, no red tape, no expenses that you could excise, lop off—no reforms that you would introduce?

Mr. BATSON. I would probably find some, Senator, as I proceeded. I have been away from the bureau quite some time now, and only from observation I see that they are making the changes from time to time. They all look pretty good to me. But, as I said, this job nearly killed me in the two years I was on it, and I have, perhaps selfishly, tried to escape it; and I did not come up here with the idea of being asked for advice about it.

Senator KING. Would you be embarrassed in giving advice because of having cases pending before officials who might in the exercise of a reasonable discretion decide one way or the other?

Mr. BATSON. Not the slightest embarrassment; no, sir.

Senator KING. You have cases, as I understand you, before the Department, and expect to have more, hope to have more at least?

Mr. BATSON. Well, I am not making any special play for them; I am not pushing matters; I have some cases, as I said, and perhaps will take some more. I have cases in other departments. You know what the law business is in Washington. It is a peculiar class of work. I would not have the slightest embarrassment if I really had a suggestion.

I have noticed one thing that has been proposed here by the bureau, or the Treasury Department, that personally I am not in favor of.

Senator KING. What is that?

Mr. BATSON. That is this board of tax appeals.

Senator KING. You are opposed to that?

Mr. BATSON. I am opposed to it.

Senator KING. Have you stated to the committee your thoughts on the subject?

Mr. BATSON. In other words, I am not opposed to it absolutely, but I just do not think it is a wise thing in the form it has gotten into.

The CHAIRMAN. Will you give your reasons, Mr. Batson?

Mr. BATSON. As I understand it——

Senator KING (interposing). You refer to this proposed tax appeals board with 28 members?

Mr. BATSON. Yes.

Senator KING. Would you give us your thoughts as to its wisdom or unwisdom?

Mr. BATSON. This is my own personal view: I think it unnecessary. I am opposed to creating new offices, and new bureaus, and commissions, and things of that sort when you can do the same thing in another way without so much publicity and without opening to the wide world more jobs to be fought and scrambled for.

They have over there in that organization practically the same thing; they have the good men on it. They call it the committee of appeals and review. It is not recognized by law, but it has been created within the department; the men on it are paid out of the sundry appropriation; and I think if the bureau, or the Treasury Department, had the implied authority from you gentlemen that they might create that board and pay its members the \$7,500 or \$8,000 a year for such men as they need, that that would be all that would be necessary.

I am opposed to it because it strikes me——this is only my view——that you will be injecting politics into taxation, where it has no place, in my humble judgment. As it is the men on that board are responsible to the man who is responsible for the job as a whole.

Senator KING. Mr. Batson, don't you think that the present system is conducive to criticism and to suspicion? We read of large refunds. One corporation, I am told, received a refund aggregating \$8,000,000; the Gulf Co., a company with which the Secretary of the Treasury, Mr. Mellon, is connected, received refunds of more than \$3,000,000.

The proceedings by which those matters are determined and the refunds ordered are in secret; I mean they are not public; there is no public hearing, but the proceedings are behind closed doors——sort of a star-chamber proceeding; and no matter how upright a man may be who passes upon those claims, unless there is publicity there is bound to be, it seems to me, suspicion and criticism, doubtless most of it unjust, but it gives occasion for criticism.

Do you believe that the system of having those large controversies determined in secret by men of whom the public know nothing——some clerk, entirely worthy, who has been promoted because of his efficiency, is called upon to pass upon these claims of millions and millions of dollars; Congress is asked to pay a man three, or four, or five millions of dollars because some clerks or officers down there have so ordered, and we do not know who they are; the pro-

ceedings are not open to the public—do you not think there ought to be some change in the law made in favor of abolishing such star-chamber proceedings in passing upon those questions?

Mr. BATSON. I think that some objections might very properly be made; but as far as throwing it wide open to the public, where John Smith can walk in and demand to see Bill Smith's return, I think is out of place. I think if Members of Congress, or congressional committees, want those things they are entitled to them.

Senator KING. But if this secrecy was done away with entirely and all tax returns were made public, the same as they are in the States—if I file an income tax in my State it is put on record there and anybody can see it.

Mr. BATSON. They burn them up in my State. Senator, six weeks after they are filed.

Senator ERNST. You say in every State—I do not understand that that is the case.

Senator KING. I correct it, then, and say that my understanding was that in all States they were public. I do not know, however, from actual facts.

Mr. BATSON. I do not have any decided views on it, Senator. I do not think that they ought to be turned absolutely loose to the public because it will absolutely impede the adjustment of the cases, in my opinion; and I think in a lot of cases the Government has received taxes that it might not otherwise have received if it had not been that the taxpayers felt their returns were inviolate.

Senator KING. I beg pardon; I did not quite understand your last statement.

Mr. BATSON. I say this: I think there have been cases in which we have received more tax because the secrecy of the returns is protected by law.

Senator KING. Yes.

Senator COUZENS. Just why; give us an instance.

Mr. BATSON. Well, sir, I remember a case in which a very prominent man had for a number of years been engaged in sort of a questionable business. His conscience finally began to hurt him. He had not filed any return. He filed those returns, paid his tax. If he had known that those returns were going to be open to every Tom, Dick, and Harry I doubt if he would have done it, Senator.

Senator COUZENS. In other words, his conscience could not stand up against publicity?

Mr. BATSON. No, I do not believe it would have.

Senator ERNST. That is the reason why we have such a large conscience fund the source of which is wholly unknown.

Senator COUZENS. I find on your letterhead the name of Mr. William T. Peake. Is he a lawyer?

Mr. BATSON. Yes.

Senator COUZENS. Was he ever in the Internal Revenue Bureau?

Mr. BATSON. He was.

Senator COUZENS. When was he there?

Mr. BATSON. He was there about 1920, I think, to March, 1923.

Senator COUZENS. You hired him?

Mr. BATSON. I hired him.

Senator COUZENS. Then I find the name of John F. Lanigan?

Mr. BATSON. Yes.

Senator COUZENS. Was he in the Internal Revenue Bureau, too?

Mr. BATSON. He never was.

Senator COUZENS. Does he practice before the Internal Revenue Bureau now?

Mr. BATSON. Only in connection—he works on general work in my office.

Senator COUZENS. What was your salary when you left the bureau?

Mr. BATSON. When I left the bureau my salary was the amount which was authorized by Congress for the job years before the war, \$5,000.

Senator COUZENS. Would you mind telling us what your income now is per year, in relation to that?

Mr. BATSON. Well, my income—I have no objection—I have not not found it so rosy on the outside, Senator; I think I made about \$20,000 last year.

Senator COUZENS. Four times as much as you got in the bureau?

Mr. BATSON. Yes; and that did not scare anybody.

Senator COUZENS. Could you give us any idea of the basis of fees for performing this service?

Mr. BATSON. By whom?

Senator COUZENS. By you?

Mr. BATSON. Every job stands on its own bottom, Senator, as far I am concerned. It depends upon the nature of the case, the complexity of it. I usually insist on a moderate retainer, and a reasonable fee, to be determined in the light of the results accomplished and the amount of work performed.

Senator COUZENS. Do you take any on a contingent basis?

Mr. BATSON. Very seldom. I do not think I have but two or three cases in the office on a contingent basis. I do not want them. I want pay for my time whether I win, lose, or draw, Senator.

Senator COUZENS. When taking them on the contingent fee basis what would be a proper percentage for you to take?

Mr. BATSON. I do not know; I am not a judge.

Senator COUZENS. I mean what do you think?

Mr. BATSON. It depends on how involved it is. If you give me a specific case, a specific amount and tell me something about the points involved and the difficulty of it I will try and give you my idea of it.

Senator COUZENS. Tell us the minimum amount of claims that you deal with and the maximum amount of claims that you deal with in your experience, of course.

Mr. BATSON. The minimum amount?

Senator COUZENS. Yes.

Mr. BATSON. I have no minimum amount; I might take a case for a man that only involved \$150, or \$100, one of these fellows who is fighting for a principle, and I just have to charge him for my time in that case.

Senator COUZENS. Then what is the maximum, on the other side of the case?

Mr. BATSON. The maximum size?

Senator COUZENS. Of your claims, so far?

Mr. BATSON. I think about \$90,000.

Senator COUZENS. That is the highest claim you have had so far?

Mr. BATSON. I think that is the highest one I have completed.

Senator COUZENS. Supposing you had a claim against the bureau for \$25,000, taken on a contingent basis, what would the percentage be on \$25,000?

Mr. BATSON. About 10 per cent.

Senator COUZENS. About 10 per cent?

Mr. BATSON. Yes.

Senator COUZENS. That is a rather small contingent fee, is it not, as contingent fees usually go?

Mr. BATSON. Well, I have heard a lot about these high contingent fees, but they are just like the fellow who tells you about winning at poker; he tells you of his winnings but does not tell you of his losses; there is a great deal of "bunk" about it.

Senator COUZENS. Do you recall when you were in the bureau of having a case against some steel foundries concern in the Middle West?

Mr. BATSON. Having a case?

Senator COUZENS. Yes, sir; with some large steel foundries concern in the Middle West?

Mr. BATSON. I did not handle such a case. I think some round robins, Senator, went around within the last year and a half in which they were talking something about the American Steel Foundry; is that it?

Senator COUZENS. Well, I am not going into the individual names of these concerns.

Mr. BATSON. I did not handle it, and I can not tell you a thing about it, Senator.

Senator COUZENS. Did you remember a Mr. Marx Perry appearing before the bureau in the case of a corporation in the Middle West?

Mr. BATSON. Well, I think you have the name wrong. I know a fellow by the name of Max Pam; and I think perhaps Max Pam is the man who had that case, some steel foundry question, and I only knew of it by reason of the round robins that went around here a year and a half ago.

Senator COUZENS. What do you mean by round robins around where?

Mr. BATSON. Some fellow, some newspaper man, wrote up a series of articles here, and I think he referred to that case. That is about all I remember about it, but as to what points were involved in that adjustment I can not tell you.

Senator COUZENS. Who started the round robins?

Mr. BATSON. You may recall, Senator, that there were a lot of anonymous communications sent out to Members of Congress and the Senate here about two years and a half ago, most of them unsigned—anonymous communications, most of them sent out by disgruntled employees.

We had a bunch of employees down there who insisted on running the department for us; and we decided that we would run it so long as we were there; and we separated a few of them who would not work, and they wrote a lot of letters to Members of Congress and things of that sort. I think that case was one, but I just remember it faintly.

Senator COUZENS. Do you remember whether you were dissatisfied with the settlement that was ultimately made with this concern?

Mr. BATSON. I do not know whether I was satisfied or dissatisfied because I do not recall the case. I am inclined to think it was settled

long before I assumed the rôle of deputy commissioner, before I was really in authority. I do not know what the adjustments were.

Senator COUZENS. Do you know a Mr. L. E. Rusch?

Mr. BATSON. Yes, I know Mr. Rusch.

Senator COUZENS. What is his position?

Mr. BATSON. At the bureau?

Senator COUZENS. No, what his activity is now?

Mr. BATSON. He is an accountant.

Senator COUZENS. Where?

Mr. BATSON. His office is on Fourteenth Street, in the Metropolitan Bank Building, sir.

Senator COUZENS. Where is former deputy commissioner G. I. Newton, is he now in Washington?

Mr. BATSON. He is in New York.

Senator COUZENS. Is he practicing before the bureau, if you know?

Mr. BATSON. I have not seen much of him lately. I guess he has a few cases.

Senator COUZENS. Was Mr. Rusch ever in the bureau?

Mr. BATSON. Yes.

Senator COUZENS. He was in the bureau at one time?

Mr. BATSON. Yes.

Senator COUZENS. When you were there?

Mr. BATSON. Yes.

Senator COUZENS. I am informed he was responsible largely for the settlement that I am just referring to and which it is intimated that you were dissatisfied with. Do you recall any such circumstance?

Mr. BATSON. No. If I was ever dissatisfied with the case I do not know it, Senator, because I do not know just what the adjustment was. I do not recall being dissatisfied with that adjustment. If I was I would have probably looked into it and had some review made of it.

Senator COUZENS. You do not know whether it was reviewed then at all or not?

Mr. BATSON. Oh, it must have been reviewed; all cases were reviewed.

Senator COUZENS. There is a Mr. Batson, a financial writer in New York. Is he any relation of yours?

Mr. BATSON. Not that I know of; I am not acquainted with the gentleman.

The CHAIRMAN. Mr. Batson, in your practice before the Department now you depend on your ability and your knowledge of taxation, and of the general subject, and not on any influence you may have with any person or persons connected with the Income Tax Unit, do you not?

Mr. BATSON. Absolutely. I try to get by in this world on what I know. I have studied this income tax law from the time I came with the bureau, and I know the facts about it—not all of them, of course; but I know considerable about it. It is a complicated subject; it is the biggest subject I know anything about.

Senator COUZENS. Is it not possible, though, that because of your familiarity with the staff and the routine that you get your claims through quicker than others who are not so familiar?

Mr. BATSON. Well, I do not think so, Senator. You see every case is passed on by some three or four different men. I might know one of the examiners, but the chances would be that I would not know

the other three. There were about five thousand men there, and there were a few with whom I came in daily contact. Most of them have changed and gone.

Senator COUZENS (to Senator Ernst). Have you any questions to ask the witness?

Senator ERNST. No, I do not care to ask Mr. Batson anything.

Senator COUZENS. I think we may call Mr. Rossmoore.

STATEMENT OF E. E. ROSSMOORE, 17 EAST FORTY - SECOND STREET, NEW YORK CITY.

Senator COUZENS. Give the stenographer your name and present address.

Mr. ROSSMOORE. Seventeen East Forty-second Street, New York.

Senator ERNST. What is your occupation?

Mr. ROSSMOORE. I am an accountant.

Senator COUZENS. When did you first enter the Bureau of Internal Revenue?

Mr. ROSSMOORE. I entered the bureau in April of 1918.

Senator COUZENS. Will you tell us from that time on what you did at the bureau up to the time you left?

Mr. ROSSMOORE. I had been before then with a firm of accountants in New York, Arthur Young & Co., and I was in charge of the tax department of that firm. The 1917 revenue bill had been passed some time before, and the tax reviewers had been organized, as I understand it, by the Secretary of the Treasury. Doctor Adams was chairman of those tax reviewers. I understand that they called for some accountants from the leading firms in New York for some assistance. They found the returns were somewhat complicated and they needed assistance in working them out.

I was sent by Arthur Young & Co., and told to go down and help them out for 30 days. I came down and worked on the staff of tax reviewers under the general supervision of this group. At the end of 30 days I was asked to stay another 30 days, and so on, one to another, until I stayed finally almost two years, associated at first directly with the tax reviewers up until about the close of 1918, at which time the tax reviewers were about to be dissolved and their work was to be taken up by the Income Tax Unit.

Accordingly a division was organized in the Income Tax Unit to handle this work of the tax reviewers which had been primarily the difficult cases, the intricate cases, those which were not in the ordinary routine; and I was assigned to assist in the organization of this technical division, and as part of that organization the consolidated return section was organized of which I was put in charge as chief. The section started with myself and then it gradually built up until when I left there were perhaps a hundred people in it. I left the service in December, 1919. My resignation went in the 1st or 2d day of December.

Senator ERNST. Did you say when you entered the service?

Mr. ROSSMOORE. I entered about April, 1918. I do not know the exact date.

Senator ERNST. And you left when?

Mr. ROSSMOORE. I left in December, 1919, giving almost two years of service.

Senator COUZENS. When you were serving these 30-day periods were you on the pay roll of Arthur Young & Co. and of the bureau at the same time?

Mr. ROSSMOORE. I was on both. As matter of fact when I first came down I was loaned to the Government; Arthur Young & Co. continued to pay me my salary, and my expenses here and whatever I got from the Government I turned over to Arthur Young & Co., which was less than what they were paying me until it became clear to me that I was not going back to Arthur Young & Co., for it became apparent that if I wanted to be of any service in this business—the war was on—I would have to stay some time. At that time Arthur Young & Co. ceased sending me remittances and I just kept what the Government was paying me.

Senator COUZENS. When was it Arthur Young & Co. ceased paying you?

Mr. ROSSMOORE. Perhaps after a lapse of three months. I am just estimating now.

Senator COUZENS. After three months you went on the Government pay roll?

Mr. ROSSMOORE. I had been practically on the Government pay roll all the time.

Senator COUZENS. I understood you went on exclusively to the Government pay roll then?

Mr. ROSSMOORE. Exclusively, well——

Senator COUZENS (interposing). Would you mind telling us what your salary was then?

Mr. ROSSMOORE. \$5,000 a year.

Senator COUZENS. Up to what time?

Mr. ROSSMOORE. Up until I left the service. I do not know whether I was a civil-service employee or not; I never had to fill out any papers, or anything of that sort; I just was there.

Senator COUZENS. You got it without any examination?

Mr. ROSSMOORE. I know from the very nature of the thing I just came down.

Senator COUZENS. When did you say you left the bureau?

Mr. ROSSMOORE. December, 1919.

Senator COUZENS. Where did you go from there?

Mr. ROSSMOORE. I went into practice.

Senator COUZENS. Where?

Mr. ROSSMOORE. In New York.

Senator COUZENS. Into the practice of what?

Mr. ROSSMOORE. The practice of accounting, specializing in tax matters.

Senator COUZENS. And are you still practicing?

Mr. ROSSMOORE. I am still in that profession.

Senator COUZENS. And are you practicing before the bureau?

Mr. ROSSMOORE. Yes, sir.

Senator COUZENS. And have you practiced ever since December, 1919, before the bureau?

Mr. ROSSMOORE. Practically.

Senator COUZENS. And have you still a number of cases before the bureau?

Mr. ROSSMOORE. I have a few.

Senator COUZENS. How many, perhaps?

Mr. ROSSMOORE. Perhaps 10.

Senator COUZENS. Do you associate with any lawyer in this practice before the department, or do you practice by yourself?

Mr. ROSSMOORE. I practice alone. In almost every case there is a lawyer for the taxpayer and there is a certain degree of consultation and work with the lawyers, but my work is almost exclusively for the corporation.

Senator COUZENS. Did you go into practice immediately you left the bureau?

Mr. ROSSMOORE. Well, no, not immediately; because I left in December, 1919 and my last day of service was on December 5. I had 30 days leave coming to me, and, technically, I was not out of the service until the end of December, although I was in New York doing what I believe, but I did not begin to practice until this technical 30 days had elapsed.

Senator COUZENS. Is the Standard Oil Co. one of your clients?

Mr. ROSSMOORE. Yes, sir.

Senator COUZENS. Are they still clients of yours?

Mr. ROSSMOORE. Yes, sir.

Senator COUZENS. And did you deal with their cases here in the bureau?

Mr. ROSSMOORE. No, sir; and I would like to take this opportunity to make reference to the statement I have seen in the New York World called to my attention yesterday; and I had seen an article last January.

I want to say that the statement there, without qualification, is false. The statement I refer to was that the chief, presumably myself, had managed the case of the Standard Oil Co. in his section, and then insinuated that a tax had been built up and then went out and got the case and knocked down that tax.

That statement and the insinuation with reference to myself is, without qualification, false.

Senator COUZENS. Could you tell us what fees you have got from the Standard Oil Co. since you have been working for them?

Mr. ROSSMOORE. Yes, sir. My contract with the Standard Oil Co. was made in 1920. I was called in by the attorney for the company who told me that my name had been mentioned to him by Mr. George E. Holmes, who is a leading practitioner in New York, and he offered me a position with the company as a deputy comptroller in charge of tax matters. He told me that there was then an audit being made and that they needed some assistance from somebody on the outside, somebody like myself who had had practice and knew the ways of the bureau and knew its attitude and could look after the interests of the company.

I told Mr. Wellman, the attorney, that I was not interested in any salaried position because I was in public practice and preferred to be in that situation. Then he suggested that I undertake to handle their case as a practitioner myself, not having them as my sole client. I told him I would and the contract that we entered into was for me to serve for a period of one year from July 15, 1920, to act for them, do what was necessary, prepare their case, check up their returns, file claims, if necessary, whatever was necessary within the period of a year and that my compensation was to be a minimum of \$10,000 and a maximum of \$25,000, the \$10,000 to be paid me in—I forgot

whether it was quarterly or semiannual, installments, and the balance of the \$15,000 was to be paid me if I billed that balance and felt that my services were worth that amount. That \$15,000 was never billed. Since then I have been retained further.

Senator COUZENS. So you only got \$10,000?

Mr. ROSSMOORE. I got \$10,000 a year, and for the next year I got \$10,000, and the next year I got \$10,000. Since then each year—at least the first year there was a renewal for \$10,000. The second year I think there was a renewal for \$10,000. The third year there was a renewal for six months at the rate of \$5,000, and I think since it has been further renewed for \$5,000. In other words, it has been at the rate of \$10,000 a year.

Senator COUZENS. And you have not got any greater fees in any one year than \$10,000; is that correct?

Mr. ROSSMOORE. No, sir.

Senator COUZENS. How many clients have you got that you have to deal with in handling their cases before the Internal Revenue Bureau?

Mr. ROSSMOORE. Have I now?

Senator COUZENS. Yes.

Mr. ROSSMOORE. I said not more than 10.

Senator COUZENS. Not more than 10. You have a lot of clients outside of them, do you not?

Mr. ROSSMOORE. Very many of my matters might consist of a single controversy, and then I might be engaged to either represent or to advise, and when that matter would be settled that would usually be the end of it. Here and there I get a retainer on a per annum basis to advise and to assist as far as possible.

Senator COUZENS. Could you tell us what your annual income has been since you left the bureau?

Mr. ROSSMOORE. I should be very glad to do it, and I want to say at the same time that when I was getting \$5,000 a year—this may be interesting in the light of some of the questions which you asked Mr. Batson—had I been getting \$25,000 a year more I might still be in the service. Five thousand dollars just pinched me; I had a family to support, a mother, and grandmother, and I had to get more money. When I went out I did not have any idea that I would do as well as I did. I have averaged at least about \$75,000 a year for the last four years.

Senator COUZENS. I had been informed it was about \$200,000. So, you see, you are richer in the public mind than you apparently are.

Mr. ROSSMOORE. If I had been getting \$2,500 more a year in the bureau I might still be there.

The CHAIRMAN. Why did you leave the bureau, Mr. Rossmore?

Mr. ROSSMOORE. For the reason that I was not in a permanent employment; I never had any feeling of permanency and expected almost any time that I would be told to go, that somebody else wanted my job.

The CHAIRMAN. Were there any charges of any kind against you?

Mr. ROSSMOORE. No, sir.

The CHAIRMAN. Are there any against you now in the Internal Revenue Bureau?

Mr. ROSSMOORE. There are.

The CHAIRMAN. What is the nature of them?

Mr. ROSSMOORE. The nature of them is that I have handled certain cases that I handled when I was in the Government service.

With respect to that I would like to say that in my position as chief of the section there were any number of cases that, of necessity, passed over my desk or were within the section and concerning which I might, or might not, have had knowledge that they were there. In any event, whatever knowledge I had would have been of the most superficial nature, naturally, in my position in an administrative capacity.

The CHAIRMAN. Let me ask you this, which is the crux of it all.

Mr. ROSSMOORE. Yes.

The CHAIRMAN. When you took the employment in this case did you know that it had passed over your desk while you were connected with the bureau? If you do not want to answer it, if it involves you, you need not answer it; you can answer it voluntarily if you like.

Mr. ROSSMOORE. I would rather not answer those questions because that is the case up before the committee. I want to be perfectly frank.

Senator COUZENS. You will answer them before the committee?

Mr. ROSSMOORE. Yes, yes. I have answered formerly before the committee; I denied the charges, whatever they were, before the committee.

Senator COUZENS. Were the charges enumerated?

Mr. ROSSMOORE. They were enumerated.

Senator COUZENS. How many charges were there?

Mr. ROSSMOORE. They were all of the same nature, but they involved —

The CHAIRMAN (interposing). That is to say that you violated that statute?

Mr. ROSSMOORE. No, no, sir; they do not charge me with the violation of any statute; and I maintain that there was no statute that I ever violated; that there was no rule that I ever violated.

The CHAIRMAN. Is there any charge that you have violated the statute against taking a claim two years after you left the department that was pending while you were in the department?

Mr. ROSSMOORE. No; that charge is not made. The charge that is made is the general charge that I took cases where there was knowledge on my part of the case.

The CHAIRMAN. Was it further charged that you were using undue influence with men that had been under you in the department?

Mr. ROSSMOORE. There was no such suggestion made.

Senator COUZENS. Just tell me the nature of the charges that were preferred.

Mr. ROSSMOORE. I have stated that; they are very brief; that is, that certain cases that I have handled before the department ranging back over the last four years were handled by me with knowledge on my part.

The CHAIRMAN. Who filed the charges, Mr. Rossmoore?

Mr. ROSSMOORE. The charges, as far as I know, were made by the bureau, by the committee on enrollment.

The CHAIRMAN. By the committee on enrollment and disbarment?

Mr. ROSSMOORE. Yes. I do not know who originated it.

The CHAIRMAN. Are they pending in the department now before that committee?

Mr. ROSSMOORE. They are pending now.

Senator COUZENS. How long have they been pending?

Mr. ROSSMOORE. They have been pending now for perhaps two or three months.

Senator COUZENS. In the meantime are you disbarred from practicing, or are you practicing?

Mr. ROSSMOORE. In the meantime I can not practice, and I have not practiced; and I think it is a great shame that such action was taken. I believe it was entirely improper.

Senator COUZENS. Are you still retained by the Standard Oil Co., or is your time out with the Standard Oil Co.?

Mr. ROSSMOORE. My time is not up.

Senator COUZENS. Do you recall a case before the bureau in which there was an assessment in the neighborhood of \$23,000,000 that was afterwards reduced to five in the particular claim?

Mr. ROSSMOORE. Well, I believe you have reference to the Standard Oil case; that is the only case that has such figures.

That brings to my mind the Standard Oil case, and the fact in that case is that there never was an assessment of \$23,000,000 and that there never was a reduction. In other words, there has been perhaps from the time of the initial examination—that is, in the field, the examiner who made the examination has proposed very large additional taxes, the exact amount I do not recall, but it is in the neighborhood of what you have mentioned. That case has been in controversy ever since for the last few years, and has not, to this day, been definitely decided. There have been certain issues decided, but the case is not yet decided, and no one can say that there has been a reduction up to date.

Senator COUZENS. Has there not been a tentative reduction?

Mr. ROSSMOORE. I believe there have been tentative reductions.

Senator COUZENS. To what extent?

Mr. ROSSMOORE. I can not say specifically, because of the fact that the tentative decisions that have been made have been made with respect to specific controversies that have been rendered. I do not believe it has been reduced at this date to a computation. In a case of this size there are any number of controversies. The Government takes one side, the taxpayer takes another, and various controversies arise that have been under consideration by various units in the bureau. I believe that in a good many of them the decisions have been rendered; but what the result is from the tax viewpoint I do not know, because I never made the calculation, and the Government has not made the calculation, as far as I know.

Senator COUZENS. But you said that in this particular case that you thought somewhere near \$23,000,000 was—

Mr. ROSSMOORE (interposing). Twenty-three was proposed some—

Senator COUZENS (interposing). I was coming to my question; do you understand that that tentative assessment of \$23,000,000 has, in a sense, been dwindled down to about five?

Mr. ROSSMOORE. I think that will be the effect finally. I say I have not made the calculation and do not know. I am just estimating it; I do not know.

Senator COUZENS. Could you tell us about how this assessment was tentatively reduced, by what steps; was it so much for depletion or so much for something else, or so much for something else, or how?

Mr. ROSSMOORE. That is exactly the basis. Of course there are any number of different items. The case is naturally a very large case involving a tremendous amount of papers and documents, and it is several years since I have been in intimate contact with each of the questions so that I should not allocate, if that is what you mean, how much of the reduction applies to any one of the 10, 15 or 20 items in controversy.

Senator COUZENS. Are you working on this case now?

Mr. ROSSMOORE. There is no definite work being done now. It is all before the bureau and I advise with the company from time to time as to what is being done. There are no hearings and there have been no hearings held for a long time. The case has been under advisement by the Government for the last three years.

Senator COUZENS. And still not settled?

Mr. ROSSMOORE. It is still not settled; no, sir.

Senator COUZENS. And the Government has not collected anything yet on this tentative assessment?

Mr. ROSSMOORE. What the Government has wanted, my recollection is, \$3,000,000; I am not sure of that amount, but to the best of my knowledge it was somewhere in that neighborhood. There has been a tentative payment made.

Senator COUZENS. And the nearest amount to the \$23,000,000 has been \$3,000,000 paid?

Mr. ROSSMOORE. There has been that much of a recognition. All these points have been matters of controversy, most of them technical, and one large item still open is the question of depletion. There has been a tremendous amount of data filed.

Senator COUZENS. If I recall correctly, you were sent for by a lawyer of the Standard Oil Co.?

Mr. ROSSMOORE. Yes.

Senator COUZENS. You at no time solicited the work from the Standard Oil Co., did you?

Mr. ROSSMOORE. I did not; I had no idea of the Standard Oil Co. doing what I saw in the newspapers.

Senator COUZENS. What do you mean by the newspapers?

Mr. ROSSMOORE. Well, I would see the Standard Oil Co. mentioned from time to time in the newspapers as one of the big organizations. My only knowledge of the Standard Oil Co. was as I saw it mentioned from time to time as a large company.

Senator COUZENS. But you never approached them seeking employment or seeking a retainer?

Mr. ROSSMOORE. I did not.

Senator COUZENS. Did you see this series of articles that they ran in the New York World in the early part of January?

Mr. ROSSMOORE. I have made reference to them in my first comments here; and I did not know what this subpoena was about until I saw an advance notice in the World last night.

Senator COUZENS. But you had been subpoenaed?

Mr. ROSSMOORE. That I would be subpoenaed to tell all I knew about a certain oil company. If I had gotten more notice I might be able to give you more facts. It is a tremendously large case, and I

dare say the papers in the case might fill half of this room. There are any number of questions involved and an awful lot of figures that had to be collated.

Senator COUZENS. Of course from the Standard Oil Co.'s viewpoint there is no objection to this delay, is there?

Mr. ROSSMOORE. I think there is; I think they are anxious from the very start to get a prompt settlement and I think that they are most eager right now to get a prompt settlement. I do not think any taxpayer that is honest wants delay; he does not like to have hanging over him the shadow of anything; he wants to have it settled, and I am confident that has been the viewpoint of the company.

Senator COUZENS. That is not the general view point of the railroads, is it? They usually like to delay the settlement of claims as long as possible.

Mr. ROSSMOORE. Well, that may be so there.

Senator COUZENS. Was Mr. Guernsen the man who piled up all this case?

Mr. ROSSMOORE. He was the man who recommended this additional tax.

Senator COUZENS. Evidently the bureau does not think very much of his recommendations, then, if they—

Mr. ROSSMOORE. Well, I do not know; he was reputed to be one of the best men in the service, and I personally think he is one of the best men that was ever in the service. Offhand you might wonder how a man of this high caliber is capable of making such recommendations as can be thrown down, but my answer to it is this: That when a man on the part of the Government makes an examination his viewpoint is somewhat for the Government first of all. Certainly because his viewpoint is from the Government's side his examination is conducted along the lines that will reveal errors that have been made by the taxpayer; that is, he will scrutinize deductions, for example, from income; that is how the income is reduced by deductions; he will analyze each one and criticize the various ones he comes across and perhaps where he is in doubt over particular questions he knows that Washington is the final arbiter, and he decides tentatively for the Government and leaves it to Washington.

The man on the other side of the fence, like myself—my function is to study the case and to supplement the Government examiner's view. I look at it primarily and naturally from the other side of the fence. I look to see what has been omitted, not to just scrutinize what is there, I see what is not there that should be there.

That, briefly, is the explanation for reductions that I have been able to effect, and probably for the reductions which most practitioners are able to effect.

Senator COUZENS. Do you remember what division this case was first in?

Mr. ROSSMOORE. I have no idea, Senator, from my knowledge of the case. I did not know of the company when I was chief of the Consolidated and the first meeting that I can recall—and I have met any number of people and dealt with any number of matters, so I can only rely upon my memory—the first contact I had with the Standard Oil Co. was in June of 1920, over six months after I left the service.

Senator COUZENS. At that time you had no recollection of this claim at all?

Mr. ROSSMOORE. There had been no claim; there had been nothing; this \$23,000,000 only came after I had left the service.

Senator COUZENS. When did that come about?

Mr. ROSSMOORE. I believe the examination was commenced, I believe, in the spring of 1920. Mr. Gurensen, with the assistance of three or four men, were examining the books for three or four months.

Senator COUZENS. Is Mr. Gurensen still there?

Mr. ROSSMOORE. No; he has left the service.

Senator COUZENS. What is he doing?

Mr. ROSSMOORE. Mr. Gurensen left the service a year ago.

Senator COUZENS. In the year 1923?

Mr. ROSSMOORE. At the end of 1922. He went into practice for himself.

Senator COUZENS. Where?

Mr. ROSSMOORE. In New York, and he had pretty tough sledding; he got very few clients. He was a man in whose ability, as I said, I had great faith, and I gave him jobs from time to time, and then in November, 1923, one of my men resigned and I offered Mr. Gurensen a position in my office.

Senator COUZENS. Is he still with you?

Mr. ROSSMOORE. He is still with me.

Senator COUZENS. I suppose he will be used to get the Standard Oil assessment down.

Mr. ROSSMOORE. I am quite sure he won't.

Senator COUZENS. You are quite sure he won't?

Mr. ROSSMOORE. I am positive he won't.

Senator COUZENS. Will he be as positive in trying to sustain the assessment of the \$23,000,000 now as he was before?

Mr. ROSSMOORE. I think so; he is one of these fellows who has pretty firm convictions. His mind may change with respect to certain matters. You see these tax matters are very complicated. They were more so years ago than they are now.

The CHAIRMAN. This was 1917?

Mr. ROSSMOORE. This was 1917 and 1918. What a man may have thought four years ago he may not think to-day. There have been thousands of rulings put out by the Bureau, one reversal after another. A man has one opinion to-day and a different opinion to-morrow. The subject is a complicated one, and, of necessity there are difficulties that you encounter.

Senator COUZENS. I understand you say this additional appraisal of approximately \$23,000,000 was for the years 1917 and 1918?

Mr. ROSSMOORE. 1917 and 1918.

Senator COUZENS. 1917 and 1918.

Mr. ROSSMOORE. There was never an assessment of that amount.

Senator COUZENS. Well, proposed assessment.

Mr. ROSSMOORE. Proposed assessment; yes.

Senator COUZENS. Were you interested in the Fulton Bag case?

Mr. ROSSMOORE. Yes.

Senator COUZENS. In what way?

Mr. ROSSMOORE. I have represented them.

Senator COUZENS. Before the bureau?

Mr. ROSSMOORE. Yes.

Senator COUZENS. In an overassessment case?

Mr. ROSSMOORE. In a case involving additional tax that was demanded by the Government.

Senator COUZENS. And what amount was that?

Mr. ROSSMOORE. That was about \$600,000.

Senator COUZENS. That was an additional assessment made by an auditor?

Mr. ROSSMOORE. No, not made, but proposed to be made.

Senator COUZENS. And how was the proposal made—by a letter?

Mr. ROSSMOORE. By a letter—it was made really by a revenue agent's examination: most of these things originate in that way.

Senator COUZENS. After the revenue agent examined the tax of the Fulton Bag people he told the company then that he was going to suggest a further assessment of \$600,000?

Mr. ROSSMOORE. He actually filed the report in his office which in turn is forwarded to Washington.

Senator COUZENS. And then before the actual assessment is made by the bureau the bag company protested; is that right?

Mr. ROSSMOORE. Yes, an opportunity is afforded the taxpayer to protest; that is, he gets a copy of the revenue agent's findings.

Senator COUZENS. And when was that tentative proposed?

Mr. ROSSMOORE. By the agent?

Senator COUZENS. Yes.

Mr. ROSSMOORE. That was about November, 1920.

Senator COUZENS. When did you come in on the case?

Mr. ROSSMOORE. In January of 1921.

Senator COUZENS. And how did they come to retain you?

Mr. ROSSMOORE. They had heard of me; I had been in somewhat of a conspicuous position in the bureau.

Senator COUZENS. In the bureau?

Mr. ROSSMOORE. In the bureau as chief. I did not occupy as high a position as Mr. Batson did. I gained quite a reputation, however.

The CHAIRMAN. Are you the man who wrote a book on taxation?

Mr. ROSSMOORE. I have written three books on the subject since I have gotten out, and it was my duty for a good time when I was in the bureau—I said I started that section and there was nobody but myself, and I had to find and train the men. The men came from all parts of the country to listen to the lectures which I gave on the subject; and, I daresay, I established a reputation of having some knowledge on these laws.

Senator COUZENS. And that is how the Fulton people came to retain you?

Mr. ROSSMOORE. Yes, sir.

Senator COUZENS. And has that case been settled?

Mr. ROSSMOORE. Practically so; that is, the taxpayer has been informed of the decision which has been reached.

Senator COUZENS. What is the final amount?

Mr. ROSSMOORE. The final amount is that they have got a refund.

Senator COUZENS. Of how much?

Mr. ROSSMOORE. They have not got it actually but will in due course get a refund.

Senator COUZENS. How much?

Mr. ROSSMOORE. \$400,000.

Senator COUZENS. Cut down from \$600,000 to \$400,000?

Mr. ROSSMOORE. Yes.

Senator COUZENS. It would be interesting to know just how the bureau would arrive at a tentative assessment of \$600,000 and upon review cut it down to \$400,000. Now, just tell us in a general way how that happened.

Mr. ROSSMOORE. Well, generally those cases come about as I have indicated before.

Senator COUZENS. Not "those cases" come about, but how did this case come about?

Mr. ROSSMOORE. As I have indicated before, when the examinations are made the field examiner has a certain viewpoint and at the time he makes the examination there are certain rules to be followed, certain practices. Later on those rules when put under the searchlight may be found improper. For example, the principal element in this case the reduction of invested capital on what was known as the straight-line method of depreciation. I do not want to get technical, but the effect is to reduce invested capital because of the alleged failure to take depreciation in prior years.

Since the Government worked on that basis it has put out a memorandum, called "Memorandum 106," which states that the burden of proof is upon the party, Government or taxpayer, who wishes to make any change from what the books show; and it was under that memorandum that this particular adjustment was thrown out; that is, the Government had no evidence to show that there was this inadequate depreciation. As a matter of fact there had been a reserve of 50 per cent, but just because it was not the regularity of depreciation, 10 per cent per annum—it was established in 1873—they went in and constructed this straight-line method; every revenue agent in the country did it.

Senator COUZENS. Just explain the straight-line method.

Mr. ROSSMOORE. The straight-line method of depreciation requires you each year to set aside a reserve for depreciation in the regular fashion.

Senator COUZENS. Of how much?

Mr. ROSSMOORE. If your rate is 10 per cent, you have got to set aside 10 per cent each year. Well, your building on that basis would be wiped out in 10 years if it is 10 per cent. In this case the agent started with 1873, and he said, "Now what rate of depreciation shall I take; shall I take 8 per cent?" If he takes 8 he will wipe out the entire plant, and yet there he sees a great big plant in front of him. So he takes 6. Well, 6 gives too much so he takes 4, and so he has apparently some consistent plan and he forgets that the depreciation each year is not a thing dependent entirely upon itself but has got something to do with repairs, something to do with the wear and tear, with the use of equipment; if you thoroughly overhaul your machinery and keep it in proper shape, in first-class condition, and if the cost of overhauling is charged against your expense for the year your depreciation is less.

Senator COUZENS. I understand.

Mr. ROSSMOORE. But the agents in this case when they were applying this straight-line method could not examine into all those side issues, but just applied a straight-line method. There were thousands of cases in which that was done, but that was put out of business by memorandum 106, which was a very sensible rule.

Senator COUZENS. What was that rule?

Mr. ROSSMOORE. It puts the burden of proof upon the party, either Government or taxpayer, who would change the books. The fellow who says that the books show an excessive invested capital must prove it affirmatively. The taxpayer who wants an addition to invested capital without the books must likewise prove it affirmatively. The mere fact that depreciation was not regularly taken each year on the books is not evidence—

Senator COUZENS (interposing). In this case the bag people proved that the invested capital was higher than the books showed it?

Mr. ROSSMOORE. No; they proved that the invested capital as shown by the books should not be disturbed.

Senator COUZENS. The examiner then said that the invested capital on the books, then, was too much or too little?

Mr. ROSSMOORE. Too much.

Senator COUZENS. Too much?

Mr. ROSSMOORE. As a matter of fact they had a reserve on their books for depreciation of about 50 per cent, but he, applying his straight-line method, cut it down until he built up a reserve of—I don't know; 75 per cent or 80 per cent. You never see reserves of that extent on anybody's books.

Doctor ADAMS. They generally claim the taxpayer has not taken sufficient depreciation in some years?

Mr. ROSSMOORE. In effect that is what he said. Without criticising the books where the books fail to show depreciation. He said they had not taken depreciation, but did not go back to see what they did, but followed this straight-line method.

Doctor ADAMS. You say, then, in effect, that he said this taxpayer for some years had not taken all the depreciation he should have taken off.

Mr. ROSSMOORE. He did not go into it at any great length of reasoning, but made this assessment.

Doctor ADAMS. Let me point out that this depreciation question—

Senator COUZENS (interposing). I understand that, Professor Adams, but I did not just understand how the taking of insufficient sums for depreciation—

Mr. ROSSMOORE (interposing). In prior years.

Senator COUZENS. Yes; I understand, in prior years, would make an increase in the assessment.

The CHAIRMAN. Perhaps I can explain that. The invested capital is larger as the depreciation has been smaller. In a great many cases revenue agents will come in and say, "You have taken insufficient depreciation" for the purpose of cutting down the asset account, and thereby cutting down the invested capital account.

Senator COUZENS. But in this case I understand he said that the invested capital—

Mr. ROSSMOORE (interposing). Had been increased by the agent.

Senator COUZENS. It was decreased by the agent.

The CHAIRMAN. I understand that—

Senator COUZENS (interposing). Therefore that from 1913 on the invested capital was really greater than the books show. Is that correct?

Mr. ROSSMOORE. No; the agent claimed that the books reflected a capital and surplus, or an invested capital in excess of the actual invested capital. He said they had not taken enough depreciation in prior years. Therefore if I take the proper depreciation I cut down your surplus and so I cut down your invested capital.

Senator COUZENS. And therefore the earnings were greater.

Mr. ROSSMOORE. Therefore you have got a smaller exemption and you have got a larger tax at the 60 per cent or the 80 per cent brackets for those years.

Senator COUZENS. In other words, the profits are larger, then?

Mr. ROSSMOORE. Your profits are the same, but the profits subject to the excess war tax is greater.

The CHAIRMAN. I think I can explain that. For those years that the agent claimed an insufficient depreciation had been taken the result of the agent's report would be to reduce the taxable income for those years.

Mr. ROSSMOORE. For those years.

The CHAIRMAN. Now, then, Senator, later on that would leave a smaller invested capital and a smaller invested capital under the excess-profits tax would yield higher excess-profits tax.

Mr. ROSSMOORE. In other words a higher earning.

The CHAIRMAN. No: higher excess-profits tax by reason of smaller capital.

Mr. ROSSMOORE. And smaller exemption.

Senator COUZENS. It would have to be higher earnings, would it not?

Mr. ROSSMOORE. The percentage of income simply changes, and the greater the percentage of income to invested capital the greater your tax.

Senator ERNST. Senator, this discussion shows why there is trouble in this department.

Mr. ROSSMOORE. That is the entire reason, I think. This tax is terribly complicated. I would like to say this—it throws some light on what your own troubles are here. It has nothing to do with my own affairs; I do not know if you even want me to say it.

Senator COUZENS. Go ahead.

Mr. ROSSMOORE. When I first came with the bureau, with the tax review committee, for a period of 30 days I constantly expected at the end of 30 days to be done. There was a general feeling that it could not be a tremendous job to clean up that task. When Doctor Adams was at the head of the tax reviewers he, and others, I feel sure, looked ahead maybe a year to see the finish of those returns; and then later on whoever succeeded him looked ahead a year. Nobody has been able to comprehend, until recently, the magnitude of the job.

This excess-profits tax is terribly complicated. It is something that is untried in this country and has involved problems in economics, accounting, and every subject you can think of; it gave rise to problems that were new; and naturally when you have that situation and are handling thousands of millions of dollars you are bound to have controversy and delay.

The CHAIRMAN. Then in war time they were just going out to get the money?

Mr. ROSSMOORE. They were just going out to get the money and, furthermore, in the war time the taxpayers were not so contro-

versial as now; there was a spirit of patriotism that animated them and I know of cases where taxpayers even though they felt they did not owe the money did not object but paid.

Doctor ADAMS. I want to ask Mr. Rossmore this: Do you believe that a close audit of the average corporation's books for the years 1917 and 1918 is likely to result in additional taxes or do you believe that it is likely to uncover sources for refund and litigation?

Senator ERNST. That is the point.

Mr. ROSSMOORE. I think I am quite firm in my conviction that a close audit would result in additional tax.

Doctor ADAMS. In additional tax?

Mr. ROSSMOORE. My own observation has been that on the average the cases involving refunds are relatively few.

Doctor ADAMS. For the 1917 tax?

Mr. ROSSMOORE. 1917 and 1918. The point is that in those days, 1917, particularly, there was a new law, very complicated. What invested capital was nobody knew, not even the so-called experts. Therefore it was the natural tendency of the companies to make claims that later on would not be supported; and that is the reason men like myself can come in and offset the bureau's contentions. At the same time they failed to take advantage of things in their favor that they could have taken advantage of as the rules which have since developed show.

Doctor ADAMS. My point was really directed to this: Do you feel that a close, minute audit for those years is necessary in order to get the fair tax for the Government; and I want this taken into consideration: do not incorrect returns or statements lead eventually to an increased tax paid usually on the face of the return?

Mr. ROSSMOORE. I believe myself that it is not necessary to make an extensive long-winded investigation. Given an able man he can find as much in three days almost as much he can find in one year investigating the same concern. He misses a little, but not enough to compensate for the extra time.

Doctor ADAMS. I have had a hypothesis in my mind that perhaps if the returns for those years were closed out summarily, the years 1917 and 1918, that the Government would actually gain.

Mr. ROSSMOORE. I think so when you take into consideration the delays and controversies and the fact that the rules are changing all the time, frequently resulting in a taxpayer finding a rule in his favor that he would not have found had the case been closed the year before.

Doctor ADAMS. Is the experience illustrated by this last case which started out with a proposed additional assessment but ended up with a refund to the taxpayer, a common experience?

Mr. ROSSMOORE. I do not think that it is very common, I have not found it very often, but I believe that there are probably a good many of them.

Senator COUZENS. Could you answer that question, Mr. Nash?

Mr. NASH. No, sir. I think it would be very unusual.

Mr. HARTSON. I think it is an unusual circumstance, but it does occur. I think this should be pointed out and emphasized, that this calculation is the revenue agent's report. As Mr. Rossmore has stated, the revenue agent goes in the field and builds up, in a sense, a prima facie case and an ex parte showing containing rather his

personal view, and that report is the evidence that goes down to Washington. My experience has been that the agent's recommendation almost universally is cut down in some way upon audit here in Washington. The revenue agent you might say works up a prima facie case against the taxpayer but the liability is finally determined upon review.

Senator COUZENS. What was your fee in the Fulton case?

Mr. ROSSMOORE. I have not received it yet; it has not been closed yet.

Senator COUZENS. Will you figure it on the basis of what you get the assessment cut down to, or will you do it on a per diem basis, or the time you worked on it, or how?

Mr. ROSSMOORE. Well, it will probably be figured on the basis of the tax involved.

Senator COUZENS. Will your fee be as high as \$40,000?

Mr. ROSSMOORE. It certainly will, but it is a matter for the future.

Senator COUZENS. Is there any suggestion that you can make that will obviate the taxpayer being required to pay such fees when the agent in the field puts on a tentative assessment or proposed assessment, that is, and in excess of what the taxpayer thinks he ought to pay?

Mr. ROSSMOORE. Well, it is very largely up to the taxpayer. Some taxpayers, like the Standard Oil Co. of New Jersey, were wise enough to insist upon a definite contract with a definite limitation. I dare say if there had not been any such contract I would be entitled to a very handsome fee, more than I got, and probably the very fact that these rumors have gone out as to what was involved in the case has given rise to the rumors as to what the fees have been; it is natural.

I do not see how one can limit fees. It is a question as between taxpayer and counsel. No attempt is made to limit the fees of any attorney; it is a matter of private contract.

Senator COUZENS. Yes, but the law provided what maximum fees could be collected in pension cases; is not that correct, Mr. Chairman?

The CHAIRMAN. Yes.

Senator COUZENS. And it is quite within the power of the Congress to fix a maximum fee which these so-called tax experts are entitled to collect from taxpayers.

Mr. ROSSMOORE. Well, that may be.

Senator COUZENS. For prosecuting claims against their Government.

Mr. ROSSMOORE. That may be perfectly all right, if once there is legislation to that effect — you cannot control fees without legislation; I mean to say you cannot say what a man's fee shall be.

Senator COUZENS. I understand that; but you know that this Government is the taxpayers' Government, too; the taxpayer is entitled to the same consideration as his own Government is; and unless we do set up some maximum fees that might be collected by the so-called tax experts the taxpayer is likely to be imposed upon when by a simple drawing attention of the error to the Government he might get the rebate without having to pay the fee.

Mr. ROSSMOORE. That all depends upon what your limitation shall be. If you say he shall not receive more than a certain per cent, that per cent may be absurdly high. If you limit it to 5 per cent in the Standard Oil Co. case, I would regard that fee as very high.

On the other hand, there might be a case where the amount involved was so small that 5 per cent. or even 10 or 20 per cent, would be so small the taxpayer could not get counsel.

Then, again, if you say that a flat fee shall be charged, it would be subject to the same criticism.

Senator COUZENS. I think that these experiences and this evidence that is coming out in the hearing should make it obligatory upon the Congress in some way to provide, or at least let the taxpayers know about the tentative assessments. In other words, you take this Fulton case—

Mr. ROSSMOORE. The Fulton Company was advised.

Senator COUZENS. Yes; just a minute—you take the Fulton case. The proposed additional assessment was \$600,000.

Mr. ROSSMOORE. Yes.

Senator COUZENS. Had that case come to Washington and been gone over by auditors and experts and boards of review it might, of itself, been cut down to \$400,000 without a tax expert.

Mr. ROSSMOORE. Oh, yes; absolutely.

Senator COUZENS. Well, then, why should the taxpayer know what the tentative assessment is until it has gone through the processes at Washington?

Mr. ROSSMOORE. There is this: That while Washington would possibly cut down the assessment perhaps proposed by the agent, in just as many cases it would accept the agent's assessment. It would all depend upon the basis for the proposal.

Doctor ADAMS. The answer to your question, Senator, is not plain. Formerly when a revenue agent in the field made an assessment opportunity was given for a preliminary hearing in Washington. But to people on the Pacific coast, for instance, it was a great hardship for the taxpayer who did not accept the agent's report to have to come to Washington. So the procedure was revised whereby the revenue agent submits his report to the taxpayer first. I may have been instrumental in changing the practice.

Senator COUZENS. I think the change has probably been worse than the former system.

Doctor ADAMS. I do not think so, because the agent makes a tentative finding.

Senator COUZENS. But that tentative finding invites the taxpayer to engage a tax expert and lawyers to fight his case.

Doctor ADAMS. I do not think so, sir.

Senator COUZENS. I do think so.

Doctor ADAMS. There is too much of that. I share many of your views. He would go on to Washington; he would have to get his tax expert eventually. Now he has a chance to go to the revenue agent and tell him he thinks he has made a mistake in his proposed finding and ask him to change his finding.

Senator COUZENS. I do not understand why if the Government is fair he has to get a tax expert eventually; it should not be necessary. I do not understand if the Government is fair that it has to be prosecuted or urged or induced to reduce the tax to a fair basis by a tax expert.

Doctor ADAMS. I do not. That is another question.

Senator COUZENS. You say he eventually has to get a tax expert. It has been stated here in the record by Mr. Rossmore that the

disposition of the agent is to build up a case as much as he can for the Government which is then referred to Washington and Washington goes over the case. It is assumed that somewhere—at least it should be assumed, that somewhere the taxpayer is going to be dealt with fairly. After it has gone through the various processes in Washington and then the taxpayer is notified and he is discontented it seems to me then it would be time enough for him to get his tax expert; but now the agent flashes an assessment on him which he thinks is wholly unfair and inequitable and he immediately rushes for assistance. I want to prevent the necessity of rushing for assistance when there is no real sickness to cure.

Doctor ADAMS. May I make a statement?

Senator COUZENS. Yes.

Doctor ADAMS. In the first place this idea of having the revenue agent's report submitted to the taxpayer was done at the instigation of the taxpayers. Secondly, there are a great many questions that the revenue agent passed on that can best be settled in the field by an inspection of the property or things of that kind. Take the question of depreciation. Suppose a taxpayer has claimed 5 per cent depreciation. The revenue agent reduces that to 3. The taxpayer has a right of preliminary appeal to him, and he says to the revenue agent "That is wrong; let's go out and go over the property;" and they go out and go over the property. There is no one who can assist him any more than a taxpayer; and it seems to me a pretty wholesome thing. The taxpayer does not need to get the tax shark to assist him; he can take it up directly with the agent. I think he likes to know that there is not a report going to Washington that he has not had a chance at first. I may be wrong about that.

Senator COUZENS. What Doctor Adams says has two weaknesses. One is that it subjects the agent to bribery and temptation in the first instance by permitting the taxpayer to discuss and argue with the agent that this tentative report should not be sent in and unnecessarily throws a scare into the taxpayer and he rushes for the doctor.

I do not believe our Government should be in such a position that the taxpayer is afraid of the Government. The report should be sent in and there should be proper consideration given to the case in Washington which would eliminate the possible "fixing" of the agent who fixed the tentative assessments, and also avoid the necessity of the taxpayer running for a doctor.

Doctor ADAMS. That I indorse most heartily, Senator.

The CHAIRMAN. Yes, I think that is all right. Of course, there is always this psychology about the situation, Senator: There is a feeling on the part of the taxpayer that the Government is trying to get all out of him that it can; and, secondly, on the part of the Government that the taxpayer is trying to evade just as much as he can; that is always involved in all the controversies, as everybody knows. I will tell you the thing—if there be a wrong in the thing that might be corrected—at least it looks bad, it is men after having been employed in a department and acquired the knowledge and experience going out and beginning to practice and use that knowledge and experience—that are all honest; we concede they are all honest—that is the thing that looks bad in the public mind. Whether or not that should be prohibited by law is a different question, because you

might say on the other hand, Why should a judge who has left the bench be permitted to practice law before another judge who has succeeded him, within a given time, because having been a judge he may exercise an undue influence over his successor, in a perfectly legitimate way because of the other's respect of his knowledge and experience, and so forth? That always enters into matters and questions of that character.

Senator COUZENS. This is a different case; that is done secretly, as has been pointed out, but the practitioner in court acts openly. The opening of the tax records would be a bar to possible fraud not only on the part of the employees but on the part of the taxpayers themselves. They would be less willing to file fraudulent statements if they knew these records were in the open. In the case you referred to it is done in the open and everybody sees it.

The CHAIRMAN. Sure.

Senator COUZENS. But this is done in star-chamber sessions and nobody sees and nobody knows what goes on, and nobody knows what is said.

The CHAIRMAN. You would have them thrown open to the public.

Senator COUZENS. Congress ought to go at least that far. I believe they ought to go all the way and open the records entirely.

When you took the Fulton case who did you deal with in the bureau that was responsible in getting the appraisal cut down from \$600,000 to \$200,000?

Mr. ROSSMOORE. There have been a number of men; we never deal with any one man in any of these cases, but you have a hearing and that is held before two or three or more men.

Senator COUZENS. When you first made your appeal, who did you appeal to, what individual?

Mr. ROSSMOORE. The appeal is made of a form of written proof. It is on file. The hearings I believe were held before—the only name I can recall was Merlick; he was one of the men whose names I recall; I can not recall the names of the others.

Senator COUZENS. Were they acquaintances of yours?

Mr. ROSSMOORE. They probably knew me, those fellows did.

Senator COUZENS. But did you know them?

Mr. ROSSMOORE. Oh, I know Merlick.

Senator COUZENS. Was he in the bureau while you were there?

Mr. ROSSMOORE. He was there while I was there.

Senator COUZENS. Were the other conferees in the bureau while you were there?

Mr. ROSSMOORE. I do not know.

Senator COUZENS. You do not remember?

Mr. ROSSMOORE. I do not remember whether they were.

Senator COUZENS. Was the case speeded up in any way?

Mr. ROSSMOORE. I should say not. It has dragged terribly. It started in 1921 and has only recently been completed—1921, 1922, and 1923.

The CHAIRMAN. What was the total amount paid to which the \$600,000 was an additional assessment?

Mr. ROSSMOORE. The total paid?

The CHAIRMAN. Yes.

Mr. ROSSMOORE. I should say they paid—I am only guessing—\$5,000,000. In 1920 and 1921 they had severe losses and the Govern-

ment got much more out of their situation than they did. The tax for 1918 ran up to 67 or 68 per cent.

Doctor ADAMS. Is it a corporation?

Mr. ROSSMOORE. It is a corporation that was established in 1873, one of those old gradual growths.

Doctor ADAMS. Have you studied the English system of income tax?

Mr. ROSSMOORE. Not enough to talk about it.

Senator COUZENS. I understand that they collect income tax on an average income of five years.

Mr. ROSSMOORE. That is my general understanding. I think if this Government did something like that it would be the fair thing to do. At present of course there is this net loss provision, you can if you have a net loss take it the succeeding year; but how about the fellow that starts out with a profit the first year and has a loss the second year, a loss that puts him out of business when in the first year he divides with the Government 50 per cent? He does not get anything back. It ought to operate both ways.

Senator COUZENS. What do you think of the proposed court recommended by the Treasury Department?

Mr. ROSSMOORE. I am firmly in favor of that tax board—that is what you refer to?

Senator COUZENS. Yes.

Mr. ROSSMOORE. And I am in favor of it being public. I might say I am on a committee for the New York State Society of Certified Public Accountants, and that my duty as a member of that committee has been to study the pending bill; and one of the principal recommendations I made to the committee for recommendation in turn to the Senate Finance Committee is that the records be made public just like they are in any court.

Doctor ADAMS. That is the new appeal tax board that replaces the present committee on appeals and review?

Mr. ROSSMOORE. I do not know whether it does, but I think it should. I think you should still have a committee much like what you have got instead of compelling the taxpayer to go to the courts or the Supreme Court, and you would have a body that would be trained to pass on these complicated tax cases.

The CHAIRMAN. Is that all, Senator Couzens?

Senator COUZENS. That is all I think of just now. Are you going to be in Washington for any length of time?

Mr. ROSSMOORE. I am going to be in New York; that is where I hope to be. However, I am at your service.

Senator COUZENS. Do you want to ask any more questions, Doctor Adams?

Doctor ADAMS. I do not, sir.

Senator COUZENS. I think we can excuse him, Mr. Chairman. I want to ask Mr. Batson a question.

Senator ERNST. Pardon me, but there was a statement left here yesterday by Mr. Blair, and my attention has just been called to the fact that it was not placed in the record. I think it ought to be.

The CHAIRMAN. What was the statement?

Senator COUZENS. You mean the statement of conditions in the Internal Revenue Bureau?

Senator ERNST. I do not know what it is called, but that is it.

The CHAIRMAN. There can be no possible objection to its going in the record. It is part of the testimony.

Senator COUZENS. There is no objection to that.

Doctor ADAMS. Mr. Nash, has that been mimeographed?

Mr. NASH. Yes, sir; I brought several mimeograph copies with me.

STATEMENT OF MR. EDWARD H. BATSON—Continued.

The CHAIRMAN. Mr. Batson, were you in the department when this \$23,000,000 Standard Oil case was up?

Mr. BATSON. I recall that my attention was called to the Standard Oil case by the men who were working on it.

The CHAIRMAN. Do you know anything about it?

Mr. BATSON. And they reported to me that there had been a revenue agent's investigation which tentatively recommended something like \$23,000,000, I think it was; said it was clearly wrong down to approximately \$10,000,000.

The CHAIRMAN. Who were the men?

Mr. BATSON. The men in the department who were working on it?

The CHAIRMAN. Do you remember their names?

Mr. BATSON. I only remember one man of the two or three, and I think his name was Simcoe.

The CHAIRMAN. How did your attention happen to be called to it, Mr. Batson?

Mr. BATSON. And they went on to tell me that the taxpayer had alleged some very serious questions and they did not know who was right but they were of the opinion that there was unquestionably about \$3,000,000 due and said it was a complicated case; that it had been dragging out a long time. There was a voluminous record and they did not know how long it would take them to finish it. So I either had them request representatives of the Standard to come to my office or sent for them—I do not know which—and I told the representatives of the Standard that there were some serious questions involved and we decided that there was something due and wanted that money. They asked me how much; I told them. They said "All right, we will have it for you to-morrow"; and it was brought in.

Senator COUZENS. Have you been retained by the Standard?

Mr. BATSON. Never.

Senator COUZENS. You have had no fees from the Standard Co. at all?

Mr. BATSON. No fees from the Standard Co. at all.

The CHAIRMAN. Did you tell us why that was run down to \$10,000,000?

Mr. BATSON. There were two or three big questions involved.

The CHAIRMAN. Do you recall what they were?

Mr. BATSON. I could not tell you what they were, Senator.

The CHAIRMAN. Could you, Mr. Hartson, tell us the questions involved?

Mr. HARTSON. Senator, I have absolutely no personal knowledge of the case. I did not know there was such a case until it was mentioned here to-day.

Senator COUZENS. Could you, Mr. Nash?

Mr. NASH. No, sir.

Mr. HARTSON. I will supplement that by saying I came in to the Solicitor's office since Mr. Batson went out, so I do not know what

was pending during the time he was there, which was before my time. While I have no knowledge of this case at all I think it can be secured.

Senator COUZENS. I think, Mr. Chairman, the committee would like to have those questions.

The CHAIRMAN. I think so.

Senator COUZENS. Will you bring the questions that were involved in this case?

The CHAIRMAN. I quite agree with you in that.

Mr. HARTSON. I think that should be done with the understanding that the taxpayer submits it. There may be some question here as to whether or not you can publish this case.

The CHAIRMAN. It can not be done unless the law permits it.

Mr. HARTSON. But as to the questions asked here I see no objection.

The CHAIRMAN. I say, as far as the law permits.

Mr. ROSSMOORE. It might be objectionable to the Standard Oil Co.

Senator COUZENS. Of course you are representing the company?

Mr. ROSSMOORE. I mean the discussion of questions that might have a bearing on any final decision of the matters actually before the bureau. I do not know that the company would object, but I am just suggesting it.

The CHAIRMAN. They probably would not object.

Doctor ADAMS. I think, Senator, with respect to some of these propositions, you would have to get the company's consent.

The CHAIRMAN. I think that is true; under the existing law you would have to get the company's consent to bring all of them in.

Senator COUZENS. But we want to know what the questions are at issue so we can pass a law to cover such cases, instead of leaving it discretionary.

Senator ERNST. I tell you, Senator, you will not be able to pass a law or laws that will cover all the questions that will arise in these cases, even though you pass laws from now until the end of time. There are too many questions involved in these cases.

Senator COUZENS. Here is a statement that was handed to me yesterday that did not get in the record. I just want to read it into the record and make a comment or two after I have read it [reads]:

The following is an extract from inquiries made by Senator Couzens of the investigating committee of Congress, in which he asks for certain data, etc., from the bureau:

"Could you devise some method whereby the taxpayers could be notified that it is unnecessary to pay a solicitor or an agent any commission to get returned to him honest overcharges or payments made as the result of honest errors?"

"I would like to know if the commissioner or his staff has any recommendations to make that might be incorporated into law, or otherwise, to avoid the necessity of such costly service to the taxpayer occasioned by the employment of accountants, attorneys, and experts of all kinds."

In general it may be stated that it has been the policy of the Bureau of Internal Revenue since the early part of the calendar year 1922 to issue certificates of overassessment to taxpayers in cases where it is found in the course of audit that they have erroneously or illegally paid income and profits taxes in excess of that which is due the Government. This method has enabled the Government to make a systematic audit and adjustment of the taxpayers' liability and in actual practice it appears to be working satisfactorily to the taxpayers as well as to the Government. These certificates of overassessment are issued without the taxpayer filing a claim for refund in cases where refund could otherwise have been made if claim therefor had been filed. It is unnecessary in such cases for the taxpayer to pay a solicitor or agent any commission for appearing in his behalf before the Income Tax Unit.

Systematic instructions by correspondence course and otherwise is being given to collectors of internal revenue and their employees to the end that they may be fully advised with respect to all questions affecting the income tax law and regulations. Collectors of internal revenue and deputy collectors are willing at all times to extend to taxpayers information and advice as to what their rights are under the income tax law and regulations in order that it may not be necessary for the taxpayer to hire a legal representative. A course of instruction is also extended to revenue agents situated in the various districts throughout the United States, who are thus qualified and willing at all times to give advice and assistance to those who desire to avail themselves of such assistance.

The rules and regulations section, Income Tax Unit, answers several thousand inquiries during the year, rendering decisions and issuing advice to taxpayers with respect to transactions consummated during the year, thus enabling them to receive decisions in advance of the preparation of the income tax returns. This section, forming part of the Income Tax Unit at Washington, may be availed of at any time by taxpayers to assist them in ascertaining their rights under the income tax law and regulations (both formally and informally), and in specific cases, upon a presentation of facts, will issue decisions without the taxpayer being required to secure the services of an agent or representative. Through the bulletin service, which may be secured from the Superintendent of Public Documents, Government Printing Office, taxpayers may keep informed as to the general trend of decisions, which service contains concise digests of decisions.

It would appear from the foregoing that taxpayers who desire to ascertain their true tax liability to the Government may do so through the mediums enumerated herein without incurring the expense of hiring representatives to appear before the Income Tax Unit in their behalf. It may be stated in conclusion that taxpayers will receive the same consideration with respect to the audit of their income-tax returns, regardless of whether they appear in person, by correspondence, or are represented by an attorney or agent.

That question was propounded largely because of a story that was quite current and that was put into the record by Senator King which related to a farmer in Texas who discovered an oil well on his farm and paid taxes of some \$600,000, and when the tax return was received and the taxes paid no credit was taken for depletion and the taxpayer was not notified that he was entitled to any credit for depletion; that the bureau employee who received the tax return tipped off somebody on the outside, and the man on the outside went down to Texas and told the farmer that he was entitled to a credit of some \$300,000 because of his failure to take credit for depletion. The story is that he received \$80,000 as his share of the \$300,000 that was eventually refunded to the farmer.

I do not believe that that communication which was handed in yesterday by Mr. Nash takes care of a case of that sort. Mr. Nash, do you think that takes care of that case?

Mr. NASH. I think it would depend upon the manner in which that man's return was prepared. If there was anything in the preparation of the return to indicate that he was entitled to a depletion deduction it would have been investigated by an agent, and our field agents recommend refunds in the same manner that they recommend additional taxes, and wherever the field agent recommends a refund it is not necessary for the taxpayer to hire an attorney or an expert to get that refund, for the Government voluntarily gives it back.

On the other hand, if in the audit of a return in Washington without a full investigation and a refund is found due the taxpayer it is given to him through the medium of a certificate of overassessment, as outlined in the first part of that memorandum. In the case that you cited there the chances are that the man would have got his refund without the employment of a tax attorney, provided there was some indication on the face of the return that he was entitled to such a

deduction. If he just showed income without indicating the sources it might not have developed until it was the subject of investigation.

Senator COUZENS. Well, such a case as I have just related is possible under the operation of your bureau?

Mr. NASH. What?

Senator COUZENS. Such a case as I have just related is possible under the operation of your bureau?

Mr. NASH. Yes, sir; that man might have secured his refund without ever seeing his attorney.

Senator COUZENS. And he also might not have secured it at all if his income-tax return did not show the nature of his business.

Mr. NASH. Yes, sir.

Senator COUZENS. So it is quite possible that he did get \$220,000 that he would not have got otherwise except through this man appearing in the field and telling him that he was entitled to it?

Mr. NASH. Yes; that is true.

Doctor ADAMS. I would like to ask one question. I frequently hear the rumor that agents and other men are rated on the amount of additional tax that they turn up. In other words, that their promotion depends upon discovering errors in favor of the Government. I hear that constantly. I would like to have some statement as to that.

Mr. NASH. Doctor Adams, I believe that a few years ago there was some system—or I would not say there was a system, but the efficiency of a revenue agent was rated to some extent on the amount of additional tax that he reported. That policy has been discarded and to-day a revenue agent is not rated on the amount of additional tax which he reports, but on the general quantity and quality of his work, whether it involves refunds or additional tax.

Doctor ADAMS. I notice on page 11 of the statement made by the commissioner yesterday that in discussing the results of the field investigations he was very careful to point out the amount of additional tax turned up. I think sometimes it might be helpful in keeping the point in view Senator Couzens has in mind to calculate the amount of refund with similar emphasis.

Mr. NASH. The figures quoted on page 11, Doctor Adams, refer to the activities of deputy collectors who were reporting delinquent taxes and not income-tax investigations such as are made by agents.

The CHAIRMAN. The committee will stand adjourned until tomorrow afternoon at 2 o'clock.

(The following statement of conditions in the Bureau of Internal Revenue was submitted by Mr. D. H. Blair, Commissioner of Internal Revenue:)

STATEMENT OF CONDITIONS—INTERNAL REVENUE BUREAU

THE RAPID GROWTH OF THE BUREAU AND WHY THE WORK ACCUMULATED

Prior to the year 1913 the greater part of the revenue of the Government was derived from the tax on distilled spirits, liquors, and tobacco. The tax collected in 1913 was only \$344,424,453.85.

The income-tax law was passed in 1913. The provisions were simple, and the tax collected for the next few years averaged \$436,137,734 annually. But when we entered the World War the tax on incomes was greatly extended in order to meet the greatly increased expenditures of the Government.

The revenue collected by the Bureau of Internal Revenue increased from \$512,723,287.77 in 1916 to \$809,393,640.44 in 1917, an increase of 58 per cent;

to \$3,698,955,820.93 in 1918, an increase of 621 per cent; to \$3,850,150,078.56 in 1919, an increase of 658 per cent; to \$5,407,580,251.81 in 1920, or 956 per cent increase over the collections for 1916.

There were 778,289 income-tax returns filed in 1916. The number jumped to 3,824,316 in 1917, an increase of over 362 per cent; in 1918 it again increased to 4,742,693, or 510 per cent; to 5,652,958 in 1919, or 627 per cent; to 7,605,539 in 1920, or 878 per cent; and to 8,716,072 in 1921, which was an increase of 1,020 per cent over the number of returns filed for the year 1916.

The enormous increase in the revenue, the overwhelming increase in the number of returns filed, and the increase in the work to be performed as a consequence thereof went by leaps and bounds. No one did or could foresee it, or prepare for it. To get a sufficient number of men with the proper qualifications was doubly hard because the very men who were best qualified for the work were in the war. The bureau had the keenest competition with private industry in securing such accountants and engineers as were not actually in the war. We were unable to meet the salaries that private concerns could pay, and this of course made the task more difficult.

The bureau was in no condition to start the actual work on auditing and closing the returns as they came in. During the early part of 1918 the entire organization in Washington had less than 600 officers and employees, and during the early part of that year practically nothing could be done except to disseminate under the new law.

Experts were called to Washington for the reorganization and expansion of this small organization into an organization big enough to meet the gigantic task which had been thrust upon it almost overnight.

It was not until the very close of 1918 that a survey was completed and actual work begun. The force of employees was entirely inadequate in number and lacking in knowledge of accounting and its application to the act of 1917. These employees, while possessing knowledge of administrative procedure gained through the previous simple income tax laws, were totally unadapted to cope with the administrative and technical problems involved in the new act.

In the first six months of 1919 approximately 1,000 auditors were recruited. It was necessary to give them from four to six months' training before they were equipped to carry on the work. It was further necessary to bring the whole field force of revenue agents and inspectors to the bureau for training. The work of recruitment and training of personnel continued during 1919 and 1920. No cases except the simplest, representing approximately 40 per cent in number, of the 1917 returns were completed prior to 1920, and but few of the consolidated cases and natural resources cases were completely audited prior to 1921. Practically all of the cases which were audited in 1919 were only superficially audited and were left over to be reaudited and disposed of in later years. The result was that the work continued to accumulate.

During the early years of the excess profits tax law the taxpayers, as a rule, had not kept accurate sets of books; their books had not been kept in conformity with the requirements of the excess profits tax law. Even the best lawyers of the country had not mastered the law, the field men of the bureau knew but little of it, and the necessary regulations to enforce it, with the result that the returns were full of errors both for and against the taxpayers.

Many of the provisions of the law as it was amended were retroactive, and, the returns having been made in ignorance of the law and regulations, amended returns became necessary, and reaudits necessarily followed. All this caused a vast accumulation, particularly for the years 1917 and 1918.

The following are some of the great difficulties which had to be encountered and which have particularly caused the great delay in closing the 1917 and 1918 returns:

- (1) The determination of invested capital including the difficult questions of consolidation and affiliations.
- (2) The determination of March 1, 1913, valuations—
 - (a) For purposes of depreciation.
 - (b) For determination of loss or gain on sales of capital assets.
 - (c) For depletion on all of the neutral resources including oil and gas wells, coal, precious metals, ore and timber, clay beds and other nonmetals.

The size of this task alone staggers the imagination. The valuation of the railroads of the country is a simple task compared with this and yet the Interstate Commerce Commission has been endeavoring to arrive at their valuation for years.

After March 4, 1921, there was great uncertainty as to who would be the head of the Internal Revenue Bureau, and what policies would be pursued. For more

than 60 days after the new administration came into power a new head of the bureau had not been selected. The commissioner of the prior administration had resigned and the bureau was left in charge of an acting commissioner. There was the natural uncertainty and unrest which accompanies any change in administration, and this was added to by ambitious people in the bureau who desired marked promotion and other favors, and by people on the outside who felt that their party services entitled them to any position in the bureau which they might desire regardless of their fitness for it. During this period the bureau was practically marking time and much confusion existed.

This was the situation when the present commissioner took over and attempted to run the bureau. The statements as to the accumulation of work and other statements made herein are not intended as a criticism of the former commissioners and their administration. When the bigness of the task is considered and the conditions under which the bureau was obliged to operate during the war, it is my opinion that no one could have prevented the vast accumulation of work which the present organization found on hand.

We had to overcome difficulties as we proceeded, which at times seriously impeded the work and lessened the efficiency of the bureau. When everything is taken into consideration we believe that the accomplishments to date have been great, as will be shown in the following pages, and while we have not been able to bring the work current, yet great progress has been made in this respect, and upon the whole we feel that the bureau has been operated economically, efficiently, fairly, and honestly.

The matters about which your committee has inquired particularly are dealt with in the detailed reports which follow:

BUREAU ORGANIZATION.

The Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, has general superintendence of the assessment and collection of all internal revenue taxes; the enforcement of internal revenue laws; the enforcement of the National Prohibition Act and the Harrison Narcotic Act; the selection, compensation and assignment to duty of all internal revenue officers and employees, and the preparation and distribution of instructions, regulations, forms, blanks, stationery, stamps, etc.

For the purpose of effective administration, the duties of the Bureau of Internal Revenue are assigned to the following units and divisions:

Accounts and Collections Unit; Miscellaneous Tax Unit; Income Tax Unit; Commissioner and Miscellaneous Unit; and Prohibition Unit.

ACCOUNTS AND COLLECTIONS UNIT.

The Accounts and Collections Unit of the Internal Revenue Bureau is charged with the duties of administering the laws concerning the collection of the taxes and as other important functions has under its control the procedure and accounting methods in collector's offices, as well as the auditing of all revenue accounts of collectors.

When it is considered that a total tax of over two and a half billion dollars is yearly paid into the 65 collection districts, some idea can be gained as to the enormous machinery necessary in order to accurately record such payments and properly safeguard the money received. Equal in importance to these tasks is the duty of the collection districts to see that the Government receives the tax to which it is entitled, and that all taxpayers are treated with uniform justice and courtesy.

The many changes in the tax laws make it necessary that the taxpayers be accorded every opportunity during the heavy filing periods to obtain any information desired as to the proper method of preparing income tax returns. To meet this situation deputy collectors and other internal-revenue employees are located at banks, department stores, etc., in the larger cities in order to bring this service to the public, and further, in the smaller towns, internal-revenue officers are sent from place to place to render a similar service to the taxpayers of the smaller communities.

In addition to its other duties, the Accounts and Collections Unit is charged with the administrative work in connection with the personnel of the 65 collection districts (involving a total of over 6,500 employees), and the consideration of the needs of and requisitions of supplies, equipment, space, etc., of the collection districts.

This unit also directs the activities of field deputy collectors, plans drives on delinquent taxpayers, and conducts courses of instructions to properly equip deputy collectors for the duties of their positions.

The Accounts and Collections Unit also supervises the administrative audit of the disbursing accounts of all disbursing officers of the Internal Revenue Bureau, as well as the administrative audit of the travel accounts of all employees of the Internal Revenue Bureau.

Further, the unit is charged with the responsibility incident to the receipt and distribution of all internal revenue stamps.

IMPROVEMENT IN ORGANIZATION PLAN.

Under date of May 23, 1922, the Accounts Unit of the Internal Revenue Bureau and the unit known as the Supervisor of Collectors' Office were abolished and the duties formerly performed in these two units are now administered in a new unit known as the Accounts and Collections Unit, the duties of which branch of the service have been outlined generally above. The consolidation which has been put into effect has resulted not only in a more efficient and intelligent performance of the work involved but also has resulted in savings which cannot in their entirety be estimated. One of the direct savings was a reduction in the force by a total of 57 employees at an annual salary saving of \$92,760.24.

INCREASE IN VOLUME OF WORK.

The Bureau of Internal Revenue is the principal revenue collecting agency of the Government. Prior to the year 1913 the greater part of the revenue was derived from distilled spirits, liquors, and tobacco. The income tax law was passed in 1913, and when we entered the World War the tax on income was greatly extended in order to meet the increased expenditures of the Government. The revenue collected by the bureau increased from \$809,393,640.44 in 1917 to \$3,698,955,820.93 in 1918. In 1920, the collections reached the highest point, viz: \$5,407,580,251.81. During the fiscal year ended June 30, 1923, the total internal revenue receipts amounted to \$2,621,745,227.57.

Prior to the World War the Internal Revenue Bureau did not come closely in contact with the general public, but due to the great extension of the income tax law in order to raise the war revenue the collection service now affects millions of taxpayers. During the fiscal year ended June 30, 1923, the 65 collectors of internal revenue received 11,967,089 tax returns and reports from taxpayers. The number of income tax returns amounted to 7,714,825. In addition to the tax on income, there are now imposed taxes on billiard and pool tables, brokers, cigar and cigarette manufacturers, manufacturers of distilled spirits, liquor rectifiers, oleomargarine manufacturers and dealers, theaters, tobacco and snuff manufacturers, narcotic registrants, passenger automobiles, pleasure boats, circuses, capital stock of domestic and foreign corporations, nonalcoholic beverages, telegraph and telephone messages, admissions and dues, sales of automobiles, parts, and accessories, estates, etc. The number of special or occupational taxpayers during the fiscal year ended June 30, 1923, numbered 721,618. The number of capital stock tax returns was 402,009. Sales tax returns which are filed monthly, reached the total of 2,613,374. Miscellaneous returns and reports, including monthly reports of leaf tobacco dealers, offers in compromise, monthly returns of bonded wineries, industrial alcohol plants, etc., amounted to 515,263. The total of all returns, as formerly stated, was 11,967,089. The fact that during the fiscal year ended June 30, 1923, there were 1,167,659 taxpayers who elected to pay their taxes in quarterly installments, required approximately 3,500,000 additional operations in collectors' offices.

In addition to the work of collecting revenue, recording and listing returns, recording claims, and transmitting the necessary documents to the bureau, collectors must audit the greater proportion of all individual income tax returns. During the fiscal year ended June 30, 1923, of the number of individual income tax returns filed, 6,193,830 were audited in collectors' offices. They must also assist taxpayers in preparing returns and distribute the necessary forms to taxpayers. They must hold hearings when taxpayers are dissatisfied with assessments that have been recommended by the collector, and they must conduct correspondence with the taxpaying public and supply information. Collectors must prepare certain records showing the names and addresses of taxpayers for public inspection.

OFFICES BROUGHT INTO BALANCE.

In March, 1921, there were 55 collectors' offices out of balance with the bureau records. This condition was due largely to errors and confusion in the accounting procedure during the year 1919. An intensive drive to audit and adjust these accounts was instituted. This drive has just been brought to a close, and the accounts of all the 65 collectors' offices are now in balance with the bureau records.

When we speak of an office being out of balance with the bureau records, it must be understood that there are charges set up against each collector for the taxes listed for assessment in the collector's office, additional taxes discovered in the bureau, transfers of taxes from other districts, and checks given by taxpayers which are returned by the banks because of insufficient funds. Each collector is given credit for the collections as shown by the certificates of deposit issued by the depository banks. He is also given credit for taxes transferred to other districts and for items abated by the commissioner.

As a result of the conditions in 1919 and 1920 nearly every office lost control of their assessment lists and collection accounts. For example, in the office of the collector and the second district of New York, it was necessary for the supervisors of accounts and collections to check all assessment lists for the calendar years 1918 to 1923, inclusive. This included taxes listed for assessment both by the collector and the Commissioner, transfers and other districts, and checks returned because of insufficient funds. Each item of tax transferred to other collection districts had to be verified and supporting vouchers furnished. All abatements posted to the lists had to be verified with the schedules issued by the commissioner. When we consider that the assessment lists that were checked consisted of over 200 large volumes for income tax alone, and that the collections for all classes of tax amounted to about \$3,500,000,000, some idea can be gained as to the enormous amount of work involved in connection with this examination.

When the examination was begun it was found that there were unclassified collections which had been received in the second New York district amounting to approximately \$43,390,000. A strenuous effort was made to identify the various amounts and to apply them to the appropriate accounts. The collectors' report for the month of January, 1924, shows that these unclassified items have been reduced to \$5,314,722.22.

CLAIMS FOR ABATEMENT, CREDIT, AND REFUND.

On September 1, 1921, an inventory was taken of claims for abatement, credit, and refund on hand in collectors' offices. It was found that in the various offices throughout the country there were 60,362 claims on hand September 1, 1921, upon which no action had been taken. At the close of business January 31, 1924, there were only 4,873 claims on hand in collectors' offices.

On January 19, 1922, a new procedure for handling abatement, credit, and refund claims was issued to collectors. The putting of this procedure into effect in collectors' offices required the preparation of elaborate and detailed instructions. The system has proven very successful in that it enables the collectors and the bureau to dispose of claims for abatement, credit, and refund with greater dispatch than under the old system.

PREPARATION OF ACCOUNTING DOCUMENTS.

Under date of January 18, 1922, a procedure was put into effect which resulted in the abolishment of an expensive system of preparing assessment lists and related documents by means of stencils. Mechanical billing machines were installed in collectors' offices for the preparation of assessment lists, tax bills, etc., at a saving of many thousands of dollars annually. Without this change in the method of preparing lists it would have imposed considerable embarrassment to the collectors' offices in the forced reduction in personnel which became necessary by reason of decreased appropriations.

SALES-TAX PROCEDURE.

Under date of October 6, 1922, a new procedure for writing sales-tax assessment lists was installed. At the same time the assessment lists are written, the returns for the ensuing month are addressed and receipt forms are prepared. The preparation of several documents at one operation obviously results in an economy to the Internal Revenue Service.

AUDIT OF INDIVIDUAL INCOME-TAX RETURNS.

Effective January 1, 1924, a procedure was put into effect whereby collectors will retain for audit in their offices not only income-tax returns filed on Form 1040-A but all income-tax returns filed on Form 1040 where the gross income is \$15,000 or less. It is contemplated that this procedure will result in the audit of the great majority of all individual income-tax returns within a period of six or seven months after the returns are filed. This procedure will obviously benefit the taxpayers, inasmuch as their income tax liability will, in the majority of cases, be settled before the next returns are due, and relieve them from future annoyance in connection with their liability to the Government.

FIELD INVESTIGATIONS.

Deputy collectors operating in each of the 65 collection districts under the immediate direction of a chief field deputy canvass their districts, searching out delinquents and verifying returns previously filed. A summary of the work accomplished by these field deputies for the fiscal years ended June 30, 1920, 1921, 1922, and 1923, and for the six months' period ended December, 1923, follows:

| | Deputies. | Cases. | Collected and reported for assessment. | Average per department per month. | |
|-------------------------------------|-----------|---------|--|-----------------------------------|--|
| | | | | Cases. | Collected and reported for assessment. |
| Fiscal year ended June 30-- | | | | | |
| 1920..... | 2,495 | 681,510 | \$42,213,547 | 23 | \$1,410 |
| 1921..... | 2,557 | 769,171 | 41,231,580 | 25 | 1,343 |
| 1922..... | 2,375 | 762,228 | 58,791,914 | 27 | 1,992 |
| 1923..... | 2,378 | 767,518 | 47,031,849 | 27 | 1,648 |
| Six months ended Dec. 31, 1923..... | 2,229 | 370,239 | 27,816,708 | 28 | 2,080 |

The average annual salary and expense of deputy collectors, based on the six months' period ended December 31, 1923, is approximately \$2,248, so that the average net annual return per deputy was in excess of \$22,500.

Below will be found a statement indicating the total personnel of the collection service as of given dates:

| | June 30, 1921. | June 30, 1922. | June 30, 1923. | Feb. 1, 1924. |
|-----------------|----------------|----------------|----------------|---------------|
| Collectors..... | 64 | 64 | 65 | 65 |
| Office..... | 4,548 | 4,617 | 4,564 | 4,147 |
| Field..... | 2,245 | 2,864 | 2,747 | 2,451 |

The number of collectors was increased from 64 to 65 due to the establishment of the third internal revenue collection district of New York, April 1, 1923, provided for by legislation. During the fiscal year ended June 30, 1923, a reduction of 159 employees was effected throughout the collection services. This reduction in personnel was effected notwithstanding the establishment of an additional collection district during the fiscal year. On July 1, 1923, at which time the appropriations for the present fiscal year became available, it was necessary to effect a rather marked reduction throughout the entire Revenue Service due to decreased appropriations. Reductions in personnel are applied principally to the field forces. This is accounted for by the fact that there are certain definite duties which must be performed in order that the office may function, but to reduce the field force simply curtails the collection of delinquent taxes. The total personnel throughout the service of February 1, 1924, was 8,663 as compared with 7,376 on June 30, 1923—a net reduction of 713 during the fiscal year.

MECHANICAL ACCOUNTING SYSTEM.

A system for keeping the collection accounts submitted by collectors of internal revenue was installed in this division in January, 1923, at a substantial saving in personnel. Under the old system it was not possible to keep the work current, and many of the accounts were not balanced for several years. Differences between the records of the collector and the records of the bureau developed, which it was impossible to correct through correspondence. Under the present system of doing the bookkeeping work by means of bookkeeping machines the account of each collector is balanced with the head office ledgers monthly, and statements of differences are mailed to each collector before the close of the month in which the account is received. The collector's records and the bureau records are, therefore, kept in agreement month by month.

MECHANICAL BOOKKEEPING SYSTEM.

A mechanical system of bookkeeping for the appropriation accounts has been installed. The system gives daily information of the balance existing in the various appropriations and each allotment made therefrom. As the allotments are made to the various units of the bureau for specific purposes the daily information of the balance existing in the allotments against which no encumbrance has been placed is very beneficial, as overdrafts against the appropriations can be prevented and in addition the administrative officer will have available information not only of the expenditures immediately necessary but can make provisions for the future contingencies.

Heretofore it has been necessary to perform a considerable amount of computation in order to arrive at the balance available as there was no accounting in the system in use that showed a daily balance. Formerly 25 employees were necessary to maintain the system of accounts then in effect. The present system requires only 8 employees.

REDUCTION OF FORCE.

On May 15, 1922, the date on which the Accounts Division of the Internal Revenue Bureau and the supervisor of collectors' offices were merged into one unit now known as the accounts and collections unit, there were 223 employees assigned to the two units at a total salary cost of \$370,410 a year. At the present time there are employed 166 employees at a total yearly cost of \$277,649.76. It will be noted, therefore, that the force has been reduced by a total of 57 employees, and a total saving accomplished in annual salary cost of \$92,760.24. This saving is due principally to the consolidation of the two units, which made possible not only a closer supervision of the work involved, but results in a more intelligent and efficient performance of the duties intrusted to the unit. As an almost equal factor in bringing about this reduction in force has been the installation of mechanical accounting and bookkeeping systems.

MISCELLANEOUS TAX UNIT.

The miscellaneous tax unit is charged with the responsibility of administering the estate tax and capital stock tax laws; the interpretation and administration of Title V, section 500, of the revenue act of 1921 covering the tax on telegraph and telephone messages; Title VI, section 602, relating to the tax on beverages and the constituent parts thereof; Title VIII, sections 800-1, regarding tax on admissions and dues; Title IX, sections 900-2-4-5, pertaining to the excise taxes, as well as to tax matters under sections 500-1-2-3-4, 628-9-30, 800-1-2; 900-1-2-3-5-6-7 of the revenue act of 1918, and similar subjects under the act of 1917; the administration of laws and regulations relating to taxes on tobacco, snuff, cigars and cigarettes; cigarette papers and tubes, oleomargarine, adulterated and renovated butter, mixed flour, filled cheese, phosphorus matches, playing cards, documentary stamps and miscellaneous special taxes.

The number of returns filed in connection with internal revenue laws other than income totaled \$3,551,087 for the fiscal year 1923. The tax yielded from these tax laws for that year \$900,297,607.38.

The miscellaneous tax unit comprises four divisions—estate, capital stock, sales, and tobacco and miscellaneous, the duties of which divisions embrace the administrative features of tax laws on which collections will approximate one billion dollars for the present fiscal year.

The sales tax unit was consolidated and made a part of this unit June 16, 1923, resulting in a vast saving to the Government, as will be shown later in the statement relating to the sales tax division.

The Tobacco and Miscellaneous Divisions were transferred and made a part of this unit on December 16, 1923, as a result of this consolidation, even at this early date, a saving in money and a more expeditious manner in handling the Government's business is indicated.

RETURNS AUDITED.

The sales tax unit received an average of 380,000 returns monthly for the months from April, 1921, to December, 1921, inclusive. For the fiscal year July 1, 1920, to June 30, 1921, the amount of the tax collected under the provisions of the revenue act of 1918 amounted to \$785,447,322.38.

The average number of sales tax returns received monthly for the fiscal year 1923 was 200,000 and the collection thereunder approximated \$302,922,837.03.

CAPITAL-STOCK TAX DIVISION.

The total revenue yielded from capital-stock returns for the fiscal year 1923 was \$89,603,322.81.

The capital-stock tax is an excise tax payable annually in advance in July and is imposed on joint-stock companies, associations, and insurance companies for the privilege of carrying on or doing business. There was no change during the year in the law or regulations governing the imposition of this tax.

Approximately 439,000 concerns file annual capital-stock tax returns. Domestic corporations are taxed on such amount of the fair value of their capital stock as in an excess of \$5,000, and foreign corporations are taxed on the amount of money employed in the transaction of business in the United States.

The additional capital-stock tax assessed and collected as a result of the audit for the fiscal year was \$7,761,988.85.

TOBACCO.

The total receipts from all tobacco taxes during the fiscal year 1923 were \$309,015,492.98.

The revenue acts of 1918, approved February 24, 1919, which greatly increased the rates of tax on tobacco, snuff, cigars, and cigarettes, imposed a floor tax on stocks in the hands of dealers at the effective date of the act equal to the difference between the tax paid by stamp and the new rates. This floor tax brought in 750,000 returns and the details on the same number of inventories. The burden of the audit of these returns and inventories and the assessment of additional floor taxes found due by such examination had been barely completed in the quarter preceding the time this statement covers.

MISCELLANEOUS.

This division is charged with the administration of internal revenue laws relative to stamp taxes on documents, which includes bonds, promissory notes, time drafts, trade acceptances, powers of attorney, passage tickets, proxies, playing cards, customhouse entries, withdrawal entries from customs bonded warehouses, and policies of insurance issued by foreign corporations upon property within the United States; stamp tax on the issues, sales, and transfers of stock and sales of products for future delivery; special taxes upon businesses and occupations and upon the use of boats; also the tax on oleomargarine, adulterated butter, and process or renovated butter; special and stamp taxes on mixed flour and filled cheese, and stamp tax on white phosphorous matches. The operations of this division include the furnishing of rules and regulations covering the enforcement of the revenue acts so far as redemption of stamps and the refunding of taxes illegally or erroneously collected.

In the miscellaneous section a personnel of 23 in March, 1921, was unable to handle more than half the returns of manufacturers of and dealers in oleomargarine which are now being handled within a period of a month by 14 employees. In the work of other stamp taxes the number of offers in compromise has increased from an average of 767 or \$8,966 in the aggregate during the quarter March, 1922 (and approximately the same in earlier quarters), to more than 21,000 aggregating \$134,007.95 during the last quarter of 1923. This increase was due

to the insistence of a more strict enforcement of the penalty sections of the law relating to documentary stamp taxes and miscellaneous special taxes. Claims on hand undisposed of which amounted to more than 6,000 have become current with a reduced personnel. Documentary stamp tax work which was practically always in arrears is now current and, in addition, the same small force has handled 9,640 field reports which formerly it had not been their duty to do.

ESTATE TAX DIVISION.

The Federal estate tax is imposed upon the transfer of the net estate occurring because of the death of a person. The basis of the tax is the value at the time of death of all property belonging to the gross estate less a specific exemption of \$50,000 in the case of an estate of a resident of the United States, and certain other allowable deductions. In nonresident estates, only that part of the estate is taxed which at the time of death was situated in the United States, and the specific exemption of \$50,000 is not allowed.

The laws and regulations pertaining to the taxation of decedent's estates are defined in Regulations 63 (1922) edition. The most important part of the work of this division is of a legal nature, requiring consideration of nearly every branch of substantive law, knowledge of the State statutes, and at times the study of laws of foreign natures, especially those applicable to the administration of estates and the descent and distribution of property. Examiners and agents not only must qualify under a civil-service examination, but must take a course of study and instruction and pass a subsequent examination on the laws and the regulations governing the Federal estate tax before being assigned to duty.

The number of estate tax returns filed in 1923 was 14,272, showing a tax liability of \$82,266,951.88, compared with 13,192 returns filed in 1922, showing a tax liability of \$114,614,189.56. The increase in the number of returns filed reflects, in part, the result of a delinquent canvass.

The following comparative statements indicate conditions in the state tax division as they existed at the beginning of the present administration, as they were at the termination of each intervening fiscal year since that time, and as they are to-day. In setting forth these facts it has been decided best for the purpose of a clear understanding of what has been actually accomplished to present this data under four headings, namely: Audit operations; Tax resulting from audit operations; Claims operations; Field investigational work.

Audit operations.

| Fiscal year. | 1921 | 1922 | 1923 | To Mar. 1, 1924. |
|--|-------|--------|--------|------------------|
| Cases audited..... | 7,269 | 10,202 | 21,771 | 11,384 |
| Average cases audited per month..... | 606 | 850 | 1,814 | 1,423 |
| Total bureau employees engaged..... | 100 | 139 | 126 | 124 |
| Audit examiners engaged..... | 24 | 42 | 36 | 31 |
| Cases on hand at end of fiscal year..... | 2,080 | 3,760 | 2,100 | 1,122 |

The audit is current with but 1,112 cases to be disposed of. The latter number of cases in this entirety could be handled by the present examining force in less than three weeks' time.

Taxes assessed.

Taxes yielded as result of audit:

| | |
|-----------------------|----------------|
| 1921..... | 116,347,959.16 |
| 1922..... | 128,259,787.85 |
| 1923..... | 145,031,381.83 |
| To March 1, 1924..... | 91,198,003.96 |

On the basis of the yield in taxes for 1924 to date, i. e., \$91,198,003.96, it is estimated that there will have been assessed \$120,000,000 by the end of this fiscal year. This apparent dropping of assessed taxes below the amounts shown for last year is accounted for by the existence in fact of successful activities of estates in resisting taxation under the Federal estate tax law, thereby resulting in increased difficulties of holding transfers taxable when made in contemplation of death; and of limitations to the application of rather broad principles of administration of the law in the past through court decisions and changes in the law itself by legislative enactments.

Claims.

| | Fiscal year— | | | |
|--|-----------------|-----------------|-----------------|------------------|
| | 1921 | 1922 | 1923 | To Mar. 1, 1924. |
| Amounts claimed for abatement and refund..... | \$14,415,099.94 | \$14,657,335.39 | \$59,490,200.26 | \$35,591,309.15 |
| Amounts rejected..... | 10,052,959.39 | 11,342,090.66 | 25,526,837.27 | 25,579,709.12 |
| Amounts allowed..... | 4,362,140.55 | 3,315,244.73 | 33,063,362.99 | 10,011,599.97 |
| Total claims adjusted..... | 1,867 | 1,910 | 3,560 | 2,694 |
| Average adjusted per month..... | 156 | 159 | 297 | 337 |
| Claims examiners engaged..... | 6 | 7 | 8 | 9 |
| Average claims adjusted per examiner per year..... | 303 | 273 | 445 | 440 |
| Claims on hand at end of fiscal year..... | 563 | 604 | 1,059 | 831 |

In 1923 and 1924 an exceedingly heavy influx of claims has been noted, the greater proportion of which are concerned with protests as to the taxability of transfers made in contemplation of or to take effect at or after death; the taxation of jointly owned property; the allowance of deductions on account of property previously taxed within five years; the taxation of only one-half of the community property of a deceased husband in California estates of this character. The reason for such aggressiveness on the part of estates has been obviously due, first to certain court decisions adverse to the position that the bureau had assumed from the inception of the Federal estate tax law; second, to a legislative enactment giving a retroactive effect in behalf of certain deductions to be taken from gross estate; third, a departmental regulation qualifying a prior regulation interpreting the meaning of a statutory provision of the law.

I. Under the first classification the decisions of the United States Supreme Court in the cases of *Schwab v. Doyle* (42 Sup. Ct. Rep. 391) and *Union Trust Co. v. Wardell* (42 Sup. Ct. Rep. 393) have been alleged to be fatal to the Government's contentions in all transfers in contemplation of or to take effect at or after death, if made prior to the effective date of the revenue act of 1916, provided that the decedent died before the effective date of the 1918 act. Likewise, under this same classification the Supreme Court decision in *Knox v. McElligott* has been held by numerous estates a precedent binding the bureau to eliminate from taxation such portions of the jointly owned property of the decedent as did not actually belong to him on the date of death, although it might have originally been entirely his by purchase, inheritance, gift, etc., provided the decedent died prior to the date of the 1918 act. Also the Supreme Court decision in *Blum v. Wardell* (42 Sup. Ct. Rep. 271) in opposition to the bureau's practice to hold as taxable the entire interest in California community property in the husband's possession and control at the time of his death has been the cause of the filing of numerous claims from California estates.

II. With respect to the second classification, the enactment by Congress of the provisions in section 403(a) (2) of the revenue act of 1921 to the effect that the benefit of deductions for previously taxed property shall be made available to the estates of all decedents dying since 1916 furnished a new resort for refund claimants, inasmuch as the prior act had limited the deduction to estates where the decedent died after October 3, 1917.

III. The third classification mentioned relates to the change in article 21 of regulations 63, whereby it becomes incumbent upon the Government to in fact prove that the decedent did not intend to revoke a trust made by him, although the power of revocation was specifically reserved to him. This amendment to the regulations, moreover, appears to be sustained by the decision of the New York Court of Appeals in passing upon the Carnegie pension trusts. In this connection reference is made to Sol. Op. dated June 1, 1923, bearing the symbols Sol. 1-1-15-1-40. On account of this particular amendment the difficulties of the division in the matter of holding transfers taxable have been further enhanced and many claims have resulted on account thereof.

Strictly because of the *Schwab v. Doyle* and the *Union Trust Co. v. Wardell* decisions of the Supreme Court alone it was found necessary during the year 1923 to allow in the adjustment of abatements and refunds the sum of \$16,828,099.45, or about 11½ per cent of the tax assessed. Mainly on account of the retroactive effect given by the legislative enactment above referred to, it became essential to allow \$648,447.51 in adjusting claims for property previously

taxed. The comparative statements of performance above given will confirm the belief that claims are being disposed of with all possible dispatch and that there has been an improvement in the section's efficiency since the years 1921 and 1922.

Field.

| | Fiscal years-- | | | To Mar. 1, 1924. |
|---|----------------|--------|--------|------------------|
| | 1921 | 1922 | 1923 | |
| Returns filed..... | 11,833 | 13,192 | 14,272 | 9,404 |
| Reports completed..... | 12,808 | 16,116 | 23,847 | 11,289 |
| Average reports completed per month..... | 1,067 | 1,343 | 1,987 | 1,411 |
| Field agents engaged..... | 271 | 328 | 295 | 297 |
| Average report per agent per year..... | 47.3 | 49.4 | 78.3 | 57.0 |
| Cases on hand at end of fiscal year awaiting investigation..... | 10,269 | 9,927 | 9,874 | 8,163 |

It will be noted that there are about 2,100 less cases awaiting investigation at this time than was the condition on June 30, 1921.

Costs of operation.

| | Fiscal year-- | | | To Mar. 1, 1924. |
|------------------------------------|---------------|--------------|--------------|------------------|
| | 1921 | 1922 | 1923 | |
| Office salaries..... | \$372,460.00 | \$245,290.00 | \$282,983.17 | \$163,610.91 |
| Average per employee per year..... | 2,724.60 | 1,764.60 | 2,245.18 | 2,056.45 |
| Cost per case audited..... | 37.00 | 24.00 | 13.00 | 14.00 |
| Field salaries..... | 666,127.27 | 810,632.25 | 852,995.35 | 1,406,793.76 |
| Average per employee per year..... | 2,458.03 | 2,486.60 | 2,891.51 | 2,739.35 |
| Cost per report completed..... | 52.00 | 50.30 | 35.76 | 48.05 |

¹ To Dec. 31, 1923, only.

A study of expenditures for a given year as shown by the commissioner's report shows very clearly that for bureau operations, salaries are about 90 per cent, and all other expenditures 10 per cent of the costs of operation.

As to the field, it appears that salaries represent 85 per cent and all other expenditures about 15 per cent of costs.

INCOME TAX UNIT—GENERAL FUNCTIONS.

The Income Tax Unit is the agency of the Bureau of Internal Revenue for administering the income and profits tax laws. Its duties are—

- (a) To prepare regulations for the administration of laws relating to taxes on income and profits;
- (b) To conduct correspondence relating to the subject matter of income and profits taxes;
- (c) To receive from collectors of internal revenue all returns covering taxes on income and profits;
- (d) To audit and verify returns and consider and dispose of reports relating to returns or questions appertaining thereto;
- (e) To assess all original and additional income and profits taxes;
- (f) To assemble and audit certificates of ownership;
- (g) To review and dispose of claims for abatement and refund of income and profits taxes;
- (h) To compile statistics relating to income and profits taxes; and
- (i) To control and operate all field forces verifying income and profits tax returns.

The audit work consists of handling all income and excess-profits tax returns of corporations, partnerships, fiduciaries, and individual income-tax returns wherein the income is in excess of \$5,000, filed under three separate and distinct revenue acts. All returns filed for the year 1917 were audited and handled by the Income Tax Unit's forces, both in Washington and in the field. For all years

subsequent to the year 1917 all individual income tax returns with an income of less than \$5,000 were audited in the offices of the collectors of internal revenue.

CONDITION OF WORK, 1921.

The status of the audit of returns by years in April, 1921, was as follows:

Number and per cent of returns to be audited (excluding claims and field reports pending).

| Year. | Personal. | | Corporation. | | Consolidated. | | Total. | |
|-----------|-----------|-----------|--------------|-----------|---------------|-----------|-----------|-----------|
| | Number | Per cent. | Number | Per cent. | Number. | Per cent. | Number. | Per cent. |
| 1917..... | 15,151 | 1.5 | 41,794 | 12 | 8,249 | 65 | 65,194 | 5 |
| 1918..... | 233,938 | 25 | 60,760 | 16 | 10,573 | 83 | 305,271 | 24 |
| 1919..... | 849,143 | 93 | 294,709 | 90 | 12,500 | 100 | 1,156,352 | 93 |
| 1920..... | 922,000 | 100 | 325,000 | 100 | 12,500 | 100 | 1,259,000 | 100 |

In addition to these returns on hand in the offices at Washington, there were in the field divisions 316,000 transcripts of returns for 1917 and 1918 awaiting investigation. By a transcript is meant the return of a taxpayer for one year. A transcript for one year, however, was usually made the basis of an investigation for both 1917 and 1918 and in some cases subsequent years. The total number of returns involved, therefore, was very much in excess of 316,000. There were also 163,000 claims in abatement, credit or for refund awaiting adjudication. Estimating and dividing these cases between 1917 and 1918 the above figures would be changed to the following:

Number and per cent of all cases pending April, 1921.

| Year. | Personal. | | Corporation. | | Consolidated. | | Total. | |
|-----------|-----------|-----------|--------------|-----------|---------------|-----------|-----------|-----------|
| | Number. | Per cent. | Number. | Per cent. | Number. | Per cent. | Number. | Per cent. |
| 1917..... | 149,151 | 15 | 15,794 | 42 | 10,249 | 62 | 311,194 | 25 |
| 1918..... | 352,938 | 38 | 170,760 | 50 | 11,573 | 92 | 635,271 | 50 |
| 1919..... | 851,143 | 92 | 295,709 | 91 | 12,500 | 100 | 1,159,352 | 92 |
| 1920..... | 922,000 | 100 | 325,000 | 100 | 12,500 | 100 | 1,259,500 | 100 |

For present status of audit see table on page --.

The above table indicates approximately 25 per cent of the 1917 and 50 per cent of the 1918 returns as pending in April, 1921. These percentages, however, are arrived at on the basis of the number of returns and do not take into consideration the difficulty of the audits involved. It may be safely asserted that the 1917 and 1918 cases still pending were the largest and most difficult, and on the basis of the degree of difficulty the percentage of work yet to be completed would be at least 40 per cent of the total work involved in the audit of 1917 returns and 75 per cent of that involved in the audit of 1918 returns. The cases closed prior to that date for the most part represented returns showing no additional tax liability or unquestionable adjustments. Consolidated returns and returns involving natural-resource features were practically untouched. The larger cases closed had been closed on the basis of superficial audits without adequate opportunity for the taxpayer to contest the additional assessments, with the result that these cases were almost immediately reopened by the filing of claims. It will be interesting to note in this connection that while more than \$600,000,000 of additional taxes had been assessed up to that time, almost an equal amount was outstanding in claims in abatement numbered in the 163,000 claims on hand.

The lack of progress to April, 1921, may be attributed to the following factors:

(1) *Personnel.*—When the war-tax acts were enacted there was no veteran organization waiting to attack the tremendous task of applying the provisions

of a new and complicated law to the millions of returns which were going to be filed. It was necessary to build up from a negligible beginning a staff of accountants and engineers and train them in the intricacies of a new law little understood by any one. There was not available a supply of tax accountants from which to draw, and employees not only had to be found and hired, but they had to be taught before returns could be audited; instruction had to be given in a subject in which there were few, if any, teachers, and no textbooks.

In the spring of 1918 the Government called 80 men of the highest technical training available (including accountants, economists, and engineers) to plan an organization and provide ways and means of administering this new and complicated act. The technical organization, which began on the basis of these 80 men and the small untrained organization of the bureau at that time, did not reach its present strength until 1921.

It must not be thought, however, that the 5,000-odd accountants and engineers making up the total in 1921 were the same individuals who were hired and trained in 1918, 1920, and early in 1921. During the fiscal year ended June 30, 1921, more than 1,200 technical employees left the service. This number may not seem large, but it must be remembered that those who did leave were the most capable, ambitious, and desirable in the organization.

The task of recruiting and training a technical force of the required size was one of tremendous difficulty, but that problem shrinks into insignificance compared to the problem of retaining these trained employees against the inducements of private employment. The principal obstacles to maintaining a trained personnel are the inadequacy and infrequency of promotions in salary. It has not been possible to increase the salaries of deserving employees as fast as their services increased in value. The effect of this most expensive species of so-called economy is twofold—the Income Tax Unit is prevented from attracting the most desirable type of persons into its service and such of this class as have been induced to accept employment are driven out.

(2) *Housing*.—The Income Tax Unit has been confronted each year with the problem of providing space for a constantly expanding personnel and an additional receipt of 1,225,000 returns. The space allotted was in each instance almost totally unadapted for the proper functioning of the work of this organization. The result has been the scattering of the force of the Income Tax Unit into six buildings in various parts of the city. This has in turn resulted in millions of unnecessary movements of returns between buildings and has severely interfered with the welding of a compact organization.

(3) *Technical difficulties*.—The unit encountered from the start many difficulties in the administration of the tax laws, some of which difficulties may be described as follows:

The excess profits tax laws introduced had as a factor in measuring the tax liability, invested capital—an element which heretofore business had not considered in the determination of its condition. In theory this factor looks simple, but in practice it has proved to be complex. The business development in the United States during the past half century has been unparalleled in history. Business is no longer conducted in small units under individual ownership, but is carried on in large and constantly growing units, and there are thousands of corporations which in size have now far outgrown anything that was formerly deemed possible. Many of them have grown from small beginnings and have been conservatively managed, writing off items against current earnings, which, under management less conservative, would have been added to the property account and thus have swollen the surplus. Other companies have been organized and conducted on the opposite theory, developing large surpluses through the addition to property accounts of items which should have been written off. With a few exceptions among important businesses, the determination of true invested capital calls for extended examination and is subject to many adjustments. Even after such an examination, there is no certainty of resulting accuracy and the difficulties to be found in the determination of invested capital are almost unsurmountable.

One of the most complex factors with which the bureau had to deal was that relating to corporations whose interests were closely allied—or, in other words, the determination of invested capital of a consolidated group. The law of October 3, 1917, did not specifically provide for the affiliation of corporations and the bureau, realizing the inequity and injustice of imposing a tax on each corporation independently when such corporations were controlled and operated as one economic business unit, and relying on the general provisions of section 201, regulations were promulgated which permitted and required the filing of consolidated returns.

Another factor was the determination of the investment wherein there had been one or more reorganizations through which property values were readjusted. This factor presented further difficulties when such reorganizations did not involve a material change in the beneficial interests in which case the real property values were frequently ignored to the extent that they became indeterminate.

Difficulty is found in the administration of the provisions of the revenue acts which allow a deduction for the depletion of minerals and other natural resources. This also has the appearance of justice and comparative simplicity. What is actually involved, however, is the valuation as of March 1, 1913, or other basic date, of all the natural resources of the country which are under operation for profit. Most of this property is under the ground and hidden from sight. It must be brought to the surface at varying and uncertain dates in the future, at varying and uncertain costs, and sold on the basis of the market as it exists from time to time in the future. The quantity of this property can in but few cases be measured. It can only be approximated, and its value, based upon uncertain factors, must be reduced to a present sum which in theory will be paid by a willing purchaser to a willing seller. This accomplishment has been most remarkable from any point of view, when it is considered that practically all of the natural resources of the country have been valued on a scientific engineering basis in the short space of five years. This is all the more remarkable when it is considered that the valuation of railroad properties has been in process for years and such valuations do not present even in a small way the problems involved in the valuation of natural resources.

The problems applying to depletion which have just been partially outlined apply to a degree to the allowance of a deduction for depreciation. Property acquired prior to March 1, 1913, is depreciable upon the basis of its value at that date and not upon cost, and thus the uncertainties attaching to a valuation at a past date are encountered in connection with a large amount of property.

The allowance of a deduction for amortization of war facilities involves such questions as the determination of what is to be classed as a war facility, and in the case of property undisposed of, its value to the taxpayer under the terms of the act. Where property has been sold or demolished, the determination of the allowance is relatively simple, but in many cases the property has not been disposed of and remains in the hands of the taxpayer and to some extent will be useful in his business. The amortization problem is unique, and the aggregate of the amounts involved makes it a problem of the first magnitude.

(4) *Court decisions affecting audits.*—A further delay in the auditing of income-tax returns has been occasioned through decisions by the court in cases where litigation has been instituted as a result of previous audits. In the majority of these cases it has been the cause of the reopening and reauditing of cases previously closed. A few of the decisions entering in this class are, notably:

(a) *Eisner, Collector, v. Macomber*, 252 U. S. 527, T. D. 3010, holding that stock dividends were not available.

(b) *Goodrich v. Edwards, Collector*, 255 U. S. 527, T. D. 3174, changing the regulations with respect to the basis for determining the gain or loss with respect to sales or transfers of property.

(c) *United States v. Woodward et al.*, 256 U. S. 632, T. D. 3195, allowing the deduction of the Federal estate tax from income.

(d) The opinion of the Attorney General, dated March 3, 1921, T. D. 3138, with respect to community property interests, permitting the filing of separate returns by both husband and wife.

A complete list of court decisions affecting the audit has been prepared and is transmitted separate from this report.

(5) *Audit policy.*—The policy adopted at the inception of this work called for an intensive audit of all cases in the office where possible and in the field where examinations of taxpayers' books were deemed necessary. By this policy an attempt was made in thousands of cases to complete the audit of a return by correspondence. Taxpayers were thus subjected to numerous inquiries for information which was often difficult or impossible to obtain from such records as they had at that time.

Due to slow progress obtained under this policy, and the pressure for additional revenues, a change was proposed early in 1919, and made effective the latter part of that year of making a superficial audit of all returns, particularly the larger returns, disallowing for the most part all deductions for depletion, amortization, etc., and assessing the resulting additional tax. It was thus hoped to immediately bring into the Treasury the large bulk of additional revenues due

as a result of taxpayers filing returns containing apparent gross errors in the excess-profits tax returns, which errors were caused by their unfamiliarity with the provisions of this new law. These errors were principally the adding to capital account of unexplained additions and the failure to deduct from capital items which could not legally be included in capital. Through this plan it was thought that the few controversies arising as a result of this action could be disposed of at a later period in the adjudication of claims in abatement. By this superficial audit, a large portion of the returns for 1917 and 1918 were temporarily closed between the latter part of 1919 and the early part of 1921. The immediate effect of this policy, however, was not the payment of large amounts of additional tax into the Treasury but the receipt of an avalanche of claims in abatement of taxes assessed, accompanied by protests on the part of taxpayers. Thousands of cases closed by this audit were later sent to the field, with the net result that practically all cases for 1917 and 1918 involving additional taxes in any large amount were subsequently reopened.

(6) *Correspondence audit.*—Through correspondence conducted by the unit with taxpayers and the result of placing assessments against taxpayers by arbitrary disallowances of unexplained items of income and invested capital, taxpayers of the country became aware of the inadequacy of their records. The taxpayer, like the bureau, was totally unprepared to cope with this new condition. They, being unfamiliar with the provisions of the new laws, failed in many instances to properly explain items of income and invested capital and the bureau, without these explanations, was handicapped in properly auditing the returns.

PROGRESS SINCE 1921, AND PRESENT CONDITION OF WORK.

Since April, 1921, the Income Tax Unit has practically completed the audit of all the different 1917 and 1918 returns. For the most part those cases remaining represent claims filed by taxpayers in cases previously audited or cases in which at the instance of the taxpayer the final settlement has been delayed.

This progress has been accomplished in the face of protests and appeals on every possible contestable point by the taxpayer now reasonably familiar with all the intricate provisions of the revenue acts.

The number of transcripts awaiting investigation in the field has been reduced from 316,000 to 31,300, and the number of claims on hand from 163,000 to 68,769. This decrease has been accomplished in the face of the submission of 385,955 transcripts to the field and the receipt of 315,651 claims.

The figures of cases, by years, received by the Income Tax Unit outstanding as at December 31, 1923, including claims and field transcripts, are as follows:

Number and per cent of returns to be audited.

| Year. | Personal. | | Corporation. | | Consolidated. | | Total. | |
|-----------|-----------|-----------|--------------|-----------|---------------|-----------|-----------|-----------|
| | Number. | Per cent. | Number. | Per cent. | Number. | Per cent. | Number. | Per cent. |
| 1917..... | 5,421 | 5 | 7,691 | 2 | 449 | 6 | 13,611 | 1 |
| 1918..... | 17,171 | 2 | 22,897 | 5 | 2,962 | 24 | 43,030 | 4 |
| 1919..... | 23,539 | 3 | 53,553 | 25 | 4,536 | 36 | 81,678 | 7 |
| 1920..... | 54,541 | 6 | 105,960 | 32 | 7,890 | 65 | 168,391 | 15 |
| 1921..... | 256,000 | 29 | 270,418 | 77 | 12,000 | 100 | 538,418 | 43 |
| 1922..... | 890,000 | 100 | 355,000 | 100 | 12,000 | 100 | 1,257,000 | 100 |

The following table of cases audited and pending in the bureau, including the returns audited in the collectors' offices, was compiled as at March 1, 1924.

Status of audit, 1917 to 1922, inclusive.

| Year. | Returns filed. | Audited and closed. | | Pending account. | | Appeals and protests in audit. | |
|-----------|----------------|---------------------|--------------------------|------------------|--------------------------|--------------------------------|--------------------------|
| | | Number. | Per cent of total filed. | Number. | Per cent of total filed. | Number. | Per cent of total filed. |
| 1917..... | 3,824,316 | 3,815,181 | 99.76 | 8,553 | 0.22 | 582 | 0.02 |
| 1918..... | 4,742,693 | 4,723,626 | 99.60 | 16,551 | .35 | 2,516 | .05 |
| 1919..... | 5,652,958 | 5,589,961 | 98.88 | 13,006 | .23 | 50,091 | .89 |
| 1920..... | 7,605,539 | 7,438,924 | 97.80 | 13,820 | .18 | 163,425 | 2.02 |
| 1921..... | 8,716,072 | 8,407,418 | 96.46 | 5,514 | .06 | 303,140 | 3.48 |
| 1922..... | 7,576,927 | 6,537,170 | 86.29 | ----- | ----- | 1,038,757 | 13.71 |

This table indicates gratifying progress in the audit of the returns filed for all years from 1917 to 1921, inclusive, particularly in connection with the audit of the 1917 and 1918 returns. This table also shows the inception of the audit by the Income Tax Unit of the 1922 returns, filed in 1923.

IMPROVEMENTS IN ORGANIZATION AND PROCEDURE.

To correct the situation created by the superficial audit policy, legislation was recommended and enacted in the revenue act of 1921 (section 250D), providing reasonable opportunity for taxpayers to protest and appeal before assessments were made by the unit. An exception to this policy was necessary in some 36,000 cases for the year 1917, where the collection of the tax appeared to be in jeopardy because of the possibility of the tolling of the five-year statute of limitations with respect to that year. For the year 1918 it has been necessary to make 3,000 such assessments. These, however, have been made only after intensive audit, and are not arbitrary assessments.

Previous to 1921 it had not been the policy of the Income Tax Unit to inform taxpayers that an audit of their returns had developed an overpayment of taxes; in this situation it was necessary for the taxpayer to file a claim for refund before any action could be taken on any overpayment.

Provisions were made in 1921 to issue a certificate of overassessment in the taxpayer's favor if the audit developed an overpayment within the statutory period, without the necessity of the taxpayer filing a formal claim. The certificate is prepared as a part of the audit and after proper verification sent to the taxpayer through the office of the collector in whose district the taxpayer is located in the form of a warrant for refund or a certificate to be used as a credit against taxes due at a future date.

Criticism has developed from the fact that more than one audit or investigation was made of a taxpayer's return. To eliminate this apparent duplication of work and annoyance to the taxpayer the Income Tax Unit has adopted and followed the policy of making one final intensive audit of all returns, which will not be reopened unless specific evidence of gross error or fraud develops.

To eliminate unnecessary reviewing and recording and to place the responsibility for producing results of standard quantity and quality on the official directly in charge of the work, the review division of the unit, which formerly reviewed all cases, was abolished. Separate review sections were created under the supervision of the head of each audit division, who is now responsible for the audit and review of cases handled in his division.

The practice of conducting audits by correspondence is rapidly being eliminated. The policy of the unit in this respect is to refer cases to the field force for investigation where it is necessary to secure further information from the taxpayer. The information necessary can be secured more readily and more accurately by a field agent with less annoyance and expense to the taxpayer.

It was found that the final settlement of cases was often delayed by frequent and unnecessary conferences. Conference units have been organized in each division of the unit under the immediate supervision of the heads of division. Conferences must now be arranged at reasonable time in advance, and all the points at issue completely outlined, so that the discussions may be confined to the issues involved and a settlement reached in one conference if possible.

The Treasury Department, under date of June 16, 1923, issued Treasury Decision 3492, applying to cases wherein an appeal had been taken from the action of the Income Tax Unit. Under this decision a taxpayer must present all issues upon which he relies in protest of the adjustment made by the unit. This procedure has been the means of preventing the reopening of hundreds of cases.

For the purpose of eliminating the unnecessary handling and recording, on an average of twelve times annually, approximately 900,000 returns, and to increase production, audit sections have been created to examine returns in the files and immediately on receipt from the collector. This examination or survey divides all returns into four classes. First, returns readily indicating a proper amount of tax paid, such as individual returns showing income from salary only; second, returns in which arithmetical or obvious errors have been made, capable of immediate adjustment without protest from the taxpayer; third, returns which will require an intensive office audit but may be so completed without correspondence; fourth, returns which require a field investigation. Approximately 1,800,000 returns can then be examined annually and approximately 75 per cent of them disposed of immediately without unnecessary transfer and distribution to the various audit sections.

In addition to the aforementioned files audit, for the purpose of further eliminating the continual transfer of cases, the handling of the same case in several sections or divisions, and to insure closer supervision and better coordination of the work, a reorganization of the Income Tax Unit was recently effected. Three special sections, the special assignment, amortization, and inventory sections, were abolished and their work transferred to the regular audit sections in which the case originally came up for audit. The special audit division was abolished, and the consolidated returns subdivision was made a division. The former natural resources division was abolished, and its functions divided between an engineering division and an audit division. Under this later change the function of the engineer stops with the valuation of property. The determination of tax liability devolves upon the auditors. This has eliminated criticism on the part of taxpayers that valuations were being made with the resulting tax liability in view. It has also materially accelerated production. The special adjustment and special assessment sections were transferred to the office of the deputy commissioner, to insure closer supervision.

The work in the special adjustment section is now confined to auditing cases involving fraud in which the solicitor's office recommends the assessment of the penalty, while those cases not involving the question of penalty are returned to the regular audit sections for audit.

The special assessment section handles all cases wherein taxpayers have claimed relief under the provisions of section 210, revenue act of 1917, and sections 327 and 328, revenue acts of 1918 and 1921. The old policy of this section was to make a complete audit of each case wherein a claim for relief had been filed; that is, to make a determination of the taxpayer's true net income and also to determine whether or not it was entitled to any relief with respect to its excess profits tax. During the latter part of 1922 and the year 1923 it was found that the number of claims for relief under these sections were increasing month by month and an examination disclosed the fact that in a vast number of cases these claims were filed merely as a means of obtaining further delay in the audit of the taxpayer's case, wherein an additional tax was disclosed. The law provided that these provisions should apply to those cases wherein invested capital could not be definitely determined or wherein through some abnormal condition, either in capital or income, the tax as computed under the regular provisions of the act was high as compared to representative corporations similarly circumstanced as to capital and income, without such abnormal condition. The special assessment section now only determines the rate of profits tax applicable to the particular case wherein relief is allowable. Where relief is denied, the case is returned to the proper section for the computation of the tax under the regular provisions of the act. This change has resulted in materially reducing the number of requests for relief under these provisions of the act.

The administration division was abolished and its functions divided between a records division and a service division. In the interest of bringing the field force into closer relation with the office organization of the unit, the field division was abolished as such and the various field divisions placed in the same relative position as the office divisions.

Under field order 100, internal revenue agents in charge of field divisions of the income tax unit were instructed to furnish the taxpayer with a copy of the agent's report and allow him 20 days in which to present any protest, brief, letter, or other evidence, written or verbal, he so desired before the report was forwarded to Washington. The taxpayer was thus afforded the opportunity of appearing in his local agent's office.

An experiment is now being conducted in eight of the field divisions wherein the taxpayer is requested to file protests or appeals in all cases with the local agent in charge. Cases arising in the Washington office, excepting consolidated returns and returns involving natural resource features, fraud, or applications for special relief, indicating a change in tax liability will be transferred to the field and the taxpayer will be afforded the opportunity of having a conference in the office of the internal revenue agent in charge. If the taxpayer files his protest or appeal in Washington and makes statements at variance with the facts presented by the revenue agent, the protest or appeal will be forwarded to the field agent for examination. If this experiment proves successful it will be extended to all field divisions so that in every case where a change in tax liability is disclosed the taxpayer may present his case in his local agent's office. It is thereby hoped for the most part to eliminate the necessity of the taxpayer being put to the expense of appearing in Washington. It will also make the field division an agency for determining the facts and tend to eliminate variance between the statements

of taxpayers and the reports of internal revenue agents. Through this procedure, it is also hoped to adjust most cases with the taxpayer before the report is submitted to Washington for review. The review in Washington is not to be an intensive audit, but one as to facts submitted and law features peculiar to each case, thus insuring uniformity in administering the provisions of the several revenue acts.

REQUIREMENTS FOR PRACTICE BEFORE THE BUREAU.

The Treasury Department has made determined efforts to raise the standard of qualifications necessary for admission to practice before it. The act of July 7, 1884, provides that applications for enrollment to practice before the department must "show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render * * * claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases." With the purpose in view of permitting only qualified persons to practice before the department and to prevent corruption and dishonest practices in handling tax cases, a committee on enrollment and disbarment was created and strict regulations adopted to carry this purpose into effect. From time to time these regulations have been amended, as experience has proved a necessity for so doing.

Under the present practice the name of each applicant for permission to practice before the Treasury Department is sent to the head of other units in the Bureau of Internal Revenue with request for the submission of any information concerning the applicant in the possession of the respective units. A duplicate application is sent to the revenue agent in charge of the division in which the applicant is located. The agent in charge is required to make a careful investigation into the applicant's eligibility for enrollment; is required to scrutinize the applicant's qualifications; make inquiry as to his reputation in the community and concerning the applicant's method of securing business; particularly whether the applicant solicits in violation of the regulations contained in the department's circular No. 230. The agent in charge is required to make a specific recommendation in each case and to append to his report a statement from the collector of internal revenue containing his recommendation as to the applicant's enrollment. In the event that an unfavorable recommendation is submitted, the case is presented to the committee on enrollment and disbarment for attention. All supervisory field officers and through them all field employees of the Bureau of Internal Revenue are instructed to watch carefully for improper practices of agents and attorneys already enrolled and to report immediately infractions of regulations by such enrolled agents coming to their notice. Where information is received warranting such action, the attorney for the committee on enrollment and disbarment prepares a disbarment complaint requiring the applicant to show cause why he should not be disbarred from practicing. The committee has been very active in the enforcement of the enrollment regulations and at the present time more than 200 names are on the list of those that have been disbarred, rejected, or suspended from practice.

Much criticism has been made of the bureau because of the practice before the department of former employees who have, it is claimed, gained valuable experience while in the Government employ and thereafter used the knowledge thus acquired when appearing for clients on tax matters. Most of this criticism is unjustified because there is nothing in the law or regulations to prevent a former employee from practicing before the department merely because he has been connected with the Government service. Experience has shown that persons familiar with the law and procedure who represent taxpayers are in many instances helpful to the Government in making proper disposition of cases. However, some of the complaint is well taken because, in rare instances men in the Government service have gained definite knowledge with reference to a particular case and have resigned with the idea in mind of assisting the taxpayer in the presentation of this same case before the bureau. Where such facts have been revealed the former employee has been disbarred from practice, and prosecuted where the facts warranted it. I have no doubt that instances of this nature have occurred where the individual formerly employed by the Government made no appearance in person in the prosecution of the case before the department, but presented the case through others. Every effort has been made to prevent occurrences of this character but under the present law it can not be entirely eliminated. The department can not prevent employees from resigning and unless the former em-

ployee makes application to practice and to appear in a particular case the Government has no effective means of reaching him. Taxpayers are usually unwilling to disclose to the Government officials advances made to them by former employees of the bureau, because of the fear that their cases might in some way be prejudiced.

Under present conditions I believe the department has done exceedingly well in creating high standards of character and conduct which must be conformed to by those enrolled to practice. As has been pointed out, however, the Government is almost powerless and can exercise practically no control over those who are not enrolled to practice. I believe that much of the trouble is caused by this class of individuals.

COMMISSIONER AND MISCELLANEOUS UNIT.

The commissioner and miscellaneous unit comprises the immediate office of the commissioner, the solicitor's office, special intelligence unit, the committee on appeals and review, and the appointment division.

SPECIAL INTELLIGENCE UNIT.

It is unreasonable to assume in a service composed of over 20,000 employees there would not be some instances of fraud, collusion, or other illegal practices, in spite of the most careful selection of personnel. It is unreasonable to expect that there would not be some instances of employees committing acts which would unfit them for governmental duty. It has been the desire of the Internal Revenue Bureau to take every step possible to employ and keep in its employ, only such employees as will reflect credit upon it. For the purpose of discovering and investigating illegal practices, a special intelligence unit was organized for the purpose of making special investigations under the immediate direction of the commissioner.

It is necessary to the proper administration of the Internal Revenue Service for the commissioner to have under his personal supervision an organization such as this, made up of officers of the highest integrity and specially trained in the investigation of violations of law. The first appointees to this unit were men of long training and experience as post-office inspectors, and subsequent appointments have been made only after a civil-service examination and a thorough investigation into the candidate's qualifications.

There are assigned to these officers for investigation instances of fraud and evasion of the payment of taxes imposed by the various revenue acts, and charges of a serious or criminal nature against officers and employees of the Internal Revenue Service. In the investigation of charges against employees in the service the commissioner depends upon the special intelligence agents to obtain and report for his consideration the actual facts. Since the organization of this unit, July 1, 1919, approximately 1,400 administrative cases, involving charges of practically every kind, against officers and employees of the services have been investigated. These cases include the submission of fraudulent income tax returns, conspiracy on the part of Government employees and others to defraud the United States and violate Federal laws, false representation of persons claiming connection with the Bureau of Internal Revenue, embezzlement of Government funds, and solicitation and acceptance of bribes by officers and employees.

The following is a typical case showing the character and value of the work performed by the special intelligence unit:

One Garnett Underwood, who was in no way connected with any of the Government departments in Washington, offered to turn over to the representative of Mr. Herbert R. Spencer, of Duluth, Minn., the 1917 income tax return of Mr. Spencer, the returns of three of Mr. Spencer's associates, and all of the correspondence on file in the Income Tax Unit referring to the four returns. There were pending against Mr. Spencer and his three associates additional assessments of upwards of \$1,000,000 in tax for the year 1917. Underwood said, and it later proved to be a fact, that he was acting in conjunction with Earl C. Rickmeier, the auditor in the Income Tax Unit who was handling these cases, and represented that when the returns and correspondence were turned over to the taxpayers there would be no evidence left in the Bureau to show additional taxes due them. For his services Underwood asked that he be paid \$160,000 in cash, which money he proposed to divide with his associate in the Income Tax Unit, Mr. Rickmeier. Negotiations in this case were continued with the result that Underwood did get three of the 1917 returns out of correspondence that referred to these returns. He handed them all to a special intelligence agent who was

posing as the representative of these four taxpayers, and was therefore arrested. Rickmeier and Underwood were indicted and on January 18, 1924, entered pleas of guilty to the indictment charging conspiracy to defraud the United States. Their case was referred to the probation officer for investigation and report, and sentence has not yet been passed.

As an indication of the work which has been done in the investigation of charges of collusion on the part of employees of the Internal Revenue Bureau with persons outside of the Government service during the past three years, the following figures are given. It must be understood that these figures include only those cases in which the charge of collusion is involved:

| | |
|---|-----|
| Number of employees separated from the service as a result of investigations of alleged collusion..... | 448 |
| Number of employees prosecuted on collusion charges..... | 149 |
| Number of cases of this nature pending, either awaiting final action or investigations not yet completed..... | 597 |

The above total of figures are made up as follows:

Income tax:

| | |
|---|----|
| Number of employees separated from the service who were employed outside of Washington, D. C..... | 88 |
| Number of employees separated from the service who were employed in Washington, D. C..... | 38 |
| Number of employees prosecuted outside of Washington, D. C..... | 15 |
| Number of employees prosecuted in Washington, D. C..... | 10 |
| Number of cases of this nature outside of Washington, D. C., now pending..... | 75 |
| Number of cases of this nature in, Washington, D. C., now pending... | 35 |

Prohibition:

| | |
|---|-----|
| Number of employees separated from the service who were employed outside of Washington, D. C..... | 310 |
| Number of employees separated from the service who were employed in Washington, D. C..... | 12 |
| Number of employees prosecuted outside of Washington, D. C..... | 22 |
| Number of employees prosecuted in Washington, D. C..... | 4 |
| Number of cases of this nature outside of Washington, D. C., now pending..... | 210 |
| Number of cases of this nature in Washington, D. C., now pending.... | 12 |

SOLICITOR'S OFFICE.

The Solicitor of Internal Revenue and those lawyers assigned to work under his direction comprise the legal branch of the bureau and act as legal advisors to the commissioner and to the administrative units. The various functions of the office have been separated into four divisions.

The civil litigation division supervises and conducts the cases pending in court. The majority of these cases are suits instituted against the United States or the various collectors of internal revenue for the refund of taxes alleged to have been illegally collected. In other cases the Government is forced to institute court proceedings in order to secure the collection of the tax and such cases are handled in this division of the solicitor's office. The United States attorneys, representing the Department of Justice in the several districts, have suits of this character directly in charge, but due to the volume of work experience has shown they do not and in fact can not specialize in the technicalities of Federal taxation, and as a result the principal burden falls upon the solicitor's office. It is needless to say that millions of dollars in revenues are and have been the subject of litigation. At the present time about 1,736 cases, exclusive of bankruptcy cases, are pending in the United States Courts which are being handled by the solicitor's office in the manner indicated above. In connection with the handling of court cases attention should be called to the increase in bankruptcy and receivership matters. On June 30, 1922 there were on hand about 1,400 of this class of cases. On February 29, 1924, there were 3,826 of these cases pending. This increase in the number of bankruptcy cases being handled by the solicitor's office is partly due to an increased number of individuals and corporations becoming insolvent, but is to a greater extent attributable to the effort made in the last year and a half by the attorneys working on this class of cases to file and collect claims of this character.

The revenue laws provide for the assessment of ad valorem fraud penalties against individuals and corporations who willfully understate income for the purpose of evading the tax. The statutes further provide for criminal prosecution which may be in addition to the imposition of the fraud penalties. All appeals from a proposed action of the Income Tax Unit to assert the ad valorem fraud penalties are heard in the penal division of the solicitor's office. Criminal prosecutions may have been instituted and the preparation of the cases for presentation to the grand juries, the drawing of indictments, and finally the trial of the cases frequently devolved upon the attorney in the solicitor's office to whom the particular case is assigned. Five hundred and ninety-seven cases involving charges of fraud were pending in this division of the solicitor's office on June 30, 1923.

The two interpretative divisions of the solicitor's office receive and answer requests for opinion on points of law submitted to the office by the administrative branches of the bureau. In the audit and settling of tax cases difficult questions of law are frequently encountered, making it necessary for the auditors to submit the whole files to the solicitor's office for an interpretation of the law. These opinions are prepared by the lawyers in the interpretative divisions and are forwarded with the files again to the unit, where the case is audited on the basis outlined in the solicitor's opinion. Close to 12,000 memoranda containing rulings on questions of law were prepared by the solicitor's office during the fiscal year ending June 30, 1923. The interpretative divisions also review the files submitted to the solicitor's office in connection with the claims for refund, certificates of overassessment and abatement claims. The jurisdiction of the solicitor's office in reviewing income and excess profits tax claims extends to cases with claims involving \$50,000 or more, but for miscellaneous tax claims the minimum is \$500. The tremendous volume of this work passing through the solicitor's office is indicated by the statement that approximately 5,500 claims were reviewed between July 1, 1923, and February 29, 1924.

Under section 3229 of the Revised Statutes the commissioner, with the advice and consent of the Secretary of the Treasury, is authorized to compromise any civil or criminal case arising under the internal revenue laws. The law further provides that the Solicitor of Internal Revenue shall render an opinion in every case in which a compromise is offered. Under the Opinions of the Attorney General no compromise can be accepted of a tax legally due from a solvent taxpayer. Approximately 50,000 taxpayers a year go through bankruptcy, and it will be readily seen that thousands of taxpayers avail themselves of this manner of disposing of assessments made against them. Penalties, however, may be compromised without regard to the solvency of the taxpayer. Many offenses are nominal in character and small sums are customarily submitted to satisfy minor infractions of the law.

It is not believed that the delay in closing up old cases has had any material effect on the revenue except where the taxpayers have in the meantime become insolvent. It is difficult even to estimate the number of taxpayers who owed taxes for the earlier years and who in the meantime have become insolvent. This is the condition that the Government will always be confronted with because the tax does not become due until the year following the receipt of the income, and under normal conditions another year must necessarily elapse before the additional tax liability, if any, can be determined. In particular instances financial reverses in the intervening period would make it impossible for the Government to thereafter collect the full amount of the additional tax liability, and in my opinion this is a condition that will always exist.

COMMITTEE ON APPEALS AND REVIEW.

The committee on appeals and review was created October 1, 1919, succeeding to the functions previously exercised by the advisory tax board.

The functions and jurisdiction of the committee are as follows:

First. As a quasi-judicial body of appellate jurisdiction, to act in an advisory capacity to the Commissioner of Internal Revenue in hearing appeals by taxpayers from action of the Income Tax Unit in cases where a deficiency in tax is discovered, and recommending specific decisions therein be made by the Commissioner.

Second. To act in an advisory capacity to the commissioner with respect to the preparation of Treasury decisions, regulations, and rulings, as well as other miscellaneous matters affecting the administration of the various revenue acts.

The records would indicate that there were received by the committee during the three months from October 1 to December 31, 1919, 31 appeals.

Treating the requests for opinions during the three months in 1919, referred to as cases disposed of, the committee has disposed of the following number of cases during the years indicated:

| | Cases. |
|--------------------------|--------|
| 1919 (three months)----- | 40 |
| 1920----- | 351 |
| 1921----- | 367 |
| 1922----- | 1, 158 |
| 1923----- | 3, 369 |
| 1924 (two months)----- | 830 |

To state the situation in another form, the committee disposed of the following average number of cases per month during the years indicated:

| Average per month, approximately: | Cases. |
|---|--------|
| 1919----- | 13 |
| 1920----- | 30 |
| 1921----- | 32 |
| 1922----- | 96 |
| 1923----- | 280 |
| Average per month, 1924 (two months)----- | 415 |

The increase in the number of appeals which first manifested itself in the year 1922 was undoubtedly due to the enactment of section 250 (d) of the revenue act of 1921, which was approved on November 23, 1921. Section 250 (d) of the revenue act of 1921 provided for the right of appeal prior to assessment in those cases where a deficiency in the amount of tax is discovered. While the tremendous increase in the number of cases was due, to a very large extent, to this provision of the statute, it reflects also the increased activities and efficiency of the Income Tax Unit in computing the audit of returns. The committee can not take jurisdiction of a case on appeal until it has been audited in the unit.

To get a true picture of the tremendous increase in the volume of work since 1921 it should also be borne in mind that the taxpayer has the right to be heard in connection with his appeal and, in connection with the appeals which have been considered, it is safe to say that the taxpayer has availed himself of that opportunity in at least 95 per cent of the cases.

In addition to the hearings and the consideration of the cases there is a very large volume of correspondence growing out of the appeals and a great deal of time and effort is consumed in connection with petitions for reconsiderations and rehearings. Naturally, in handling such a large number of cases, there is bound to be a large percentage of petitions for reconsiderations and rehearings.

To bring the taxpayer into more intimate touch with the machinery of the bureau administering the income and excess profits tax laws, a field subcommittee of the committee on appeals and review was established for the purpose of hearing the appeals of taxpayers in States distant from Washington, particularly those west of the Mississippi. This subcommittee functions as a part of the central committee, its decisions being reviewed and approved by the central committee. Offices were first established at St. Paul, Minn., and about 150 appeals by taxpayers in the States of Minnesota, Wisconsin, North Dakota, South Dakota, Iowa, and Montana were heard and disposed of.

The subcommittee later removed to the Pacific coast to hear about 175 cases of taxpayers in the States of Washington, Oregon, Utah, Idaho, California, Arizona, and Colorado.

While this administrative policy is yet experimental in nature, its progress has been entirely favorable.

GENERAL SUMMARY OF ACCOMPLISHMENTS.

The above statement gives in detailed form the duties and accomplishments of the various units of the Internal Revenue Bureau. It is believed a record has been presented that speaks well for the manner in which the internal revenue laws have been administered. To summarize, the outstanding accomplishments are:

(1) The bringing of the work of the Internal Revenue Bureau up to a condition which is nearly to the point where the work is current, in spite of the vast accumulation of work confronting the bureau in 1921—an accumulation caused by the radical and sudden changes in the tax laws which became essential to

provide increased revenue made necessary by the entrance of the United States into the World War.

(2) The administration of tax laws providing a revenue of over \$2,500,000,000 yearly and the auditing of returns and reports totaling nearly twelve million annually.

(3) The collection of the internal revenue for the fiscal year 1923 at the low cost of \$1.39 for each \$100 per hundred. The cost for 1924 will probably be as low as \$1.29 per hundred.

(4) The merging of the supervisor of collectors' offices and the accounts unit, thus creating a new unit known as "the accounts and collections unit," bringing about a more efficient and direct administration of the collection of the taxes, with a saving of nearly \$100,000.

(5) (a) The abolishment of the sales tax unit and the merging of the work with the former estate tax unit.

(b) The abolishment of the tobacco and miscellaneous tax unit and the merging of its work with the sales and estate tax unit, thus placing the administration of all internal revenue laws, other than income tax, under one head.

The above changes have resulted not only in a more efficient and uniform administration of the miscellaneous tax laws, but has also resulted in many direct and indirect economies. The force assigned to this work has been reduced by a total of 98 employees at a yearly saving of \$112,000.

(6) The bringing of all collectors' offices into balance, the correction of a condition wherein only 9 of the 64 collectors' offices were in balance with the bureau records, and the correction of a situation wherein the accounts of all collection districts were brought from a chaotic condition into one of order and system.

(7) The audit of a greater number of returns representing the smaller incomes in collectors' offices, thus expediting the work involved.

(8) The bringing of subcommittees of the committee on appeals and review to the taxpayers, thus expediting the hearing of tax appeals with less inconvenience to the public.

(9) The audit of returns, with the result that only a small percentage of prior year returns remain to be audited. The percentages of returns yet to be audited for prior years are as follows: 1917, 0.3; 1918, 0.5; 1919, 1.2; 1920, 2.2; 1921, 3.5; 1922, 13.7.

(10) The preparation of assessment lists on mechanical billing machines, and at the same operation the preparation of tax bills and other accounting documents.

(11) The installation of mechanical accounting systems in the bureau whereby accurate and daily records are kept both of collection and disbursing accounts. This system not only makes possible a check on the condition within collectors' offices, but also gives immediate information at any time as to the condition of the appropriations and the allotments made therefrom.

A statement of this character would not be completed without suggestions as to how the services could be improved.

INADEQUATE HOUSING OF BUREAU.

The housing conditions of the bureau continue to be most unsatisfactory. The bureau is now functioning in nine separate buildings. The Income Tax Unit is quartered in six buildings, viz, Annex No. 1, at Pennsylvania Avenue and Madison Place NW.; Annex No. 2, at Fourteenth and B Streets NW.; Building C, at Sixth and B Streets SW.; Building No. 5, at Twentieth and B Streets NW.; and 462 Louisiana Avenue. The Prohibition Unit occupies portions of Building C, at Sixth and B Streets SW. and 1418-1420 Pennsylvania Avenue NW. There are also located in Building C the estate tax, capital-stock tax, and sales-tax unit, the miscellaneous tax division, and the tobacco division of the miscellaneous unit. The accounts and collections unit is housed in Building No. 5, at Twentieth and B Streets NW., and the Auditors' Building, at Fourteenth and B Streets SW. The office of the solicitor and the committee on appeals and review are located in the Interior Building. The offices of the commissioner, the assistant commissioner, together with the special intelligence unit, the division of supplies and equipment, the appointment division, and the chemical laboratory are in the Treasury Building.

Annex No. 2 and Buildings C and No. 5 are temporary war structures. They are rapidly deteriorating because of their flimsy construction. The condition of Annex No. 2 has become so serious that it was necessary to expend large sums of money replacing weakened foundations and otherwise repairing the building, in order to make safe its continued occupancy. Furthermore, the fire hazard in

these temporary buildings is very great. Thousands of income-tax returns are in process of audit. Among these papers are documents covering hundreds of millions of dollars in increased assessments, many of which could not be replaced should they be destroyed.

This condition not only seriously interferes with proper administrative control and conduct of the bureau, but causes much inconvenience to taxpayers.

If the bureau were housed in a building adapted to the purpose, it would be possible to handle the work much more expeditiously, efficiently, and economically. Also danger from loss by fire and misplacement would be reduced to a minimum. It is believed that the output could be increased from 25 per cent to 33½ per cent if the bureau were properly housed.

HIGHER SALARIES FOR TECHNICAL EMPLOYEES.

The bureau is constantly embarrassed by reason of a rapid turnover in its force of technical employees. The experience that an employee gains while performing work in the more technical positions naturally makes him capable of rendering a service much in demand by the large commercial concerns of the country.

Many months of time are consumed and much expense involved in the training of these employees, only to have the commercial houses outbid the Government for the services of these men.

One of the steps taken by the bureau to retain the services of its technical employees for as long a period as possible has been to require all such employees to sign a statement that they will continue in the employment for at least one year after their appointment. This restriction, while helpful, does not solve the problem. While the bureau appreciates the fact that it can not expect to compete with outside concerns in the salaries to be paid its highly trained and technical employees, yet it is believed a higher rate of compensation than now exists should be paid for this class of employees. Recommendation is made that consideration be given this problem which confronts us.

SIMPLIFICATION OF TAX LAWS.

Another feature which would be helpful to the Bureau of Internal Revenue is a simplification of the tax laws. This subject is not gone into detail in this statement, however, because of the fact that the views of the Treasury Department are already before Congress.

The letterhead and business cards submitted by Mr. E. H. Batson as samples of the ones he uses in his business, are on file with the committee.

Whereupon, at 4.45 o'clock p. m., an adjournment was taken to 2 o'clock p. m., Friday, March 21, 1924.

INVESTIGATION OF BUREAU OF INTERNAL REVENUE.

FRIDAY, MARCH 21, 1924.

UNITED STATES SENATE,
SELECT COMMITTEE ON INVESTIGATION
OF THE BUREAU OF INTERNAL REVENUE,
Washington, D. C.

The committee met, pursuant to adjournment, at 2 o'clock p. m.,
Senator James E. Watson (presiding).

Present: Senators Watson (chairman), Jones of New Mexico, King,
Ernst, and Couzens.

Present also: Mr. C. R. Nash, Assistant to the Commissioner of
Internal Revenue; Mr. J. G. Bright, Deputy Commissioner, Income
Tax Unit; Mr. N. T. Hartson, Solicitor Internal Revenue Bureau; and
Dr. T. S. Adams, tax expert, Yale University.

The CHAIRMAN. You may call your first witness, Senator Couzens.
Senator COUZENS. I will ask Mr. Bradley to take the stand.

STATEMENT OF MR. ALBERT J. BRADLEY, WASHINGTON, D. C.

Senator COUZENS. Mr. Bradley, will you state for the record your
full name, your address and your present occupation?

Mr. BRADLEY. Albert J. Bradley, 1209 Rhode Island Avenue N.W.,
Washington, D. C., an auditor in the Income Tax Bureau.

The CHAIRMAN. At the present time?

Mr. BRADLEY. At the present time; yes, sir.

Senator COUZENS. On behalf of Mr. Bradley, I would like to say
to the committee that he was given no notice to be here, except a
notification to-day by telephone, and he advised me before the meet-
ing to-day that he was not as well prepared as he might have been
had he had a longer notice. I told him that I thought, as long as
he was subpoenaed for to-day, he might get a line on what we
wanted and come back later, if the committee desired him to do so.

The CHAIRMAN. How long have you been connected with the
bureau?

Mr. BRADLEY. Three years and six months.

Senator COUZENS. And you have no fear about testifying, have
you, Mr. Bradley?

Mr. BRADLEY. No, Senator; I have no fear of anything, but, of
course, you appreciate that my testimony might mean my job.

Senator COUZENS. Who is your superior officer?

Mr. BRADLEY. My superior officer at the present time is Mr.
Guederian. Permit me to say, Senator, in that respect, I have no
reservation on that score whatever—lose or not lose.

Senator COUZENS. Do you know Mr. Nash, of the department?

Mr. BRADLEY. No, sir.

Senator COUZENS. Do you know, Mr. Bright, of the department?

Mr. BRADLEY. Slightly; yes.

Senator COUZENS. Do you know Mr. Hartson?

Mr. BRADLEY. No.

Senator COUZENS. The solicitor for the bureau?

Mr. BRADLEY. No.

Senator COUZENS. Have you come in contact with Mr. Blair, the commissioner?

Mr. BRADLEY. Only slightly; merely introductory.

Senator COUZENS. Have you come in contact with any of the deputy commissioners?

Mr. BRADLEY. Well, slightly; I should—merely introductory.

Senator COUZENS. Is Mr. Nash here to-day?

Mr. NASH. Yes, sir; Senator Couzens.

Senator COUZENS. Mr. Nash, you would not feel warranted in dismissing a man who told this committee about any of the inefficiencies or offered any suggestions for the correction of any inefficiencies in the bureau, would you?

Mr. NASH. No, sir.

Senator COUZENS. I just wanted to assure Mr. Bradley I did not think the disposition of any of those at the head of the bureau was such as would cause them to discharge a man for testifying to anything before this committee.

The CHAIRMAN. I do not know, but I thought Mr. Bradley meant that you might ask him for information that he could not give us, under the law, or within the statutory limitations. If that is what he meant, of course that is a different proposition.

Senator COUZENS. I would not ask him for those things, of course.

Mr. BRADLEY. I hardly think I meant that, Senator. What I meant is this: If this committee solicited information from me that would be detrimental to the heads of the department, they would possibly frame the man that gave the information. That is what I meant to say; in fact, it was intimated.

Senator ERNST. Before you start questioning him, Senator Couzens, let me ask him at this point: What is the nature of the work that you are doing?

Mr. BRADLEY. I am a common, ordinary auditor.

Senator ERNST. State what your duties are in the bureau.

Mr. BRADLEY. To examine and audit returns of the taxpayers.

Senator ERNST. As individual returns are handed to you, you audit those returns?

Mr. BRADLEY. As the corporation returns are handed to me. There is just a little distinction. We distinguish the different returns, as individuals, which is one class of audit, and corporation audit, which is another.

Senator ERNST. Just state, when a corporation return is handed to you, what do you do with it?

Mr. BRADLEY. We examine the gross income, which determines the net income. We then examine—

Senator ERNST. I just want you to state what your duties are.

Mr. BRADLEY. All right, sir. We then examine the supporting schedules and reconcile them with the return, if possible. If not, we

engage in sufficient correspondence with the taxpayer until they are reconciled.

Senator ERNST. Do you carry on that correspondence?

Mr. BRADLEY. We write the letters; yes, sir. We write the letters ourselves.

Senator ERNST. To the different taxpayers?

Mr. BRADLEY. Yes, sir.

Senator ERNST. What work other than that do you do in the bureau?

Mr. BRADLEY. None. I am a common, ordinary, everyday auditor to examine taxpayers' returns.

Senator ERNST. Under whose immediate supervision is your work conducted?

Mr. BRADLEY. There has been a reorganization in the last week. At the present time my immediate superior is a Mr. Leach. Mr. Leach is the head of what we call a unit, which comprises about 10 or 11 auditors.

Senator ERNST. Prior to the last week, whom were you under?

Mr. BRADLEY. D. W. Bell.

Senator ERNST. How long were you under him?

Mr. BRADLEY. About 18 months.

Senator ERNST. Prior to that time, under whom did you work?

Mr. BRADLEY. Prior to time I was in Claims, which was abolished. The head of that section has a German name, and I just can't recall it now, but I will as we go along.

Senator ERNST. Have you had any trouble with the heads of the divisions while working there?

Mr. BRADLEY. None whatever; no.

Senator ERNST. Nor with any of your coemployees?

Mr. BRADLEY. No; none whatever. I do not have trouble with anyone.

Senator ERNST. That is all I want to ask.

The CHAIRMAN. Before you begin, Senator Couzens, I would like to ask this: You say it was intimated to you that if you came up here to testify and stated anything derogatory to anybody at the head of the bureau or of a division, something might happen to you. Who intimated that to you?

Mr. BRADLEY. Now, Senator, I beg you not to ask me that. I must ask you not to ask me that.

The CHAIRMAN. Well, was it a square declaration to you?

Mr. BRADLEY. Let me amend it. It was the suggestion. Let me state it in exact terms. The suggestion was thrown out that the result might be that anyone who disclosed matters that were considered as reflecting upon the heads of the divisions might suffer. That, I think, is a little fairer.

The CHAIRMAN. Mr. Bradley, did any head of any division say it to you, or was it one of your own coemployees, just one of your associates there that said it to you? I will not ask you for the name of the person now, but I would like to know whether somebody merely made a casual remark?

Mr. BRADLEY. Well, it was a section head.

The CHAIRMAN. Did he come to you directly and individually and ask you to one side and whisper that to you, or tell you?

Mr. BRADLEY. No. This morning, at half-past 10 I was called by the Sergeant at Arms, and after identification, which he was very particular about, he said that he had a subpoena, that he would serve it upon me personally, although he could serve it over the telephone. I said I would accept it.

The CHAIRMAN. Yes.

Mr. BRADLEY. And after that I conferred with an old-time member of the Income Tax Bureau, a man who has been with it a great number of years, a friend of mine, who occupies the same position that I do, and related to him the circumstances, that I had been called, but I did not know the line of testimony I was expected to give, and asked him what he would do in a like case. He said, "I would go to my chief and tell him." "Well," I said, "he knows nothing about it. I have only been in here five or six or seven or eight days, and I never have met the man." He said, "Well, I will introduce you," which he did. I told him that I had been summoned, and then I went to a chief of a section and told him.

The CHAIRMAN. You told him about it?

Mr. BRADLEY. Yes, sir; I told him I had been summoned.

The CHAIRMAN. What did he say then? Without giving his name for the present, what did he say then to you?

Mr. BRADLEY. Well, I do not know that I could relate it in any more exact terms than what I have just stated to you. An intimation was made that testimony adduced before this committee reflecting upon division heads or section heads might be used against them.

Senator ERNST. With whom did you talk about testimony that you were about to give?

Mr. BRADLEY. No one. I did not know I was going to be called, Senator.

The CHAIRMAN. What I would like to ask you is this: You received a telephone message from the Sergeant at Arms?

Mr. BRADLEY. Yes, sir.

The CHAIRMAN. Asking you to come up here?

Mr. BRADLEY. Yes.

The CHAIRMAN. And then you conferred with some old-time member of the Income Tax Unit, and then after that you sought out a chief of this division, did you?

Mr. BRADLEY. Yes, sir.

The CHAIRMAN. You sought him out?

Mr. BRADLEY. I did.

The CHAIRMAN. What did you say to him when you got there?

Mr. BRADLEY. I said I had been called by the committee, and I did not know along what lines I was to be called to testify, and that maybe what I could tell the committee would be from a personal standpoint; that I could say that in promotions, favoritism had been practiced by the bureau in their promotions, and that productivity, I knew of my own knowledge, did not enter into the promotions made by the Income Tax Bureau. Now, he went into a very long explanation of that, which he had done several times before. Does that answer your question?

The CHAIRMAN. Yes; but did he say to you, "I warn you not to go there and testify?"

Mr. BRADLEY. No, he did not.

The CHAIRMAN. He did not?

Mr. BRADLEY. No.

The CHAIRMAN. Just what did he say. I would like to know just what language was used, Mr. Bradley. You say there was an intimation. Of course, that is a conclusion, and I would like to know the language that was used, to see whether it was a threat or a friendly tip, or what it was.

Mr. BRADLEY. I understand the desire to know exactly what he said in that respect.

The CHAIRMAN. Yes.

Mr. BRADLEY. Because I think it is very pertinent information that you desire.

The CHAIRMAN. Yes.

Mr. BRADLEY. Now, Senator, I think it in nearly as correct words as I can.

The CHAIRMAN. But you said he intimated to you. What did he say? Let me determine whether it was an intimation. In other words, what I am trying to get is this, and what the committee would like to know is whether you were threatened.

Mr. BRADLEY. No.

The CHAIRMAN. Was there any attempt at coercion?

Mr. BRADLEY. No.

The CHAIRMAN. To prevent your testifying before the committee to anything.

Mr. BRADLEY. No; it was not; it was not a threat; no.

The CHAIRMAN. If it was not in the nature of a threat, and no attempt at coercion, what was it?

Mr. BRADLEY. An intimation that anyone giving evidence before this committee that did not suit the powers that be might be made to feel the displeasure of the close corporation which comprises the Income Tax Bureau. It is a very close corporation.

The CHAIRMAN. Now, let us take that up for a minute. Have you ever sought promotions in the department, and which have been denied you?

Mr. BRADLEY. Senator, I have not. I have only sought those promotions that I was entitled to on my productive record, and which have been constantly denied.

The CHAIRMAN. Then, you have asked for promotion from time to time?

Mr. BRADLEY. Not promotion; no. No; I have never asked for them.

The CHAIRMAN. An increase in salary?

Mr. BRADLEY. No; I have never asked for that. I only expected them.

The CHAIRMAN. Had you made complaint among your associates that these things had been denied you from time to time?

Mr. BRADLEY. Yes, sir—kicked like 40 steers.

The CHAIRMAN. You kicked right along?

Mr. BRADLEY. Yes; absolutely kicked.

The CHAIRMAN. You say you were denied this right, or what you call your right, by the close corporation which controls the Income Tax Unit. What do you mean by that, Mr. Bradley?

Mr. BRADLEY. That is easily understandable. The close corporation that I refer to consists of the five heads of sections.

The CHAIRMAN. Who are they?

Mr. BRADLEY. As now divided in geographical districts, this country is cut up into five sections.

The CHAIRMAN. Yes.

Mr. BRADLEY. This is a new procedure, a new organization, and Mr. Reamey has section 1, Mr. O. W. Bell has section 2, Mr. Durdurian has section 3, Mr. Cook has section 4, as to section 5 you will have to pardon me. I just can not recall the name for the moment.

The CHAIRMAN. Yes. Have your activities be confined to this one section all of the time since you have been there?

Mr. BRADLEY. No; I first entered the Income Tax Bureau as auditor in what was then the manufacturing section. Later, I was transferred to a section called claims. Later, I was transferred to finance; claims was abolished. Then I was transferred to appeals and P. S., as we called it—public utilities and personal service; and now, under the reorganization, we are known as section No. 2.

The CHAIRMAN. You have been in there for three years and a half?

Mr. BRADLEY. Yes.

The CHAIRMAN. At what salary did you enter?

Mr. BRADLEY. \$2,000.

The CHAIRMAN. What is your salary now?

Mr. BRADLEY. \$2,000.

The CHAIRMAN. Were those transfers made at your request?

Mr. BRADLEY. No.

The CHAIRMAN. None of them?

Mr. BRADLEY. No—well, I said none of them. The one from manufacturing to claims was.

The CHAIRMAN. Yes.

Mr. BRADLEY. Yes, sir.

The CHAIRMAN. Now, what do you mean by these heads constituting a close corporation?

Mr. BRADLEY. Well, Senator, I am a business man of some mature years. I have had a great deal of experience in business. I came here during the war to do war duty, and the fascination of Washington life has gotten me. I hate to go away.

Senator ERNST. Like some Senators.

Mr. BRADLEY. Like some Senators. I am not held by the meager salary of \$2,000, but I have lost that energy and that initiative, and I simply hate to go back into business life. What was your question, Senator?

The CHAIRMAN. My question was: What do you mean by a close corporation?

Mr. BRADLEY. Oh, yes; this close corporation?

The CHAIRMAN. Yes.

Mr. BRADLEY. Here is what I mean to say: That I have never come in contact with such small pinheads in my life as I have in the Income Tax Bureau men.

The CHAIRMAN. Does that mean these five heads that you speak of?

Mr. BRADLEY. Yes; it includes them all.

The CHAIRMAN. Them all?

Mr. BRADLEY. Every last one of them. This is what I mean to say: That those five men are not looking for ability; they are not looking for constructive action. They are merely job holders, and their only purpose in life—their main one, at least—distinctly is to perpetuate and hold their jobs. Now, I am not parading my particular

ability in this respect, but I simply want to tell this committee that in every one of the sections that I have done duty in I have stood at the head of my unit, and have stood at the head of my section. I have in my pocket a little slip, made recently, showing that my production record for three months was 143 as against a 100 average for the section. In the section prior to that I stood at the head of it. After the first month's service there is not any position that I have held that I did not lead.

The CHAIRMAN. Now, Mr. Bradley, how long have these heads that are now there, the five heads of the sections been there?

Mr. BRADLEY. Always and forever. They were there when I went in.

The CHAIRMAN. The same heads all the time?

Mr. BRADLEY. Yes.

The CHAIRMAN. Do you know whether or not they get together and discuss the relative merits of their employees, or whether or not each individual at the head of his particular division makes such recommendations for promotions and increases in salaries as he believes the conditions justify?

Mr. BRADLEY. Well, I think those things are reached, possibly, on the initiative of each particular section head. I do not mean to say that they come together and pass a resolution, as a board of directors.

The CHAIRMAN. No.

Mr. BRADLEY. I merely say it in descriptive form.

The CHAIRMAN. When you say "a close corporation," you mean that the one man at the head of the particular unit in which you are working?

Mr. BRADLEY. Yes.

The CHAIRMAN. So that he is the "close corporation." Now, have you talked your own situation over with that section head from time to time?

Mr. BRADLEY. Oh, yes.

The CHAIRMAN. Have you asked for increases or promotions?

Mr. BRADLEY. Well, Senator, I do not ask for anything.

The CHAIRMAN. Well, you have discussed with him the advisability of increasing your salary?

Mr. BRADLEY. Yes. When my productive record shows 143 in one section, without any promotion, and when others that showed a productive record of 80 got promotions of \$250 more than I am getting, then I think I have a kick coming, and I kick.

The CHAIRMAN. When did you begin this kicking process? How long had you been in there before you started to make this fuss?

Mr. BRADLEY. Well, I have not made any fuss, Senator.

The CHAIRMAN. Kicking means to make a fuss. Did you talk around with your associates and coemployees?

Mr. BRADLEY. Well, I will not say any more, because it was not in the nature of a kick.

The CHAIRMAN. Well, you talked around with your coemployees?

Mr. BRADLEY. Oh, heavens, no.

The CHAIRMAN. You never did?

Mr. BRADLEY. What do you mean by "never did?"

The CHAIRMAN. You never did discuss it with them?

Mr. BRADLEY. Not my situation. It was usually discussing the situation impersonally, because I do not make my affairs a matter of general discussion.

The CHAIRMAN. But you have gone to the head of the unit and have taken your classification slip, which you have there, and showed him how you stood, and all that sort of thing, and showed it to him.

Mr. BRADLEY. Yes, sir; I have done that.

The CHAIRMAN. What reason did this man give for not promoting you or increasing your salary?

Mr. BRADLEY. They said it was not their fault; that those promotions were arranged by the staff division, over which they had no control, and that in my particular case I had been recommended for a promotion.

The CHAIRMAN. Was that so?

Mr. BRADLEY. I don't know. I doubt it.

The CHAIRMAN. You say you doubt it was so?

Mr. BRADLEY. I doubt it; yes, sir. I doubt it was so.

The CHAIRMAN. Because you had not been promoted?

Mr. BRADLEY. Because if it had gone to the staff division, and they were unprejudiced, they could not promote one man with a productive record of 80 and decline to promote another man with a productive record of 143 or 144. At the same time young ladies there have suffered in the same respect that I have. One young woman there had a productive record of one hundred and seventy-something, and she is working at the magnificent salary of \$1,600. She got no promotion, and just side by side, not having half the energy or doing as good work as that woman, are men getting \$2,400.

The CHAIRMAN. Why are they promoted, and why are you held down?

Mr. BRADLEY. Lack of that personality that sometimes makes you fail to win.

The CHAIRMAN. Temperament?

Mr. BRADLEY. Temperament, I suppose.

The CHAIRMAN. Therefore, Mr. Bradley, you came to the conclusion that because your ability —

Mr. BRADLEY. It is not any ability.

The CHAIRMAN. Had not been recognized, you did not get your deserts?

Mr. BRADLEY. It is not ability; it is hard work.

The CHAIRMAN. Well, whatever it is. Ability to do hard work is ability?

Mr. BRADLEY. Well, I don't know. I know some very energetic people that have not a great deal of ability, and I know some people with a great deal of ability who have no energy.

The CHAIRMAN. You said awhile ago that the head of this section of yours was a pinhead. Why did you arrive at that conclusion—because he had not promoted you?

Mr. BRADLEY. Just like you arrive at your estimate of men whom you meet daily. It was the daily association.

The CHAIRMAN. You mean by that that he has neglected to do the duties that he was put there to discharge?

Mr. BRADLEY. I mean that the gentleman is without sufficient intellectual capacity to hold down the job he now occupies.

The CHAIRMAN. That is what you mean?

Mr. BRADLEY. Yes; that is what I mean.

The CHAIRMAN. Why do you say that?

Mr. BRADLEY. My estimate of him; that is all, Senator.

The CHAIRMAN. Do you know wherein he has failed to his duty?

Mr. BRADLEY. Ye gods; yes.

The CHAIRMAN. You do know?

Mr. BRADLEY. Yes, I know. Do I know? Yes; I guess I do know.

The CHAIRMAN. Do you question his integrity?

Mr. BRADLEY. Not at all. He is as honest as the day is long.

The CHAIRMAN. He is an honest man?

Mr. BRADLEY. But not big enough for that job. The trouble there is you have very small men in big places. That is the big trouble with the Income Tax Bureau.

The CHAIRMAN. Is there very much difficulty in that particular unit—

Mr. BRADLEY. What do you mean by "difficulty"?

The CHAIRMAN. Wait until I finish my question.

Mr. BRADLEY. Excuse me.

The CHAIRMAN. Is there much difficulty, much complaint, or much dissension because of lack of promotions, when you men and women in there think you ought to be promoted and your deserts are not recognized?

Mr. BRADLEY. Senator, it is perfectly human for a man or woman, when they have suffered injustice, to complain, and in my section there were five people who stood at the head, 1, 2, 3, 4, 5, whose productive record was very large, and not one of those five got a promotion, and of course that caused a great deal of criticism.

The CHAIRMAN. Certainly.

Mr. BRADLEY. And unhappiness.

The CHAIRMAN. And it was talked around amongst everybody?

Mr. BRADLEY. Sure.

The CHAIRMAN. Everybody knew about it, and it was discussed generally?

Mr. BRADLEY. Yes; I think so. Certainly I discussed it because I was one of the five.

The CHAIRMAN. I think that is all I want to ask along that line.

Senator ERNST. Mr. Bradley, prior to your coming to the department, what was your occupation?

Mr. BRADLEY. Real estate.

Senator COUZENS. Where?

Mr. BRADLEY. In Richmond, Va.

Senator ERNST. Do you mean a real estate agent?

Mr. BRADLEY. No; I was real estate dealer. I was then and am now president of the James River & Kanawha Power Co., a corporation that we trust will get into business one of these days. That is what we are praying for and hoping for.

Senator ERNST. What was the character of the real estate business?

Mr. BRADLEY. A dealer.

Senator ERNST. How is that?

Mr. BRADLEY. A dealer—bought real estate and sold it.

Senator ERNST. For yourself.

Mr. BRADLEY. Yes, sir.

Senator ERNST. Bought for others?

Mr. BRADLEY. No; not an agent.

Senator ERNST. How long were you in that business, Mr. Bradley?

Mr. BRADLEY. Forty years.

Senator ERNST. Were you in it continuously, or did you stop for other things?

Mr. BRADLEY. I stopped for other things. I was president of a cotton mill for three years, and lost all of my money, and then I had to go back to work again. I ran a cotton mill employing 400 people, and it had extensive capital, but we were located in the wrong place and failed. Then I went back into the so-called real-estate business, which is a holdall for failure and men that are down and out.

Senator ERNST. I did not catch the name of the place.

Mr. BRADLEY. Of what place?

Senator ERNST. Where you were in business.

Mr. BRADLEY. Richmond, Va.

Senator ERNST. That is all.

Senator COUZENS. A moment ago you referred to promotions. Can you tell us briefly what in your opinion, is necessary to get these promotions?

Mr. BRADLEY. Senator, that is a very hard question. It is impossible for any man to understand how some of the promotions were made and how some others were refused. I can not possibly conceive of it.

Senator COUZENS. Have you an opinion in it?

Mr. BRADLEY. Yes; I have an opinion. I have an opinion about hustling. Yes; I have an opinion.

Senator COUZENS. What is your opinion as to the requisites for promotion in your division?

Mr. BRADLEY. As well as I can gather, the requisites for promotion in the Income Tax Bureau would seem to be an insistent and eternal push for promotions. I can take Doctor Adams, who is supposed to have a very thorough knowledge of the Income Tax Bureau, and sit him down as an auditor, without any influence, and Doctor Adams will stay there, from the day he comes in for 10 years, without any promotion. I mean to say that the promotions are not fixed, are not settled, or not determined, from the ability, the amount of work that a man has done, or his department.

Senator COUZENS. Are there any performance records kept from time to time?

Mr. BRADLEY. Yes, sir. The records of the Income Tax Bureau pass all human understanding. There is not a move made that is not recorded somewhere. Yes, sir; you can get the day to day record, the productive record, for every employee of the Income Tax Bureau.

Senator COUZENS. Do these records disclose the quality of the productiveness?

Mr. BRADLEY. Yes. If you make an error, it is charged against your production record.

Senator COUZENS. It is necessary to be a sycophant to get a promotion in the bureau?

Mr. BRADLEY. I think so.

Senator COUZENS. You think that probably contributes to promotion?

Mr. BRADLEY. Bending of the pregnant knee, Senator, is very prevalent.

Senator COUZENS. You wrote me when this matter was first discussed, or, at least, I think, at the time I first introduced the resolution asking for the appointment of this committee, saying, under date of February 22: "If the inclosed clipping is true, God knows, you are on the right line. The inner working of this bureau is enough to wreck any administration and bring contempt of any government. I speak with an experience as an employe of this bureau for more than three years." Then, I acknowledged your letter. Did you get the acknowledgment?

Mr. BRADLEY. Yes, sir.

Senator COUZENS. Now, I assume that you have not told the committee yet what the workings are in the bureau which would bring contempt to the Government, have you?

Mr. BRADLEY. No.

Senator COUZENS. Can you tell us what the workings of the bureau are that would bring the Government into contempt?

Mr. BRADLEY. Senator, to give you an answer to that question which would be of value to this committee, as you have very kindly explained to the committee, I was called this morning about half past 10, and left my work to come over. Now, along that line, if the committee will permit me, I will ordain my information, and would prefer to answer that question at some time which would be agreeable to you gentlemen.

Senator COUZENS. Well, when you wrote me this letter did you have any specific failure of the department in mind?

Mr. BRADLEY. Yes; I had.

Senator COUZENS. Could you tell us what that is, briefly? I do not want to embarrass you.

Mr. BRADLEY. Well, Senator, I am here to answer your questions irrespective of what the outcome will be. You have discovered, I guess, that I am voluble; I talk too much.

Senator COUZENS. Go ahead; we do not mind.

Mr. BRADLEY. In my last work, in construing section 200 of the revenue law, I deemed that the way that that section has been carried out has caused the Government a great deal of loss.

Senator COUZENS. So that we may understand just what you are talking about, what is section 200?

Mr. BRADLEY. Section 200 of the revenue law provides for personal-service corporations, and the distinctions and rulings of that section are very voluminous and have been going on for a period of four or five years. In our section, when I first went in there, that personal service was granted, which means, Senator, that corporations having been granted personal service the stockholders are entitled on their individual returns to report income proportionately; and sometimes defining what are personal-service corporations and what are not personal-service corporations is fraught with a great deal of trouble.

When I first went there, there were five men that sat in council on the cases when personal services was granted, which meant that the stockholders were, of course, permitted to report their distributive interests in their individual returns. As I say, those five men sat on those cases and decided whether it was a personal-service corporation or not.

Now, later on, for some reason, I do not know what, but some time ago those five men—the committee was abolished, and the determination of whether a corporation was a personal-service corporation or not devolves upon one man, without any revisionary power. He was the instrument that decided whether it was liable for \$100,000 tax or was liable for nothing.

In my opinion, that was a very great weakness, an extremely great weakness, and it is somewhat singular, to my mind, that that authority, that power to say whether a corporation was personal service or not, was held onto most zealously by the section unit audit that I worked in. I say, "I think" that is why I use that language—"I think." I have seen corporations that were granted personal service; I have seen corporations that were denied it, and if there was any distinction, it was too keen for my intellect, and I think, when I had been doing that work there for about 18 months, I was just as capable to pass upon whether a corporation was personal service or not, as the man who had the final determination.

Now, Senator, you did me a compliment yourself in this respect. A change has already taken place in the organization of the Income Tax Bureau, and that very point has now been obviated by the distribution of the personal-service corporations into five sections. For the present moment, that question is not solved.

Senator COUZENS. When was this change made?

Mr. BRADLEY. To-day is Friday—a week ago to-day that change was made; yes, sir.

Senator COUZENS. Just describe an example as to what would constitute a personal-service corporation, and what would be on the border line of a personal-service corporation.

Mr. BRADLEY. Senator, you are examining me now without any preparation along that line. I will do the best I can.

The granting of personal service to a corporation contemplated that the income of that corporation must be derived from the activities of the principal stockholders, and that the outstanding stock must not be held in a proportion greater than 80 in the hands of nonproductive stockholders. Those are the two salient divisions.

Senator COUZENS. Then, that case that you have described would constitute a personal-service corporation. Now, a corporation in which 30 or 40 per cent of the stock was held by nonproductive stockholders would not constitute a personal-service corporation; is that correct?

Mr. BRADLEY. That is correct.

Senator ERNST. Is that the only rule you have for determining it?

Mr. BRADLEY. No.

Senator ERNST. What are the other rules?

Mr. BRADLEY. Well, I guess there must be—I started to say 10,000 decisions, but I guess that is a little large, but I guess there must be 2,000 decisions on that one section.

Senator ERNST. Because of differences of opinion on the subject, do you mean that there have been 2,000 decisions?

Mr. BRADLEY. Well, what I mean by "decisions," is that the question of personal service is not settled to the satisfaction of the taxpayer. Of course, if it is granted, it stops there, but in case they desired to appeal it, it went to the committee on appeals and review. Those are the decisions that I speak of.

Doctor ADAMS. Perhaps this will help you [exhibiting pamphlet to Mr. Bradley].

Senator ERNST. Pardon me. I want him to give his own knowledge of this subject, by telling us how to determine a personal-service corporation, without any aid. Now, I want you to give other rules. If you have only one, what other rules are there for determining what a personal-service corporation is?

Mr. BRADLEY. I have given the two principal ones, I believe.

Another one was the question of agency. If a corporation was officered and the stock, in a proportion of 80 per cent, owned by the officers who devoted practically their entire time to the operation of the business, they were entitled to personal service. Agencies contemplating personal services, unless it was shown that the tax-paying corporation bought merchandise or bought something on its own account, and there was a profit derived from it.

It also contemplated that taxpayers could deal in merchandise up to a certain per cent—say, 8 or 10 per cent—without defeating their claim for personal service.

Advertising agencies were denied the personal service, per se, for the reason that it was construed by the committee on appeals and review that they could not comply, for the general reason and the general idea that they did business on what was called a card rate, which contemplated the purchase of so much space and the selling thereof.

Now, incorporated dentists, incorporated professional men of any kind, were deemed to be personal service.

Contractors that did business on a purely commission basis, and did not construct on a cost-plus basis, were given personal service.

Senator, I believe I have exhausted my memory on that.

Senator ERNST. Are they all the factors which you recall which go into the consideration of the question of whether or not a corporation is a personal-service corporation?

Mr. BRADLEY. Senator, we were told to judge each case upon its own merits. Now, I have digressed emphatically to the position of our chief of section when he wanted to grant personal service, and has refused to concur, and have closed the case under instructions. One very notable case that I recall was the case of a New York harbor towing concern, where the tax was nearly \$100,000, and on the showing my opinion was that they were not entitled to personal service. I was instructed by the chief of section to allow them personal service, and I refused, and asked them to transfer the case, which was done.

Now, there are many cases, hundreds of them, in the same position, or the same conditions, which the files of the section will show.

Senator ERNST. Is not the fact that there are, as you say, 2,000 or more decisions on account of its being a difficult matter to determine whether a corporation is or is not a personal service corporation?

Mr. BRADLEY. Well, hardly so—hardly so. Sometimes the margin is so close and you are in doubt; you really do not know whether to grant it or not. There are lots of border cases.

Senator ERNST. That is what I am trying to make clear.

Mr. BRADLEY. Yes, sir.

Senator ERNST. Then, in such cases, you are naturally inclined to think that you are right and the others are wrong about it?

Mr. BRADLEY. The auditors in the section have enough confidence in their judgment and their experience and their study of the case, their study of the principle, to think that they are right. Yes, undoubtedly so.

Senator COUZENS. In how many cases that you worked on did you ask to have transferred, roughly. I do not expect you to be accurate.

Mr. BRADLEY. Oh, I should say a dozen. That was a matter of principle. The remark was made that the commissioner wanted it done, and I said, "I can't help what the commissioner wants; it is a question of principle, and I will not follow the President of the United States on a question of principle."

Senator COUZENS. For instance, what difference did it make in the taxes of this towing company in New York Harbor as to whether it was declared a personal service corporation or not?

Mr. BRADLEY. Well, that was an 1918 case, an excess profits case, where the war-profits tax applied. The tax was something like \$97,000, and to allow them personal service, the distributive interests would be taxed to the individual stockholders. My computation—and I knew at the time—was about \$75,000.

Senator COUZENS. So that on that ruling alone, the owners of this corporation would save approximately \$22,000 in taxes; is that correct?

Mr. BRADLEY. They would save \$75,000.

Senator COUZENS. \$75,000. I understood you to say that if personal service was decided upon, it would be \$75,000, but you mean that the saving would be \$75,000?

Mr. BRADLEY. Yes, sir.

Senator COUZENS. Have you anything in mind that you would like to prepare and come back with to the committee at another time? I want to say here that I feel a little embarrassment for the witness, because of the short time given him and the promise I made to him that he would not be unduly pressed at this time, on account of the lack of time, and unless the committee has something special in mind that they want to ask him, I would be willing to excuse him for the day and let him come back at some time when he is better prepared.

Senator JONES of New Mexico. Could you give, in brief form—not now, but in a memorandum—the facts involved in these 12 cases which constituted the difference and caused the change in the classification of those corporations?

Mr. BRADLEY. Why, I think that can be done without any trouble, Senator.

Senator JONES of New Mexico. I wish you would do that. You are coming back again.

Mr. BRADLEY. Yes, sir. You appreciate, Senator—

Senator JONES of New Mexico. I realize that in just a moment here you can not recall the particular points which were involved. We are seeking to clarify this law here and if you could give us the points which caused that difference of view in the bureau there, as to whether those corporations should be classified as personal service corporations or not, I think it might be helpful to us. The language of the statute is somewhat general, and I can see how there might be a difference.

of view, but I should like to know the particular facts in the case which did bring about that difference in view.

Mr. BRADLEY. I think I understand your idea, Senator, and if you will permit me to make myself somewhat clearer with respect to the denial of these personal service cases, I am not impugning the honesty or the integrity of any of these men. I am simply estimating them from the intellectual standpoint, which I have a perfect right to do.

Now, Senator, our procedure does not give, nor is there any record of why personal service was granted when we made out what we call our synopsis sheet, and when it was issued. They simply wrote on there "granted" and put their initials on it; but you see the difficulty I am laboring under.

Senator JONES of New Mexico. Your synopsis contains a statement of facts, does it?

Mr. BRADLEY. It contains a statement of facts, yes, sir.

Senator JONES of New Mexico. Now, without involving any particular cases in publicity, if you could just let us have a synopsis of those 12 cases, without using the names involved, I think that would be helpful to us.

Mr. BRADLEY. Am I permitted to do that?

Senator COUZENS. I see no objection to doing it.

The CHAIRMAN. I think you had better consult the commissioner about it.

Mr. BRADLEY. That is a copy of the document that was attached to the taxpayer's case.

Senator JONES of New Mexico. Well, there is no inhibition in the law to disclose those facts. Time and again, we get statistics from the department without the disclosure of the names of the parties involved.

Mr. BRADLEY. Would you say that was statistics, Senator?

Senator JONES of New Mexico. How is that?

Mr. BRADLEY. Would you say that was statistics?

Senator COUZENS. Let me interpose here a moment. The commissioner himself has files here, copies of the finding in typical cases handled by the Income Tax Unit, showing various causes contributing to delay in their final adjustment. He typifies these cases by numerals. He says case No. 1, date return filed, and so forth. You can take these twelve cases and typify them as one, two, three, four, etc., and state that these are the facts you deduce your conclusions from, and then you can say, if you know why, or if there is any record, why there was a difference between your conclusion and the final conclusion.

The CHAIRMAN. Mr. Hartson, what is your notion about that?

Mr. HARTSON. I see no real objection to furnishing information, which does not lead to or relate to a particular taxpayer's returns. If this information can be submitted without reference to the name of the taxpayer and the amount involved, it could be done without violating any section of the statute, so far as I know.

Senator COUZENS. Assuming that you can get a record, as requested by Senator Jones.

Senator ERNST. No objection, so far as I am concerned.

Senator COUZENS. Have you any further questions, Senator?

Senator JONES of New Mexico. No.

Senator COUZENS. Would you like to ask him any questions, Doctor Adams?

Doctor ADAMS. No; I think not. I think Senator Jones ought to know that that provision of the law has lost most of its force, in connection with the excess profits tax.

Mr. BRADLEY. Yes, it has.

Senator JONES of New Mexico. Yes; I understand that, but we may want to revise the excess-profits tax.

STATEMENT OF MR. J. F. ADAMS, WASHINGTON, D. C.

Senator COUZENS. Mr. Adams, will you give for the record your name and your address?

Mr. ADAMS. J. F. Adams, 922 M Street NW.

Senator COUZENS. What is your profession?

Mr. ADAMS. Mechanical engineer.

Senator COUZENS. Mechanical engineer?

Mr. ADAMS. Yes, sir.

Senator COUZENS. Does that qualify you to be an appraising engineer, too?

Mr. ADAMS. Yes, sir; I have done building.

Senator COUZENS. Can you tell us when you first entered the Internal Revenue Bureau?

Mr. ADAMS. January 2, 1923.

Senator COUZENS. And when did you leave?

Mr. ADAMS. My last pay was on the 13th of November, I think.

Senator COUZENS. What duty did you perform in the bureau?

Mr. ADAMS. Passing on amortization claims, investigating, field service.

Senator COUZENS. Who was your immediate superior officer?

Mr. ADAMS. S. T. De La Mater.

Senator COUZENS. What did you do before you entered the employment of the bureau?

Mr. ADAMS. I was supervising engineer for the National Carbon Co.

Senator COUZENS. How long were you engaged in such a capacity?

Mr. ADAMS. Two years—25 months, to be exact.

Senator COUZENS. Prior to that, what did you do?

Mr. ADAMS. I was in the War Department as a mechanical engineer, first. Then I was commissioned as captain in the Ordnance Department, and after the armistice I was on the claims board for six months. I was liaison officer between the claims board and Washington, and after the claims were pretty well settled, they transferred me to the salvage section under Major Glendon, where I audited accounts.

Senator COUZENS. Were you a civil service employee of the bureau?

Mr. ADAMS. Yes, sir.

Senator COUZENS. Why did you leave the bureau?

Mr. ADAMS. I was let go—dismissed.

Senator COUZENS. For what reason?

Mr. ADAMS. I guess I can bring that out in the evidence. First, we were dismissed to cut expenses.

Senator ERNST. What is that?

Mr. ADAMS. First, we were dismissed to cut expenses, but two weeks later we were dismissed for inefficiency, and after various com-

plaints had been made, they said we were efficient enough to use, but not efficient enough to keep, all of which was untrue.

Senator JONES of New Mexico. You say "we." Whom do you mean?

Mr. ADAMS. There were 21 altogether, I believe, let go.

Senator JONES of New Mexico. Under the same circumstance?

Mr. ADAMS. Yes; under the same circumstance.

Senator ERNST. Twenty-one mechanical engineers?

Mr. ADAMS. No; there were civil, mechanical, mining, shopbuilding engineers, etc.

Senator ERNST. But they were all engineers?

Mr. ADAMS. All engineers; yes, sir.

Senator COUZENS. When you first came to my office you advised my secretary, so I am informed, that you knew of a great deal of graft and corruption.

Mr. ADAMS. Yes, sir.

Senator COUZENS. Which has taken place in the bureau.

Mr. ADAMS. Yes, sir.

Senator COUZENS. Could you tell us about that?

Mr. ADAMS. I did not get the telephone message until this morning, and between 11 and 2 I wrote up this little statement. I will read it to you, if satisfactory.

Senator COUZENS. If you please.

Mr. ADAMS. When I went into the department first I made an intensive study of the law and the application of the law, and in doing that I went to each engineer around me, quietly, and asked them for a couple of copies of their best reports so I could study the application they made of the law. In doing that I became acquainted with the qualifications of the various men around; in fact, I guess before I was there six months I had every man placed pretty nearly as to his ability and also his standing with the powers.

I found that the interpretation of the law ran from 25 to 90 per cent, according to the company and to the individual.

Senator COUZENS. You mean of the particular section that you are talking about?

Mr. ADAMS. Yes. A certain company would apply for amortization, or put in an amortization claim. A company would probably ask for 50 per cent amortization. That would be cut to perhaps 25 per cent. Another company, under the very same circumstances, and probably not having more value and use than this one, because it happened to have the right powers back of it, would, perhaps, get 80 per cent amortization, under the same circumstances.

Now, that could be verified.

A study of these reports developed the fact that the department had no fixed basis of settlement, and that the law was interpreted to suit each case, certain large companies receiving more liberal allowances than the general run of cases.

Understand, I do not mean to say that these large companies got more than they were entitled to. I believe the law should be interpreted liberally, but I do say that it should be interpreted equally in regard to all. A small man should get the same as a large man. It is not exactly the small and large, either. Certain large men paid all they should pay, and certain other large men did not pay one-third of what they should have paid, if the law was equally administered.

I also found that engineers adhering to a conservative basis of settlement were given the smaller cases. A confidential circular forbade the United States employee giving the taxpayer information that would cause him to increase his claim, although the amount claimed was less than the taxpayer was entitled to.

One of those cases that I was out on occurred to me as I came up here, and that was the Rub-No-More Soap Co., at Cincinnati. I found their plant. They had put up a plant for manufacturing glycerine during the war. Prior to the war their main product was soap, and glycerine was a by-product. During the war we had to have glycerine in large quantities, so they put up a new plant altogether for the manufacture of glycerine, and made the glycerine the prime product. That differs altogether from the original saponification process. After the war the building went out of use, practically. When I was there they put it up to me, and they asked for a certain amortization. I looked it over and examined it all through. I went through the other buildings that were in use, and then finally to the library that night. I spent a couple of nights in the library there at Cincinnati. I also made it a point to go into some of the soap companies in Chicago when I was there, to be sure that I had the right slant on it. I could not understand why they did not ask for more. When I got back home I told the chief about it. He said, "Give them what they ask for; that is all you can do; you can not give them any more."

Another company I can refer to—I just can't think of it now—a company in Wilmington, Del.; but, of course, it is just a minor instance, just using them as specific examples of the way the law is carried out.

Senator JONES. Was there any variation in treatment where the parties asked for the same kind of relief?

Mr. ADAMS. Yes, sir; constantly.

Senator COUZENS. I understand your theory is, Mr. Adams, that when the taxpayer in the case of this soap company asked for a percentage of amortization he felt that he was justified to, that it was the duty of the Government to tell him that he was entitled to a greater allowance in view of the allowances made to other concerns?

Mr. ADAMS. Yes.

Senator COUZENS. I want to say that I concur entirely in that feature.

Mr. ADAMS. I want to say also that it would be a very simple matter, and fair to the engineers, fair to the department, and fair to the taxpayers all through the country, to establish such rules as would govern every taxpayer; and it could be done with far less labor than they are doing to-day down there. Many claims were disallowed under certain rulings which were later amended; that is they would rule that one taxpayer was entitled to amortization and a month or two later another taxpayer would come in and the rule would be changed. The man who came in last and saw the rule changed would be given the amortization on those claims, but not one word be said to the old taxpayers who had previously paid exorbitant amounts.

Taxpayers who had previously paid were not informed of the change and no credit for redetermination of their claims made unless they had inside information.

That is one thing I want to make very clear to the committee. Insiders there that knew of these cases would notify certain auditing concerns outside, tax experts to come in and see them; and then in a little while we see one of three different concerns, auditors, send in a new claim for this taxpayer, if it is a large amount, and get it, you see, and usually on a contingent basis.

There were three firms. One is Ernst & Ernst; Engineering Service Corporation—I just can't think of the other, but there were three of them; and it was understood that the chief of the section, Mr. DeLamater, had them bidding against one another to see who would pay the best price for the claims, because sometimes one would get it and sometimes the other.

The CHAIRMAN. Say that again.

Mr. ADAMS. When a taxpayer's claim was taken down on account of the rulings of the internal revenue, and later on the ruling was changed so that he could be allowed amortization, the taxpayer was never notified by the bureau, but such corporations, auditing firms, outside, would call upon him and in a little while his claim would be put in under the new ruling.

Senator JONES. How did these outside auditors gain the information?

Mr. ADAMS. Through the inside information. We had the idea inside that Mr. DeLamater and Jennings, one or both of them there, was getting in touch with the outsiders, or it may have been somebody higher up; you can't tell, it may have been Mr. Blair, for instance, or anybody there, would get in touch with these disallowed claims and notify these auditing firms outside and they would call on them. I know of one instance which could be very easily verified.

Senator COUZENS. Name the instance.

Mr. ADAMS. Where they put the claim on a certain percentage of what they secured.

Senator COUZENS. Be concrete; you say you know one instance; tell us that.

Mr. ADAMS. I think I have that here; I can get that for you.

Senator COUZENS. Will you get it for us, please?

Mr. ADAMS. Yes.

The CHAIRMAN. Now, Mr. Adams, before you go any further, you have said that these people on the inside knowing those conditions gave information to certain people on the outside?

Mr. ADAMS. Yes.

The CHAIRMAN. You have mentioned two names, Mr. DeLamater and somebody else.

Mr. ADAMS. Yes; Jennings.

The CHAIRMAN. Jennings?

Mr. ADAMS. Yes, sir.

The CHAIRMAN. Who were they?

Mr. ADAMS. One was the chief of the section; the other was his assistant.

The CHAIRMAN. Do you personally know?

Mr. ADAMS. No; I do not; I do not. It was rumored. I do not say positively; I say it was rumored there.

The CHAIRMAN. But you do not know?

Mr. ADAMS. No.

The CHAIRMAN. That either of those men ever at any time did that?

Mr. ADAMS. No; I do not.

The CHAIRMAN. It might have been somebody outside?

Mr. ADAMS. It might have been somebody higher up, as I said.

The CHAIRMAN. Do you think it is fair to these Government officials to use their names in public like you have with no definite knowledge about the things you speak of?

Mr. ADAMS. I will say this: Mr. Jennings was found guilty of perjury in putting in his civil service application and was dismissed from the service for perjury. His actions all the way through have been anything but honorable.

The CHAIRMAN. Where is Jennings?

Mr. ADAMS. He is up in New York now; I believe he is a tax expert.

The CHAIRMAN. You say he was charged with perjury?

Mr. ADAMS. Yes, sir; he was dismissed for perjury.

The CHAIRMAN. You mean the crime of perjury?

Mr. ADAMS. He made false statements in his civil service application.

The CHAIRMAN. Did he swear to them?

Mr. ADAMS. Yes; you have got to swear to everything.

The CHAIRMAN. He swore to it. Was he ever indicted for crime?

Mr. ADAMS. No. There is one thing that I want to tell the committee why he was not prosecuted for it—simply because Mr. Batson and some others, I understand, or his friends used their influence to stop it.

The CHAIRMAN. You say you understand?

Mr. ADAMS. Yes.

Senator ERNST. Do you know?

Mr. ADAMS. Well, I was over to the Civil Service Commission, and I questioned some of the people there, and when I got through talking with them I made up my mind that was the reason for it. One of them told me Mr. Batson had taken up his case for him, and another one told me that it was not prosecuted, that they did not know that they had such a good case after all, and they had decided they would drop it.

The CHAIRMAN. Was Jennings your superior at any time?

Mr. ADAMS. My immediate superior.

The CHAIRMAN. Did you have any trouble with him?

Mr. ADAMS. No, sir.

The CHAIRMAN. You did not?

Mr. ADAMS. No, sir.

The CHAIRMAN. Why did you take up the matter of finding out why he had not been prosecuted?

Mr. ADAMS. Because I did not want to have my name put before the public as being dismissed for inefficiency when I know the contrary. I have no desire to get back.

The CHAIRMAN. Had you been dismissed by Jennings?

Mr. ADAMS. No, Jennings was out just before me, but Jennings sent the names in the way he wanted. I will get to that a little later as I go along.

The CHAIRMAN. All right.

Mr. ADAMS. I saw many cases which the engineers disallowed that were later allowed without the men who had investigated same

being given an opportunity, or being heard, or being present at the conference. Now, there is a point that should be explained. When an engineer reports that a taxpayer is not entitled to reduction in his claim by the proper regulations, when the taxpayer comes in for a conference on the subject differing with the report, the engineer who made this disallowance should be called in to give his side of the case; but many cases have gone through there where the engineer was ignored, his findings set aside without any investigation whatever except an office conference between two or three individuals who never saw the plant, and they would agree to allow him a certain amount.

Senator JONES. Are those people still in the bureau?

Mr. ADAMS. Oh, yes.

The CHAIRMAN. You mean to say, Mr. Adams, that that was corruptly done; do you know of any instance in which that was done?

Mr. ADAMS. You can put any inference on it that you want to.

The CHAIRMAN. I am asking you; you are the witness.

Mr. ADAMS. I certainly think it was corrupt.

The CHAIRMAN. You think they were bought to do that—by cash?

Mr. ADAMS. Well, I would not say by cash; there are other things than cash.

The CHAIRMAN. Bought in what way?

Mr. ADAMS. Bought with influence, we will say, for instance. De La Mater expected to go in business as a tax expert.

The CHAIRMAN. Where is he now?

Mr. ADAMS. He is a tax expert in Washington.

The CHAIRMAN. Where in Washington?

Mr. ADAMS. In one of the office buildings here; I have forgotten. The records will show that evidence.

The CHAIRMAN. The records will show what?

Mr. ADAMS. Their conferences, where they set aside the engineers' findings.

The CHAIRMAN. Do you mean to say that every time the head of the department makes a change in the rulings of some of the subordinates there is corruption?

Mr. ADAMS. I say this: No matter who he is, who has been out in the field and has investigated the case, if he is an engineer as he claims and he generally must be to pass the civil service, his findings should be taken in lieu of the taxpayer's word; and if we are going to have any honesty the man who is in the field should be brought into every case where his finding is disputed right before the public. The secret conferences wherein the taxpayer is confined with two or three men—men are only human, and wherever secret conferences take place there is a chance for graft and usually nine times out of ten graft is there one way or another.

The CHAIRMAN. So you make the wholesale sweeping charge that in most of the cases somebody was bought either by money or—

Mr. ADAMS (interposing). No, sir.

The CHAIRMAN. A promise of influence.

Mr. ADAMS. No; I said nothing of the kind.

The CHAIRMAN. What did you say?

Mr. ADAMS. I say that the thing for this committee to do, in my opinion, is to abolish all secret orders, confidential orders to employees so that where anything is told to the employees it is told to the world.

The CHAIRMAN. Yes; that is all right.

Mr. ADAMS. Every place.

The CHAIRMAN. That has reference to future policies.

Mr. ADAMS. Yes.

The CHAIRMAN. I am talking about past transactions, whether they were dishonest or not.

Mr. ADAMS. Now, that is another proposition. I am not making charges of graft or wholesale graft against anybody.

The CHAIRMAN. That is what I am trying to find out.

Mr. ADAMS. But I am trying to do everything I can to help the taxpayer on the outside.

The CHAIRMAN. We appreciate that thoroughly.

Mr. ADAMS. And I want to show the committee why these changes should be made.

The CHAIRMAN. That is all right, and that is what we want.

Mr. ADAMS. Yes, sir.

The CHAIRMAN. And we are glad you feel that way; but the charge you made, or the assertion at all events, was that where your advice was not taken and conferences were held and the recommendations changed that there had been graft, not alone—

Mr. ADAMS (interposing). I did not say—

The CHAIRMAN (interposing). Graft not by cash but by the promise of influence, you said.

Mr. ADAMS. I did not say that.

The CHAIRMAN. You did not?

Mr. ADAMS. No, sir; that is a misunderstanding.

Senator COUZENS. I would like to put another question, if you will pardon my interposition, Mr. Chairman. We heard what he said.

The CHAIRMAN. Let him say it again.

Senator COUZENS. But he said it once.

Senator ERNST. Let him say it again. I ask him to say it again.

Mr. ADAMS. I say that where you have the practice in the first place of holding those secret conferences the engineer who made the investigation is the man who knows the plant all through. In regard to the taxpayer, his word—

Senator ERNST (interposing). Confine yourself to the charges of graft.

Mr. ADAMS. That is—

Senator ERNST (interposing). That is what we are trying to find out.

Mr. ADAMS. That is this; we have some three men holding conferences with the taxpayer and the engineer is not consulted; and they are guilty of something; it is either graft for themselves, or an injustice to the Government or the taxpayer, one or the other.

The CHAIRMAN. It might be an injustice to the taxpayer not to get his side of the case.

Mr. ADAMS. Yes, sir.

The CHAIRMAN. That is an entirely different proposition from the criminal act of selling out the Government. Certainly if the taxpayer came in and presented his side of the case I would not say that the man sold himself if he considered the taxpayer's evidence.

Mr. ADAMS. I want to tell you, Senator, a man in the position of going into a secret conference would have to be very simple-minded to leave anything by which the engineer or his subordinates could

find out that he was guilty of graft. The question you are putting to me is simple.

The CHAIRMAN. Then you do not know of any case of your own knowledge?

Mr. ADAMS. I should say not.

The CHAIRMAN. That is the point; that is all I want.

Senator JONES. Let me ask you this question: Are there regulations as to how those cases shall be disposed of?

Mr. ADAMS. Yes, sir.

Senator JONES. What are the regulations?

Mr. ADAMS. I can not quote them.

Senator JONES. Well, the substance.

Mr. ADAMS. They are written regulations; I can not quote them exactly; but it is the usual rule that at a conference the engineer who made the examination should be present at the time of the hearing.

Senator JONES. What is the nature of the engineer's report in such a case?

Mr. ADAMS. He goes into the question of the industry, what it produces, the nature of the machinery, the operations for the production, the expenses that the taxpayer has gone to during the war to help the Government.

Senator JONES. And the efficiency of the old plant to do the new work, and so on?

Mr. ADAMS. Yes; and the amount of expenses he had to put in during the war to turn out the Government contracts, and after the war his new line of manufacture, if it was a new line, and the facilities that he purchased during the war, their adaptability to produce the new lines that he is in after the war.

Senator JONES. Do I understand you to say that such a report on file would go into the details?

Mr. ADAMS. Yes, sir.

Senator JONES. And would estimate the dollar values?

Mr. ADAMS. Yes, sir; the production and quantity.

Senator JONES. And then the engineer would total that and that would represent his recommendation as to the allowance for amortization?

Mr. ADAMS. Yes, sir.

Senator JONES. Would there be any other evidence before the department or the bureau in such a case except the engineer's estimate?

Mr. ADAMS. The engineer would have to produce figures showing as a general thing—not in every case, but as a general thing he was supposed to produce figures showing capacity during 1918 of the various lines and the actual amounts produced during post-war years; he took the production during 1921, 1922, and 1923 and averaged it and put that against the production of 1918, which was generally taken as the capacity, and the percentage, whatever it happened to be, would be given to the taxpayer as the amortization.

Senator JONES. And that data you would get from the—

Mr. ADAMS. Taxpayer.

Senator JONES. Books of the operating concerns?

Mr. ADAMS. That is right.

Senator JONES. And so it was really a matter of mathematics in most cases, was it not?

Mr. ADAMS. A matter of mathematics and it could be reduced to mathematics, in every case, practically.

Senator JONES. What evidence besides those engineers' reports would be filed in those cases?

Mr. ADAMS. The taxpayers' claims and some affidavits; I think that is about all.

Senator JONES. And, as a general rule (if there is not a written rule, then, under the general custom), when the case was considered by the parties having authority to decide, the engineer would be called in to discuss his report; but in some cases which you have referred to here, that custom was not observed?

Mr. ADAMS. Yes, sir.

Senator JONES. Without consulting the engineer further they would make a greater allowance for amortization than the engineer allowed?

Mr. ADAMS. Yes, sir.

Senator JONES. In the cases which you have in mind how much greater, how much do you recall the allowances were over those recommended by the engineer?

Mr. ADAMS. Well, in that particular instance, I have given quite a little thought as I was coming up here, and I would prefer not to mention any figures because this investigation, if it is carried properly, is going to take a year in order to get the proper slant on that law and bring it to where it ought to be, certain large cases should be tabulated and put alongside of one another showing the allowances made, for instance, to the United States Steel, the Brown & Sharpe Co., the Aluminum Co. of America, the Great Lakes Shipbuilding Corporation, and various concerns of that kind, and alongside of that make comparisons with ordinary concerns like I will say the Ford automobile concern.

The CHAIRMAN. That is not an ordinary concern.

Mr. ADAMS. Another concern—any concern that did not have any inside influence—make a comparison; and let me tell you, gentlemen, if you do not wake up, you will see something there that will open your eyes; I am telling you just what you can expect. There are some of the _____

The CHAIRMAN (interposing). Now, now—

Mr. ADAMS (continuing). Excuse the expression, there are some of the worst deals put through in the department that I ever came across in my life, and I am 53 years old, and a business man all through. I want to tell you it is adulterous, the whole thing is right straight through.

Senator ERNST. When did you discover this?

Mr. ADAMS. When I was in the department I buckled down and put my nose to the stone. I did nothing but study and see—

Senator ERNST (interposing). And you knew that this fraud was going on and did not mention it?

Mr. ADAMS. I noticed it. The first time I began to think seriously of it was after I got through with that trip that I mentioned where I went to the Rubnomore Co. in Indiana, soap concern. I stopped at Richmond, Ind., or Fort Wayne, I think it was, a place in Cincinnati—various concerns along the line—they were all small claims running, I should say, from not over a hundred thousand dollars—well, at that time we got \$250,000, but that was the largest—that were similar, and I made comparisons between them and their

reports—I had been reading reports of engineers—and their amounts. I would say, "Mr. So-and-so, I would like a couple of your reports; I wish you would pick me out two good ones"; and usually I would get his two best reports and in that way I got a good line—

Senator ERNST (interposing). I do not object to you telling all that, but what I asked you was how long you remained in the department after you knew of this fraud without discussing it or telling anybody about it?

Mr. ADAMS. I was going into that. After I got back from this trip it occurred to me that there was a chance for a big scandal here some day, and I wrote to friends of mine about it.

Senator ERNST. In the department?

Mr. ADAMS. No, this was on the outside. He happened to be in politics, and I thought I would get his view on it; and he said, "My advice to you is to try and get the evidence." He said, "If there is going to be an investigation, you ought to know what you are talking about some day, and try to do the right thing by the outsiders."

I was surprised when I got home—they gave me a case and told me to allow \$20,000 on it. I have it written down. I looked it over and I saw the man was not entitled to a cent, that he had got more now than was coming to him; he spent only \$65,000 during the war.

Senator ERNST. You keep on telling of these cases; why don't you answer the question?

Mr. ADAMS. I am trying to answer.

Senator ERNST. I have been asking you to tell me, and I would like to know when you first found there was any graft and how long you stayed in the department after you ascertained it?

Mr. ADAMS. Probably a month.

Senator ERNST. And then you were put out?

Mr. ADAMS. Yes, sir.

Senator ERNST. Did you leave then because you had discovered the graft or did you leave because you were dismissed?

Mr. ADAMS. I spent about a month studying the things during that month; do you get me?

Senator ERNST. You were trying to find out evidence of other frauds, I suppose.

Mr. ADAMS. No, sir; yes—it is just this, I wanted to get evidence, just as I said.

Senator ERNST. Then, you mean to say you stayed there a month after you discovered it; that you had not discovered it up until a month before you left?

Mr. ADAMS. That is right.

Senator ERNST. That answers my question.

Mr. ADAMS. Are you through; shall I proceed?

Senator JONES. Yes; go ahead.

Mr. ADAMS. I saw that, on the other hand, many engineers, cases which were disallowed, were allowed when the man he had investigated would simply be given the opportunity of being heard or attending a conference. For instance, the case of the Lionel Corporation. The taxpayer's claim was disallowed by Engineer Charles Brown. Mr. Brown was dismissed in July, 1923, on the grounds of inefficiency and he was—

The CHAIRMAN (interposing). Let me ask you there, Mr. Adams, please, when was that decision made?

Mr. ADAMS. His decision was made in June, if I remember.

The CHAIRMAN. 1923?

Mr. ADAMS. 1923; yes.

The CHAIRMAN. And then he was dismissed after—

Mr. ADAMS. He was dismissed in July, I think.

The CHAIRMAN. Because of that investigation?

Mr. ADAMS. Oh, no; they did not dismiss him because of that; he was dismissed because of inefficiency, I think the report will show now in the department.

The CHAIRMAN. Do you know that he was dismissed because of the investigation he made in that case?

Mr. ADAMS. No; I do not; I do not know anything—

The CHAIRMAN (interposing). Did you ever hear anybody say that he was?

Mr. ADAMS. No; he did not even say so himself.

Senator COUZENS. He said he was dismissed because of inefficiency?

The CHAIRMAN. He said that he was a very efficient man.

Mr. ADAMS. This charge of inefficiency could be very easily disproved; all you have got to do is to go over the record of this man.

The CHAIRMAN. You say he decided this case and within a month after that he was dismissed for inefficiency?

Mr. ADAMS. Yes, sir.

The CHAIRMAN. And your conclusion, therefore, is, or the inference you want us to draw, is that he was dismissed because he rendered that decision?

Mr. ADAMS. Not on that particular case. There were many other cases that he disagreed with the department on and the quarrels were spoken of throughout the department.

The CHAIRMAN. In what branch of the service was he engaged?

Mr. ADAMS. The same.

The CHAIRMAN. He was an engineer, was he?

Mr. ADAMS. An engineer; yes, sir.

The CHAIRMAN. Did he go about the same time you did?

Mr. ADAMS. No; he was there at the time I went there.

The CHAIRMAN. Do you know when he did go in?

Mr. ADAMS. No, I do not exactly; but I guess he was there two or three years. This case was given to me in October, 1923, with instructions to allow the taxpayer \$20,000. Upon examination I found that the balance sheet of the taxpayer showed a balance of only about \$17,000 that had not already been taken or allowed on his war facilities; there was only a balance left on the balance sheet of \$17,000. He spent \$65,000, but had been allowed \$48,000 in a war claim, so there was only a balance of \$17,000 left on his balance sheet.

The CHAIRMAN. And you received instructions to do what?

Mr. ADAMS. To allow him \$20,000.

The CHAIRMAN. By whom?

Mr. ADAMS. By Mr. Thwing; he claimed to be one of the reviewers. I went at it of course to give the allowance because I thought I would find it all right, but I found that the balance sheet did not show up properly. I went to him. He said, "Now, I have got to go away; I am leaving town, for a week's trip, but we promised that taxpayer that we would let him have \$20,000." He said, "I want you to allow him that." I said, "I can't do it."

The CHAIRMAN. Mr. who?

Mr. ADAMS. Mr. Thwing. T-h-w-i-n-g.

The CHAIRMAN. Let me interrupt you long enough to ask if he is still in the department?

Mr. ADAMS. No, no; he is an expert too, a tax expert on the outside.

The CHAIRMAN. He is an expert?

Mr. ADAMS. Yes, sir.

The CHAIRMAN. How long after that did he stay in?

Mr. ADAMS. He left about the same time I did, I guess.

The CHAIRMAN. Why did he leave?

Mr. ADAMS. Because I think he saw this investigation coming.

Senator ERNST. Saw what?

Mr. ADAMS. I think he saw an investigation coming; I am not sure.

The CHAIRMAN. Was he dismissed?

Mr. ADAMS. No, he resigned.

The CHAIRMAN. How long ago was that?

Mr. ADAMS. November 15.

The CHAIRMAN. November 15?

Mr. ADAMS. I think he left November 15.

The CHAIRMAN. And you think he left because he was afraid of being investigated?

Mr. ADAMS. I imagine that; either that or else he saw more money on the outside.

Senator ERNST. You are just guessing; you do not know anything?

Mr. ADAMS. Certainly, I am guessing; but I am making some pretty strong guesses, though.

Senator ERNST. That is what I have noticed.

Mr. ADAMS. But they are some good guesses, that you will find it to be to your advantage to go into.

The CHAIRMAN. That is all we are trying to find out. What was the name of this particular case, Mr. Adams?

Mr. ADAMS. Lionel Corporation.

The CHAIRMAN. Who are they, and where are they located, and what do they do?

Mr. ADAMS. They make—well, during the war, they made gun sights; they were a very efficient company.

The CHAIRMAN. Where are they located?

Mr. ADAMS. Their plant is in Newark.

The CHAIRMAN. Was there a very large amount involved in this proposition?

Mr. ADAMS. No; only \$20,000.

The CHAIRMAN. Only \$20,000?

Mr. ADAMS. It was just a small affair.

The CHAIRMAN. Since Mr. Thwing has gone out, has he represented this taxpayer in anything?

Mr. ADAMS. I do not know anything about it; I am not in the department and I do not know.

The CHAIRMAN. And he came and told you to allow that?

Mr. ADAMS. Yes.

The CHAIRMAN. That he had promised it?

Mr. ADAMS. Yes.

The CHAIRMAN. What did he say he had promised?

Mr. ADAMS. He had promised the taxpayer's representative.

The CHAIRMAN. Did he name him?

Mr. ADAMS. I do not know whether he did or not.

The CHAIRMAN. Did you ever see the representative?

Mr. ADAMS. No.

The CHAIRMAN. Never talked with him?

Mr. ADAMS. No.

The CHAIRMAN. Did Mr. Thwing tell you that \$20,000 had to be allowed because he promised—

Mr. ADAMS (interposing). Yes.

The CHAIRMAN (continuing). That it should be allowed?

Mr. ADAMS. Yes.

The CHAIRMAN. Then what happened?

Mr. ADAMS. I went to—he told me who the other conferees were—I went to see Mr. Lewis, who was in charge of the situation. "Well," he said, "I can see your point, but we agreed to give the man \$20,000." He said, "I do not see what you want to bother your head about the balance sheet anyhow; you are not an accountant."

The CHAIRMAN. Mr. Lewis said that?

Mr. ADAMS. Mr. Lewis said that.

The CHAIRMAN. Who was Mr. Lewis?

Mr. ADAMS. He was in charge of the special audit accountants.

The CHAIRMAN. Is he still in the department?

Mr. ADAMS. I do not know.

The CHAIRMAN. You do not know?

Mr. ADAMS. He probably is.

The CHAIRMAN. You do not know of his having gone out to become an "expert"?

Mr. ADAMS. No; I do not know about that. So he said, finally he said: "I do not know what to think about it." I told him I would not sign the report; and he said, "Go and have a talk with Mr. Herring; he was present at that conference." I talked to Mr. Herring and he said the same thing; and finally I made up my mind I was not going to sign the report.

I went in to the chief, Mr. DeLamater, with the expectation of telling him that if the report went through he would have to have somebody else's signature to it, because I would not sign it. So I went in and laid the facts before him, and to my surprise he said, "Mr. Adams, you put in the report just as you have made it out, and we will accept it." He said, "I know what you are after, and your point is all right."

Senator JONES. You spoke about this agreement to allow the \$20,000 having been reached at a conference?

Mr. ADAMS. Yes, sir.

Senator JONES. What conference?

Mr. ADAMS. A conference between the taxpayers' representative and the auditor.

Senator JONES. What representative?

Mr. ADAMS. They just picked out the reviewer, I imagine, and the chief.

Senator ERNST. You do not know about it at all, do you?

Mr. ADAMS. Oh, I do know; yes, I do know.

The CHAIRMAN. You said, "I imagine."

Mr. ADAMS. Well, I imagine they picked them out.

Senator JONES. I want to know who constituted that conference?

Mr. ADAMS. I think Mr. Thwing, Lewis, and Herring—Herring, I believe—Her—Herring, I think.

Senator JONES. So he is still in the department; and are all those men?

Mr. ADAMS. I think so; I am not sure.

Doctor ADAMS. Mr. Adams, that was the usual way of having a conference?

Mr. ADAMS. Yes; but they usually looked up the man who investigated it and brought him into it; and if he was not present, that is if he was out of the service generally they sent a man out to the taxpayer again to find out the facts.

Senator JONES. Do you recall who the representative of the taxpayer was?

Mr. ADAMS. No; I do not. It starts with a "D" but I don't remember—no I can not remember. I think I read the report that they had a conference.

Senator JONES. The report of the conference was written out, was it?

Mr. ADAMS. Oh, all reports are written out.

Senator COUZENS. What was finally allowed?

Mr. ADAMS. Nothing was allowed. Still, I wrote out that report disallowing it and a week later I was discharged.

Senator COUZENS. In other words: Let me summarize this as I understand it, for I think here is a specific case of what might develop.

Mr. ADAMS. Yes.

Senator COUZENS. As I understand you, as the story went along the taxpayer invested \$65,000?

Mr. ADAMS. Yes.

Senator COUZENS. For war purposes?

Mr. ADAMS. For war purposes.

Senator COUZENS. What was the total of his investment for war purposes?

Mr. ADAMS. That is approximately, you know, \$65,000 and some hundreds over.

Senator COUZENS. Yes; I mean that is all he claimed?

Mr. ADAMS. That is all he claimed that he spent.

Senator COUZENS. Then the question of amortization came in, as to how much he should be allowed on that investment because he did not go into it for specific war purposes?

Mr. ADAMS. Yes.

Senator COUZENS. Then had the \$20,000 been allowed that was agreed at the conference he still would have left his entire investment for the war purposes with \$3,000 more?

Mr. ADAMS. Yes, sir.

Senator COUZENS. And he really invested that amount for war purposes?

Mr. ADAMS. Yes, sir.

Senator JONES. He would still have had a plant of some sort?

Mr. ADAMS. Yes, sir; he still would have had the plant.

Senator JONES. And what was the value of that plant?

Mr. ADAMS. Well, there were standard machine tools, lathes, shapers, planers, milling machines—

Senator JONES. Had you gone to the property up there?

Mr. ADAMS. No, sir.

Doctor ADAMS. You had been advised what it consisted of, or you just examined the balance sheet?

Mr. ADAMS. Yes; previous investigation.

The CHAIRMAN. Who did investigate it in the field?

Mr. ADAMS. Excuse me; I was in the New York district as Army inspector of ordnance for a number of plants during the war and I happened to know of this myself. He was one of the most efficient manufacturers of gun sights we had.

Senator JONES. He was manufacturing gun sights?

Mr. ADAMS. Yes; during the war.

Senator JONES. What kind of machinery and how extensive was it that he used in the manufacture of gun sights?

Mr. ADAMS. Well, standard machine tools entirely; no special machines at all.

Senator COUZENS. I think, Senator Jones, that the total investment was \$65,000.

Senator JONES. I was trying to get his idea of the value of the plant which he had after he got his \$65,000 off.

Senator COUZENS. I think that is a perfectly proper question, too.

Mr. ADAMS. The depreciation on machine tools won't run over 8 per cent a year, so he takes that as depreciation in there right along.

Senator JONES. He did use some of the same machinery for purposes other than the manufacturing of gun sights?

Mr. ADAMS. He used that on his regular work.

Senator JONES. This is getting interesting to me.

Mr. ADAMS. Yes.

Senator JONES. I want to make a statement of the case, and if it is not correct I wish you would correct me.

A man invested \$65,000 in an addition to his plant for the purpose of manufacturing gun sights during the war?

Mr. ADAMS. Yes, sir.

Senator JONES. And that plant consisted of the ordinary tools and machinery used in metal work?

Mr. ADAMS. Metal production.

Senator JONES. Metal production, with a depreciation in the ordinary course of business of not to exceed 8 per cent?

Mr. ADAMS. Yes, sir.

Senator JONES. The production of gun sights ceased about what time?

Mr. ADAMS. About January 31, 1918.

Senator JONES. And when was it constructed?

Doctor ADAMS. In January?

Mr. ADAMS. December 31.

Senator JONES. When was the plant constructed, approximately?

Mr. ADAMS. Senator, he just added this machinery.

Senator JONES. We only went into the war in April, 1917, so it was after that date?

Mr. ADAMS. Yes, sir.

Senator JONES. And it could not have been in operation more than a year and a half?

Mr. ADAMS. No.

Senator JONES. So the actual depreciation during that time would not have exceeded 12 per cent?

Mr. ADAMS. Yes.

Senator JONES. After he ceased making these gun sights he used that same plant as a part of his other business?

Mr. ADAMS. H'm; h'm.

Senator COUZENS. What is your answer to that, "Yes"?

Mr. ADAMS. Yes, sir.

Senator COUZENS. How do you know that—pardon me.

Mr. ADAMS. Because he is a manufacturer of tools; he requires tools; he makes these trains that children play with, you know, and various lines of that kind.

Senator COUZENS. But this might have been an excess of plant facilities, might it not?

Mr. ADAMS. Yes; but even if it were, the value was there.

Senator COUZENS. I understand, but I want to be perfectly fair and bring out the fact that perhaps he was entitled to an extraordinary allowance for amortization.

Mr. ADAMS. Yes. He was entitled to it if he could not use that machinery at all; if it was of no value, he was entitled to probably 50 per cent, which was approximately the salvage value of machine tools at that time, or about 40 per cent of their original cost.

Senator COUZENS. That is the reason, Senator, I did not want to get the impression in the record that he was only entitled to 12 per cent.

Senator JONES. I am glad you brought that out, because I want to be perfectly fair, of course.

Mr. ADAMS. Let me go further. Of course, his depreciation is according to the use he makes of his plant. If it is 5 per cent a year, that is taken off; if it is 8 per cent, that is taken off; whatever it happens to be constantly each year on the same investment.

Doctor ADAMS. So that amortization and depreciation are additional?

Mr. ADAMS. Are additional.

Doctor ADAMS. Of course, that presupposes that the cost of using the same tools in the manufacture of whatever he is manufacturing—

Mr. ADAMS. Yes.

The CHAIRMAN. Do you know that to be true, Mr. Adams?

Mr. ADAMS. Well, I say this: I did not go into that part because it was not a question of value and he was making a claim there for a different reason, and I did not think it necessary to go into what use he was making of it.

The CHAIRMAN. Or whether he was making any use of it?

Mr. ADAMS. Or whether he was making any use of it.

The CHAIRMAN. That is to say, so far as your examination was concerned it did not make any difference if it was a total loss?

Mr. ADAMS. Total loss so far as value and use is concerned; but I would make a difference, however, if the place had burned and he had had no insurance; then I would say he was entitled to his investment; that would be \$17,000 minus the depreciation during the time it was in use.

Senator JONES. Was there a report in the case from any engineer as to what was being done with the property?

Mr. ADAMS. Yes; the report was on the basis of the claim for \$53,000. I took it for granted that the investment had been made, and in fact they told this first engineer that no war claim had been received. They told me that; and his report will show that part, I am positive; and they put in a claim for fifty-three—between fifty and fifty-five thousand dollars; so that was changed, and after getting the \$48,000 that would be pretty close to \$100,000 they would be allowed for the double allowance on an investment of \$65,000.

Senator COUZENS. Is there any evidence to indicate how the \$65,000 was divided, whether it was divided between machinery and building, or whether it was all machinery or all building?

Mr. ADAMS. It is specific.

Senator COUZENS. How do you remember it?

Mr. ADAMS. As I remember it it was all machine tools.

Senator COUZENS. Then he would be allowed, naturally, a greater percentage of amortization than he would be if it was all buildings, or part building and part machinery; is that not so?

Mr. ADAMS. Not all; no, sir.

Senator COUZENS. Does he not get a less allowance on buildings?

Mr. ADAMS. I have known of situations where we have allowed them 80 per cent because there was no possible way of renting the building or making use of it.

The CHAIRMAN. Do you know whether he made or lost money on that enterprise?

Mr. ADAMS. No, I do not—I could not tell you. Of course, he made money or he would not be asking for amortization.

Senator COUZENS. Well, I suppose so, but, then, I just wondered if you know whether or not he really made money on the enterprise.

Mr. ADAMS. I guess the returns are there; I probably saw them at the time; but I do not know.

Doctor ADAMS. This \$65,000 was the entire original cost—

Mr. ADAMS. That was the entire original cost.

Doctor ADAMS. of the war-time installation?

Mr. ADAMS. Yes; and the balance on the balance sheet was only \$17,000.

Senator JONES. Did you say that some engineer had gone over the plant and made a recommendation and written a statement?

Mr. ADAMS. Yes.

Senator JONES. And what was that recommendation?

Mr. ADAMS. Disallowing it.

Senator JONES. Disallowing it?

Mr. ADAMS. Yes.

Senator JONES. And that was in the record when Mr. Thwing had agreed to allow the party \$20,000?

Mr. ADAMS. Yes, sir.

Doctor ADAMS. In this field report, Mr. Adams, what was the basis of this valuation?

Mr. ADAMS. The value and use. The engineer found the plant running and saw that everything was in use, so he disallowed it.

Doctor ADAMS. And you found that the balance sheet only showed \$17,000 remaining in the investment?

Mr. ADAMS. Yes; and in the reclaim—that is; the claim he put in, that I acted on, to the department—the statement also was made that \$20,000 of machine tools had been scrapped and thrown out and they

did not know what had become of them, they had no record of them. Therefore I said in my report—you will find this paragraph—I said “In addition to the balance sheet only showing \$17,000 the statement of the taxpayer wherein he claims that \$20,000 of standard machine tools were being scrapped would have to be proved beyond any possibility of doubt before his claim could be allowed.” I think you will find that in my report.

Senator COUZENS. Why did Mr. Thwing ask you, or request you, to make this \$20,000 allowance when you were not the investigating or the inspecting engineer?

Mr. ADAMS. Because I happened to be ready for a job at the time, I suppose.

Senator COUZENS. Who was in charge of making the first investigation?

Mr. ADAMS. Brown made the first investigation.

Senator JONES. What Brown?

Mr. ADAMS. Charles F. Brown is his name. He was just an engineer.

Senator JONES. Where is he now?

Mr. ADAMS. I think he is in New York. I think he is an expert too; I am not sure.

Senator COUZENS. I think I have Mr. Brown's name as one of the witnesses I propose to call later on. You may proceed Mr. Adams.

The CHAIRMAN. Was there any latitude for discretion in a decision of that kind, or was it a straight square question of mathematics?

Mr. ADAMS. There is a great latitude, but it is not necessary. The whole question could be resolved to mathematics, but this committee will find out if it goes into it thoroughly that the whole question up there is kept in an indefinite atmosphere for a purpose that is not to the interest of the manufacturer or the Government.

That question of value and use can be resolved down to a matter of dollars and cents in every instance, so that a dozen men can go out in the field and reach the same conclusion within a fraction of 1 per cent if they would do it.

Doctor ADAMS. Have you, Mr. Adams, in your reports, brought out that phase of it; is that in writing somewhere?

Mr. ADAMS. If you will take any of my reports, it will show exactly how I put it down there in the formula.

Doctor ADAMS. You mean you think there is a formula that could be followed and used?

Mr. ADAMS. Yes, sir; there is.

Doctor ADAMS. And which you have employed in some of your reports, so that we can get at it?

Mr. ADAMS. I have employed it in everything during the past six months. I know I have not seen it in other engineers' reports, but I felt it necessary to put it in mine, and I was complimented on it after I put it in.

Senator ERNST. You mean the last six months of your employment?

Mr. ADAMS. Yes, sir. A week later I was dismissed upon charges of inefficiency, although I had been complimented upon my work by the chief, by his assistants, and reviewers many times. After being dismissed I asked the chief, Mr. De La Mater, how my work had been, and he answered before witnesses, “Your work has been

perfectly satisfactory, and I will give you a letter to that effect when I am out of the service November 15 if you desire it."

He said he could not give me a letter until he was out of the service, but as soon as he was out of the service he would give me a letter.

After I had been in the service three months and had returned from my first trip I went to the chief and asked him how my work had been. "Perfectly satisfactory, Mr. Adams; you are doing fine; you wrote a good report."

About three months later I went to the chief after being complimented by Mr. Jennings and the reviewers on the work, I went to him again. I said, Mr. De La Mater——"

Senator COUZENS. You have mentioned Mr. De La Mater and Mr. Jennings a number of times. So as to be able to identify these gentlemen, will you tell us their initials?

Mr. ADAMS. Yes; S. T. De La Mater.

Senator COUZENS. S. T. De La Mater?

Mr. ADAMS. And William T. Jennings.

The CHAIRMAN. When did they go into the department; do you know?

Mr. ADAMS. I guess three or four years ago. Yes; it may have been in 1919 for all I know.

The CHAIRMAN. Were they under the civil service?

Mr. ADAMS. Yes. Mr. Hunsinger, the chief of staff, who picked the men to be dismissed informed me at that time that he had no records, but was given a list of names made up by Mr. De La Mater in the order in which the men were valued by him. He told me that he had no records. I went to Mr. Hunsinger to find out how my name came to be among the dismissed employees. I knew that some of the men who were kept on them were so far—without egotism—out of the average class there that they were of no value whatever. He said he had no records, that he simply acted on a list given him by the chief of the department.

Senator JONES. By "chief of the department" who do you mean?

Mr. ADAMS. Mr. De La Mater; S. T. De La Mater. He was given a list of names made out by Mr. De La Mater in the order in which the men were valued by him. He said "I have 32 names; and yours is 24 on the list."

A letter from Commissioner Blair to the Civil Service stated that the dismissed men were rated according to the Bureau of Efficiency ratings as given in Circular No. 60, which was issued by the Civil Service Commission September 25, 1922.

Senator COUZENS. 1922?

Mr. ADAMS. Yes. It is a circular which was issued by the department of efficiency.

The CHAIRMAN. What is Circular 60?

Mr. ADAMS. It gives the various rules promulgated by the Bureau of Efficiency and the President's order instructing him to establish ratings and so on. It goes into details. This calls for the department chief to work on that Bureau of Efficiency in rating the employees. Mr. Herbert Brown, chief of said bureau, upon being questioned, stated that the Commissioner of the Internal Revenue Bureau had not applied to him for ratings, and that no method for rating engineers had been formulated. Therefore, Mr. Blair's statement was not founded on facts. Listen to that!

The CHAIRMAN. Of course, Mr. Blair stated what had been given him by somebody else.

Mr. ADAMS. But he signed the letter; he had taken somebody else's word; I understand that. Of course, I know Mr. Blair did not know I was in existence, even as far as that is concerned; I know he just signs letters handed to him by some underling.

The CHAIRMAN. Certainly.

Mr. ADAMS. This Circular No. 60 states that no honorably discharged veteran whose work is good shall be dismissed or dropped in rank or salary and provides a penalty therefor. The evidence available proves not only that there was no preference given to veterans in dismissals but that men were retained whose work was far below the average.

Now, I will just give you one instance of the kind of men retained. One man there that they sent out on a case as an engineer, as I understand it, about three years ago—now, I do not want to give his name; he is still in the bureau and it would hurt him; he and Mr. Jennings were personal friends and he was not able to do a single right thing so that Mr. Jennings said he was nothing but a ——— nut, but we will have to keep him in the office and not send him out. They put him at various things in the office until finally they put him in to keep some records as a statistician, to keep records of prices, and so on. He was just simply regarded as a joke.

Another man that had done nothing, had never been on a case himself, was kept; and just to find out why he was kept one of the men made it a point to look up the civil service papers and they found that he was a former employer of Jennings, and his name was down as the voucher for Mr. Jennings.

The CHAIRMAN. Where?

Mr. ADAMS. On the civil service papers.

The CHAIRMAN. I say an employer of Jennings where?

Mr. ADAMS. I think it was Providence, R. I.; I don't remember but I think it was Providence, R. I.

Senator COUZENS. How much more have you got in your statement?

Mr. ADAMS. Not very much.

The CHAIRMAN. Go on.

Senator JONES. How many engineers were there?

Mr. ADAMS. When I went into the department there were about 42, I should imagine; and they were reduced down to about 20, I guess.

Senator JONES. Did they all get the same salary?

Mr. ADAMS. No; they got from \$3,000 up.

Senator JONES. From \$3,000 up?

Mr. ADAMS. Yes.

Senator JONES. How much salary did this individual get that you referred to as a former employer of Mr. Jennings?

Mr. ADAMS. \$3,000.

Senator JONES. \$3,000?

Mr. ADAMS. Yes.

Senator JONES. What did you get?

Mr. ADAMS. \$3,000.

Senator JONES. \$3,000?

Mr. ADAMS. Yes, sir—oh, yes; I will say this: When we were looking at Jennings's record; he went in, I think, at \$2,800.

The CHAIRMAN. When?

Mr. ADAMS. At the time—I do not know, but several years now, probably in 1919—I imagine it was way back, but in six months' time after he went in, he had \$3,000; and they shoved him right up from \$2,800 to \$4,000. I think that was the reason why Mr. De La Mater was forced to resign was on account of that increase in salary; I think there was something about the regulations that I can tell you a little later on.

Now, let's see—the evidence available proves not only that there was no preference given to veterans in the dismissals but that men were retained whose work was far below the average. The assistant chief, Mr. W. T. Jennings, was dismissed for perjury in connection with his civil-service application and he was the only executive who came into direct contact with the men. The principal qualification required was not experience or knowledge of the engineering phase of the taxpayers' business, but to give a liberal allowance to the proper taxpayers. As I say, that has nothing to it; what evidence will be found in the department I can not say. It is more than a surmise, though. Some of the reports covering manufacturing operations were by men who had no previous experience and while they read well to the uninformed, are a joke. They sent a man out to appraise a machine shop that did not know a lathe from a drill press, as one of the taxpayers told me. You can imagine the class of men that some are that are sent out on the jobs—builders that apparently never did anything in their lives but building, are put out trying to appraise machinery built for special operations, the appraisal of which demands knowledge of engineering in production lines.

Senator ERNST. Have you in your mind the man of whom you are now talking?

Mr. ADAMS. I would prefer not to give his name; he is employed there; I think it would be unfair to him.

Senator ERNST. He is now in the department?

Mr. ADAMS. In the department.

Senator ERNST. You say he does not know a lathe from a buzz saw?

Mr. ADAMS. Yes, sir.

Senator ERNST. I should certainly like to know him!

The CHAIRMAN. Tell us about it briefly.

Mr. ADAMS. The taxpayer that we were talking to saw us going through the shop and he said, "Well, do you know what this is I am pointing out?" I said, "Yes, sir, I do. I worked in a machine shop all my life, nearly."

He said, "Well," he says, "I will tell you, the last pair that was here I started to talk to, supposing he knew all about the lathe. When I got through talking he pointed over to a drill press and said, 'Is that what you mean by a lathe?'" He said, "I saw right away there was no use talking to him."

The CHAIRMAN. Mr. Adams, Mr. Hartson wants to know who that man is.

Mr. ADAMS. I will not tell you.

Mr. HARTSON. I think, Mr. Chairman, it is important that we should ascertain who those employees are, especially as it is charged that we are retaining incompetents in the service; I think we ought to be told who is incompetent, if people know.

Mr. ADAMS. Well, let me say this: That anything I say is not going to prove that man incompetent. That the Government ought to prove itself. I am not after—I am not after doing anything—getting any satisfaction as to what is past, but I do want to make it a point if it is the last thing I do on earth, to see that the taxpayer has a square deal in the future. I want a Government here that we can look up to as being honest—no short-changing.

The CHAIRMAN. How can you have the taxpayers' interest so much at heart and not want to see an incompetent man discharged?

Mr. ADAMS. He could improve, Senator, and might now be the most meritorious on earth; after he has worked a couple of years he ought not to still be making the same mistakes.

The CHAIRMAN. Was he under civil service?

Mr. ADAMS. Under civil service; yes.

The CHAIRMAN. He came in after a regular examination?

Mr. ADAMS. Regular examination; but that would not necessarily qualify a man for that kind of work; you can come in as a civil engineer, mining engineer—

The CHAIRMAN. They are examined with reference to the particular duties to be performed when they come in, are they not?

Mr. ADAMS. Yes; but you see the department requires all kinds of engineers, and instead of the executive taking a mechanical engineer for mechanical work and a civil engineer for his line of work they would send them out indiscriminately.

Doctor ADAMS. Would you mind naming the taxpayer?

Mr. ADAMS. I would rather not; in fact I do not remember the individual's name.

The CHAIRMAN. All right.

Mr. ADAMS. I can get it for you.

Doctor Adams. It might be the taxpayer could give us a general expression to the efficiency of the bureau we are investigating.

Senator COUZENS. Will you get the name of the taxpayer and give it to us?

Mr. ADAMS. I think I can get it for you and will give it to you at some later time.

Mr. Jennings has not been prosecuted for perjury, nor will he be. I understand that Mr. Batson, a former Commissioner of Internal Revenue, has used his influence with the Civil Service Commission to have the case dropped.

The CHAIRMAN. How do you know that?

Mr. ADAMS. I was told that by a party in the Civil Service Commission.

The CHAIRMAN. How has Mr. Batson influence enough to control the Civil Service Commission?

Mr. ADAMS. I don't know anything about it. I know this party told me that Mr. Batson had been up there with Mr. Jennings in his behalf; that they had talked to Mr. Hess, I believe was there, and some of the other commissioners; and that the matter was dropped.

The CHAIRMAN. Is it up to the Civil Service Commission to prosecute a case of that kind?

Mr. ADAMS. Yes; they prosecute.

The CHAIRMAN. Is it not up to anybody else?

Mr. ADAMS. No.

The CHAIRMAN. Nobody else?

Mr. ADAMS. No.

Senator COUZENS. In your inquiry in the Civil Service Commission in the investigation of Mr. Jennings's case, did you come across any political influence?

Mr. ADAMS. I did not look for it; I did not pay any attention to it; I was not looking for it.

Senator COUZENS. A while ago you said you remained in the department some time after you discovered there was graft.

Mr. ADAMS. Yes.

Senator COUZENS. And after this discovery of graft you went to a politician?

Mr. ADAMS. Yes.

Senator COUZENS. And asked his advice, or at least related the story and he advised that you stay in there and get proof?

Mr. ADAMS. H'm; h'm.

Senator COUZENS. It this politician an office holder?

Mr. ADAMS. No; nothing to do with Washington. He is outside altogether.

Senator COUZENS. And not an office holder?

Mr. ADAMS. Well, he is in New York; he is not here.

The CHAIRMAN. Now, Mr. Adams, I come back now to my original question. I can understand these charges of incompetency, but the statement is questioned by Senator Couzens that you discovered graft and that you stayed after you had discovered graft.

Mr. ADAMS. I say the charges that have——

The CHAIRMAN. I understood you to say a little while ago that you could not put your finger on any case of graft.

Mr. ADAMS. Yes; that is the point that I want to emphasize, too.

Senator COUZENS. So, then, Mr. Adams, your statement to my secretary was not exactly correct when you reported to him upon leaving your card in my office "He claims to know a great deal about graft and corruption;" that is not the actual fact, is it?

Mr. ADAMS. Well, I do not know.

The CHAIRMAN. No?

Mr. ADAMS. No; I guess that is true. If you want to take my evidence as it appears to me and as it will to any fair-minded man that there is graft in the department, there is no doubt of it; but there is no proof of it.

We know that certain things happen in this world, but as to how a great many things happen it is hard to find out.

Senator COUZENS. Will you just complete your statement. We have another witness and I would like to finish with him if it is agreeable to the committee.

Mr. ADAMS. Mr. De La Mater's resignation was accepted on account of some irregularities connected with the Jennings' affair, according to information secured from the Civil Service Commission.

Senator ERNST. Are you reading generalization?

Mr. ADAMS. I can read it to myself.

Senator ERNST. If you have read it once that is enough.

Mr. ADAMS. I would suggest that a comparative statement be made of the allowances made to the Standard Steel Car Co., Aluminum Co., of America——

Senator COUZENS. Those are both Mellon companies, are they not?

Mr. ADAMS. I don't know—United States Steel, Brown & Sharpe Manufacturing Co., Colorado Fuel & Iron Co., and the Great Lakes Ship Corporation, and some others that I could not think of in the statement here, and with some of the smaller and less favored concerns. This should entail a field examination of some of the larger cases, but the cost would save many hundreds time over the tax to be assessed.

The CHAIRMAN. A field examination on the question of amortization?

Mr. ADAMS. On the question of amortization, yes, sir.

The CHAIRMAN. I would like to see if I understand what you have in mind, Mr. Adams.

Mr. ADAMS. Yes, sir.

Senator COUZENS. Some of these smaller or less favored concerns, just one or two for example. Some while ago you mentioned some lesser concerns, quoting the Ford Motor Co. I would hardly call that company a lesser concern; Do you mean by that a less favored concern?

Mr. ADAMS. Less favored concern. I do not know anything about the Ford Co. or anything of the kind, but I have heard all sorts of rumors by the recipients of favors. Occasionally the men would let slip something about their cases, and I would see that they were instructed. For instance, I think the original letter sent to the department wherein Mr.—

Senator COUZENS. Original letter from whom?

Mr. ADAMS. Signed by one—some one above Mr. Wheeler who at that time was chief of the section, before my time, but I saw the original letter that was sent through to Wheeler.

Senator COUZENS. To whom?

Mr. ADAMS. To Mr. Wheeler, chief of the section, stating that this company's claim is to have immediate attention. There are two important matters in connection with this claim; one is that it is a Mellon corporation and there must be no tax assessment, and the other is that it must be expedited. Now, I saw the original and—

Senator COUZENS. Now, let me get that straight; you saw the original letter from whom?

Mr. ADAMS. From the chief to Mr. Wheeler.

Senator COUZENS. The chief of what?

Mr. ADAMS. The man above the chief to Mr. Wheeler. He was the chief of the section at that time—of the amortization section.

Senator COUZENS. But you do not know who the man was that wrote the letter?

Mr. ADAMS. Well, now, Senator; I gave you the name of the engineer, and I think it would be well if he brought the original right here to you.

Senator COUZENS. I have not the name of the man I think you claim has the letter.

Mr. ADAMS. Yes, sir.

Senator COUZENS. But do you know who wrote the letter?

Mr. ADAMS. I think his name is—I just can't remember it right now, as it is a new one to me.

Senator COUZENS. You say this witness whose name whom you have given me has the original letter?

Mr. ADAMS. He has the original letter.

Senator COUZENS. But you do not know the name of the writer?

Mr. ADAMS. I can not remember it.

Senator COUZENS. If I got the letter could you identify it?

Mr. ADAMS. Oh, yes; I could, and the next time I come I can have the name of the signer, too.

The CHAIRMAN. The best evidence is the letter itself.

Mr. ADAMS. Yes; that is the strongest evidence.

Senator COUZENS. I submitted the name of the witness who is supposed to have the letter, but we have not been able to serve a subpoena on him. He is out of town.

Mr. ADAMS. Is that all.

Doctor ADAMS. May I ask one question?

Mr. ADAMS. Certainly, go ahead.

Doctor ADAMS. You said there was a confidential circular for the agents not to raise or increase taxpayers' claims.

Mr. ADAMS. Yes.

Doctor ADAMS. Have you a copy of the letter or do you recall its number?

Mr. ADAMS. No; it was taken away from me when I left; all the stuff I had was taken away from me.

Doctor ADAMS. You do not recall its date?

Mr. ADAMS. Yes; I should say it was some time between May and July, 1923.

Doctor ADAMS. May or July, 1923?

Mr. ADAMS. May to July.

Doctor ADAMS. Those things have an identification number?

Mr. ADAMS. Yes.

Doctor ADAMS. You do not recall that?

Mr. ADAMS. No.

Senator COUZENS. Is there anything further desired of Mr. Adams for the present? If not, I will ask if there is any other witness present?

**STATEMENT OF J. P. MOORE, CUMBERLAND APARTMENTS,
WASHINGTON, D. C.**

Senator COUZENS. Will you give your name to the stenographer, please?

Mr. MOORE. J. P. Moore.

Senator COUZENS. You live at the Cumberland apartments?

Mr. MOORE. Yes, sir.

Senator COUZENS. You are a former employee of the bureau?

Mr. MOORE. Yes.

Senator COUZENS. When did you enter the bureau?

Mr. MOORE. In June, 1922.

Senator COUZENS. When did you leave?

Mr. MOORE. August 12, 1923, last year.

Senator COUZENS. What duties did you perform in the bureau?

Mr. MOORE. I was an appraisal engineer, the same as Mr. Adams, who has just testified.

Senator COUZENS. Did you hear Mr. Adams's testimony?

Mr. MOORE. Yes, sir.

Senator COUZENS. What was your occupation before you were in the bureau?

Mr. MOORE. I was an electrical engineer with the Interstate Commerce Commission on the valuation of railroads.

Senator COUZENS. What is your work now?

Mr. MOORE. I am a contracting electrical engineer.

Senator COUZENS. Located here in Washington?

Mr. MOORE. Yes, sir.

Senator COUZENS. On your own account?

Mr. MOORE. Yes.

Senator COUZENS. Not associated with anybody?

Mr. MOORE. Not associated with anybody.

Senator COUZENS. What was your occupation before you were in the Interstate Commerce Commission?

Mr. MOORE. I was superintendent of power and equipment for the Northwestern Pennsylvania Railway Co. of Pennsylvania.

Senator COUZENS. Did you get into the bureau through a civil-service examination?

Mr. MOORE. Yes.

Senator COUZENS. Tell us what positions you occupied in the bureau while you were there?

Mr. MOORE. I passed both examinations, both the assistant appraisal and the appraisal engineer examinations and I was appointed assistant appraisal engineer in March, 1922, and promoted to appraisal engineer in February of 1923.

Senator COUZENS. Have you anything that you can tell the committee that would add more enlightenment on what Mr. Adams stated?

Mr. MOORE. I have not had a chance to collect much but I have a couple of cases that might interest you people. One was the Berwin-White Coal Mining Co.

Senator COUZENS. The Berwin?

Mr. MOORE. The Berwin-White Coal Mining Co., of Philadelphia, Pa. Two engineers were usually assigned to a case and Mr. Woolson was the senior engineer and I was the junior engineer on that case. He was an older man than myself. They filed a claim of about half a million dollars for amortization. We investigated the claim and disallowed it in full on the basis that it was then in full use. This report was approved by the chief of engineers and the chief of the section.

Senator COUZENS. Can you name those?

Mr. MOORE. Mr. De La Mater was the chief of the section, and Mr. A. M. Flourney was the Chief of Engineers at that time. Some time later the case was reassigned to Engineer Whalen.

The CHAIRMAN. Can you give those dates?

Mr. MOORE. I could not say just when it was; it was in the last year sometime.

The CHAIRMAN. After being sent up, your report disallowed the claim?

Mr. MOORE. Yes.

The CHAIRMAN. How long did he lay there before any other action was taken?

Mr. MOORE. Of course the taxpayer got the report, you see. Then he immediately filed a protest and claim for reexamination, and that evidently must have been granted, because it was reported upon

by Mr. Whalen, who had the case. I do not know just how long it was, but it was in the latter part of 1922, as I remember it.

The CHAIRMAN. What was the name of the man with you originally?

Mr. MOORE. Woolson. I happened to have a copy of that report with me.

The CHAIRMAN. It was given to another man, was it not, for re-examination?

Mr. MOORE. Yes; they usually are when the taxpayer makes a protest.

Senator COUZENS. Can you tell us the nature of the property on which the amortization was requested and denied?

Mr. MOORE. Yes; it was in connection with a new power plant they built at Windber, Pa., to take the place of a number of smaller power plants. They mine coal electrically there; they use electric locomotives and electric coal cutters; and this new power plant was to take the place of a number of smaller plants.

Senator COUZENS. Did you make a field examination?

Mr. MOORE. Yes.

Senator COUZENS. You found the plant in full use?

Mr. MOORE. In full use, practically.

Senator COUZENS. Although it was put up ostensibly for war purposes?

Mr. MOORE. Yes. Some time later the case was reassigned to Engineer Swaren. I could not say just how long. He stated that the chief of the section had instructed him to allow a certain amount, and he had to write up a report to fit the allowance, although he thought the allowance—

The CHAIRMAN. How is that; say that over again; the Senator was talking to me and I want to make sure I heard you right.

Mr. MOORE. Some time later the case was reassigned for full investigation to Engineer Swaren—I forget his initials.

The CHAIRMAN. Is he still in the department?

Mr. MOORE. No; he is a consulting engineer somewhere—I don't know; in New York, I guess. He stated that the chief of the section, that is, Mr. De La Mater, had instructed him to allow a certain amount.

Senator COUZENS. The amount you do not know?

Mr. MOORE. No; I do not know; and he had to write up a report to fit the allowance, although the allowance was unjust. The amount allowed was settled in conference between the chief of the section, Mr. De Lamater, and the taxpayer without either of the engineers who made the report being present.

Senator JONES. How much was allowed, if you know?

Mr. MOORE. I do not know, roughly; I did know at the time but I have forgotten—I had so many of them. He either gave it on a percentage basis or a definite sum, I don't know which.

I have one other small case here which it seems that Mr. Adams mentioned, so I might as well—the Lea T. Smith Co., of Pittsburgh, Pa. They had filed a claim for amortization for approximately \$19,000, if I remember. This was inspected and reported upon by engineers Woolson and Moore and the claim disallowed in full on the basis of being in full use at the time.

The CHAIRMAN. What was the business?

Mr. MOORE. They made general dental supplies and dental cements in particular. Mr. Smith at the time we inspected the plant was in California, and on his return he wrote a personal letter to Mr. Mellon to the effect that while he was in California "a couple of understudies of your office investigated my claim and disallowed my claim in full. I desire a redetermination made." The request was granted and reassigned to another engineer.

The CHAIRMAN. Was that letter of Secretary Mellon placed on file?

Mr. MOORE. Not that I know of, as I was simply called in Mr. De La Mater's office. Mr. De La Mater called Mr. Woolson and me into the office and said he had a letter from Secretary Mellon to that effect.

The CHAIRMAN. Secretary Mellon referred the matter to Mr. De La Mater?

Mr. MOORE. Yes. Mr. Smith wrote Mr. Mellon direct, as I understand it. Engineers Woolson and Moore disallowed the claim in full, as the plant was in full use, and said report was duly approved by Mr. De La Mater, the chief of the section, and Mr. Flournoy, the chief of engineers. Now, I happen to have a copy of both of those reports with me. We used to make an extra copy for ourselves.

The CHAIRMAN. I do not get the point there.

Senator JONES. What was done with that claim?

Mr. MOORE. Oh, it was reassigned for investigation to another party; and I would not say for sure but I think his name was Donnelly.

Senator COUZENS. What was the outcome of the investigation?

Mr. MOORE. I could not say that.

Senator COUZENS. Do you know whether the claim was allowed in full, in part or at all?

Mr. MOORE. No, I do not. As I say, I did not volunteer this information; I just got mixed up in it.

Senator COUZENS. You have heard the testimony of Mr. Adams. I appreciate that the summons was rather hasty, but can you give the committee any more cases that you saw, or any information as to the weaknesses of the department that might lead to corrective legislation?

Mr. MOORE. Well, I could, but I do not know as I would want to take the time to go into that. It would take considerable time and study to get it all.

Senator COUZENS. Will you think it over and drop the committee a line as to what you think you might be able to do?

Mr. MOORE. Yes.

The CHAIRMAN. Mr. Moore, how did you happen to be a witness here to-day?

Mr. MOORE. Well, Mr. Adams and I are acquainted. We were in the same division together and used to talk about these different cases; we would sit so close together in the office that we engineers would talk about the different cases.

Senator ERNST. How did you come to testify here?

Mr. MOORE. Somebody subpoenaed me last night.

Senator ERNST. Where did you get his name?

Mr. MOORE. I got it from Mr. Adams. Mr. Adams and I sat next to one another in the office.

The CHAIRMAN. Did you and Adams leave the service at the same time?

Mr. MOORE. No; I left a little before Mr. Adams did.

The CHAIRMAN. Did you leave of your own accord?

Mr. MOORE. When I left it was said that it was on account of reduction of the force, and I took it up with the Civil Service Commission to have my name reinstated, and they said if I would send in a certain form letter my name would be reinstated.

Senator COUZENS. You heard Mr. Adams's testimony. Do you generally subscribe to it or do you not subscribe to it?

Mr. MOORE. Generally I do, but—

The CHAIRMAN. It is a pretty sweeping question.

Mr. MOORE. There are certain parts, of course, I do not.

Senator ERNST. You have in mind those parts of the statement where he was guessing and imagining; they are the parts you are referring to, are they not?

Mr. MOORE. No; not necessarily that part, but about the arbitrary action taken by a lot of the officials down there; that was the common knowledge of all.

Senator ERNST. Do you not think you ought to designate the particular acts you are complaining of when you make any such sweeping allegations as that?

Mr. MOORE. As I say, I did not have any particular interest in coming here, because I was just subpoenaed and came here against my will, you might say.

The CHAIRMAN. That is all right.

Senator COUZENS. Do you agree with Mr. Adams that this question of amortization ought to be fixed upon a schedule basis rather than be left to the judgment of individual engineers?

Mr. MOORE. Well, it ought to be changed from the way it is. Of course, you could send two engineers out on the same job and one would allow more than the other. Of course, the difference comes from the man's view of the question.

Senator ERNST. There are a number of these cases where there could be a difference of opinion between two men and each be perfectly honest?

Mr. MOORE. Oh, yes; and there might be a big discrepancy between two engineers.

Doctor ADAMS. Does not the law contemplate changes in the amortization allowances after March 3, 1924; is not the amortization allowance unusual now?

Mr. MOORE. Yes.

Doctor ADAMS. The statute provided for a constant reduction until March, this month, specifically?

Senator JONES. I think the statute prevents a reopening of those cases after the 3d of March, as I understand it.

Mr. MOORE. No; as I understand, it is the taxpayer that can open it, or the Government can.

The CHAIRMAN. No; I think both could.

Doctor ADAMS. This was left that way for the specific purpose of reopening.

Mr. HARTSON. May I ask a question, Mr. Chairman?

The CHAIRMAN. Certainly.

Mr. HARTSON. I think the bureau would be interested in the reports that this witness says he has with regard to these two particular cases that he has referred to and I would like to question him for a moment about those reports and about the propriety of his having taken away copies of those reports.

Mr. MOORE. There was no reason, to my knowledge, why we could not have a copy of them.

Mr. HARTSON. Have you copies of all the reports that you made while you were there?

Mr. MOORE. No; I have not.

Mr. HARTSON. Did you pick out certain reports?

Mr. MOORE. We generally instructed the stenographer to make an extra copy. Sometimes I did and sometimes I did not.

Mr. HARTSON. What determined you to pick out the reports that you have brought up here?

Mr. MOORE. Simply because Mr. Adams asked me or informed me that he had advised the committee regarding these cases, the Berwin-White Coal Mining Co. and the Lea Smith Dental Co.

Mr. HARTSON. What reports have you in your possession other than the cases you brought down here to-day?

Mr. MOORE. Well, I do not know as I need to answer that.

Mr. HARTSON. I do not think you are obliged to do it; I am merely asking you. If you want to take advantage of your rights—and I think your rights should be called to your attention, under section 3167 of the Revised States, taking information with regard to a taxpayer's liability from the office of the case involves some charge at least of violation of the law. I want you to be advised in what you may be involved in by taking these reports.

Have you other reports besides these here?

Mr. MOORE. I do not care to answer that.

Mr. HARTSON. Then I do not wish you to answer. You have those two reports with you, though?

Mr. MOORE. No—I do not know that it is necessary to answer that.

The CHAIRMAN. Are these original reports, or copies?

Mr. MOORE. Copies.

Senator COUZENS. I think that is all.

The CHAIRMAN. The committee will stand adjourned until Monday at 2 o'clock.

(Whereupon, at 4.45 o'clock p. m., the committee adjourned to 2 o'clock p. m., Monday, March 24, 1924.)

INVESTIGATION OF BUREAU OF INTERNAL REVENUE

MONDAY, MARCH 24, 1924

UNITED STATES SENATE,
SELECT COMMITTEE ON INVESTIGATION
OF THE BUREAU OF INTERNAL REVENUE,
Washington, D. C.

The committee met, pursuant to adjournment, at 2.20 o'clock p. m., Senator James E. Watson presiding.

Present: Senators Watson (chairman), Jones of New Mexico, King, and Couzens.

Present also: Mr. C. R. Nash, assistant to the Commissioner of Internal Revenue; Mr. J. O. Bright, Deputy Commissioner, income tax unit, and Mr. N. T. Hartson, Solicitor Internal Revenue Bureau.

Senator COUZENS. I want Mr. Hartson to take the stand again for a minute.

STATEMENT OF MR. NELSON HARTSON, SOLICITOR INTERNAL REVENUE BUREAU

Mr. HARTSON. Senator, I am suffering from a very severe cold, and I may have difficulty in being heard.

Mr. KING. I would like Mr. Nash to furnish me information as to the number of cases Wayne Johnson, Carl Mapes, and Angevine, and others in that office had, and what disposition has been made of those cases, what refunds have been secured by officials of that firm, and how many of that firm have been in the office of the Internal Revenue Bureau.

Senator COUZENS. I think it was the first day of these hearings the question of filing with the Ways and Means Committee of the House of the claims of individuals and corporations desiring refunds was testified to; do you remember that?

Mr. HARTSON. I remember it; yes, sir.

Senator COUZENS. This is the chairman speaking. He says:

There is one thing I would like to ask you about, because it has been discussed in the public press recently and has been asked about by many Senators, that is the \$123,000,000 refund which was referred to in the newspapers. People think that is a very large refund. Now, for what purpose was the refund made and what and how did it start?

Mr. Blair, answering this, said:

That came from a report that we are required to file under the law. The appropriation act requires us to file with the Ways and Means Committee a list of the refunds made during the year. That was filed last December. I do not know who got them out; they are supposed to be confidential.

Senator JONES. By the way, will you let us have a copy of the report which you made for the Ways and Means Committee?

Commissioner BLAIR. That was last December.

Senator JONES. Yes.

Commissioner BLAIR. And it has been dormant ever since, and somebody got it out.

I understand, Mr. Hartson—and if you are not the proper person to ask the question maybe Mr. Nash is—that is, when a claim is made by a taxpayer for a refund or for a credit against an assessment, if that claim is granted and he happens to have another claim it is credited on his claim.

Mr. HARTSON. That is correct. The credit is the thing. That has a technical meaning. Under our law and procedure when it has been determined that a credit is due a taxpayer it has been customary to take that credit on some subsequent tax that may be due. In other words there is a distinction between a claim for credit which the taxpayer may file at the time he receives a notice and demand from the collector, and an allowance of credit.

The CHAIRMAN. Does it hurt you to talk, Mr. Hartson?

Mr. HARTSON. It does not hurt me at all.

The CHAIRMAN. It does not?

Mr. HARTSON. No; not at all.

Senator COUZENS. What I want to bring out is that these claims that have been allowed do not always require money to be paid out; in other words the \$123,000,000 that the chairman spoke of is just what was paid out?

Mr. HARTSON. That is correct; the \$123,000,000 referred to in the report made before Congress is money paid out, cash paid out which comes out of this appropriation created for the purpose by Congress.

Senator COUZENS. I just want to point out now to the committee that this \$123,000,000 perhaps only represents one-tenth of the claims allowed; it may represent one-fifth; it may represent only a portion, because I have searched high and low for the claim that was made on my account running up into very large figures and which the bureau allowed, and I could not find that allowance in these claims that were filed with the Ways and Means Committee of the House.

Mr. HARTSON. I can explain that, Senator, if you wish me to.

Senator COUZENS. I wish you would; I would like to have you explain it.

Mr. HARTSON. The claim that the Senator speaks of relating to his own personal liability was an allowance on a claim in abatement, so called, not a claim for refund. An abatement claim is a claim that the law permits a taxpayer to file with the collector for an assessment.

Senator COUZENS. I do not catch that, sir.

Mr. HARTSON. It abates the collection of the assessment; there is no money changing hands.

Senator COUZENS. But it is an assessment by the agent, isn't it?

Mr. HARTSON: The bureau has made an assessment when an abatement claim is filed; yes.

Senator COUZENS. But just what is the difference then whether the assessment is made and paid in cash or whether the assessment is made and then canceled afterwards.

Mr. HARTSON. There is no difference except that in the one case the taxpayer has paid the money and the Government has covered it into the Treasury, and in the other case the bill has been stated to

the taxpayer by the Government, reduced to an assessment, but no money changed hands.

Senator KING. And he is relieved from the payment before he pays it.

Mr. HARTSON. That is correct. As a matter of law, Senator King, he is not relieved from payment, the collector can still proceed through his abatement claim and secure collection; he can press it, but in practice it stays collection.

Senator COUZENS. I am asking you—you are the solicitor of the bureau?

Mr. HARTSON. I am.

Senator COUZENS. Is there anything to prevent bringing before this committee my claim and the treatment of it?

Mr. HARTSON. The bureau would have no objection to it, Senator, if you have none.

Senator COUZENS. I certainly have not, and I would like to have it done.

The CHAIRMAN. What is the object of it, Senator Couzens?

Senator COUZENS. I want to show the amount of the curtail and how it was granted by the bureau and the possibilities within the bureau for the kind of claim that was made against me and the abatement that was granted. I want to find out in a concrete case where it will only involve myself and no one else, but a case which I believe is typical—

Senator KING. It shows what you conceive to be abuses, or irregularities, or an imperfect system of law and administration?

Senator COUZENS. Well, not so much that as the possibilities, Senator, the possibilities for—

Senator JONES of New Mexico. Graft?

Senator COUZENS. Yes; for graft, the opportunities for fixers. Now, I did not hire a fixer, but I suppose I could have hired a fixer.

Mr. HARTSON. Senator, what you wanted—

Senator COUZENS. But let me point out I got two hearings, because in the first instance I acted upon a ruling of the bureau they afterwards reversed. They assessed me nearly a million dollars, if I remember correctly.

Mr. HARTSON. \$900,000, according to my recollection.

Senator COUZENS. So you see it is quite a case.

Mr. HARTSON. I can explain some facts in connection with the Senator's case because I personally passed on it.

Senator COUZENS. I am not finding any fault in your passing on it at all; but I say it leaves wide latitude for the officers. I do not charge them with any dishonesty whatever.

Mr. HARTSON. I understand.

Senator COUZENS. But I think it is an enormous power to put in individuals' hands, and I think it is a power that no individual working for the salary that they are working for should be tempted with. If you had been a dishonest man, and I had been a dishonest man, I could have afforded to have given you a couple of hundred thousand dollars to pass that claim for me. And, therefore, I say that the men in control should not be tempted with such cases; and so as to show the history of this case I would like, Mr. Chairman—

The CHAIRMAN. That is all right, to show how such cases are handled, and to suggest remedies where remedies are needed.

Senator COUZENS. Yes; before the committee.

The CHAIRMAN. Before the committee.

Senator COUZENS. There was, as the solicitor knows, a case where a refund was made—whether it was technically in cash or not does not make any difference, it was credited to me on other taxes that I owed and so it was in substance cash to me because if it had not been credited to me I would have had to have paid cash out. Instead of that they credited it on what I owed the bureau for accumulated taxes.

Therefore, in my judgment, it should be reported to Congress in the same manner as that for which you asked appropriations for. The reason you are asked to report those cases for which you ask appropriations is largely as a matter of check. If that should be checked allowances such as I got also should be checked.

Senator KING. Just one word: When I moved Friday to strike out from the deficiency appropriation bill the item of \$105,000,000 for refunds, and then modified my motion to strike out \$75,000,000 when it appeared that more than \$75,000,000 had been allowed, when it was insisted that refunds would be allowed and paid which would absorb the \$75,000,000, Senator Wadsworth stated, reading from some Treasury report, as I recall his statement, that approximately \$250,000,000 only had been refunded actually since 1917. Do you know if those figures are correct: \$250,000,000 only have been refunded? That does not represent the entire amount of the refunds and abatements and allowances which have been made by the department upon taxation.

Mr. HARTSON. When refunds are referred to it only refers to the return by the Government of cash paid by the taxpayer to the Government.

Senator KING. Do you have any idea as to the number of allowances and abatements of that character that would be comprehended in the report the Senator requested?

Mr. HARTSON. I have no means of answering the Senator's question; I do not know.

Senator KING. Is there anybody in the department who can?

Mr. HARTSON. I think it could be secured; yes; but I can not answer your question now.

Senator KING. Would you have any knowledge of the approximate sum? It would exceed a billion dollars, wouldn't it?

Mr. HARTSON. I would not want to concede that, Senator; I do not know.

Senator KING. Mr. Nash, who could furnish that information as to the number of credits, abatements, and allowances aside from where refunds have taken place?

Mr. NASH. We can furnish that information from our accounts division.

Senator KING. I wish you would.

Mr. NASH. Yes, sir.

Senator JONES of New Mexico. You went into this proposition during my absence; but I understand that there are two lines of procedure. In one you assess the additional tax and collect it, and the afterwards have a hearing on a refund. Another system is to assess the taxes, but before it is collected give an opportunity for an abatement; is that the way it is handled?

Mr. HARTSON. Senator, I would like to answer your question by explaining it in my own way. Under the 1921 act—that is, the act we are now operating under, the revenue law of 1921—before an additional assessment can be made the commissioner must notify the taxpayer that one is about to be made, or one is proposed to be made, and give the taxpayer then a right to appeal before the assessment is actually made. That is true in all cases except cases where the commissioner in his judgment determines that the collection might be jeopardized by the delay of the appeal and this procedure has been followed: When an appeal has been had by the taxpayer prior to assessment an abatement claim under the law will not be entertained by a collector; he can not abate it. In other words, he must pay the tax.

In these summary assessments, assessments where the commissioner has determined that the collection would be jeopardized if delayed, then there is no appeal before assessment. The assessment is made and then the procedure is to permit the taxpayer to file an abatement claim and then go through this procedure: After assessment before he has paid any money, but after he has had the assessment made that he would have had prior to the assessment, namely that of appeal.

Now, before the 1921 act was passed—and the Senator refers to his own case; that was one that came up in the war years before there was any right of appeal under the statute—abatements was accepted without this appeal; there was not any appeal even to the taxpayer as a matter of right by the law; so that many abatement claims were filed with the collector and the collectors would not jeopardized by accepting them; and further hearings were had in the bureau with regard to the disputed tax liability.

Senator JONES of New Mexico. So at the present time you do not go ahead and collect taxes before hearing unless it is with that class which would be jeopardized by delay?

Mr. HARTSON. That is correct.

Senator JONES of New Mexico. In what character of cases is that decision reached, or is there any general rule about it?

Mr. HARTSON. Yes, I think there is. I think that an example will illustrate: The bureau was confronted a year ago last March—a very conspicuous example—where the collection of the tax might be jeopardized by delay which would ensue in giving the taxpayer the right of appeal, namely, the running of the statute, if the taxpayer was given this notice of the proposed action and then 20 days within which to file an appeal, with hearings on the appeal, and the time would necessarily run before the determination, the statute would have expired. In such a case the commissioner would deem it advisable to assess the tax because under the statute the assessment must be made within five years. Therefore he put on a summary assessment because, in his judgment, then the collection of the tax would not be jeopardized.

Another class of cases is where taxpayers are insolvent and are going into bankruptcy. In order to get the Government's claim on and get it of record, create a lien, it is necessary to make an assessment—you have no lien until an assessment is made. Under those circumstances the commissioner puts on a summary assessment because he thinks if he did not it would prejudice the Government.

Some taxpayers abscond, leaving the country. Those are unusual cases, but that is the character of cases where the commissioner puts on summary assessments.

Senator JONES of New Mexico. That is an evasion of the statute regarding those cases.

Mr. HARTSON. It is the same provision, Senator, that permits us in these other cases—it is merely the provision that the commissioner may assess summarily when in his judgment collection of taxes would be jeopardized.

Senator JONES of New Mexico. Then there are no arbitrary—I use the word “arbitrary” in the legal sense and not in the offensive sense.

Mr. HARTSON. Yes, sir.

Senator JONES of New Mexico. There is no arbitrary assessment then unless in the opinion of the commissioner the collection of the tax is liable to be jeopardized.

Mr. HARTSON. That is correct.

Senator JONES of New Mexico. And it is only in such cases that there is a refund, is that right, a technical refund?

Mr. HARTSON. No; that is not correct, Senator. There are many refunds made after the procedure has been followed, assessments made, the appeal before assessment, the actual payment of the tax; and the taxpayer thinks the case is closed, the Government thinks the case is closed; some time goes by, and then on another case involving the same question exactly there might have been a suit instituted for the refund of that money. A principle then is established in court, and in law where we have an interpretation of our law by the Supreme Court of the United States on a disputed point. It may involve a hundred other cases, and in those cases when the refund claims are filed within the statutory period there is a refund in such cases.

A taxpayer can not take his claim into court unless he pays his tax. Claims coming within the decision of the court on those points are allowed, of course.

Senator JONES of New Mexico. Judging from such cases as you have mentioned there, it seems to me that a refund of \$125,000,000 a year is a very large sum of money and that there must have been some rule or decision, or something that has necessitated the refund of that very large sum. I can not conceive that it should have amounted to that, and especially in view of the fact that this opportunity for abatement has existed.

Would you estimate that the amounts allowed by way of abatement have equaled the amount which you have refunded?

Mr. HARTSON. I should say they had more than equaled it. I do not know what the figures are, but I should say that abatement claims have been allowed in excess of refund claims.

Senator KING. Greatly in excess?

Mr. HARTSON. Substantially in excess.

The CHAIRMAN. Does this have reference to taxes in 1917 and 1918?

Mr. HARTSON. Yes; this \$125,000,000 the Senator speaks of, that is a refund, as I understand it, covering back years.

Senator KING. What is the \$105,000,000 that was carried in the deficiency bill on Friday; to what years does that relate?

Mr. HARTSON. That relates to refunds for all years within the five-year limitation period. The refund claims may have been on

file a year or two and then allowed; I do not know; but not one year, Senator, by any manner of means. A number of years would be included in this \$105,000,000 you speak of.

Senator JONES. That refers to a number of years?

Mr. HARTSON. Oh, that is true beyond any question.

Senator JONES. Apparently.

Mr. HARTSON. Yes, sir.

Senator COUZENS. The solicitor just now made the statement that where a court by a decision established a rule, or law, that taxpayers who were not included in the suit were given refunds because of that decision.

Mr. HARTSON. That is correct.

Senator COUZENS. When the Treasury or the bureau itself changes a ruling do they go back and refund in all cases affected?

Mr. HARTSON. Senator, I think they do not; I think it is practically impossible to do that, and that is the only reason they do not. There are millions of cases on file down there, Senator, and there is not the force to keep the cases under someone's supervision at all times; naturally when they are filed away they are closed, and to find which cases are involved in a particular point in which a refund might be granted because of a court decision or a bureau decision without the taxpayer having called it to the attention of the bureau is almost impossible as a practical matter.

Senator KING. I suppose the effect of a fact which is insignificant apparently on its face might be to change the decision and cause a reversal of some former ruling.

Mr. HARTSON. I do not think an insignificant fact would cause it.

Senator KING. Well, to the ordinary observer, a technical fact, then?

Mr. HARTSON. I think a substantial fact deemed sufficient by those charged with the enforcement of the law there would.

Senator COUZENS. And when the court makes the law do you then go back and find out all those who have been affected by the decision?

Mr. HARTSON. We do not, Senator.

Senator COUZENS. You do not?

Mr. HARTSON. Do not.

Senator COUZENS. Unless the taxpayer happens to see the case?

Mr. HARTSON. That is correct.

Senator COUZENS. He loses?

Mr. HARTSON. That is correct, and unless it is a case that is in process of audit where it is on some individual's desk and it is physically, definitely brought to some official's attention, yes.

Senator COUZENS. Then, it is possible under this method that hundreds of millions of dollars have been collected from the taxpayers illegally?

Mr. HARTSON. Yes. The Senator is a little liberal on his figures, but some has been collected. There is a bill pending in Congress now to still further extend the limitation period within which refunds might be made under the old Spanish War revenue act way back in 1898 where credits were not filed and taxpayers were not advised of their rights. No authority existed beyond the limitation period to grant the refund, so the Senate and the House is now asked to further extend 20 years the period within which refund claims might be filed under the Spanish War revenue act, and I think it is because

of the fact the Senator speaks of, that some taxpayers may not be advised of their rights and the Government practically being prevented as a practical proposition from advising the taxpayers of their rights, they have been deprived of getting their money back which has been unlawfully exacted.

Senator COUZENS. That is all I want to know, Mr. Hartson, just now.

Mr. HARTSON. About the case that the Senator spoke about.

Senator COUZENS. What case is that?

Senator KING. Your case.

Senator COUZENS. All I ask that you bring the file.

Mr. HARTSON. Now, that would be—

Senator COUZENS (interposing). You said if I had no objection to it, the bureau had none.

Mr. HARTSON. The bureau has no objection at all, but as a practical matter the files are voluminous. I would be very glad to bring them up if the Senator wishes me to.

Senator COUZENS. I have no objection to them going in, but if it is more convenient you may make a synopsis of the facts.

The CHAIRMAN. I think that would be better.

Senator KING. It is probably a bad precedent to bring files away from the bureau.

Senator COUZENS. If it is satisfactory to the committee a synopsis of the case may be made and filed which I would like, if there is no objection from the Senators, to have presented for the record.

The CHAIRMAN. Very well.

Senator COUZENS. One of the witnesses testifying Friday, I think it was Mr. Adams, referred to a letter that he had seen concerning the Standard Steel Car Co., one of Mr. Mellon's concerns. The possessor of these papers was a Mr. Culley, and he was subpoenaed to come here and testify. The Sergeant at Arms was unable to serve the subpoena on him because he worked in Plainfield, N. J. He came into town Saturday night—I think his family lives here—and the Sergeant at Arms served the subpoena on him over the telephone.

Mr. Culley called me up and said that it would greatly embarrass him financially, and otherwise, if he had to remain over; so he came to my house yesterday afternoon and told me some of the things substantially as was testified to here, and left me the papers in the case; and I said that temporarily I would take the responsibility of excusing him with the understanding that if the committee thought he ought to come back again he would be required to come back again.

For the record I want to read in a few brief memoranda that were transmitted from head to head in the bureau.

Mr. HARTSON. Senator, excuse me, may I ask the initials of Mr. Culley, if you have them?

Senator COUZENS. I will find that later.

Mr. HARTSON. Very well.

Senator COUZENS. On August 25, 1921, a memorandum was written:

In re Standard Steel Car Co., Butler, Pa.

Memorandum to Mr. Diemer:

You will please expedite engineering investigation on the claim of this taxpayer. There is an elaborate schedule in the file. A careful office investigation will reveal the location of the property upon which the claim is made for purposes of assigning an engineer at an early date.

That is an original copy signed by S. D. DeLaMater, chief of section.

The next memorandum I have is dated December 8, 1921. This time it is No. 4175 addressed to—

Mr. I. W. J. VAN SCHAICK,
Acting Chief of Engineers:

Mr. Lang of the consolidated section has requested that the report of this case be expedited as much as possible. There are several millions of dollars tax involved.

I think it would be well to reach an early settlement in this case if possible.

That is signed T. J. S. Kishpaugh, acting chief of section.

On December 9, that is the day following, the same reference number, 4175, memorandum to Mr. B. L. Wheeler, Chief of Engineers:

In re the Standard Steel Car Co., Butler, Pa.

With reference to the case of the above taxpayer I am now told by Mr. Byrd, chief of the consolidated return subdivision that several of his auditors are engaged on the above case.

Secretary Mellon is interested in the above company and has requested that the information necessary be compiled as quickly as possible.

It is, therefore, desired that if the required schedules, etc., are available, the engineer examination be made and the result be reported to the head of the subsection.

Accordingly I would like you to proceed with the compilation of the information and procure from the taxpayer all the necessary schedules if the latter are not now on hand, with a view to an early examination of the case.

It seems that what is not to be done is the matter of assessing the tax.

The CHAIRMAN. Is the matter of what?

Senator JONES, of New Mexico. What is that?

Senator COUZENS (reading):

It seems that what is not to be done is the matter of assessing the tax; but it is desired to find out the amount of the probable assessment as soon as possible.

T. J. S. KISHPAUGH,
Acting Chief of Section.

Senator KING. Is Kishpaugh still in the department, Mr. Nash?

Mr. NASH. I never met him; I do not recall his name at all.

Senator COUZENS. The next day there is a letter, an original letter on Treasury Department stationery, with the same file number, 4175, dated December 10, 1921:

Memorandum to Messrs. Goss & Culley.

In re Standard Steel Car Co., Butler, Pa.

In reference to an assignment in the above case, your attention is particularly called to the office memorandum signed by Mr. Kishpaugh explaining the reasons why final action on the amortization is desired in the immediate future.

In view of the fact that this case is to be expedited it is requested that report be prepared in the field as soon as possible after completion of the investigation and that this report be transmitted to this office in order that the necessary typewritten copies may be made with as little delay as possible.

Your further attention is directed to the fact that investigation of this case was made some months ago by Engineer Kahn. Mr. Kahn requested the taxpayer to supply further detailed information along the lines of the guide, Form No. 1007-M, and it is understood this data has recently been submitted and is now available for consideration and is intended to form the basis of the present examination.

Those are the papers Mr. Culley handed me.

Senator KING. Senator Couzens, have you any memorandum showing the final action taken upon that case?

Senator COUZENS. No. I would like to ask, Mr. Hartson, if it is within the rules, that that information could be given?

Mr. HARTSON. I think, Senator, that all of the cases in connection with which the Secretary's name has been mentioned will be submitted very gladly to the committee.

Senator COUZENS. Will you find out if it is agreeable?

Mr. HARTSON. I will find that out and verify that; but I am quite sure that that is going to be done in the case of all the Secretary's companies, the complete files are going to be submitted to the committee. I feel very sure that that will be done. I will find out and notify you to-morrow.

Senator JONES of New Mexico. Have you the statute here containing the provision referring to secrecy of these proceedings?

Mr. HARTSON. Yes; I have, sir.

Senator JONES of New Mexico. I wish you would just bring that into the record.

Mr. HARTSON. I am reading now from section 3167 of the Revised Statutes:

It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer, or employee of the United States, to divulge, or to make known in any manner whatever, not provided by law to any person the operations, style of work, or apparatus, of any manufacturer, or producer visited by him in the discharge of his official duties, or the amount, or source of income, profits, losses, expenditures, or any particular thereof set forth or disclosed in any income return, or to permit any income return, or copies thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return, or any part thereof, or source of income, profits, losses, or expenditures appearing in any income return; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine of not exceeding \$1,000, or by imprisonment not exceeding one year, or both, at the discretion of the court. If the offender be an officer or employee of the United States he shall be dismissed from office or discharged from employment.

Senator KING. Have there been any qualifications?

Mr. HARTSON. None except section 257 of the 1921 act, which has to do with publication of the income returns. That is the one about which the regulations have recently been amended under executive order which reads:

That returns upon which the tax has been determined by the commissioner shall constitute public records, but they shall be open to inspection only upon order of the President, and under the rules and regulations prescribed by the Secretary and approved by the President.

The regulations have been recently amended to permit the lawful production of income returns to either the Senate or the House upon a proper resolution.

Senator JONES of New Mexico. On order of the President, if I remember; did not that include both committees of either House of Congress?

Mr. HARTSON. Senator, I am relying on information. I think the provision was to a committee when the resolution of the House directed it to be produced to the committee.

Senator COUZENS. I think that is correct; that is the way I read it.

Senator KING. Then, we will have to secure a resolution from the Senate with respect to returns in your case or a synopsis of them.

Senator COUZENS. Not unless—

Mr. HARTSON (interposing). It is my opinion, Senator, that if the taxpayer has no objection—it is only the taxpayer who is the one that can complain.

Senator KING. May waive it?

Mr. HARTSON. He may waive it.

Senator KING. I do not want to get you into trouble.

Senator JONES of New Mexico. There is nothing in the statute that I know of, although I have not read the section myself for a long time—but is there anything in there which would prohibit us from asking for the information as to how much was involved in this particular return in the assessment, what was the question at issue at the time? That is not disclosing the tax return, but it is disclosing the question in controversy.

Mr. HARTSON. Well, the statute is broad enough to include—the language “or any part thereof”—now, if you are referring to the Standard Steel Car Co. return I think it would be unnecessary for the committee to ask for it. That is what I think and I would be prepared to tell you to-morrow after I have a chance to make sure.

Senator JONES of New Mexico. I am particularly interested in this case.

Mr. HARTSON. Yes; I understand.

Senator JONES of New Mexico. And I am trying to get at what we might do as a general rule.

Is there language in the statute which you think prohibits us from calling for the testimony and data regarding the questions in controversy?

Mr. HARTSON. I will eliminate this beginning here, except to say it shall be unlawful for any officer or employee of the United States to divulge or make known in any manner whatever not provided by law to any person— Well, I don't want to eliminate any material portion of it, but the operation, style of work, apparatus of any manufacturer or producer visited by him in the discharge of his official duty, or the amount, or source, of income, profits, losses, expenditures, or any particular thereof—any particular relating to the amount, source of the profits, losses, or expenditures of the taxpayer.

It appears to me to be sufficiently broad to prohibit us from divulging the information contained in these returns to this committee unless we produce the return either voluntarily with a waiver by the taxpayer or upon a proper resolution by the Senate.

Senator COUZENS. Is there a Mr. Barber here?

Senator KING. Before you proceed, I want to ask Mr. Hartson one question: Mr. Hartson, I have some information, and it is quite important as bearing on the question that is now before the full Committee of Finance, of which Senator Jones, Senator Watson, Senator Ernst, and myself, are members, bearing upon the question of depletion of amortization of credits, and deduction for depreciation, etc. The information is to the effect that millions of credits in the aggregate have been allowed, perhaps improperly and I do not say corruptly, but through the overreaching of the owners of the properties, or an improper interpretation of the law as a result of which in many mining properties, many real estate properties, particularly the oil properties, allowances have been made for depletion

and amortization, and obsolescence, and so on, that have resulted in a loss to the Government of millions of dollars. I am told that in many of these real estate projects in New York and big cities where real estate values have been going up, you have been allowing credits every year, ten per cent or more, by way of reduction in values, and you have not taken into account at all that the capital gains have been enormous; you have treated the capital gains as being in statu quo and you have allowed depletion and deterioration, as a result of which the taxpayers have escaped paying a fair tax, notwithstanding the fact that their property has gone up in value and that the law has been so construed that they have at the end of 10 years with your allowances which you have made, the whole capital wiped out, and you could then continued for 10 years more allowing your depletion and credit charges and that that construction has been placed on the law by the officials of the department.

Now, I would like to know—and I do not know how we are going to get the information—the modus operandi employed by the bureau in allowing these claims, depletion charges, and obsolescence charges, and depreciation charges which are unquestionably true, if you can believe human testimony. How can we get the facts as to just what you have done and just what the effect has been of these enormous credits?

Mr. HARTSON. The Senator's question is a general one, but I think it can be explained very briefly. The proceeding that is gone through in determining these valuations, so far as mines are concerned it could only be done in particular cases. I think that is the proper way to do.

Senator KING. We will have to check up cases, it seems to me, and examine specific cases, hundreds, if not thousands of them, to see just what you have been doing there, because I am not satisfied with the methods that have been followed, and I think that the Government has been deprived of a vast amount of revenue to which it is entitled.

Senator COUZENS. I would like to draw the Senator's attention to the fact that at one of our earlier meetings it was agreed that they would bring the Gulf oil case down to us as an example of one particular case; that we would study that case and then we would be in a position to determine from there on how much further we wanted to go. That would give us a pretty good example, I think, as to the method of figuring depletion in oil wells any way.

Mr. HARTSON. Yes, sir.

Senator KING. There have been injustices perpetrated, I am told, to the disadvantage of the Government in the determination of values in these oil properties that are often subtracted from the value after the gusher has been determined. Many of these oil cases, I have been told, have paid very little income taxes notwithstanding the enormous value of the properties because of the methods which have been employed in their valuation. I am not saying that the methods are wrong under the statute, but if the result has been an injustice to the Government we want some information by which we can correct the law and make provision in the law which we are now undertaking to cover those very holes which have been resorted to to escape legitimate and proper taxation.

Mr. HARTSON. The Senator is a lawyer and he knows how difficult it is to prove value.

Senator KING. Yes.

Mr. HARTSON. Testimony may properly be introduced in court where it is relevant and under certain rules of procedure to determine values. Those same rules are sought to be followed in the bureau. No two people ever agreed about values. Two bureau engineers go out and disagree on values; and the taxpayer employs his engineers and they disagree with the bureau representatives on values. The law does not supply us with any formula, or arithmetical test by which by multiplying by two you get a correct answer. All those questions that the Senator has referred to, amortization, depletion, depreciation, all of those, are subject to opinion evidence to a large extent.

Senator KING. Take for instance anthracite.

Mr. HARTSON. It is most difficult; it is a responsibility that is placed on the bureau under the present law and it has been shouldered; mistakes may have been made, but it is a thing that is not susceptible of definite proof at all, and that is the difficulty, and that is why I think this committee is quite properly ascertaining for Congress to determine if it might not be possible for the law to be amended to make the job easier for the bureau than it has been.

Senator KING. That is what I am concerned in—to get corrective legislation.

My attention has been called to the fact that many of these anthracite coal mines are allowed depletion from year to year, notwithstanding the fact that the value of the mines, because of the rise in the price of coal and other circumstances, has increased from year to year. A coal mine that 10 years ago was valued at, say, \$1,000,000, notwithstanding considerable coal has been taken out, to-day may be worth \$2,000,000, and yet under existing practices depletion, amortization, and depreciation are allowed which cut the taxes down until an unfair tax is paid, unfair to the Government, by the owner. Those things need correction. You may have been administering and properly administering the law as you interpreted it, and that interpretation may be right, but if the interpretation has resulted in losses to the Government which it ought not to sustain, then we expect you gentlemen from your experience to advise us in regard to them and tell us how the law could be corrected so as to avoid a continuation of those wrongs.

Mr. HARTSON. I can bring our chief engineer here.

Senator COUZENS. I would like to call Mr. Barber. I would like to have this witness sworn, Mr. Chairman.

Mr. HARTSON. Mr. Chairman, would it not be proper to have all witnesses sworn?

The CHAIRMAN. Perfectly; yes. [Addressing Mr. Barber:] Hold up your hand.

TESTIMONY OF GUIL BARBER, WASHINGTON, D. C.

(Mr. Barber being called as a witness was duly sworn by the chairman and testified as follows:)

Senator COUZENS. What are your initials, Mr. Barber?

Mr. BARBER. I have no initial; G-u-i-l—just the one name.

Senator COUZENS. Where do you live?

Mr. BARBER. I live at the Chastleton Apartments, sir.

Senator COUZENS. How long have you lived in Washington?

Mr. BARBER. I have been in Washington since the 4th day of September, 1918.

Senator COUZENS. Where did you come from when you came to Washington?

Mr. BARBER. Tennessee—Menifee County, Tenn.; Irwin, Tenn.

Senator COUZENS. What was your business when you were in Tennessee?

Mr. BARBER. At the time I came here I had been engaged in the automobile business for a couple of years. Prior to that I had been in the banking and real-estate business,—that is practically since I was discharged from the Army in 1919.

Senator COUZENS. Will you tell us what your occupation has been since you have been in Washington?

Mr. BARBER. I first came to make application to enter the Army and took a temporary position with the Ordnance Department and I did not get my commission except in the Reserve Corps and, of course, they did not need me in the Ordnance Department, and I went to the Veterans' Bureau for a month or so. Then I went to the Bureau of Internal Revenue on the 20th day of March, 1919; remained with them until the 10th day of January, 1921.

Senator COUZENS. Tell us what position you occupied in the bureau.

Mr. BARBER. I was in the Income Tax Unit in what is known as the special assessment section.

Senator COUZENS. You occupied that position all the time you were there?

Mr. BARBER. Well, all the time I was in—I was first in the capital stock tax division. I was there I think it was in May 1920, when I got a transfer from the capital stock to the Income Tax Unit. I was made section unit auditor in capital stock tax. From there I was made assistant to the head of the audit section. Then the head of the audit section resigned and I continued to fill that until I was transferred to the income tax unit.

Senator COUZENS. Were these transfers made at your own request?

Mr. BARBER. Yes, sir.

Senator COUZENS. They were all made at your request?

Mr. BARBER. Yes, sir.

Senator COUZENS. Why did you request to be transferred from one department to another?

Mr. BARBER. Well, I thought there were greater possibilities of more salary in the Income Tax Unit than there were in capital stock.

Senator COUZENS. Did you resign from the department?

Mr. BARBER. I did.

Senator COUZENS. Then what did you do after you resigned from the department?

Mr. BARBER. I entered into a business known as the tax business, securing refunds for erroneously assessed taxpayers, principally corporations.

Senator KING. As well as abatements?

Mr. BARBER. Oh, yes; annulments and credits, all those things.

Senator KING. Are you now practicing before the bureau?

Mr. BARBER. I have never practiced before the bureau, sir.

Senator KING. Never have practiced before the bureau?

Mr. BARBER. No, sir.

Senator KING. Will you tell us your mode of operation in getting your refunds without practicing before the bureau?

Mr. BARBER. Well, my work was done through the taxpayer, preparing his claims for him and advising him and having the claims filed over his signature.

Senator KING. Would you present these claims in person to the bureau?

Mr. BARBER. No, sir.

Senator KING. That was done by mail?

Mr. BARBER. Yes, sir.

Senator KING. Did the taxpayer have any other representative besides you in getting these refunds?

Mr. BARBER. None that I know of, but sometimes his regular attorneys, perhaps, would get in touch with the case and try to expedite it or something of that sort.

Senator COUZENS. Was there any complaint ever made against you for this activity?

Mr. BARBER. Well, I presume so. I made application to practice shortly after I left the department. They held my application for a year without acting on it, and it was tentatively denied, I understand; that is, by the committee. It was sent to the Secretary of the Treasury, who disapproved the finding. It was sent back for a re-hearing, but they passed it over again and I forgot about it.

Senator COUZENS. So you never have been really authorized to practice before the department?

Mr. BARBER. No, sir.

Senator COUZENS. Have you any other associates in your office with you?

Mr. BARBER. No, sir; I have not been active in the business for the past—about a year. I was pretty busy for a couple of years, but the last year I have not undertaken to do very much; in fact, I have gotten tired of the business and I am—my work is—what little I do is in an advisory capacity if I am called in for an opinion on a case, things of that sort; otherwise I am not.

Senator COUZENS. Have you ever solicited any business from taxpayers?

Mr. BARBER. Yes, sir.

Senator COUZENS. In what form did you solicit this business?

Mr. BARBER. Well, when I first left the department I—of course, I knew—I will state this, that I had no idea of leaving the department until—I won't say I didn't have an idea—I thought that some time I would, as every other man in the department hopes to, get out—I never saw one yet that didn't hope some time to get out and go for himself; but it never was brought to my attention; that is, I never had made up my mind definitely to do it until the day I resigned; and I knew that other people were going out one day and practicing the next day and coming back and appearing as representatives of taxpayers.

Senator COUZENS. What happened that particular day that changed the course of your activity?

Mr. BARBER. There was a gentleman whom I knew, a friend of mine, that is, an acquaintance—I did not know him well—but I knew him, I had what you might call a “handshaking” acquaintance with him, and I felt a tap on my shoulder one morning I was going to work, and he says: “Mr. Barber, I have followed you two blocks.” He said, “I want to talk to you.” He said, “I have been in the contracting business and I have decided to quit that work and come to Washington and open up a real estate and loan office, and I want you to go in with me.”

“Well,” I said, “I will go down and get off and come back and discuss the matter with you.” This I did and in talking this business over I discussed with him the possibilities of making money in the tax, what we call the tax game, and he said—I was with the man all day, as I recall—he says, “You come back in the morning and I will discuss the matter with you.”

The CHAIRMAN. I do not know what the conversation between these two fellows will develop. How is that going to throw any light on the situation?

Mr. BARBER. He has merely asked me how I happened to make up my mind to leave on the day I left.

The CHAIRMAN. Was the other man engaged in the income-tax business also?

Mr. BARBER. Never; no, sir.

The CHAIRMAN. Had he been in the Internal Revenue Service?

Mr. BARBER. No, sir.

The CHAIRMAN. Or in the Treasury Department?

Mr. BARBER. No, sir. He had been an attorney. And so I went back this morning and discussed the matter. He says: “I have thought over this and,” he said, “go down and resign right now and we will open up an office and go to work.” That is how I happened to—I did it; I made up my mind to do it.

Senator COUZENS. Then you started to solicit business from taxpayers?

Mr. BARBER. Yes, sir.

Senator COUZENS. Will you tell us your method of soliciting business from taxpayers?

Mr. BARBER. Well, now, I haven't done as much of this as perhaps has been thought by a great many people. I did for a month or so; two or three months perhaps I would go down to see people; just, for instance, they would take the telephone directory and look up certain concerns in certain lines of business; go down, make a personal call—that is, he—the both of us did that—and so.

Senator COUZENS. When you approached them what did you say?

Mr. BARBER. Well, I said that I was familiar with tax procedure, and that if they would let me look at their returns I could tell them in a very few minutes whether or not they had been erroneously assessed, and if so that I really was in a position to advise them the proper procedure to secure what was coming to them, if anything.

Senator COUZENS. You did not get any of these names that you solicited from the Internal Revenue Bureau?

Mr. BARBER. No, sir.

Senator COUZENS. Not any of them?

Mr. BARBER. No, sir.

Senator KING. Had the names of any of them been before you in any form when you were in the bureau?

Mr. BARBER. Not to my knowledge.

Senator KING. In the usual course of business would they come under your cognizance in the bureau or tax agency with which you were identified?

Mr. BARBER. Now, I do not know that I just got that question; will you kindly repeat it?

Senator KING. Would the returns of any of those persons whom you saw, in any manner come under your cognizance, under your jurisdiction?

Mr. BARBER. They were just as likely to have been as any other because I did not—I did not pick out certain lines, but any specific individuals, because in my section, in the special assessment section is—if a man was looking for leads—is the poorest place in the world because the claims are already in there, some one else has already handled the case. Those cases that have never been sent into that section would be the ones to look for that.

Senator COUZENS. Did you take any of these cases on a contingent fee basis?

Mr. BARBER. Yes, sir.

Senator COUZENS. What was the range of the percentage that you collected for these contingent cases?

Mr. BARBER. You mean the—

Senator COUZENS. Percentage of the claims, what percentages would you ask when soliciting their claims?

Mr. BARBER. Well, that is not always the same necessarily.

Senator COUZENS. No, my question was as to what the range was; I did not ask you if it was the same.

Mr. BARBER. Is it necessary that I answer that question, Senator? That is a matter between my clients and myself.

Senator COUZENS. Well, we are not asking the name of the client; we are just asking you the range; we want to get a line on the fees that are being charged for that service.

Mr. BARBER. That would run from perhaps 15 to 40 per cent in some cases.

Senator COUZENS. I do not suppose it is necessary to ask the witness to violate any secrets that he has between his clients and himself. Are you a lawyer?

Mr. BARBER. No, sir.

Senator COUZENS. Did you ever have any dealings with the Chain Grocery Co. or C. Bahnsen Co. (Inc.)?

Mr. BARBER. Chain Grocery Co.?

Senator COUZENS. Yes; or any concern?

Mr. BARBER. Never heard of that.

Senator COUZENS. Or any concern by the name of C. Bahnsen Co.?

Mr. BARBER. They are clients of mine.

Senator COUZENS. And where are they located?

Mr. BARBER. New York.

Senator COUZENS. They are located in New York. Did you have any dealings with the New Jersey Worsted Spinning Co.?

Mr. BARBER. I did.

Senator COUZENS. The Gera Mills?

Mr. BARBER. Yes, sir.

Senator COUZENS. The Keystone Knitted Fabric Co. (Inc.)?

Mr. BARBER. Yes, sir.

Senator COUZENS. The Warner Sugar Co.?

Mr. BARBER. I had some cases for them; yes, sir.

Senator COUZENS. The Taft Woolen Co.?

Mr. BARBER. Yes, sir. Senator, I do not think it is fair—now, I will tell you the reason if you want me to. I do not think it is fair to have the names of my clients broadcasted. It is not—now, I have had quite an uphill proposition; I have had everybody fighting me, that is in this game, the attorneys and accountants that have undertaken to handle cases for the taxpayers, where they have been unable to handle them successfully, they have been jealous of my success in business and I do not like to—there are other things, too, that I will give you my reasons for that. I have had some of the secret service men in the department to visit some of my clients and say:

“Why get Barber? He has to go in by the back door; why don't you hire a lawyer who will handle your case for 5 per cent,” and such things as that, and going to my clients and telling them—now, I have got a letter from a client—

Senator COUZENS. Why did they do that?

Mr. BARBER. One of my clients that they went to and said, “We want to stop him from doing any more business; he has not violated the law, but we don't want him to get any more business.”

Senator COUZENS. Was that the only reason?

Mr. BARBER. That is the only reason, I expect. They said they objected to the percentage that I was charging. I have known of other fellows charging 50 per cent—that is, I don't know it personally, just rumor; and I think—

Senator COUZENS. You did it for 10 per cent less than the other fellow when you took it at 40 per cent, then?

Mr. BARBER. If he took it at 50; but I have adhered pretty close to 40 per cent.

Now, I want to say this about my cases: I have quite a few clients where the department has had to write back to a client for information. My cases, as I say, have been closed under special assessment, and I try to put the facts in the brief when it is prepared so it is through with when they come to it.

Senator COUZENS. Do you hand in the brief?

Mr. BARBER. No, sir.

Senator COUZENS. How do these Income Tax Bureau employees know that you are the representative of these concerns?

Mr. BARBER. I don't want anyone—I never want anyone in the department to know a case is mine.

Senator COUZENS. But why, then, did they go out to your customers if they didn't know you were connected with them?

Mr. BARBER. I don't know how they got a line on it. I am now engaged in a civil lawsuit in town in which a man who was in a way associated with me had a list of clients and I have understood that he had given it—I don't know whether it is true or not—that he had given the department a list of them; I know that they interviewed them, etc.; and I will say this, that in any interview I ever had with any of my clients I never told them anything that I would not be

willing to repeat in the presence of Secretary Mellon or Commissioner Blair any time, any place.

Senator COUZENS. You have the reputation, I am informed, of being the best tax fixer—I won't say that, but tax expert, amongst these other fellows; is that right?

Mr. BARBER. I object to that term, Senator.

Senator COUZENS. I mean——

Mr. BARBER. I am not a fixer.

Senator COUZENS. Tax expert, then?

Mr. BARBER. I do not claim that; I just claim to know special assessments. I do not claim to know all there is about taxation. I made a study of the special assessment feature; that is, section 210 of the revenue act of 1917; 327 and 328 of the revenue act of 1918.

Senator KING. Did you know any of the employees who passed on your cases?

Mr. BARBER. No, sir; because, as I said—it is natural to presume—but there is more or less jealousy in the department—when a man goes out and makes a success there is a feeling there that is hard to get around. If there is any distinction, or if it is possible to use favoritism or discrimination it would be against you.

And I have tried in every way I could to keep a knowledge of my clients—that is from anyone knowing who my clients were, and it is that reason. I have explained the reason that they denied my application to practice. I can get along without it; I do not appear down there—one case in fifty—because I do not think it is necessary; if the cases are laid before the department they are there to be acted on and if I do not get a result I think I am entitled to, that is in the neighborhood of what I think I am entitled to I appeal the case; and I win many cases by having the case appealed to the Committee on Appeals and Review, which, whether it has been changed by the unit——

Senator KING. Does there not have to be any personal appearance by you or by your client in those appeal cases?

Mr. BARBER. Not necessarily.

Senator KING. Were there any so far as you know?

Mr. BARBER. No, sir.

Senator KING. You never appeared personally?

Mr. BARBER. No, sir.

Senator KING. In the department at any time?

Mr. BARBER. Never did, not even with the taxpayers. I would have a right to do that, but I was never obliged to do that. The taxpayer, even though I have not a permit to practice, the taxpayer has a perfect right to take me with him, but, of course, I would have to sit in the background.

Senator KING. If you have had success to what do you attribute it, to personal appeals there, by personal arguments, or what?

Mr. BARBER. Having good cases; I never touch a case unless it is good, Senator. So, consequently, it is unnecessary to go down and argue about a case. That is plain on the face of it.

Senator KING. Have you found a disposition on the part of those to whom the cases were submitted to decide fairly without prejudice?

Mr. BARBER. Yes, sir; except in favor of the Government. I, myself—now, there is a lot of distinction. For instance, as I have explained to you before, my experience in the department was in.

the special assessment section entirely, that is section 327 provides that where you are unable to determine the invested capital—you understand the excess profits tax is based on that, the invested capital—you are allowed a certain deduction from invested capital, you figure the invested capital and take your deduction. Now, if the commissioner is unable to fix the invested capital there is no way to determine that except by comparing it with other concerns engaged in the same line of business selling the same kind of goods and about the same amount of goods.

If you can decide the invested capital of that company, then by comparing those concerns you can fairly well determine what the invested capital of the other concern is—now, of course, a concern engaged in that same line of business whose invested capital can be determined—the idea is to get a couple of concerns and compare them. Now, then, of course, various corporations come under this provision, either corporations that we will say a reorganization where the stock is issued for tangible and intangible assets, the question of dividends that also comes within this; there upon application by the taxpayer—now, the Government is not under any obligations to refund money to a taxpayer although the clerk knows that there is a provision of section 328, because the law says that upon application for the taxpayer if the commission shall find and so declare that the tax is to be determined without the benefit of this section would, owing to abnormal conditions affecting the net income, etc.—I can not repeat the law, but you will get it in 328.

In those cases in the latter class, known as subdivision D—that is, where the taxpayer has this right to appeal if he thinks he has paid too high a rate—in order to get an equitable tax he must show these abnormal conditions.

Why is the tax high? Merely because the man pays in a rate of tax on the normal invested capital is no reason. It may be for the high profit that he has made on his sales. In another case a corporation may have low-salaried officers or officers taking no salaries; it may be a close corporation and the officers have no salaries, and so they get it in dividends, etc. Another concern may have two or three times as much borrowed money as they have invested in the business, but they do not get any deduction for borrowed capital, so that a man who is operating on capital that is borrowed, as compared with a man who is operating on capital that he has invested in his stock in the business, is having a hardship worked on him.

Those are the cases that I have worked on mostly.

The CHAIRMAN. Mr. Barber, do you know of any way in which the income-tax unit can be improved as to efficiency, the number of employees decreased, or the collection of the taxes simplified?

Mr. BARBER. I do not think there could be a decrease in the number of employees. I think there has been a serious mistake made recently, Senator. That was done recently by letting out the men who were familiar with the business there in a very great many cases. I heard of a lot of high-priced men let out to be replaced by \$1,200 or \$1,500 clerks.

I know that I have had cases that have been denied under a special assessment, that are as meritorious as any case filed in the department. They were denied arbitrarily, and that was done, perhaps, because the fellows were not familiar with the business, and they

wanted to expedite production. They want production down there, to get busy, sometimes. It is like public sentiment, and the pendulum swings back and forth.

When I was in the bureau, I remember that the idea prevailed that Congress never intended to assess a man over 50 per cent of his income, and, consequently, if he paid over 50 per cent, the inclination was to give him relief. Then, it began to tighten up, so to speak; they get higher comparatives, and deny them. My policy, I will admit, when I was in the department, was to get the highest comparatives that I could. If I could not get a comparative to fit as high as that fellow I would allow him the difference. That was when I first went into the department. I thought I was working for the Government, but I had it impressed upon me that it was the taxpayer that was the Government. It was not these figureheads sitting around here that are supposed to represent the Government.

Senator COUZENS. There is one matter that I would like to straighten out, Mr. Chairman.

How many solicitors did you employ when you first started to handle these cases?

Mr. BARBER. Senator, I do not exactly employ solicitors. I would get some people, some attorneys, accountants and others that had acquaintances, and I would say, "Now, if you know anyone who is a taxpayer; if you are on friendly terms with him; if you will see him yourself and arrange an interview for me, I will see him; but I will not, except on an interview prearranged. If you arrange that, I will come and discuss the matter with him." These fellows would go out after more business.

Senator COUZENS. You gave them a percentage of your fees?

Mr. BARBER. I think my net profit out of my work would be about 25 per cent of the recovery. In case of a 40 per cent fee, 10 per cent would be my net fee, after all expenses, overhead, traveling expenses, and clerk hire, etc. There is not much profit in it. I did not set the woods afire. I have made some money and I think I have earned it. I would not go through what I have for twice the amount.

Senator JONES of New Mexico. Mr. Barber, I am interested in what you said a moment ago about that spirit of liberality prevailing at different times and pulsating with the temper of the employees, etc. Do you mean that you made the assessments based on a spirit of liberality, such as prevails in some of the States, where it is provided by law that all property shall be taxed at a small value, and the assessors finally work it down until everybody is practically assessed on a 50 per cent basis? Is that the way it was in the department?

Mr. BARBER. Senator, you might make it that way, but occasionally—I don't know; it is kind of a contagious proposition. We will say, "Here, we are going to be liberal with the taxpayer," or "We have to tighten up," or something of that sort. Well, here is a case where he goes to work and assesses them too high, to kind of keep an equilibrium, to kind of shake them down occasionally.

Senator JONES of New Mexico. What factors would be involved in the liberality or shaking down, etc.?

Mr. BARBER. Well, I could not attribute it to anything except to just the feeling among the men.

Senator JONES of New Mexico. When we had the excess-profits tax that would manifest itself in the adjustment of the invested capital account, would it?

Mr. BARBER. Oh, the invested capital is the main thing in the excess-profits tax. That was the big thing.

Senator JONES of New Mexico. And the liberality would be apparent in fixing the amount?

Mr. BARBER. Selecting comparatives. You would come in as an appellant, Senator. You paid an exceptionally high rate of tax, and we find that it was not because of excessive profits made on account of the prices of the goods that you sold, but it was because of the personal element, that you are the president of the concern, and you did all of the work; you have a good reputation and you can go out and borrow all the money you need. You made a lot of money, but because of that small capital they have taken all your money in the tax.

Now, that works a hardship on you, as compared with your competitor. Perhaps you will have, say, \$100,000 invested in the business, and you might make a half a million dollars. Your competitor has \$500,000 and he makes a half a million dollars. He has produced all of that \$500,000 while \$400,000 of your capital was borrowed. In order to make an equitable tax between you and your competitor, we compare you with that competitor, and we give you the same rate of tax that he has. It is hypothetical.

Senator JONES of New Mexico. That is one instance. Can you give some others?

Mr. BARBER. That is practically all my experience in this section. I was doing nothing else. We were only there to see, when you made an application, or when it came from some other section, whether we were able to determine the invested capital that you should be assessed under section 328. We were there to determine whether you came under that provision of that section. We got up data of representative concerns and gave them the same line of business as you, and fixed your tax on that basis—a court of equity, that is.

Senator COUZENS. When you found out in applying the rule of invested capital that it would work a hardship, you would compare his business with some other concern?

Mr. BARBER. No; the only cases that came to our section were those which some other section had handled. It was not our duty to determine invested capital. It was the other section's duty to determine that, under section 301. If they could not determine that, they would send it to us to function on this comparative basis.

In other cases, under subdivision D, where the taxpayer made an application to have his tax assessed, he would say he was having a hardship worked upon him because of the abnormal condition, the disproportion between income and capital, then, when his application would come in the other section that had his case, manufacturing, trading etc., they transmitted that case to our section to function on this feature of the case.

Senator COUZENS. Well, the statute did not recognize the fairness or the unfairness of the situation.

Mr. BARBER. Well, it is section 327 and 328 of the revenue act. Section 210 of the revenue act and regulation 41 are not the same, but it is equivalent to that contained in the revenue act of 1918

Section 327 tells you what must be done under section 328, and this section shows that a hardship was worked on the taxpayer, and then he will be compared with these other concerns, and the tax assessed accordingly. It is the law, and it provides that the taxpayer must make those applications himself.

Senator COUZENS. Then, how was any discretion left to the official considering the case, in order to exercise liberality or not?

Mr. BARBER. Well, we will say you have paid 60 per cent of your income in excess-profits tax. You may object to a fair comparative. You can not; you may be just as sick as the other man is. The taxpayer, of course, has no way of knowing whether you are a normal concern; that is, such a concern as has sufficient capital without borrowing any, that has reasonable officer salaries, and all the conditions under which it operates are normal. The other fellow may be operating under abnormal conditions, where he has to borrow his capital, where the income is derived principally from his own activities, and where he has taken no salary, and many other things, that are so numerous that you could hardly mention them.

Senator COUZENS. Have those situations been cleared up in the 1921 law?

Mr. BARBER. Well, that law was only applicable from 1917 to 1921. We only had five years of the excess-profits tax. In 1918, it was known as the war-profits tax.

Senator COUZENS. Now that the excess profits taxes of the Government have been repealed, what kind of cases have you been working on?

Mr. BARBER. I only have the excess profits tax cases.

Senator COUZENS. No other kind?

Mr. BARBER. No, sir; nothing much—only as other cases would fall in naturally; but we never cater to anything except such cases as that.

Senator COUZENS. Your business is disappearing, then, because of the fact that the excess profits tax has been repealed?

Mr. BARBER. Oh, yes. We get a few cases, really, from 1918 and 1919, but, of course, the reason for the excess profits tax has served its purpose, and instead of paying out all of their income in dividends, they leave it in the business, in order to hold their capital up. That, of course, cuts their taxes down. They have learned a thing or two themselves.

The CHAIRMAN. The taxpayers are learning, too.

Mr. BARBER. They have a little sense.

Senator COUZENS. It has been suggested to me—and, of course, I had to get this information from some source—that you had somebody in the Bureau that told you about some of these assessments being made, and that you would—

Mr. BARBER. Yes; there are a lot of things. That has come to me, Senator, too; but there isn't a word of truth in it.

The CHAIRMAN. I am curious to know about this. You said you thought that some secret agent of the income tax unit of the Internal Revenue Bureau had been to your clients and had dissuaded them from employing you. Do you know that to be so?

Mr. BARBER. Yes, sir.

The CHAIRMAN. Why was that?

Mr. BARBER. You just ask the men that sent me, Senator, without giving you a short answer. My information has been that it was thought it would kill me when I started in the business, but it dawned on them—when they denied me the right to practice, I said, "I am not under any obligations to you." I have tried, in a measure, for a long time, and my purpose was to conform to the requirements." And I said, "Gentlemen, tell me what I should do. If I have done something wrong, I will right it."

The CHAIRMAN. You had no trouble in the department?

Mr. BARBER. None whatever. I had a letter from my chief, saying that the department had sustained an irreparable loss. I showed that to a law firm in Philadelphia. They took it up, and he came over scared that he was going to lose his job. I said, "Mr. Bell, I wanted them to know that; that is all I wanted. If it gives you any uneasiness, I am sorry, and I will return it to you." And I did.

Senator COUZENS. What is your idea of the reason why the Bureau has refused you the right to practice there?

Mr. BARBER. Well, this man Bell—I never had anything against him; I haven't yet, although he mistreated me, but he was misinformed. My competitors went to Bell and said things—they misrepresented things to Bell. I have letters from taxpayers, where they came to me in such a round about way that I can never run these things down. They had no names. One of them said that I had gone to a taxpayer in Cleveland, and I told him I had to have 40 per cent, because I had to grease the palms, or words to that effect. It happened to get to the ear of Senator McKellar, and he advised me about it. I said, "Senator, we will get after this thing." So we took it up, and we found that it had emanated from a competitor. We found, by further investigations, that the name of the individual, was the president of a corporation. I wrote to him, and I have his letter now, saying, "I never intimated any such thing as I was accused of", and he would make oath to it, if necessary.

Senator COUZENS. Still, the bureau declined to let you practice before it?

Mr. BARBER. I haven't made any application. I did make an application sometime in 1921, but it was held up a year, and denied in 1922, and I have made no application since; but, as I say, I went out for myself. I said, "I am under no obligations to you. You have denied me the right to practice. Why should I circumscribe my friends?" I went after business, and I got it, too; and then it dawned on them all at once that I had the business. I have understood that they have had secret service men interview my clients—"what did he say?"—And all that sort of thing, intimating that I had said something to the taxpayer to cause him to give me his business.

Senator KING. Do you construe the law so as not to permit you to practice within two years after your leaving the department?

Mr. BARBER. In fact, I have thought of that. The only thing I thought of it was that other fellows were going out—officials and resident auditors, and coming back the next day, or within a day or two, or 10 days or 2 weeks.

Senator KING. Was that common?

Mr. BARBER. Oh, yes.

Senator KING. How many persons do you know of who were working there as auditors in the department and who are now practicing before it?

Mr. BARBER. Practically every one that has ever left it.

Senator KING. How many of them are there, Mr. Barber?

Mr. BARBER. Well, I am sorry, Senator, I can not answer that question. I understand that there are 27,000 people practicing down here before the bureau.

Senator COUZENS. Did you ever hear of any prosecution of anybody for violating that statute which prohibited that?

Mr. BARBER. It was considered obsolete, I think.

Senator COUZENS. Who considered it obsolete—the bureau?

Mr. BARBER. Everybody, I guess.

The CHAIRMAN. That is to say, there was no penalty to it?

Mr. BARBER. There was no penalty to it.

The CHAIRMAN. There is no penalty attached, because it makes it unlawful in view of the general policy of the country.

Mr. BARBER. It is construed to mean any case of which you have knowledge, and I do not suppose there are many people admitting that they have knowledge, but it is a benefit to the taxpayer and the Government to have these men who have experience and who have worked on this, instead of having fellows who knows nothing about the filing of tax claims, in every way imaginable, having no merit, and, as I said before, I do not file a claim unless it has merit. I think they tightened up there recently. I seldom ever got a denial. If I did, I took it to the committee, and, of course, I will take them to the committee. I think it is just a flurry, and will be over in a short time, and things will be normal again.

Senator COUZENS. What do you suppose caused this tightening up?

Mr. BARBER. Well, that is another conjecture. Now, I do not say that it is absolutely attributable to this investigation. I think a good deal of it is because of the new men that have been employed that are inefficient. They have to train up to this and learn the business, just like anything else. They go in there, and they don't know anything about the tax game.

The CHAIRMAN. Do you know whether or not they have recently improved the general situation of the Internal Revenue Bureau?

Mr. BARBER. No, Senator; because they don't recognize me. I understood—one of the secret service men told me they wouldn't even allow me on the premises.

The CHAIRMAN. So you have had no opportunity to find out whether they have bettered the organization there?

Mr. BARBER. But there is nothing to that.

Senator KING. When you were there, did you discover inefficiency?

Mr. BARBER. No, sir; I can't say that I did, and the only reason that I say that—it must be inefficiency now, or it is either that or the desire to expedite action. I might dispose of 20 cases a day, and you would only dispose of one, and I would get credit for greater efficiency, because I can turn out more cases. But those cases will all come out, and the denial of it does not mean anything to the man who knows the tax game.

Senator KING. Were you an expert bookkeeper or an auditor or anything like that?

Mr. BARBER. I do not consider that I was any expert. I think my efficiency record showed up pretty good in the department. I have understood that it did.

Senator KING. Was your work there that of an auditor?

Mr. BARBER. Yes, sir; resident auditor. In other words, I functioned on the adjustment of the books. They would say to the resident auditor, "Make up this case," and I would write my opinion or write a brief in this case, and that would go to my section unit auditor, the head of five men. He would pass on it, and he would send it back to me if there was anything wrong with it. Now, when he finished that, it would go to the conferee, who scrutinizes these cases, and if he passed it, he would initial it, and it would go to the assistant chief. He is supposed to go through the case, and from there it would go to the chief. He is supposed to go through it. Of course, I imagine it touches the higher places as it goes on. Then, from the chief it goes to the reviewing section. They have to go over it. Then, if it is in excess of \$60,000, it would go to the solicitor's office. Any one of those individuals to whom it was passed has a right, and it is a duty, if there is anything wrong with the case, to return it for reaudit and a refinding—a new finding.

The CHAIRMAN. Are a good many of them returned that go along that way?

Mr. BARBER. Oh, yes.

Senator COUZENS. Did you ever try to buy a taxpayer's claim?

Mr. BARBER. No, sir; not in my life.

Senator COUZENS. Did you ever hear of anybody buying a taxpayer's claim?

Mr. BARBER. Never.

Senator COUZENS. I think that is all I have to ask, Mr. Chairman.

The CHAIRMAN. Did you ever know of any fraud or corruption in the department?

Mr. BARBER. I never did; no, sir.

The CHAIRMAN. In any way?

Mr. BARBER. No, sir. I think it would be mighty hard in my section for fraud to be practiced. I think there might be some little discrimination, but it could not be in favor of the taxpayer, unless specific orders should be handed down to "give this man a certain rate," and I may not have the comparatives in a certain case, and I would give the man a certain tax. If he had instructions to fix the rate, it could be done, but I don't think there is a chance for the taxpayer to get back more money than he is entitled to.

The CHAIRMAN. That is all.

Mr. HARTSON. I would like to inquire if anybody is associated with you, Mr. Barber, who is admitted to practice?

Mr. BARBER. I have not any associates.

Mr. HARTSON. You are operating alone?

Mr. BARBER. Yes, sir.

Mr. HARTSON. You have dissolved arrangements with this real estate man that you speak of?

Mr. BARBER. We only stayed together six months, and he decided I had taught him all there was to the tax business, and he would go out for himself.

Mr. HARTSON. Mr. Chairman, I would like to call the committee's attention to the testimony that was given here on the first day with respect to the reorganization of the bureau.

The shake-up that Mr. Barber has referred to here had reference to this special assessment section, which he served in. That is one of those involved in the so-called shake-up last fall. It was started in the summer, and was consummated finally in October, and taken out of the zone organization. This section was placed directly under the supervision of Mr. Bright, the deputy commissioner. I think that is the tightening up that Mr. Barber has referred to, and it occurred last fall.

TESTIMONY OF MR. JUNIOR OWENS, WASHINGTON, D. C.

(The witness was sworn by the chairman.)

Senator COUZENS. State your full name and address for the record, please.

Mr. OWENS. Junior Owens, 1619 R Street, NW.

Senator COUZENS. Where did you come from before you came to Washington?

Mr. OWENS. Detroit.

Senator COUZENS. What business were you in in Detroit?

Mr. OWENS. Publicity. Oh, no; when I came here, I was in my present position.

Senator COUZENS. No; I say what business were you in in Detroit?

Mr. OWENS. The same thing I am doing now.

Senator COUZENS. Publicity?

Mr. OWENS. Oh, no; secretary of the American Bottlers of Carbonated Beverages—soft drinks.

Senator COUZENS. When did you come to Washington?

Mr. OWENS. December, 1921.

Senator COUZENS. You never worked for the Internal Revenue Bureau?

Mr. OWENS. No.

Senator COUZENS. Do you know anybody in the department by the name of H. J. Schermerhorn?

Mr. OWENS. Yes, sir.

Senator COUZENS. What is his position in the bureau?

Mr. OWENS. I do not know what it is now.

Senator COUZENS. What was it?

Mr. OWENS. They had a reorganization down there.

Senator COUZENS. What was it when you first knew him?

Mr. OWENS. He was assistant to the head of the sales tax unit.

Senator COUZENS. You do not follow the profession of tax expert?

Mr. OWENS. No; not at all.

Senator COUZENS. Have you ever had anything to do with getting refunds in the Internal Revenue Bureau?

Mr. OWENS. Yes, sir; for our members.

Senator COUZENS. For the members of your association?

Mr. OWENS. That is all.

Senator COUZENS. Did you have anything to do with getting a refund for the Champion Spark Plug Co.?

Mr. OWENS. No.

Senator COUZENS. You never had anything to do with that?

Mr. OWENS. Nothing but refunds for the bottlers, that is all; just the members of the organization.

Senator COUZENS. Did you take any part in securing a reversal in the bureau of a prior opinion, in which it was held that the excise

tax imposed by section 900-3 of the revenue act in 1918 and 1921 does not apply to spark plugs, piston rings, leaf springs, miniature incandescent light bulbs, etc.?

Mr. OWENS. I know nothing about it. I have had no connection whatsoever with anything except carbonated beverages.

Senator COUZENS. You had nothing to do with getting a reversal in the bureau, then, on that?

Mr. OWENS. No, sir.

Senator COUZENS. How many cases have you had in which you have gotten refunds there at the bureau?

Mr. OWENS. About 375.

Senator COUZENS. Three hundred and seventy-five cases?

Mr. OWENS. Yes, sir.

Senator COUZENS. Do you practice in the bureau, so that you were able to get those refunds?

Mr. OWENS. Yes, sir; I am admitted to practice before the bureau, and I hold a power of attorney for our members.

Senator COUZENS. You are an attorney?

Mr. OWENS. Oh, no.

Senator COUZENS. Who prepares these cases for the bureau?

Mr. OWENS. We do, in our office.

Senator COUZENS. You have an office in Washington?

Mr. OWENS. Yes.

Senator COUZENS. How big a staff have you got?

Mr. OWENS. Nine people. For your information, I might say that these claims averaged about \$800 apiece. There are not any of these large figures that you have been talking about.

Senator COUZENS. So you do not work for any fees?

Mr. OWENS. No; no fees at all.

Senator COUZENS. You are on a salary basis?

Mr. OWENS. Absolutely.

Senator COUZENS. This association that you work for puts through the bureau all the claims of its members?

Mr. OWENS. If they wish us to, we prepare them; that is, we type them and get them in shape. They send us the facts, whatever the facts might be, and if the facts are relevant, and we figure that there is anything to them, we put them in shape for them. That is the service that we render; that is all.

Senator COUZENS. Yes. Did you ever hear of anybody buying taxpayers' claims?

Mr. OWENS. No.

Senator COUZENS. You never heard of any such practice?

Mr. OWENS. No.

Senator COUZENS. Do you know Professor Adams, who was connected with the bureau for some time?

Mr. OWENS. I met him. I do not know him well at all. I rode from here to Boston with him one night, and we discussed tax matters.

Senator COUZENS. You have not had any experience with him at all?

Mr. OWENS. No, sir; except that I talked with him at various times while revenue bills were under consideration here—very formally.

Senator COUZENS. Do you know any other heads of sections in that bureau, and when I say "other" I do not mean to say that

Professor Adams is one of them, but he used to be in the bureau at one time.

Mr. OWENS. I met Mr. Estes, I think, on two occasions; that is all.

Senator COUZENS. Have your dealings with the bureau been satisfactory?

Mr. OWENS. Perfectly.

Senator COUZENS. Would you say that your claims have been efficiently handled?

Mr. OWENS. From a bureau standpoint; yes.

Senator COUZENS. From a taxpayer's standpoint, what would you say?

Mr. OWENS. Oh, yes; absolutely from a taxpayer's standpoint. Sometimes we would have a little differences of opinion. Sometimes I thought they should have been allowed, when they were not, but that is all a matter of conjecture, of course.

Senator COUZENS. That is all.

The CHAIRMAN. You are excused.

(Witness excused.)

The CHAIRMAN. Is that all we have for to-day?

Mr. NASH. Here is the list of persons authorized to practice before the department, and then a subsidiary list, showing those that were formerly employed by the Internal Revenue Bureau.

Senator COUZENS. Does that show how soon they began to practice after they left the bureau?

Mr. NASH. It shows the name, position held, and the date of leaving the service.

Mr. HARTSON. By reference to the other list, the 27,000 list, you can get the date that they left the service and the date that they were admitted to practice.

Mr. NASH. Yes. Here is the list of persons with applications pending to practice before the department, with a subsidiary list of ex-employees who have applied to practice. A list of suspensions, disbarments, disapprovals, and rejections, with a subsidiary list of employees who have been suspended and disbarred.

A request was made for a memorandum showing the proportion of persons who have been disbarred from practice before the Treasury since 1922, and information as to the general reasons employed by the Treasury Department for disbarring people from practice, or refusing to permit them or to allow them to practice.

Senator COUZENS. Do you happen to know anything about the Barber case?

Mr. NASH. Just by gossip. I am not familiar with the details.

Senator COUZENS. Do you know Mr. Hartson?

Mr. HARTSON. I have had no personal connection with it at all. I heard a great deal about it, though, in the bureau, in an informal way, and in discussion with the commissioner.

Mr. NASH. Do you wish me to read this memorandum, or just submit it, Senator?

Senator COUZENS. You might identify it by reading what is on it, and then give us the substance of it.

Mr. NASH. This is short, and I will read it:

In reply to your verbal inquiry you are advised that during the fiscal year ended June 30, 1922, applications for enrollment to practice before the Treasury Department were received from 4,947 persons. Of these 4,866 were approved

and 81 were rejected. During the fiscal year ended June 30, 1923, applications were received from 2,715 persons. Of these 2,679 were approved and 36 rejected. From July 1, 1923, to the present date, 2,863 were received. Of these, 2,799 were approved and 64 were rejected. During the fiscal year ended June 30, 1922, one person was disbarred and five were suspended from practice for various periods. During the fiscal year ended June 30, 1923, 2 were disbarred from practice and 1 suspended for a period of 90 days. During the present fiscal year 4 have been disbarred and 10 suspended for various periods.

That is signed by Mr. Jacobs, chairman committee on enrollment and disbarment.

The next memorandum reads:

In reply to your verbal inquiry you are advised that the general reasons for disbarring people from practice before the Treasury Department or for refusing to allow them to practice are as follows:

(a) Violation of the statutes or rules governing practice before the Treasury Department.

(b) Conduct contrary to the canons of ethics as adopted by the American Bar Association.

(c) False or misleading statements or promises made by the attorney or agent to a taxpayer or misrepresentation to the Treasury Department.

(d) Solicitation of business by the attorney or agent. This includes letters, circulars, and interviews not warranted by previous association; printed matter appearing on the letterheads or cards of an attorney or agent indicating previous connection with the Treasury Department or enrollment as attorney or agent; or representation of acquaintance with Treasury officials or employees. It includes also the use by attorneys or agents of any titles which might imply official status or connection with the Government, such as "Federal income-tax expert," or "Federal tax consultant."

(e) Negligence in furnishing evidence required in matters pending before the Treasury Department and the use of any means whereby the final settlement of the matter is unjustifiably delayed.

(f) The employment by an enrolled attorney or agent as correspondent or subagent in any matter pending before the Treasury Department or the acceptance by such enrolled attorney or agent of employment as correspondent or subagent of or from any person who has been denied enrollment or who has been suspended or disbarred from practice. It is in violation of the regulations for an enrolled attorney or agent to assist in any way or be assisted by an attorney or agent who has been denied enrollment or has been suspended or disbarred.

(g) Any other matter which in the opinion of the Committee on Enrollment and Disbarment is unfair to the taxpayer or to the Treasury Department or interferes unduly with the orderly disposition of matters pending before the department.

Attached hereto are copies of department circular No. 230, dated August 15, 1923, and supplements thereto dated January 4, 1924, and February 15, 1924, respectively, which contain the rules and regulations governing the action of the committee on enrollment and disbarment.

That is also signed by Mr. Jacobs.

Attached are copies of department circular No. 230 and amendments, which contain the rules authorized for practice.

I have some pamphlets that are issued by the income tax unit conference and practice requirements; also some extra copies of circular No. 230 and the amendments.

Here is a copy of the bulletin which is issued by the service, containing the preface here that was adopted in December. That is relative to public rulings of the department.

Senator COUZENS. Now, we may not have any witnesses to-morrow, and, if convenient, I would like you to bring down those cases that you thought there would be no objection to, including some of these Mellon companies and my own. Would that be too short a time, do you suppose?

Mr. HARTSON. I can not say definitely, but I think not.

Senator COUZENS. Well, bring what you can, anyway.

Mr. HARTSON. The Gulf Oil files, and other big company files are that high [indicating], and the committee would be lost in trying to find their way through them. They would not know what to look for. But they can be brought here, and I think they can be assembled by to-morrow.

Senator COUZENS. Have you any suggestion as to how we may get at the controverted points, without having that enormous file?

Mr. HARTSON. Yes; I certainly do. I think if we should come down with the Gulf Oil Co., or any of these big companies that involve, for instance, the question of depletion, which has been complained about so much, or referred to at least, that with that file should come one of our engineers, either one who has worked on the case and is familiar with the elements of the case, or one who, by reason of his familiarity with such cases, would know about the different papers and files and how to pick out just what is wanted. That will be true as to the oil cases, certainly.

Senator COUZENS. I should suggest, then, unless the committee overrules me, that you bring down a synopsis of the controverted points, and that where the papers may be found in these files by numbers or names or something; so that after having received the synopsis, if the committee desires to go down and look over these files as you suggest, they might either go down in whole or send a committee down and look over the particular documents.

Mr. HARTSON. With regard to the other cases, the Senator's personal case, I have personal knowledge of that, and will be glad very quickly to prepare a memorandum and submit it here by oral testimony. The reason I have personal knowledge of that case is because it involved the construction of regulations and the law. It came to my office, and I personally passed on it, and it was also brought to the attention of the commissioner or the Secretary.

Senator COUZENS. If you will bring that down to-morrow we will not be so long.

Mr. HARTSON. Very well. I would like to emphasize a point, and I do not wish to be misunderstood on it, and that is this: As to the Secretary's companies and their returns, I have advised the Secretary to submit the returns on the companies that he is interested in, and which have been referred to here, and I have reason to believe he is going to follow that advice. Certainly, as to the Gulf Co., there will be no dispute about that, because that has already been done. The only way we can get them here to-morrow, so far as the other companies are concerned, is by sending somebody interested in the company. You recognize that?

Senator COUZENS. Yes; I recognize that.

Mr. HARTSON. I feel very sure that they will be here. The Gulf Co. we can get, anyway, because that has already been taken care of.

Senator COUZENS. Yes.

The CHAIRMAN. The committee will adjourn until to-morrow, at 2 o'clock p. m.

(Whereupon, at 4.20 o'clock p. m., the committee adjourned until to-morrow, Tuesday, March 25, 1924, at 2 o'clock p. m.)