

# **INTERNAL-REVENUE HEARINGS**

**BEFORE THE**

**COMMITTEE ON FINANCE  
UNITED STATES SENATE**

**SIXTY-SEVENTH CONGRESS  
FIRST SESSION**

**ON THE PROPOSED**

## **REVENUE ACT OF 1921**

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**MAY 9-27, 1921**

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**REVISED AND INDEXED**



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1921**

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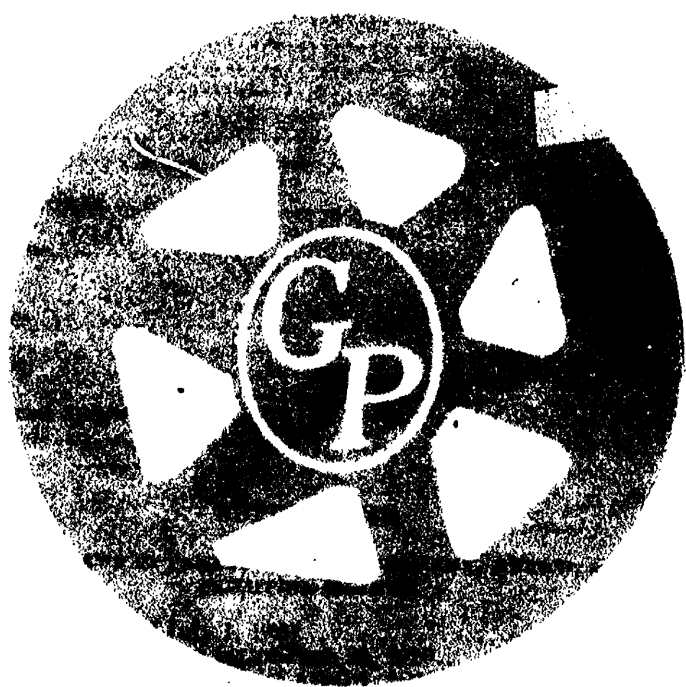
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## PREFACE.

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On April 12, 1921, the President, in an address to a joint session of the two Houses of Congress, urged "a prompt and thoroughgoing revision of the internal-revenue laws."

On May 4, 1921, the chairman of the Committee on Finance, after conference with the committee, gave out the following statement:

### INTERNAL-REVENUE HEARINGS.

The Committee on Finance will hold public hearings relating to internal-revenue revision at Washington, D. C., beginning Monday, May 9, 1921.

It is the purpose of the committee to hear first the proponents and opponents of the sales tax.

In order to avoid duplication of arguments and suggestions, it is suggested that persons having the same problem to present agree upon one representative to present their views.

The hearings will be conducted in room 312 of the Senate Office Building. Sessions will begin at 10.30 a. m.

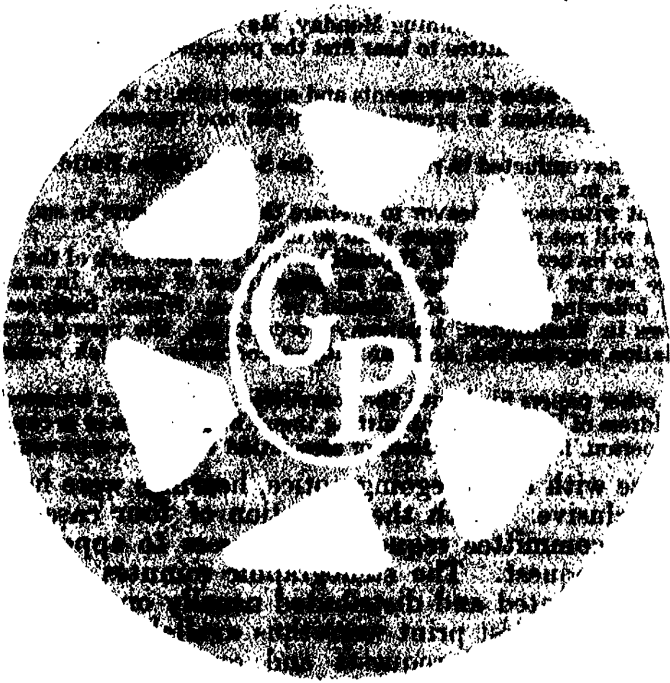
It is desired that witnesses endeavor to prepare their statements in such form that their presentation will not require more than 30 minutes.

Persons wishing to be heard should, if possible, apply to the clerk of the committee prior to the date set for the hearings for an assignment of time. In making such application the following information should be given: Name, business address, temporary address in Washington, business or occupation, the person, firm, corporation, or association represented, and the subject concerning which testimony will be given.

All briefs and other papers filed with the committee should have indorsed on them the name and address of the person submitting them, his business or occupation, and the name of the person, firm, corporation, or association whom he represents.

In accordance with the foregoing notice, hearings were held May 9 to 27, both inclusive. With the exception of four cases in which members of the committee requested witnesses to appear they did so at their own request. The stenographic minutes of each day's proceedings were printed and distributed usually on the day following, and 1,000 of this first print were thus available for distribution through a mailing list of requests and on personal application. Copies were sent to each witness with the request that he make necessary corrections for clearness in his statement and return the revised copy to the clerk. Such corrections have been observed in preparing this revised edition of the hearings. In this edition the chronological order of the statements has been disregarded and the testimony and papers submitted for printing in the record have been grouped in accordance with the principal subject discussed by the witness. At the suggestion of the members of the committee witnesses frequently digressed from the subject of their appearance to discuss other phases of the revenue laws. No attempt has been made to divide and distribute the testimony of any witness according to subjects, but the complete testimony of each has been included under the principal subject discussed.

LEIGHTON C. TAYLOR,  
*Clerk to the Committee.*





**LETTER OF THE SECRETARY OF THE TREASURY RELATIVE TO INTERNAL-REVENUE LAWS.**

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**TREASURY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
Washington, April 30, 1921.**

**DEAR MR. CHAIRMAN:** In accordance with your request, as communicated in your letter of April 25, 1921, I am glad to present for your consideration and that of the Committee on Ways and Means revised estimates of receipts and expenditures for the fiscal years 1921 and 1922, and to indicate in that connection what revenues must be provided for the fiscal years 1922 and 1923 in order to carry on the Government's business and meet its current requirements and fixed debt charges, including interest and sinking fund.

In order that the Congress may have the latest available information before it, I hand you herewith the following statements:

(A) Statement giving revised estimates of receipts and disbursements for the fiscal years 1921 and 1922, with a supplemental statement classifying the estimated disbursements. This statement is made up on the basis of actual receipts and disbursements for the first three quarters of the fiscal year 1921, and the best estimates of the Treasury and the spending departments as to receipts and disbursements during the last quarter of 1921 and the fiscal year 1922. It supersedes the estimates of receipts and expenditures for the fiscal years 1921 and 1922 which appear on pages 273 to 278 of the Annual Report of the Secretary of the Treasury for 1920.

(B) Preliminary statement showing classified expenditures of the Government for the period from July 1, 1920, to March 31, 1921, with comparative figures and total expenditures for the fiscal year 1920, on the basis of daily Treasury statements (exclusive of postal expenditures, except postal deficiencies, etc.).

(C) Preliminary statement showing ordinary receipts of the Government for the period from July 1, 1920, to March 31, 1921, with comparative figures and total ordinary receipts for the fiscal year 1920, on the basis of daily Treasury statements (exclusive of postal revenues).

(D) Preliminary statement of the public debt on March 31, 1921, on the basis of daily Treasury statements, with a quarterly comparative public debt statement which shows the figures for August 31, 1919, when the war debt was at its peak.

(E) Statement showing comparative figures as to the outstanding short-dated public debt, on the basis of daily Treasury statements from August 31, 1919, to March 31, 1921.

Ordinary expenditures for the first three quarters of the fiscal year 1921 have been \$3,783,771,996.74, or at the rate of about

\$5,000,000,000 for the year. Of these expenditures about \$850,000,000 have been expenditures of the War Department, about \$500,000,000 expenditures of the Navy Department, about \$600,000,000 payments to the railroads, and about \$650,000,000 interest on the public debt, an aggregate of \$2,600,000,000 under these four headings in nine months; or at the rate of about \$3,500,000,000 for the year. According to the latest estimates of the spending departments, as set forth in Statement A—Supplemental, ordinary expenditures during the fiscal year 1922, including interest on the public debt, will be over \$4,000,000,000.

The Nation can not continue to spend at this shocking rate. As the President said in his message, the burden is unbearable, and there are two avenues of relief. "One is rigid resistance in appropriation and the other is the utmost economy in administration." This is no time for extravagance or for entering upon new fields of expenditure. The Nation's finances are sound and its credit is the best in the world, but it can not afford reckless or wasteful expenditure. New or enlarged expenditures can not be financed without increased taxes or new loans. Expenditures should not even be permitted to continue at the present rate. The country is staggering under the existing burden of taxation and debt and clamoring for gradual relief from the war taxation. It may be counted upon not only to exert effective pressure against increased expenditures but also to give its whole-hearted support to all sincere efforts to reduce expenditures.

The last Congress made a creditable record in reducing appropriations, and it effected substantial economies. Notwithstanding the reduced appropriations, however expenditures have continued unexpectedly high, and the reduction in expenditures has barely kept pace with the shrinkage in receipts. Reduction of appropriations, moreover, will not of itself be effective to reduce expenditures unless at the same time the Congress avoids or controls measures which result in expenditure without an apparent appropriation. Reappropriations of unexpended balances, revolving-fund appropriations and appropriations of receipts, and other indefinite authorizations of expenditure have in the past been responsible for hundreds of millions of dollars of actual cash outgo.

The estimates for the fiscal year 1922 are subject to great uncertainty as to both receipts and expenditures. The estimated collections of \$3,700,000,000 of internal taxes are based on the provisions of existing law, and are \$850,000,000 less than the estimated collections for 1921, chiefly because of the shrinkage in business. They are liable to be somewhat further reduced from the same cause. The estimated ordinary expenditures of \$4,014,000,000 will on their part be affected by appropriations which are still to be made. The estimated expenditures of the War Department and the Navy Department, aggregating over \$1,100,000,000 for 1922, will depend largely upon the military and naval policy adopted by the Congress at the present session. The estimate of about \$545,000,000 for payments to the railroads in 1922 is made necessary by the provisions of the Transportation Act, 1920, and increased estimates from the Director General of Railroads. In the absence of drastic cuts in military and naval expenditures, there is almost no prospect, according to the estimates, of any substantial available surplus even in the fiscal year 1922.

The estimates of receipts and expenditures for both 1921 and 1922 show clearly that while this Government has definitely balanced its budget, the surplus of current receipts over current expenditures will not quite provide for what may be termed the fixed public-debt redemptions, and that unless expenditures are sharply reduced there will be practically no funds available in these years for the retirement of the floating debt represented by loan and tax certificates outstanding. The estimated current surplus in both 1921 and 1922 will be absorbed (1) by current redemptions of War-Savings securities, redeemable substantially on demand, (2) by purchases for the cumulative sinking fund, (3) by acceptance of Liberty bonds and Victory notes for estate taxes, and (4) by miscellaneous other debt retirements which must be made each year in order to comply with existing law or with the terms of outstanding securities. This means that the Treasury's earlier expectations as to the retirement of the floating debt have been upset by the continuance of unexpectedly heavy current expenditures during the past 12 months, particularly on account of the Army and Navy and the railroads, and that the Government can not now expect to retire any material portion of the two and one-half billions of floating debt now outstanding during the fiscal years 1921 and 1922 out of current revenues. It means also that the country can not look to any plan for funding the floating debt to reduce the burden of internal taxes during the next two years. Substantial cuts in current expenditures offer the only hope of effective relief from the tax burden.

Within the next two years, or thereabouts, there will mature about seven and one-half billions of short-dated debt (including the outstanding floating debt), and it is to the gradual retirement of this debt that the bulk of the current surplus is necessarily applied, in large part through the miscellaneous debt retirements described in the preceding paragraph. Substantial progress has already been made in the retirement of the short-dated debt. Statement E, for example, shows that the short-dated debt aggregated \$7,578,954,141.89 on March 31, 1921, as against \$9,248,188,921.12 on August 31, 1919, when the war debt was at its peak, a reduction of about one and two-thirds billions in the 19 months' period. This reduction was due in large part to the reduced balance in the general fund and the application of receipts from war salvage, and only in small measure to surplus tax receipts. In view of its early maturity, the Treasury must regard the short-dated debt as a whole, and within the next two years may expect to reduce it by perhaps \$1,000,000,000 through the continued operation of the sinking fund and the miscellaneous annual debt retirements. The remainder of this short-dated debt, amounting to over six billions, will have to be refunded. It will therefore be the Treasury's policy to vary its monthly offerings of Treasury certificates of indebtedness from time to time when market conditions are favorable with issues of short-term notes in moderate amounts with maturities of from three to five years, with a view to the gradual distribution of the short-dated debt through successive issues of notes in convenient maturities extending over the period from 1923 to 1928, when the Third Liberty Loan matures. Treasury certificate offerings will continue to be made from time to time as in the past, in order to meet the Treasury's current requirements.

This program will make the short-dated debt more manageable and facilitate the refunding operations which will be necessary in connection with the maturity of the Victory Liberty Loan.

This analysis of the condition of the Treasury and of the burdens which it must face within the next two fiscal years shows clearly, as the President stated in his message, that—

unless there are striking cuts in the important fields of expenditure, receipts from internal taxes can not safely be permitted to fall below four billions in the fiscal years 1922 and 1923. This would mean total internal tax collections of about one billion less than in 1920 and one-half billion less than in 1921.

The most substantial relief from the tax burden must come for the present from the readjustment of internal taxes, and the revision or repeal of those taxes which have become unproductive and are so artificial and burdensome as to defeat their own purpose. A prompt and thoroughgoing revision of the internal tax laws, made with due regard to the protection of the revenues, is, in my judgment, a requisite to the revival of business activity in this country. It is earnestly hoped, therefore, that the Congress will be able to enact without delay a revision of the revenue laws and such emergency tariff measures as are necessary to protect American trade and industry.

Now that the House of Representatives has passed the emergency tariff legislation, I hope that the Congress will soon undertake the revision of the revenue laws, with due regard to the protection of the revenues and at the same time with a view to "the readjustment of internal taxes and the revision or repeal of those taxes which have become unproductive and are so artificial and burdensome as to defeat their own purpose." The higher rates of income surtaxes put constant pressure on taxpayers to reduce their taxable income, interfere with the transaction of business and the free flow of capital into productive enterprise, and are rapidly becoming unproductive. The excess-profits taxes is artificial and troublesome. Taxes of this extreme character are clogs upon productive business and should be replaced by other and more equitable taxes upon incomes and profits. An intelligent revision of these taxes should encourage production and in the long run increase rather than diminish the revenues. Early action is necessary, for unless a revision is adopted within a few months it could not in fairness apply to income and profits arising from the business of the present calendar year.

With these considerations in mind, I venture to make the following principal suggestions with regard to the revision of the internal tax laws:

1. Repeal the excess-profits tax and make good the loss of revenue by means of a modified tax on corporate profits or a flat additional income tax upon corporations, and the repeal of the existing \$2,000 exemption applicable to corporations, to yield an aggregate revenue of between \$400,000,000 and \$500,000,000. The excess-profits tax is complex and difficult of administration and is losing its productivity. It is estimated that for the taxable year 1921 it will yield about \$450,000,000, as against \$2,500,000,000 in profits taxes for the taxable year 1918, \$1,320,000,000 for the taxable year 1919, and \$750,000,000 for the taxable year 1920. In fairness to other taxpayers, and in order to protect the revenues, however, the excess-profits tax must be replaced, not merely repealed, and should be replaced by some other tax upon corporate profits. A flat additional tax on corporate income would avoid determination of invested capital, would be simple of administration, and would be roughly adjusted to ability to pay. It is estimated that the combined yield

to accrue during the taxable year 1921 from a tax of this character at the rate of 5 per cent and the repeal of the \$2,000 exemption would be about \$400,000,000.

2. Readjust the income-tax rates to a maximum combined normal tax and surtax of 40 per cent for the taxable year 1921, and of about 33 per cent thereafter, with a view to producing aggregate revenues substantially equivalent to the estimated receipts from the income tax under existing law. This readjustment is recommended not because it will relieve the rich, but because the higher surtax rates have already passed the collection point. The higher rates constitute a bar to transactions involving turnovers of securities and property, which with lower surtax rates would be accomplished and thus yield substantial new revenue to the Government. The total net income subject to the higher rates is rapidly dwindling, and funds which would otherwise be invested in productive enterprise are being driven into fields which do not yield taxable income. The total estimated revenue from the surtaxes under existing law is about \$500,000,000 for the taxable year 1921. The estimated yield for the year from the surtax rates above 32 per cent would be about \$100,000,000. The immediate loss in revenue that would result from the repeal of the higher surtax brackets would be relatively small, and the ultimate effect should be an increase in the revenues.

3. Retain the miscellaneous specific-sales taxes and excise taxes, including the transportation tax, the tobacco taxes, the tax on admissions, and the capital-stock tax, but repeal the minor "nuisance" taxes, such as the taxes on fountain drinks and the miscellaneous taxes levied under section 904 of the revenue act, which are difficult to enforce, relatively unproductive, and unnecessarily vexatious. The repeal of these miscellaneous special taxes would, it is estimated, result in a loss of about \$50,000,000 in revenue. The transportation tax is objectionable and I wish it were possible to recommend its repeal, but this tax produces revenue in the amount of about \$330,000,000 a year and could not safely be repealed or reduced unless Congress is prepared to provide an acceptable substitute. The Treasury is not prepared to recommend at this time any general sales tax, particularly if a general sales tax were designed to supersede the highly productive special sales taxes now in effect on many relatively nonessential articles.

4. Impose sufficient new or additional taxes of wide application, such as increased stamp taxes or a license tax on the use of automobiles, to bring the total revenues from internal taxes, after making the changes above suggested, to about \$4,000,000,000 in the fiscal years 1922 and 1923. The only way to escape these additional internal taxes, to an aggregate amount of between \$250,000,000 and \$350,000,000, will be to make immediate cuts in that amount in current expenditures. In the event that this should prove impossible, it might be feasible to provide perhaps as much as \$100,000,000 or \$150,000,000 of the necessary revenue from new duties on staple articles of import, and the balance by taking more effective steps to realize on back taxes, surplus war supplies, and other salvageable assets of the Government.

5. Adopt necessary administrative amendments to the revenue act in order to simplify its administration and make it possible, among other things, for the Commissioner of Internal Revenue, with

the approval of the Secretary of the Treasury and the consent of the taxpayer, to make final determination and settlement of tax cases. In this connection it would be well, in the interest of fairness and in order to simplify the administrative problem, to provide, under proper safeguards, for carrying forward net losses of one year as a deduction from the income of succeeding years.

I suggest for the consideration of Congress that it may also be advisable to take action by statute or by constitutional amendment, where necessary, to restrict further issues of tax-exempt securities. It is now the policy of the Federal Government not to issue its own obligations with exemptions from Federal surtaxes and profits taxes, but States and municipalities are issuing fully tax-exempt securities in great volume. It is estimated that there are outstanding perhaps \$10,000,000,000 of fully tax-exempt securities. The existence of this mass of exempt securities constitutes an economic evil of the first magnitude. The continued issue of tax-exempt securities encourages the growth of public indebtedness and tends to divert capital from productive enterprise. Even though the exemptions of outstanding securities can not be disturbed, it is important that future issues be controlled or prohibited by mutual consent of the State and Federal Governments.

I am sending a copy of this letter to Senator Penrose as chairman of the Committee on Finance.

I shall, of course, be glad to hold myself and the Treasury experts in readiness to answer any call from the committee and to supply such further information with regard to the condition of the Treasury and the Treasury's revenue recommendations as the committee may desire.

Very truly, yours,

A. W. MELLON, *Secretary.*

Hon. JOSEPH W. FORDNEY,

*Chairman Committee on Ways and Means,  
House of Representatives.*

## A.

## Statement of estimated receipts and disbursements for fiscal years 1921 and 1922.

[Revised Apr. 27, 1921.]

	Fiscal year 1921.	Fiscal year 1922.
<b>RECEIPTS.</b>		
Customs.....		\$300,000,000
Internal revenue:		
Income and profit taxes.....	\$3,150,000,000	\$2,350,000,000
Miscellaneous internal revenue.....	1,400,000,000	1,350,000,000
	4,550,000,000	3,700,000,000
Miscellaneous revenue:		
Sales of public lands.....	1,500,000	1,500,000
Federal Reserve Bank franchise tax.....	40,724,500	60,000,000
Interest on foreign obligations.....	28,331,000	225,026,000
Repayments of foreign obligations.....	100,000,000	30,500,000
Sales of surplus war supplies.....	260,000,000	60,000,000
Panama Canal.....	11,800,000	14,530,000
Other miscellaneous.....	174,711,500	156,087,000
	637,067,000	547,643,000
Total.....	5,487,067,000	4,547,643,000
<b>DISBURSEMENTS.</b>		
Ordinary.....		
Public debt:		
Sinking fund.....	\$253,404,865	\$265,754,865
War-savings securities (net).....	140,000,000	100,000,000
Miscellaneous debt redemptions.....	350,000	100,000
Purchases of Liberty bonds from foreign repayments.....	85,000,000	30,500,000
Redemptions of bonds and notes from estate taxes.....	20,000,000	25,000,000
	498,754,865	421,354,865
Retirement of Pittman Act certificates.....	37,000,000	70,000,000
Retirement of Treasury certificates from Federal Reserve Bank franchise tax receipts.....	60,724,500	60,000,000
	97,724,500	130,000,000
Total debt retirements.....	596,479,365	551,354,865
Total disbursements.....	5,602,024,861	4,563,877,093
Excess of disbursements over receipts.....	114,957,861	18,234,093

A—SUPPLEMENTAL.

Classification of estimated disbursements for fiscal years 1921 and 1922.

	Fiscal year 1921.	Fiscal year 1922.
Legislative.....	\$16,833,723	\$17,213,813
Executive.....	2,094,256	1,897,751
State Department.....	10,320,000	10,344,000
Department of Justice.....	17,300,000	17,000,000
Post Office Department.....	2,097,200	2,200,000
Interior Department (including pensions and Indians).....	323,500,000	322,000,000
Department of Agriculture.....	107,000,000	123,000,000
Department of Commerce.....	23,333,300	19,423,000
Department of Labor.....	5,281,621	5,252,887
Independent offices.....	112,450,569	133,391,516
District of Columbia.....	21,510,938	22,187,063
Miscellaneous.....	81,501,330	60,407,500
	<u>\$723,231,937</u>	<u>\$734,818,130</u>
Postal deficiency.....	65,097,796	43,312,000
Treasury Department:		
Bureau of War Risk Insurance.....	\$233,074,884	\$262,917,900
Public Health Service.....	50,000,000	51,325,000
Collecting the revenue.....	51,944,134	53,110,139
All other.....	112,565,896	99,457,795
	<u>447,584,904</u>	<u>466,810,834</u>
War Department.....	1,027,750,000	599,750,000
Navy Department.....	697,500,000	545,325,000
Shipping Board.....	103,345,000	124,200,000
Railroads (transportation act and Federal control).....	803,551,212	545,206,204
Interest on public debt.....	975,000,000	975,000,000
Panama Canal.....	13,000,000	10,000,000
Purchase of foreign obligations.....	132,703,326	
Purchase of farm loan bonds.....	16,781,321	
	<u>4,282,313,559</u>	<u>3,279,704,038</u>
Total ordinary.....	<u>5,005,545,496</u>	<u>4,014,522,168</u>



<b>Public debt:</b>				
Sinking fund .....	253,404,865		265,754,865	
War-savings securities (net) .....	140,000,000		100,000,000	
Miscellaneous debt redemptions .....	350,000		100,000	
Purchases of Liberty bonds from foreign repayments .....	85,000,000		30,500,000	
Redemptions of bonds and notes from estate taxes .....	20,000,000		25,000,000	
		498,754,865		421,354,865
Retirement of Pittman Act certificates .....	37,000,000		70,000,000	
Retirement of Treasury certificates from Federal Reserve Bank franchise tax receipts .....	60,724,500		60,000,000	
		97,724,500		130,000,000
<b>Total debt retirements .....</b>		<b>596,479,365</b>		<b>551,354,865</b>
<b>Aggregate .....</b>		<b>5,602,024,861</b>		<b>4,565,877,033</b>

## INTERNAL REVENUE.

## B.

Preliminary statement showing classified expenditures of the Government from the fiscal

[On basis of daily

	July 1 to Sept. 30, 1920.	Oct. 1 to Dec. 31, 1920.	Jan. 1 to Mar. 31, 1921.
<b>Ordinary:</b>			
Legislative establishment.....	\$4,930,391.02	\$4,908,522.01	\$4,806,483.14
Executive proper.....	1,542,757.71	587,421.88	248,846.64
State Department.....	2,327,749.39	1,827,909.99	2,242,127.40
Treasury Department.....	96,098,410.19	82,724,413.76	181,790,477.00
War Department.....	274,367,808.97	268,000,064.23	307,518,350.95
Department of Justice.....	4,183,089.23	3,958,629.16	4,425,703.15
Post Office Department.....	1,407,168.05	10,602,201.47	25,956,317.37
Navy Department.....	161,294,823.36	166,805,503.61	177,462,791.62
Interior Department.....	87,118,246.55	82,244,026.75	82,520,943.00
Department of Agriculture.....	33,997,228.76	28,975,392.46	32,494,508.75
Department of Commerce.....	10,768,625.62	7,150,854.20	6,966,718.39
Department of Labor.....	2,153,590.97	2,783,299.26	1,977,460.34
United States Shipping Board.....	33,986,454.67	61,402,675.86	2,225,333.06
Federal control of transportation systems, and transportation act, 1920.....	193,583,743.50	185,186,288.24	214,217,272.44
War Finance Corporation.....	22,238,355.21	23,510,031.64	16,367,886.74
Grain Corporation.....	90,353,411.42	.....	.....
Other independent offices and commissions.....	20,458,185.12	24,678,628.71	34,136,426.34
District of Columbia.....	5,015,212.98	5,869,200.33	5,228,871.18
Interest on public debt.....	136,351,254.07	342,067,610.37	171,906,101.93
<b>Total.....</b>	<b>1,180,081,001.37</b>	<b>1,256,293,010.25</b>	<b>1,249,756,856.95</b>
Deduct unclassified repayments, etc.....	288,151.75	8,457,743.63	2,571,299.54
<b>Total.....</b>	<b>1,180,960,143.12</b>	<b>1,247,835,266.62</b>	<b>1,262,328,156.49</b>
Panama Canal.....	2,065,341.14	3,063,500.56	5,921,480.58
Purchase of obligations of foreign Governments.....	57,201,633.53	.....	16,695,063.91
Purchase of Federal farm-loan bonds.....	9,702,438.86	6,265,919.22	812,962.71
<b>Total ordinary.....</b>	<b>1,250,849,556.65</b>	<b>1,257,164,776.40</b>	<b>1,275,757,663.69</b>
<b>Public debt:</b>			
Certificates of indebtedness redeemed.....	2,290,363,000.00	2,498,094,500.00	1,447,722,500.00
War-savings securities redeemed.....	38,170,798.30	41,757,783.44	46,103,171.32
Old debt items retired.....	68,581.81	43,760.59	19,368.69
First Liberty bonds retired.....	49,500.00	55,050.00	41,750.00
Second Liberty bonds retired.....	1,070,900.00	1,102,450.00	1,410,450.00
Third Liberty bonds retired.....	12,782,950.00	3,094,150.00	1,789,800.00
Fourth Liberty bonds retired.....	28,110,450.00	2,528,950.00	3,369,200.00
Victory notes retired.....	5,268,450.00	15,177,350.00	125,488,350.00
National-bank notes and Federal reserve bank notes retired.....	3,923,636.00	3,615,105.00	6,616,060.00
<b>Total public debt.....</b>	<b>2,379,908,266.11</b>	<b>2,565,499,099.03</b>	<b>1,632,559,650.01</b>

<sup>1</sup> Deduct excess of credits.

<sup>2</sup> Add.

## C.

Preliminary statement showing classified receipts of the Government from July 1, 1920,

[On basis of daily

Receipts.	July 1 to Sept. 30, 1920.	Oct. 1 to Dec. 31, 1920.	Jan. 1 to Mar. 31, 1921.
Customs.....	\$84,058,024.90	\$86,039,240.83	\$67,842,176.13
Internal revenue:			
Income and profits tax.....	840,653,320.81	787,550,609.73	852,277,918.48
Miscellaneous.....	399,726,191.93	370,338,119.27	318,900,143.87
Miscellaneous revenue.....	214,542,816.77	200,909,310.39	142,840,438.13
Panama Canal tolls, etc.....	1,093,908.53	2,607,734.32	5,658,787.99
<b>Total.....</b>	<b>1,540,074,262.94</b>	<b>1,427,445,014.54</b>	<b>1,387,619,466.60</b>

B.

July 1, 1920, to Mar. 31, 1921; with comparative figures and total expenditures for year 1920.

Treasury statements.]

Total, July 1, 1920, to Mar. 31, 1921.	July 1 to Sept. 30, 1919.	Oct. 1 to Dec. 31, 1919.	Jan. 1 to Mar. 31, 1920.	Total, July 1, 1919, to Mar. 31, 1920.	Total, July 1, 1919, to June 30, 1920.
\$14,645,396.17	\$5,116,000.53	\$5,216,888.01	\$4,706,854.98	\$15,039,743.52	\$19,327,708.72
293,510.81	52,260.96	5,532,641.73	593,056.90	6,177,959.59	6,675,517.58
6,392,786.78	4,085,594.80	3,776,718.74	3,249,647.95	11,111,961.49	13,586,024.42
360,613,300.95	102,695,955.91	41,329,800.46	120,478,294.40	264,504,050.77	322,315,627.43
849,886,224.15	653,552,919.09	397,718,762.29	250,334,207.14	1,301,605,888.52	1,610,587,390.86
12,567,421.54	4,178,182.91	4,529,518.97	4,280,667.05	12,988,368.93	17,814,398.18
37,965,686.89	813,691.33	18,397,559.58	9,463,485.56	28,674,736.47	50,049,295.07
505,563,118.59	286,496,326.16	174,493,117.79	160,373,006.63	621,364,450.58	736,021,456.43
251,883,215.90	70,176,555.60	70,726,075.22	69,374,034.98	210,276,665.80	379,244,680.87
95,463,129.97	12,362,197.17	19,508,039.63	18,538,376.20	50,406,613.00	65,546,293.14
24,886,298.20	4,775,580.53	5,021,360.10	8,872,799.87	18,669,740.50	30,010,737.75
6,914,399.57	1,494,698.48	1,169,488.51	1,985,647.11	4,649,834.10	5,415,358.40
97,614,765.59	234,702,016.82	106,028,170.88	92,370,446.40	433,100,634.10	530,565,649.61
592,967,304.18	431,756,376.71	82,036,307.93	262,797,518.56	776,590,203.20	1,036,672,157.53
17,639,563.17	19,475,735.42	158,043,854.33	13,605,406.26	144,962,712.65	1,228,472,186.61
90,353,411.42	208,062,450.80	195,356,575.54	191,002,300.12	17,703,575.14	350,328,494.70
79,275,240.17	12,345,102.35	8,756,299.05	20,213,867.98	41,315,298.38	59,469,305.17
16,141,294.49	5,778,521.84	4,933,274.01	4,804,866.39	15,516,622.44	19,967,688.41
650,324,966.37	136,902,799.20	330,048,776.70	197,971,746.28	684,923,312.27	1,020,251,622.23
3,686,131,858.57	2,161,871,455.85	1,341,912,078.39	1,135,800,318.20	4,639,684,382.45	5,945,397,399.94
4,988,292.34	8,014,830.75	45,189,057.34	4,970,611.11	7,795,784.52	4,399,947.00
3,681,143,566.22	2,153,856,655.11	1,317,101,735.73	1,130,820,297.09	4,631,788,597.93	5,940,997,552.94
11,950,412.29	19,504,343.86	3,701,460.35	3,461,482.71	8,667,286.92	11,365,714.01
73,806,697.44	253,931,945.99	86,788,968.10	47,000,000.00	387,720,914.09	421,337,028.09
16,781,320.79	.....	.....	.....	.....	29,643,546.17
3,783,771,996.74	2,169,292,944.96	1,437,592,164.18	1,181,291,680.90	5,028,176,798.94	6,403,343,841.21
6,236,180,000.00	5,715,445,820.00	2,104,387,882.97	4,548,931,700.00	12,368,765,402.97	15,589,117,458.53
126,031,753.06	52,850,353.07	48,190,569.48	50,391,857.58	151,222,460.13	200,982,934.62
130,711.09	156,150.00	258,940.28	47,008.19	462,698.47	509,163.97
146,300.00	13,000.00	20,463,100.00	4,015,450.00	24,491,550.00	32,336,700.00
3,583,800.00	40,000,000.00	99,940,900.00	22,731,500.00	162,732,400.00	241,144,200.00
17,666,900.00	27,845,550.00	150,117,850.00	61,009,350.00	239,022,700.00	298,300,800.00
34,008,600.00	120,005,100.00	105,666,300.00	41,061,400.00	366,732,800.00	495,222,800.00
145,034,150.00	.....	.....	72,500,000.00	72,500,000.00	249,001,500.00
14,154,801.00	6,081,472.50	6,630,034.25	4,015,835.00	17,227,041.75	23,421,164.50
6,577,837,015.15	5,962,307,425.57	2,535,545,576.98	4,805,304,100.77	13,303,157,103.32	17,038,039,723.62

C.

to Mar. 31, 1921; with comparative figures and total receipts for the fiscal year 1920.

Treasury statements.]

Total, July 1, 1920, to Mar. 31, 1921.	July 1 to Sept. 30, 1919.	Oct. 1 to Dec. 31, 1919.	Jan. 1 to Mar. 31, 1920.	Total, July 1, 1919, to Mar. 31, 1920.	Total, July 1, 1919, to June 30, 1920.
\$217,939,441.86	\$66,276,122.37	\$75,492,351.93	\$89,785,412.17	\$231,553,886.47	\$322,902,630.39
2,480,481,849.02	1,017,556,092.72	985,767,736.31	1,014,882,285.08	3,018,206,114.11	3,944,949,287.75
1,088,964,437.07	364,612,848.61	379,027,175.30	372,004,615.02	1,115,644,638.93	1,460,082,286.91
568,292,565.29	189,401,006.28	149,171,537.94	106,017,662.41	444,590,506.63	960,966,422.38
9,360,430.84	1,029,909.17	1,728,013.29	1,216,016.52	3,973,938.98	5,664,741.45
4,355,038,744.08	1,638,875,979.15	1,591,187,114.77	1,583,905,991.20	4,813,969,085.12	6,694,563,388.89

## D:

*Preliminary statement of the public debt Mar. 31, 1921.*

[On the basis of daily Treasury statements.]

Total gross debt Feb. 28, 1921.....	\$24,051,684,728.28
Public-debt receipts Mar. 1 to 31, 1921.....	\$891,017,911.58
Public-debt disbursements Mar. 1 to 31, 1921..	962,598,242.03

Decrease for period.....	71,580,330.45
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Total gross debt Mar. 31, 1921.....	23,980,104,397.83
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NOTE.—Total gross debt before deduction of the balance held by the Treasurer free of current obligations, and without any deduction on account of obligations of foreign Governments or other investments, was as follows:

## Bonds:

Consols of 1930.....	\$599,724,050.00	
Loan of 1925.....	118,489,900.00	
Panama's of 1916-1936.....	48,954,180.00	
Panama's of 1918-1938.....	25,947,400.00	
Panama's of 1961.....	50,000,000.00	
Conversion bonds.....	28,894,500.00	
Postal savings bonds.....	11,718,240.00	\$883,728,270.00
First Liberty loan.....	1,952,313,700.00	
Second Liberty loan.....	3,321,731,300.00	
Third Liberty loan.....	3,645,081,350.00	
Fourth Liberty loan.....	6,360,364,000.00	
		15,279,490,350.00

Total bonds.....	16,163,218,620.00
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Notes: Victory Liberty loan.....	4,100,453,105.00
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## Treasury certificates:

Tax.....	1,643,886,000.00	
Loan.....	830,726,000.00	
Pittman Act.....	247,375,000.00	
Special issues.....	32,854,450.00	
		2,754,841,450.00

War savings securities (net cash receipts).....	723,659,586.89
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Total interest-bearing debt.....	23,742,172,761.89
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Debt on which interest has ceased.....	10,537,310.26
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Noninterest-bearing debt.....	227,394,325.68
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Total gross debt.....	23,980,104,397.83
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Quarterly comparative public debt statement, showing also figures for Aug. 31, 1919, when war debt was at its peak.

[On the basis of daily Treasury statements.]

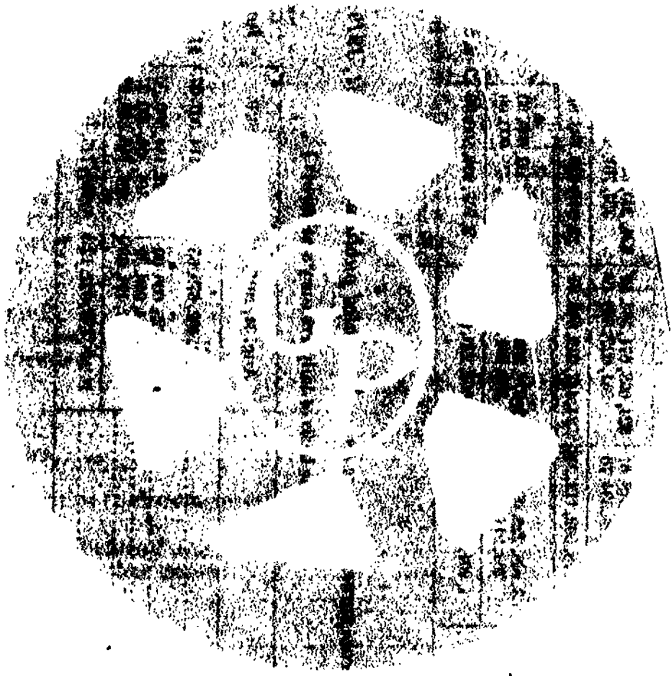
	Aug. 31, 1919.	Mar. 31, 1920.	June 30, 1920.	Sept. 30, 1920.	Dec. 31, 1920.	Mar. 31, 1921.
*Gross debt.....	\$26,596,701,648.01	\$24,698,671,584.52	\$24,299,321,467.07	\$24,067,356,128.65	\$23,982,224,168.16	\$23,090,104,397.83
Net balance in general fund.....	1,118,109,534.76	251,622,538.19	357,701,682.23	434,961,050.10	504,951,391.20	614,593,426.78
Gross debt less net balance in general fund.....	25,478,592,113.25	24,447,049,046.33	23,941,619,784.84	23,632,395,078.55	23,477,272,773.96	23,365,510,971.05
*Includes Treasury certificates (unmatured):						
Loan and tax.....	3,938,225,000.00	2,278,259,000.00	2,485,552,500.00	2,347,791,000.00	2,300,656,000.00	2,474,612,000.00
Pittman Act and special.....	262,914,050.39	388,961,055.56	283,375,000.00	292,229,450.00	292,229,450.00	280,229,450.00
Total.....	4,201,139,050.39	2,667,220,055.56	2,768,927,500.00	2,640,020,450.00	2,592,885,450.00	2,754,841,450.00

E.

Statement showing comparative figures as to short-dated public debt, Aug. 31, 1919, to Mar. 31, 1921.

[On the basis of daily Treasury statements.]

	Aug. 31, 1919.	Dec. 31, 1919.	June 30, 1920.	Dec. 31, 1920.	Mar. 31, 1921.
Victory notes.....	\$4,113,402,679.65	\$4,494,114,007.07	\$4,246,385,530.00	\$4,225,970,755.00	\$4,100,453,105.00
Treasury certificates:					
Loan and tax.....	3,938,225,000.00	3,262,184,500.00	2,485,552,500.00	2,300,656,000.00	2,474,612,000.00
Pittman Act and special issues.....	262,914,050.39	316,301,300.37	283,375,000.00	292,229,450.00	280,229,450.00
War savings securities (net cash receipts).....	935,647,191.08	897,145,389.27	928,739,702.09	760,953,780.53	723,659,586.89
Total.....	9,248,188,921.12	8,969,743,196.71	7,844,052,732.09	7,579,809,985.53	7,578,954,141.89



# INTERNAL REVENUE.

## SALES TAX—PROPONENTS.

### STATEMENT OF CHARLES E. LORD, NEW YORK, N. Y.

The CHAIRMAN. Will you state what business you are in?

Mr. LORD. I am in the dry goods commission business. I am also president of the Aberfoyle Manufacturing Co., of Chester, Pa., being interested in cotton and textile mills. In fact, Mr. Chairman, I am a constituent of yours.

The CHAIRMAN. I know you are, Mr. Lord. I ask these questions for the record, so that they will get in the stenographic notes. I know you live there and have your business there. Do you represent any association in addressing the committee?

Mr. LORD. No, sir.

The CHAIRMAN. Now, will you proceed in your own way to state your views as to the sales tax?

Mr. LORD. I would like to be permitted to define my status. I notice on the calendar everybody represents some association except myself, and I represent a blank. I would like to fill in that blank, if I may. I am not here representing any organized tax movement. I am glad to cooperate with them when I can do so consistently. I represent ascertained business and public opinion to an extent greater, perhaps, than any other one man. I am driven by the powers and opinions which I must respect. I am like the man who liberated the genii from the bottle and then could not put it back.

Our letter "Taxing the Soap Bubble" was reprinted in various forms by banking and mercantile houses all over the country. We traced its circulation into the millions and then stopped trying to keep track of it. Letters came from every section of the country, from every class of persons and institutions and business organizations. They were from great bankers, like the advisory council of the Federal Reserve Board, from small country banks, from great merchants, like Mr. Simpson of Marshall Field & Co., down through the various grades to the little country storekeeper in the Far West, and some farmers, cattle raisers, fruit growers, etc., and in this connection I would ask permission to read a brief letter received from a small merchant in Idaho as illustrating that the humble man as well as the larger factors are alike in favor of a sales tax.

The CHAIRMAN. Remember that this committee has enough letters to fill this room from the humble man.

Mr. LORD. Well, this is rather characteristic. May I read it? It represents the mind of the humble man?

The CHAIRMAN. Yes; go ahead.

Mr. LORD. A copy of a reprint of "Taxing a Soap Bubble" came to us some months ago marked on the margin: "The common folk

pay the bill, after all, and when they pay can make no appreciable lessening of the awful load." I replied in a brief way explaining just the sort of sales tax we favored, and a month later received this letter:

IDAHO FALLS, IDAHO, *April 15, 1920.*

Messrs. GALEY & LORD, *New York.*

GENTLEMEN: We are glad to acknowledge the receipt of your letter of March 29.

We are with you in this, whole-heartedly.

We organized the Idaho Retail Merchants' Association here last night, with representatives from all over the State in attendance. One of the first resolutions adopted was that pertaining to the tax method you advocate. We shall advocate that energetically.

You bet we are with you.

Yours, cordially,

HANS PETERSON (INC.), *Dry Goods.*

Senator JONES. Do you call the writer of that letter one of the humble men of the country?

Mr. LORD. I call him a small merchant. I should have defined it that way rather than as an humble man. I have here letters from individual farmers and small men. I brought with me cross sections of my files illustrating all sections.

The CHAIRMAN. We have thousands of letters like that. Do you think that conveys any logical idea of the nature of the sales tax? That is simply the indorsement of an individual. Now, I would like you to address yourself to the logical reasons for a sales tax and the possibility of its administration.

Mr. LORD. I am prepared to do that, Mr. Chairman.

The CHAIRMAN. That letter means nothing, in my opinion, to the committee, because we are flooded with such letters. The committee wants to hear you and we want you to get down to business.

Mr. LORD. My purpose was to define my status. I was in correspondence with all classes of people. This matter of taxation is a very complex one. It is very much like statements made about the labor problems. I believe these complexities are, in most instances, largely self-created. The labor problem looked at en masse is formidable; attacked in detail, it is readily solved. We have to apply human methods and common-sense ideas, and I would like to see those methods applied to this question of the revenue.

This is what we want: A budget system and economy in appropriations. My mail bristles with complaints at present expenditures, waste, and loose methods; while the correspondents are apparently willing to cheerfully bear the legitimate burden arising out of the war. For the time being, however, we will deal with the figure generally quoted as representing the present minimum of revenue required, namely, \$4,000,000,000 annually.

I would present the middle of the road proposal that so much tax be levied against income as will rest there and be truly an income tax, not so high as to force inflation, shifting, and evasion, as at present, and aim to obtain by that means \$1,500,000,000; that the present tobacco taxes and such other excise taxes as you may decide to retain, together with inheritance taxes and customs duties, be adjusted to safely produce \$1,000,000,000; and that there be levied upon each and every business involving the sale of any commodities or merchandise, produced, manufactured, or purchased by the vendor for sale, a tax equal to 1 per cent of the gross sales of such business, and that the tax be collectible monthly or quarterly from the vendor, who



shall be compelled under penalty to keep a true record of his sales, with a view to securing in that way the additional \$1,500,000,000 of revenue necessary to make up the \$4,000,000,000 referred to. The one and only exemption from this sales tax should be the exemption of all sales up to a certain amount, as perhaps \$4,800 a year, so automatically freeing from the tax the sales of small farmers, petty traders, street peddlers, etc.

I do not advocate a sales tax as an additional load, but to replace sources of revenue which are drying up, and war taxes which have proven injurious. There is no shifting in this of the tax burden from the rich to the poor; it is simply recognizing existing facts and applying the remedy.

I will make no argument against the excess-profits tax, as its evils are now clearly recognized and its productivity dwindling. It should go. Instead, a flat rate on the net income of corporations, without any exemption and without requiring any computation of invested capital, should take its place. This, even at a reasonable rate, is likely to produce as much or more revenue than can now be derived from the existing excess-profits tax.

When the excess-profits tax goes, the existing high surtaxes as applied to the income of individuals alone or in partnerships must be materially scaled down; first, because not to do so would force partnerships to incorporate; second, because, as you have been advised by a Treasury expert, largely a sponsor of the present scheme of taxation, surtaxes above the 30 per cent bracket are practically uncollectible in time of peace; and third, because heavy surtaxes on income derived from the profits of active business tend to produce the same inflation, shifting, and other evils that accompany the excess-profits tax on corporations.

I would prefer a graded rising normal tax as 4, 8, 12, and possibly 16 per cent, but if you wish to adhere to the system of surtaxes, they should be scaled in such a way that in lopping off the higher brackets it is not done to the disadvantage of men of more moderate income, but instead a measure of relief should be extended all the way along the line. It is not for me to say what the extreme surtax rate should be; that would depend in a measure upon the rate of the normal tax, but I doubt if the two combined can reach a higher total than 25 per cent without working many of the present disadvantages. You will probably find it wise to repeal a number of the existing excise taxes and sales taxes which are most unpopular and irritating and, in many instances, not largely productive and which would be unnecessary from a revenue standpoint and unfair in principle if a low-rate tax is applied to all sales.

The cutting out of the taxes referred to, namely, the excess-profits tax on corporations, the high surtaxes on individuals—both already receding as revenue producers—and the unpopular so-called soda water and other special-sales taxes, can work injury to no one, can in no way increase the burden of any citizen however humble, but would work a tremendous benefit to all and remove the brake which is operating to slow up our whole industrial machine, with consequences which we now all feel. It should ultimately improve our export position, as the country which first adjusts its after-war tax burden so that it ceases to inflate prices will be in the most favorable position to compete for trade outside its own borders.

In the administration of the proposed taxes, it would seem to me that with the elimination of the invested capital computation and other complexities of the excess-profits tax, the reduction and simplification of the surtax scale, the elimination of a mass of special-sales taxes, and the imposition of a 1 per cent tax on sales of merchandise, you will collect the revenue with the least burden on the average man and with much simplified and less costly administration by the Government. This is one of the advantages which will follow the abandonment of the invested capital computation, and the taxing of gross sales as a bulk rather than individual sales of selected articles.

From current experience with income and profits taxes, we know that from one-half to two-thirds of the required revenue must be raised from other sources. Part will come from customs duties, inheritance taxes, tobacco taxes, and certain stamp taxes; the remainder must come from sales in some form; and the proposition to apply the tax at 1 per cent on the gross sales or turnover of merchandise has the advantage that it is easily definable and simple of administration. We know what a sale is, we understand the term "goods, wares, and merchandise;" every dealer has a record of his sales, and any ordinary bookkeeper in a mercantile house can furnish the total of a month's sales without expert advice. It could be collected every month or every quarter through the existing machinery of the Government at little cost to either the Government or the taxpayer. It would collect a large part of the taxes as they accrue. Being definite, at a low rate and alike to all, it would have no competitive influence and would shift without loading, resting finally against the consumer to the accumulated amount of  $2\frac{1}{2}$  to 3 per cent, and so rest on his purchases or commodities only—not on his rent or doctor's bill or amusements or other items that make up half of the ordinary family's expenditures. I believe it would instill certainty for uncertainty into business transactions, remove the menace of a back year's tax debt, strengthen commercial credits and Government credit, and tend to reduce costs and prices.

I would have the application of the sales tax against gross sales made by the vendor—not against transactions separately; and the registration of every dealer and vendor with the internal revenue collector of his local district, with a nominal fee, as \$1.00 a year, should be compulsory. After that the monthly or quarterly checking up of the names and collecting of the tax would involve the minimum of difficulty and expense. In practice, it would be undoubtedly found that the tax would run with the goods, the farmer or producer selling at the bid or market price and collecting in addition the amount of the tax, with the wholesaler following the same course and adding the amount of the tax to the bottom of his invoice; and the retailer, not wishing to present a tax bill to his customer, adding his 1 per cent to his overhead cost, distributing it over his total sales rather than against specific articles; the pyramiding of all these taxes amounting to from 2 to  $3\frac{1}{2}$  per cent of the final sales price to the consumer. No doubt various tables demonstrating this will be submitted to you. I will submit only one, showing the effect of the tax as applied to cotton goods—take a yarn-dyed 32-inch cotton tissue retailing at 45 cents, weighing about 10 yards to a pound and made from combed yarns:

*Effect of tax as applied to cotton goods.*

	Value.	Tax.
Cotton, 1 $\frac{1}{4}$ inches (1 $\frac{1}{2}$ pounds):		
Sale by grower to factor at 31 cents.....	\$0.51	\$0.0051
Sale by factor to spinner at 33 cents.....	.55	.0055
Yarn (1 pound), sale by spinner to weaver at 95 cents.....	.95	.0095
Dyes and supplies other than yarn.....	.20	.0020
Cloth (10 yards):		
Sale by weaver to jobber at 26 cents.....	2.00	.0200
Sale by jobber to retailer at 31 cents.....	3.10	.0310
Sale by retailer to consumer at 45 cents.....	4.50	.0450
		.1241

From this table we learn that although the cotton passed through seven hands in the course of its manufacture into cloth and distribution, and paid a sales tax each time, yet the total tax represented but 12.4 cents on \$4.50 worth of cotton cloth, or, as stated, less than 3 per cent.

You may have presented to you other sales tax proposals, some broader in scope, some more restricted. The broader ones would take in sales of real estate, capital assets, services, etc. The restricted ones would tie the sales tax up at a higher rate to one class of traders.

Senator WATSON. What do you propose?

Mr. LORD. One per cent on goods, wares, and merchandise.

Senator WATSON. That is, final sales?

Mr. LORD. No; all the way along the line.

Senator WATSON. Every turnover?

Mr. LORD. Every turnover.

Senator WATSON. Every turnover in sales of all goods, wares, and merchandise?

Mr. LORD. Yes, sir.

The CHAIRMAN. Your table refers to cotton goods, does it?

Mr. LORD. Yes.

The CHAIRMAN. By way of illustration, will you state the different steps by which the fabric and its incident products are taxed?

Mr. LORD. The different taxes are these: Cotton—Sale by grower to factor; sale by factor to spinner. Yarn: Sale by spinner to weaver. Dyes and supplies, other than yarn. Cloth—Sale by weaver to jobber; sale by jobber to retailer and sale by retailer to consumer.

Senator WATSON. How many turnovers?

Mr. LORD. Seven.

Senator WALSH. What would you do if the same company spun the yarn or the cloth and wove it?

Mr. LORD. Under this proposition they would have the advantage of the saving of one tax. Of course, you gentlemen know that it is perfectly feasible to put a tax on that transaction. I will illustrate that matter of self-contained process companies by going into my own business. We make cotton cloth. We do not spin or do any of the other processes. We have capital enough and could go into the spinning of it at any time. We have not done so from deliberate choice. We go into the market and buy whatever kind of yarn is wanted and make the kind of goods wanted, because we make what is desirable at the time.

Senator WALSH. A good many companies do both.

**Mr. LORD.** Yes; but we elected to do the other way and found it profitable, and the item of 1 per cent on sales would have no bearing on our policy. For instance, I believe the spread would decrease under such taxation. I believe if you are a single-process company and paying profits and transportation and all those charges to the different people from whom you are buying, you are paying tax to those people, and under the 1 per cent proposition that spread would be less than it is to-day.

**Senator SMOOT.** Specialties are growing rapidly throughout the country, and I have no doubt but what they will in the future.

**The CHAIRMAN.** Have you made any effort to estimate what the total proceeds of taxation under this system would be to the Government?

**Mr. LORD.** I have made very detailed efforts, Mr. Chairman. I took the abstract of the United States. I went over it for days and picked out the different items as well as I could. You gentlemen know how difficult it is to pick things from that abstract. I did that about 9 or 10 months ago, and I was satisfied that it would produce about \$2,000,000,000 then at the prices then current. I also talked with Mr. McCoy, the Actuary of the Treasury, and I found that he had made similar calculations and had reached similar results. Allowing for depreciations in prices and all that has occurred since, I am still of the opinion that such tax would produce \$1,500,000,000. If you find it is falling short, you can raise the rate a quarter or a half per cent. If you find it is producing too much revenue, it may be scaled down.

I have met with some opposition, and, as far as I can ascertain without making any accusations against anyone, there is a class of corporations naturally opposed to a sales tax. They are the ones who have a monopoly of an article and who are already fixing their prices so as to extract the last possible penny out of the consumer. They doubt their ability to pass it along. It is also quite possible that overcapitalized corporations that now escape with a moderate tax will oppose it. There is also a large army of lawyers and such people who are not favorable to a sales tax.

**The CHAIRMAN.** The great bulk of the protest that the committee is receiving seems to come from labor organizations, fraternal bodies, and agricultural societies.

**Mr. LORD.** I have met with a few of such people. I have met with opposition from small bodies and laboring men in my home town. I have talked to them about the sales tax and found them opposed to it because they did not understand it. When I finished explaining it to them I found that they were a unit for it. I explained it to them saying, "Gentlemen, any tax has to come out of consumption. You get it in one form or another, no matter how it is camouflaged. Here is the way it is proposed to do it. There will be 1 per cent tax on sales. We will know what you are paying. We will all know. The thing will not have to be made up to meet anything indefinite." They say, "We see it." A little Italian organization in Tarrytown, N. Y., said, "We can not understand this thing unless it is explained to us." That opposition you get is from men who do not understand the proposition. They are confused by all of these proposals. We have stuck to one thing and have refused to be diverted into any of these side channels. The leading objections

that have been arrayed against it by the experts and that class of people have narrowed down to three or four. One gentleman who will address you to-day told me that he had been converted to the sales tax from those who opposed it.

The objections to a commodity sales tax have been aptly described as "Sales tax ghosts." They have been abandoned one by one as a better understanding of the matter has grown, and have now narrowed down to a few which have also been met and answered but still persist in some minds. These are: That going back to the days of Babylon and Ninevah, then down through history to modern Spain, sales taxes have been applied and proved failures. The high-wheeled bicycle of 40 years ago was a failure, but the modern low-wheeled bicycle, a success; and unfavorable experiences with high rate and adjusted sales tax of the past only emphasized the success of the low rate Philippine sales tax of the present, and indicate the possibility of even greater success with a uniform 1 per cent commodity sales tax.

Senator WALSH. You claim, then, that although ancient history shows that sales tax is a failure, modern history shows that it is a success?

Mr. LORD. Yes, sir; and I also claim that the trouble France found with the French tax was that it had too many different rates, too many different adjustments, and too many exemptions.

Senator SMOOT. Too many classifications?

Mr. LORD. Yes, sir. The Canadian sales tax is better and proves so satisfactory that I look for its final application in very much the same form as I have recommended. The Philippine tax, which is the closest to my recommendations of any, is the most satisfactory of all.

Another objection is that of political prejudice, a belief that the taxes are being shifted from the rich to the poor, but this argument is breaking down as it is being realized that the people are thoroughly dissatisfied with the present taxes and have a very intelligent understanding as to how they are suffering from them. The result of a sales tax in operation will be so beneficial that opposition will melt away, as it has in the Philippines, and public support and approval become general.

It has been stated that a sales tax would bear disproportionately on those of small income, with citations as to average per capita income, etc. These are misleading, as only a portion of income is spent for commodities, which already under existing taxes probably bear a higher tax load in their prices than they would under a 1 per cent sales tax, and also because those so solicitous are themselves proposing special sales taxes which would bear as heavily. Those of small income enjoy complete exemption from income taxes; a little further up the scale of living the taxpayer begins to pay an income tax in addition to a sales tax, which in itself is larger as he spends more and more for commodities, and taxation continues to grow as income and expenditure expand.

I have noticed the self-contradictory objection that a sales tax both increases the burden of the consumer because it is shifted to him and absorbs the profit of the dealer because he can not shift it, and that in some conceivable condition it might become a tax on profit. This is not so. Aside from the contradiction implied, an

amount that bears alike upon every trader can have no effect upon competition and no effect upon profit.

The final objection raised is that a sales tax will give advantage to a self-contained business as against a single-process business. Typical cases analyzed show that the total advantage inuring to a business enterprise carrying on several consecutive processes in the manufacture or distribution of a commodity against other enterprises which are not so self-contained, would scarcely reach 1 per cent under the operation of a sales tax at the rate of 1 per cent on the turnover. It is a sound contention that that difference is negligible. Multiple-process concerns and single-process concerns at present exist side by side in the same line of business. Each has its reasons for being, and the form adopted is a matter of choice. Each has certain well-understood advantages and disadvantages. Many concerns now find an advantage in specializing upon some one product or one branch of manufacture or distribution and are paying a profit plus transportation charges and any existing tax load in the materials which they buy. How can they be affected or influenced in their method of doing business by an item as small as 1 per cent? In fact, the spread or difference between the two classes of concerns would probably be decreased rather than increased by the change in taxation which I have advocated.

Senator WATSON. Is it your idea that the excess-profits taxes are passed on to the ultimate consumer or not?

Mr. LORD. My belief is that when you have a period of active business they are passed on. Then the Government has a revenue. When you have a period of business that is more or less depressed and the taxes can not be passed on you get very little revenue. It seems to me it is self-evident that as prices and profits rise the Government revenue increases, and when you have a condition where the prices are low and you can not recover those taxes the Government has nothing to depend on.

Senator WATSON. I am talking about the ultimate consumer. Is there any tax that is not finally paid by the ultimate consumer?

Mr. LORD. There are some. If you apply income taxes in such a way that they are moderate they will stay where they are put. I believe that a tax of possibly 12½ per cent against the income of corporations would stay there. Secretary Mellon says 15 per cent. I have not to do with the figures.

Senator McCUMBER. The income must always come from some kind of business.

Mr. LORD. The income must come from sales.

Senator McCUMBER. And the man that pays a heavier income charges the bigger price for the goods, whether it is in the sale of goods or personal service, and finally the ultimate consumer has to pay it does he not?

Mr. LORD. Yes, sir; I think that is a fact that can not be disputed.

Senator McCUMBER. There is no escape from it.

Senator WATSON. Do you believe that the excess-profits taxes have been made the machinery or the vehicle for pyramiding of prices from hand to hand?

Mr. LORD. Yes. I am connected with a corporation. We have an undetermined item staring us in the face. We naturally want to secure as much net income as possible and pay our dividends. We

recover a wider margin of profit when we can. We have done that deliberately in our own corporations. I used the figure 10 per cent. We have been figuring 14 per cent, feeling that 4 per cent went into taxes.

Senator McCUMBER. Was that on account of the excess-profits taxes or a higher surtax, or both?

Mr. LORD. Excess-profits taxes.

Senator McCUMBER. You are talking now of corporations?

Mr. LORD. Yes, sir. When the goods went from the corporation to the jobber he added his per cent to our price. Any tax laid in our price has had a bearing on his percentage.

Senator SMOOR. And he has to take care of his excess profits, too?

Mr. LORD. Yes; he has to take care of his excess profits, too. Of course, it is an endless chain. If we put on a consumption tax it is plain and recognized and we are not afraid to say that it is such. The man with small means and small income is paying only that tax and no other tax. He is not paying an income tax. As you get a little further up the man pays an income tax and a sales tax and he spends more money for all that is taxed. He not only pays a higher income tax but more sales tax.

If I did not believe that this was a just solution, that it would bring us down to where we were in a position to do business in a normal way, where we were in a position to compete in export business, I would not advocate it; but it seems to me to stand to reason that the country that first adjusts this bigger after-the-war load and does not inflate prices will have a better chance against the rest of the world.

Senator SMOOR. You mentioned an exemption of \$4,800 in my bill. I placed it at \$6,000.

Mr. LORD. That was purely tentative. It is a matter for discussion and decision. I thought that \$4,800 would not mean too much in a political way.

Senator SMOOR. Politics, though, means a great deal, I will say to the witness, and I put it at \$6,000.

Senator JONES. This bill is to be raised above politics, is it not?

Senator SMOOR. It is above politics, but when you get it before the Senate and the House politics appear.

Senator WATSON. Well, you do not mean partisan politics?

Senator SMOOR. No; not at all.

Senator McCUMBER. Before you leave this subject, Mr. Lord, I would like to ask if you have made a computation on what the last turnover would amount to? Suppose that instead of having a general turnover in each sale we had the sale to the ultimate consumer?

Mr. LORD. I think that there we are getting into a maze again. I think that would prove a mistake.

Senator McCUMBER. I am not asking you whether it would prove a mistake or not; I am asking you whether you made a computation of what the last turnover would be at a 1 per cent tax, without taking into consideration the many intermediate turnovers?

Mr. LORD. I have made a computation at a 3 per cent tax, and if there is about that load that would show about \$1,500,000,000, one-third of what the 1 per cent would bring.

Senator McCUMBER. On the last turnover?

Mr. LORD. It looked to me that it would produce about that.

Senator SMOOT. About what?

Mr. LORD. Three per cent would produce about \$1,500,000,000, and 1 per cent would produce about \$500,000,000.

Senator SMOOT. I think that is right.

Mr. LORD. But that makes one class of traders the collectors. Naturally, they will object all over the country. There are other objections that I shall not take up the time of the committee in discussing. A self-contradictory objection has been made that the tax would be injurious because it could not be shifted, and that it would be a burden on the consumer because it was shifted. Now, of course, that thing is not only self-contradictory, but it seems to me it ought to be evident to every intelligent business man that a tax that is uniform and of low rate and applies to everything has no bearing whatever upon profit. A tax that applies to everybody in business becomes an absolute negligible element in commercial transactions, and will have no bearing on commercial transactions.

I have also mentioned the matter of self-contained business as against the other, and I will ask permission, Mr. Chairman, to leave with you two or three printed articles which we have prepared in which we discuss our proposition more fully and meet some of the objections that have been raised. Those articles have not been printed for propaganda purposes. We have nothing to do with propaganda.

The CHAIRMAN. Have you got those articles with you, Mr. Lord?

Mr. LORD. I have, and I would like to leave them with you as a part of my advocacy of the sales tax.

The CHAIRMAN. You had better give one to-morrow morning to each member of the committee.

Mr. LORD. I would like, then, to impress two points——

The CHAIRMAN (interposing). Excuse me. I suppose you refer to this article entitled "Taxing a Soap Bubble"?

Mr. LORD. That is the one. I would like to leave the original paper that started this discussion, and my discussion of that tentative report of the National Industrial Conference Board Committee.

The CHAIRMAN. Will you kindly send me about a hundred copies of these pamphlets for the committee and for the Senate?

Mr. LORD. I shall do so, sir. May I be permitted just to emphasize two points that seem very clear to me. One is that under almost any system of taxation you can devise a large portion of the taxes are going to come out of consumption. The other is that if you avoid all these suggestions of partial taxes of services and real estate taxes and all those confusing and difficult definitions of adjustment and adhere to a straight small figure applied generally, you have no competitive value whatever. You will have no effect on profits. You will have a factor that will have no bearing whatever as between man and man and merchant and merchant. I thank you.



**STATEMENT OF HUGH SATTERLEE, REPRESENTING THE TRADES COUNCIL OF THE MANUFACTURERS' CLUB, PHILADELPHIA, PA.**

The CHAIRMAN. Mr. Satterlee, you represent the Trades Council of the Manufacturers' Club?

Mr. SATTERLEE. Yes, sir; of Philadelphia.

The CHAIRMAN. What business are you engaged in, Mr. Satterlee? I want this information for the record.

Mr. SATTERLEE. Personally I am a lawyer.

The CHAIRMAN. This Trades Council of the Manufacturers' Club is composed largely of textile manufacturers, is it not?

Mr. SATTERLEE. As I understand it, it represents every considerable industry or business in Philadelphia of any kind. I am not very familiar personally with the membership, but I understand that it embraces all the trade bodies, the Philadelphia Chamber of Commerce, the Philadelphia Board of Trade, the Commercial Exchange, the Maritime Exchange, and the various industrial and business organizations.

The CHAIRMAN. Will you proceed now in your own way, Mr. Satterlee, and state your views in advocacy of the sales tax?

Mr. SATTERLEE. I should like to say, sir, to start with, that the Trades Council has asked me to represent them here because my views, in a general way, accord with theirs, and on the general principles which I intend to discuss I think we are in substantial accord. So far, however, as concerns any details I may express, any shades of opinion, they are my own. I am expressing my own convictions.

Senator WALSH. You are not here in the capacity of an attorney, then?

Mr. SATTERLEE. No. I am here to represent them, but not as an attorney retained for that purpose.

I take as a text here an expression in a recent letter of the Secretary of the Treasury, in which he said:

The Treasury is not prepared to recommend at this time any general sales tax, particularly if the general sales tax were designed to supersede the highly productive special sales taxes now in effect on many relatively nonessential articles. I expect the imposition of sufficient new or additional taxes of wide application, such as increased stamp tax or a license tax on the use of automobiles, to bring a total revenue from internal taxes, after making the changes above suggested, of about \$4,000,000,000.

Just previous to that he says that—

the transportation tax is objectionable, and I wish it were possible to recommend its repeal, but this tax produces revenue in the amount of about \$330,000,000 a year and could not be safely repealed or reduced unless Congress were able to provide an acceptable substitute.

We propose as an acceptable substitute a turnover tax on commodities. There is nothing startling or hair raising about a turnover tax on commodities. We have at the present time, of course, examples of limited turnover taxes. The stamp tax on conveyances of real estate is a turnover tax of one-tenth of 1 per cent. The 10 per cent tax on works of art is a turnover tax. So that what is new in the development of the turnover-tax idea is its extension to cover all commodities. It might be extended also to cover, in addition to merchandise, services, the use of property, choses in action, securities, etc. But for practical purposes, and without going too far into it now,

I believe that at the present time the most practical turnover tax is a turnover tax on goods, wares, and merchandise.

The turnover feature and the general feature of extending it to all goods, wares, and merchandise, together with the result that is brought about by such wide application and making it possible to impose a tax as low as 1 per cent or less and yet raise the required revenue, are features that give it the advantages which it has.

Now, to run over the figures roughly—and these are very rough, but they will serve as well as more definite figures. According to the Treasury estimates, the present Federal taxes, even if continued as they are now, would scarcely be sufficient, if sufficient at all, to provide the required revenue for the next two or three years. But it is practically universally conceded that the excess profits tax should go; and, although there is not so much of an outcry as to the income tax, still for most of the same reasons that apply to the excess-profits tax the higher rates of income tax should undoubtedly be reduced.

As a matter of fact, we know that the excess-profits tax is not being collected; it is not being kept up to date, and that applies almost equally as well to the income tax.

Senator WATSON. What do you mean by that, Mr. Satterlee? What do you mean by "not being collected"?

Mr. SATTERLEE. I mean that it is being collected in the sense that people make their returns and pay what they estimate to be the tax due, but those returns, which are a matter of self-assessment and dependent largely upon a man's honesty and conscience and knowledge of the law, are not audited in some cases for several years after the returns are filed. The Internal Revenue Bureau is not yet through with auditing the returns for 1917, and it has barely scratched the surface on the returns for 1918 and 1919.

Senator WATSON. Well, that is a mere matter of administration.

Mr. SATTERLEE. It is a matter of administration, but it is such a perfectly tremendous job that with all the addition to the force of the Internal Revenue Bureau it has not yet been equal to it.

Senator WALSH. Do you know what percentage of the returns has been found incorrect?

Mr. SATTERLEE. I have never heard any figures.

Senator WALSH. It is very large?

Mr. SATTERLEE. I should say in the case of important returns; that is, returns of more than a few thousand dollars, that practically all of them have some adjustments.

Senator WATSON. So that practically you have no way of determining in reality how much the excess profits taxes have fallen off?

Mr. SATTERLEE. No; I have no source of knowledge, other than the public reports of the Treasury Department, which seem to indicate that the excess-profits tax has fallen off possibly 80 per cent—from \$2,500,000,000 in 1918 to less than \$500,000,000.

Senator WATSON. I know what the Treasury report is, but I was thinking that from your statement a part of this might be due to the fact that taxes have not yet been collected.

Mr. SATTERLEE. Very many taxes have not been collected and more from 1918 than any other year.

Senator SMOOT. I know 1913 taxes that have been adjusted by the Treasury Department five different times and each time a different amount arrived at. There is one case that I know of where they want an adjustment the sixth time. God only knows what the result will be. It has been changed five times already.

Mr. SATTERLEE. I know from my personal legal experience that at least two of my clients have had additional assessments from income and excess-profits taxes imposed upon them of over \$7,000,000, and I do not think there is any reason in the world for those people paying more than a million dollars at the outside. In several cases the Internal Revenue Bureau has revised its estimate to cut such enormous figures down.

Senator WALSH. What you are saying amounts to this, that the Government is a heavy loser from that form of taxation because of the natural tendency of a taxpayer to construe everything in his favor?

Mr. SATTERLEE. Yes.

Senator WATSON. You do not confine that ancient tendency to the income tax alone, do you?

Senator WALSH. No.

The CHAIRMAN. It is an ancient tax, though.

Senator WATSON. It certainly is.

Mr. SATTERLEE. The income tax as revised can scarcely be depended upon at the most for more than \$2,000,000,000 of the revenue to be raised in the next two or three years. For the remainder of the revenue of \$4,000,000,000 we have to rely upon the inheritance tax, which at most will yield one hundred million, while the capital-stock tax will yield about one hundred million, and what are really specific sales taxes about one billion two hundred million.

Now, as I understand the recommendations of the Treasury, and the various programs that are proposed throughout the country for revenue by taxation they boil down to this, to raise the revenue in addition to what can be raised by the income tax and, of course, in addition to the tariff—which, on whatever theory it is imposed, is strictly limited in its effect—either by specific sales taxes or by a general turnover tax. So the amount of the load, the amount of the burden, which must go eventually on the consumer on any theory is not varied very much by a consideration of the specific sales taxes or the general turnover tax.

Senator JONES. Mr. Satterlee, you have evidently given this matter a good deal of thought. I would like to have you explain how the Treasury would be benefited by reducing the high surtax?

Senator SMOOT. Do you mean the income tax, Senator Jones?

Senator JONES. Yes.

Mr. SATTERLEE. The Treasury, I think, would be benefited by reducing the high income surtax, because the rates being lower there would not be the same incentive to evade and to adopt all sorts of expedients to get out of paying taxes, and there would not be the administrative details.

Senator JONES. Do you think that is fully accurate?

Mr. SATTERLEE. Fully accurate?

Senator JONES. Yes; I mean fully justified as a conclusion. Is it not human nature, and as Senator Watson has called attention to it,

is it not universally the case that the taxpayer gives himself the benefit of the doubt, whether it is large or small?

Mr. SATTERLEE. Well, I doubt if he strives so hard to give himself the benefit of the doubt, if it does not matter very much, if the amount of the tax is not going to be very important. For instance, in 1916 and prior years, when the income taxes were comparatively low, the auditing of the returns showed comparatively small differences.

Senator JONES. I had not thought that the reduction of the high surtax was justified on account of the inducement to falsify returns.

Mr. SATTERLEE. I think that is only one factor. I do not think that is the controlling factor.

Senator JONES. I should say that is the least important factor.

Mr. SATTERLEE. I agree with you there.

Senator SMOOT. I think it is the very least important.

Senator JONES. Assuming that the taxpayer is going to make an excess return, how would the Government Treasury be benefited by reducing the high surtax?

Mr. SATTERLEE. The Treasury would be benefited, I think, possibly not immediately, because temporarily a reduction in the higher rates of surtax, with the investments remaining as they are in tax-exempt securities, and we believe on that account keeping back productive enterprise, might show a falling off in the Treasury. It undoubtedly would, but it is my firm belief that with the reduction in the higher rates of surtax to the point where a man of wealth could feel that he was having a reasonable show for his white alley if he went into a business enterprise instead of investing in tax-exempt securities, a lot of that money in tax-exempt securities would get back into business, and would yield more tax by the imposing of lower rates of surtax than higher rates of surtax.

Senator JONES. Are not those already owned and generally owned by people of large incomes anyway?

Mr. SATTERLEE. Undoubtedly so.

Senator SMOOT. But it will not pay them to carry them, Senator.

Senator JONES. Assuming that it would not pay them, I do not yet see how the Treasury is going to be benefited by it. Would it not just simply be permitting those people to earn a higher rate of income without tax or without paying any additional amount into the Treasury?

Mr. SATTERLEE. I think eventually the volume of tax at the lower rates would amount to more than the volume now at the higher rates; but certainly the Treasury would, in the long run, benefit from any revision of taxation which would tend to the furtherance of the business prosperity of the country.

Senator JONES. Now you are putting it on another ground.

Mr. SATTERLEE. I am putting it on all the grounds I can think of.

Senator JONES. Yes; I am sure of that. It seems to me that the point you have just made is that you need to reduce this, not on account of the returns to the Treasury, but on account of the business prosperity of the country. In other words, you would reduce the tax in order to promote business enterprise.

Mr. SATTERLEE. I think that is the chief argument for it; yes.

Senator JONES. Now, that is just what I am getting at, whether or not that is the chief argument. I want to know how it would benefit the Treasury to reduce the high surtax.

Mr. SATTERLEE. As I said, I do not think it would immediately benefit the Treasury; I think it would in the long run; but as far as the testimony which we are having to-day is concerned, I did not mean to go into it very far. That was a collateral point. I was simply speaking in a general way of what might be expected from the income tax. But even with the rates of surtax as they are now, as I understand the Treasury experts' figures, certainly not much more than in the neighborhood of \$2,000,000,000 can be raised from the income tax on any basis whatever of rates upon which income taxes are raised.

Senator JONES. Let us stay with the one point. Of course, I recognize the fact that if we could relieve the business world of all tax it would promote business. There is not any question about that. But as a matter of dollars and cents, I should like to have some statement as to how a reduction of the high surtax would benefit the Treasury.

Senator McCUMBER. He says it will not benefit the Treasury immediately.

Mr. SATTERLEE. I do not pretend to be enough of a statistician to give any statement in dollars and cents as to that.

Senator JONES. If we have not something to go on here to show that it would benefit the Treasury, then you are simply putting your plea for a reduction of high surtax on moral and business grounds, are you not?

Mr. SATTERLEE. I would, but I am not here this morning particularly to plead for a reduction in the surtax.

Senator SMOOT. You have studied this question enough to know, have you not, that the high surtax has caused the wealthy men of the country to take advantage of buying tax-exempt bonds until the amount of their income that they pay to the Government of the United States is hardly one-third of what it was in 1918? Or, in other words, in 1918, the amount of tax from incomes over \$300,000, I think it is, amounted to \$917,000,000. In 1919 it was \$587,000,000. In 1920 it dropped to \$347,000,000. And yet you know the reason of that, do you not? You know that it was on account of the investment in tax-exempt bonds?

Mr. SATTERLEE. I firmly believe that that is the reason.

Senator SMOOT. Well, do you not know it?

Mr. SATTERLEE. I know from what I have read of published reports, and I know from specific instances that that has been the reason. I know of a number of instances in my private acquaintance and practice where men who have been in the habit of engaging in business of one kind or another have taken their money out and put it in tax exempt securities. Instead of buying industrial railroad bonds, as they would have done in the past, they have bought exempt securities. A man would come along and say, "I have made a 24 per cent investment," meaning that he has made that much by buying tax-exempt securities.

Mr. Reed calls my attention to the fact that large institutions—I suppose such as savings banks—have bought them. But, as a matter of fact, there has been a very great increase in the amount of tax exempt securities in the last few years because municipalities have improvidently issued them and placed them.

Senator McCUMBER. The country is issuing a great many more of them?

Mr. SATTERLEE. Yes; much more than in the past.

Senator SMOOT. There are about \$15,000,000,000, I think, now, in circulation.

Senator WALSH. The record might show, Mr. Chairman, what you have found out from the Treasury, that about 15 per cent of the tax returns are incorrect.

Senator SMOOT. I do not think there are a thousand men in the United States doing business that can make a tax return and know that it is right.

Senator WATSON. What was that statement, Senator Walsh?

Senator WALSH. That about 15 per cent of the tax returns were incorrect.

Mr. SATTERLEE. I am surprised that it is as low as that.

Senator SMOOT. I do not believe there are a thousand men in the United States, outside of the fellows who have been educated down here in the department as to what the department really wants, and then you do not know whether the department will accept it when it is really made, that can go ahead and make out a tax return and know that it is right.

The CHAIRMAN. Including the members of the committee?

Senator SMOOT. Yes; including the members of the committee.

Senator WALSH. And the judges of the Supreme Court?

Senator SMOOT. Yes; and the judges of the Supreme Court.

Mr. SATTERLEE. I have worked in the Internal Revenue Bureau and have had something to do with the regulations, and my returns through 1918 have not been audited yet. If more than half of them are right I shall be very much surprised.

Suppose for just a few minutes we take up a comparison—

Senator JONES. Before we leave the other point, I want to draw out your point of view. How much of a reduction in these high surtaxes would you advocate?

Mr. SATTERLEE. My personal opinion, which represents purely my personal view, as I say, would be that the rates of surtax should be reduced, if possible, to 20 per cent.

Senator JONES. Reduced to 20 per cent?

Mr. SATTERLEE. Yes.

Senator JONES. What is the difference now in the market between the value of tax exempt securities and high grade unexempt securities.

Mr. SATTERLEE. I could not tell you.

Senator SMOOT. Thirty-two per cent. It is a mathematical calculation, Senator.

Senator JONES. I was not asking the Senator about it.

Senator SMOOT. I thought the Senator wanted to know.

Senator JONES. I wanted to get from Mr. Satterlee his viewpoint.

Mr. SATTERLEE. I have not the figures in mind.

Senator JONES. Then, upon what foundation do you suggest a reduction of surtax to 20 per cent?

Mr. SATTERLEE. Because in a general way that figure has been suggested by other people, and it seemed to me in a general way to represent about the differential that there should be between a flat

rate and the tax on larger incomes. In other words, I do not base that on tax exempt figures—

Senator JONES. It is kind of an intuition on the subject?

Mr. SATTERLEE. No; not an intuition on the subject; it is my own idea of fairness.

Senator JONES. How is that idea of fairness arrived at?

Mr. SATTERLEE. As I say, I can not base it on any figures, but the result of my reading and consideration of the subject has been that it seemed to me that taking everything into consideration—and I am sure I could not tell you now all the things that have had an effect on me in arriving at that result—that that was a fair rate.

Senator WATSON. What would be the effect if it reduced it to 30 per cent?

Mr. SATTERLEE. Immediately it would result, I should imagine from the figures I have seen, in a loss to the Treasury of about \$200,000,000; but I think that eventually would be more than made up by an adjustment in the incomes which are now invested in tax-exempt securities.

Senator WATSON. What would be the immediate loss to the Treasury if it were reduced to 20 per cent?

Mr. SATTERLEE. I hope it is an intelligent guess, but it is only a guess—it would probably be nearer \$300,000,000. But that is an entirely separate subject which I am not especially prepared to speak on this morning.

Senator McCUMBER. But you think that another result would be that it would bring a sufficient amount of capital into the general business activities of the country so as to produce more in taxes than what the Treasury would now lose?

Mr. SATTERLEE. Yes. I do not think it is a mere matter of dollars and cents. I do not think that a man figures by investing in tax-exempt securities he is going to make exactly so much and by investing in a Treasury bond he is going to make so much; but, in a general way, almost any business man who is reasonably fair and public spirited, if he feels that he has a fair show to make a reasonable income on his investment by putting it into taxable securities or a productive enterprise, is going to do it. But it is only when he feels that chances are pretty much against him or the income from his securities is pretty nearly all taken away from him that he dodges to cover and, so far as he can, puts his income into tax-exempt securities.

Senator JONES. Let me ask you, Mr. Satterlee, do you think it is a wise policy to arrange the Federal tax laws so as to discourage the improvements by municipalities through tax-exempt securities?

Mr. SATTERLEE. No; I think they have been unduly encouraged at the present time. I think the municipalities have been unnecessarily extravagant.

Senator JONES. Then, you think they should be discouraged from further activities?

Mr. SATTERLEE. From their present activities, yes; I do. But let me say this: Even if there were no such things in the world as tax-exempt securities, I should still feel, as a matter of fairness and equality and democratic principles, that the rates of surtax that we have now, running as high as 65 per cent, are undemocratic and unequal and should be lowered substantially in any event.

Senator JONES. You think they are unjust, then?

Mr. SATTERLEE. I do.

Senator JONES. That, of course, puts the subject on another ground.

Mr. SATTERLEE. Yes; and that is where I would eventually put it, so far as I myself am concerned.

The CHAIRMAN. Is that all, Mr. Satterlee.

Mr. SATTERLEE. That is all on that point, Mr. Chairman. I want to go on specifically with the sales tax, if I may. If I may take a few minutes more I would like to do so, because I really have not said much about the sales tax yet. Suppose we consider it from the point of view of the Government and of the merchant and of the consumer. So far as the Government is concerned, of course, it is primarily interested in the yield. As I have indicated, apparently on any view the income tax, however adjusted, up or down, can not be relied upon for much more than \$2,000,000,000, and if we need \$4,000,000,000 that requires substantially \$2,000,000,000 more which perhaps can be reduced to \$1,500,000,000 by the tariff; but, at any rate, at least \$3,500,000,000 must come from sources other than the tariff. I think the inheritance tax should be left to the States, where it originally belonged, and also I think the capital stock tax should also be abolished. We have to rely on excise, or what are really sales, taxes in one form or another for most of this \$1,500,000,000 or so that we need, in addition to the income tax, and that is a very rough approximate figure.

While no exact estimates have been made, or perhaps could be made, although the Treasury officials have undoubtedly better means of obtaining such information than anybody else, approximately \$1,500,000,000, it has been estimated, could readily be raised from a 1 per cent turnover tax on goods, wares, and merchandise.

So far as specific sales taxes are concerned, at the present time they yield possibly \$1,200,000,000, but it is generally recognized that they must be increased and extended in order to get up to the proper amount of revenue unless they are replaced by a turnover tax.

So in addition to the sales taxes which we have now, some of which we believe are a nuisance and should be abolished, we must find new ways of taxing sales, and that is to my mind the great obstacle to carrying out the Treasury's plan, which simply puts it up to Congress to find new ways of raising taxes which must be, in effect, sales taxes.

Whenever specific suggestions have been made for additional excise sales taxes so much uproar has been raised that they have been abandoned. For instance, the National Industrial Board Tax Committee originally suggested further sales taxes on tea, coffee, and sugar, but it burned its fingers so badly that in its official report submitted in January, it avoided any reference to any specific sales tax, although taking the position that the turnover tax was objectionable. Of course, no tax, as has been said, is perfect.

From the standpoint of administration it stands to reason that a uniform tax of 1 per cent imposed on all goods, wares, and merchandise could more readily be administered than these heterogeneous, miscellaneous sales taxes that we have now on more than



75 different articles which are imposed at different rates and on different classes of sales.

Senator SMOOT. And not half of it collected.

Mr. SATTERLEE. And not half collected. In fact, to read the newspapers and to hear people in the country at large speak, you would think that sales taxes were an unknown thing, but sales taxes at the present time are so important and so complicated and difficult to administer that the Internal-Revenue Bureau has recently started a new bulletin service in addition to its income tax bulletin.

The CHAIRMAN. I have here some statements about the income tax. In certain sections of the country they hardly knew it was in existence. They concentrate their energies on a few places that are supposed to bear rich fruit.

Senator SMOOT. Chicago and Pittsburgh.

Senator WALSH. Also Massachusetts.

Senator JONES. I do not believe anyone fishes where he does not expect to find fish.

The CHAIRMAN. He might get a little fish.

Mr. SATTERLEE. Speaking from an administrative standpoint, and I have had some experience in that direction myself, I am firmly convinced that a turnover tax of this description would be easier to collect and be more collectible than the present miscellaneous sales taxes, and I could amplify that to some length if there were time.

From the standpoint of the merchant, it would be an easier matter for him simply to take 1 per cent of his gross sales for a month than it would be for a dry goods store to determine the tax on candy or jewelry or a great many other articles which it sells. I have never been able to understand how a department store, for example, in its bookkeeping department could possibly make any intelligent return of the variety of specific sales taxes that it now has to pay or collect.

Of course, the most plausible argument against the turnover tax is based on the turnover feature, which, together with the low rate and the general application, is its most valuable feature. I believe that the greatest fight against the tax has been made on the basis of the alleged theory of discrimination which would result in the case of multiple-process enterprises as against single-process enterprises.

I think Mr. Lord understands better than anybody else the business man's view on that, but, as has already been said, it is a matter very largely of relative equality. No taxes can be entirely equal. There is much more discrimination in the specific sales tax than there could possibly be under a turnover tax, where there might be a theoretical discrimination of 1 per cent. In other words, where every commodity is taxed 1 per cent people are not discouraged from buying commodities, but where one particular commodity is taxed 10 per cent or higher and other commodities which satisfy the same general needs of the consumer are not taxed at all, the manufacturer who makes and sells that particular commodity loses business.

Then, further, to adopt another comparison, it is proposed to replace the excess-profits tax, in some measure, by, say, a 15 per cent income tax on corporations, a flat tax. I admit that there must be some adjustment of the taxes on corporations as against the normal and surtaxes on individuals, but without going into the merits of this proposition of 15 per cent tax, which seems to have a good deal of backing at the present time, consider that from the standpoint of

equality. The ordinary individual who is in business, if he has a small income, may pay only a 4 per cent income tax per year. A corporation neighbor of his who is in the same business has in any event to pay 15 per cent. Another individual who has a large income, but conducts his business in his individual name, might pay as high as 73 per cent, while his neighbor corporation, doing the same amount of business, and having the same amount of income, would still pay only 15 per cent. When we consider that, and there may be no help for it—

Senator JONES. Is not that an argument against the repealing of the excess-profits tax?

Mr. SATTERLEE. No; I think not. I think anything would be better than the excess-profits tax, because—well, I doubt if I can condense in just a few words the views I wish to express, but the great fault with the excess-profits tax to my mind, and the one that makes it entirely as a practical matter unworkable, is the fact that to the factor of net income, which is hard to determine at best, but which must exist, you add a second indeterminate factor, invested capital, which is almost harder to compute than net income. When you try to combine those two indeterminate factors, the inaccuracies and the permutations and combinations that result are infinitely greater than they could be when you have only one indeterminate factor. That is my objection to the excess-profits tax.

But even if it should be considered that there was a really material inequality in the turnover tax, on account of the turnover feature, it is perfectly possible, as Mr. Lord has said, to provide for a tax on turnovers within the same multiple-process enterprises. But I should hate to see that come about, unless it is deemed to be absolutely necessary, because I do not think it is material, and I think it would be found to be not material.

The most of the arguments which are advanced against the turnover tax from the standpoint of merchants are the same that would apply and with the same force to any sales tax. For instance, it is said in the case of a falling market the turnover tax might not be shifted to the consumer. If the present tax can be shifted the 1 per cent turnover tax can be shifted.

Also it is said there is an injustice in the case of enterprises that work on a small margin of profit. The turnover tax like every sales tax has to be shifted, and that applies equally to the present sales tax.

Senator JONES. Just let me ask you there, Mr. Satterlee, how can you possibly shift a turnover tax where you are selling the commodity for less than cost?

Mr. SATTERLEE. You can not then, but neither can you shift a specific-sales tax or any other item of cost.

Senator JONES. But you are seeking now to extend the turnover tax and, therefore, extend the injury to the vendor who is selling for less than cost.

Mr. SATTERLEE. I am advocating chiefly the substitution of the turnover tax for the miscellaneous specific-sales tax now existing and for any proposed miscellaneous taxes that might have to be imposed to make up the necessary revenue. In other words, the turnover tax is a substitute tax and not an additional tax, and that point of shifting in a falling market applies with even greater force to the specific-

sales taxes imposed at comparatively high rates, because there the injustice would be greater because there would be more tax that the seller would have to pay himself, while with the turnover tax spread over a greater number of businesses the relative amounts would be comparatively small.

Senator JONES. The present specific taxes are imposed largely upon the theory, at least, that they were luxury commodities.

Mr. SATTERLEE. I know that has been said to be the theory, but I do not believe, as a matter of fact, that they are commodities which most people regard as real luxuries, and, in the second place, I have never been able myself to see the justice of treating a merchant who happened to be a dealer in an article less essential than bread worse, for purposes of taxation, than or would any other merchant. In other words, I think the present system of taxing what are possibly called nonessentials is an iniquitous system of taxation, and I am not saying that as representing anybody particularly, because I do not; it is purely my own personal view on it. But however you may regard that, this point of sales on a falling market of course necessarily does apply to the man who sells a taxed article, whether it is a turnover tax or a tax imposed as a high-rate specific sales tax.

Senator SMOOT. But whenever every industry and every person in the United States is treated in the same way, no matter whether it is on a falling market or not, they have all got to take that into consideration, just exactly the same as with the cost of their goods.

Mr. SATTERLEE. It is spread so thin that it does not amount to so much as it would in the case of the high specific sales taxes.

Senator JONES. Is there a period now, or has there ever been or will there probably be a period, when all industry is being conducted on a falling or losing market?

Mr. SATTERLEE. I doubt it very much.

Senator JONES. Would you not have the same discrimination and injustice then than you have under some of our present taxes?

Mr. SATTERLEE. I think there is a very complete answer to that, which is this: Some industries under a turnover tax might be affected by a falling market, and they might have to sell at less than cost, but the general tone of the country at large would be supported by other industries which were more prosperous, and each industry, if it were ever so unfortunate as to be in that position, would come along at different times and the general average would be the same. For instance, take the situation in recent years where one particular city, which has had one particular industry as its chief industry, and it has been very seriously affected by falling markets in that particular industry—Detroit, for example.

Senator JONES. Mr. Satterlee, you must agree that under your plan many industries would now be really donating a part of their capital to pay this turnover tax.

Mr. SATTERLEE. Yes, as at present, many industries are donating part of their capital to pay the present specific taxes.

Senator JONES. That is true; but you are seeking to shift your income tax now to a sales tax.

Mr. SATTERLEE. No; I am not.

Senator JONES. Are you not advocating a reduction in income tax?

Mr. SATTERLEE. Yes; but I think that is bound to come anyway.

Senator JONES. And are you not advocating a repeal of the excess-profits tax?

Mr. SATTERLEE. I am, but I am proceeding on the basis that that will be done. I am not asking you for it.

Senator SMOOT. I want the higher brackets and the income tax reduced so as to get ultimately some money into the Treasury of the United States. It is not that I want to relieve those people with incomes of over \$300,000 from the tax; far from it. My idea is to get this tax down so that everybody will pay it, and when they all pay it then we will get some money into the Treasury of the United States.

Mr. SATTERLEE. Of course I am trying in my limited time to stick as closely to my subject as I can. Most people agree that the present income and excess-profits taxes are so shifted to the ultimate consumer in overflowing measure that he pays much more at the present time than he would under any possible system of turnover tax, or even under the proposed system of specific sales taxes.

Senator JONES. Do you recognize this principle, that in trade in this country, as it is carried on at the present time, at least, they charge what the traffic will bear, anyhow?

Mr. SATTERLEE. I think so; yes.

Senator JONES. And if they do, how is there a shifting of the tax?

Mr. SATTERLEE. Because if several people are affected by the same tax, they can charge more than if only one were affected by the tax.

Senator DILLINGHAM. You were speaking of this matter from the standpoint of the merchant when your attention was distracted. Let me inquire whether you have heard any objection to this tax on the part of the country merchant, particularly, claiming that it would operate especially to the advantage of the mail-order houses.

Mr. SATTERLEE. The argument against the turnover feature of course, theoretically, would apply to the advantage of the mail-order houses unless there were an adjustment of the tax turnovers within the same enterprises; but we know from experience that instead of the mail-order houses putting the country storekeeper out of business, as people thought they would a few years ago, the country storekeepers have prospered in spite of, or as a result of, the mail-order houses; and when you come to figure out costs on a basis of 1 per cent you find that differences throughout the country are so considerable that a difference of that sort has very little bearing.

For instance, the Harvard Bureau of Research made a survey of 170 shoe stores, throughout the country, and they found percentages of costs to sales varied something more than 22 per cent.

Senator WALSH. What do you mean by percentage of cost to sales?

Mr. SATTERLEE. Just that; that I think their percentage of costs, overhead and everything included, to sales varied from very low to as high as 33 per cent.

Senator DILLINGHAM. How does that minister to the benefit of the country merchant?

Mr. SATTERLEE. I do not think it ministers to his benefit, but I am simply saying—

Senator DILLINGHAM. No; I mean in the establishment of the mail-order houses.

Mr. SATTERLEE. I do not know.

Senator DILLINGHAM. I understood you to say that it had ministered to the benefit of the country merchant.

Mr. SATTERLEE. It apparently has. The country merchant, I understand from talking with business men and from impressions that I have gathered throughout the country, is prospering more now than he ever had before the mail-order houses were established.

Senator DILLINGHAM. Why are some of them opposing this form of taxation?

Mr. SATERLEE. If you want to know the reason why I think most people who do oppose this form of taxation are opposing it, I will tell you that I think it is because they do not know anything about it, or they do not know enough about it. I will not say they do not know anything about it, but I think it is because they have not studied it sufficiently.

Senator SMOOT. They have simply been told that it was a shifting of the tax from the rich man to the poor man, and they have not studied it at all and have taken it for granted.

Mr. SATTERLEE. I was opposed to this tax a year ago, very strongly, simply because of principles which I had imbibed when I was in the Internal Revenue Bureau during the war. But the more I studied the arguments against it the less they impressed me; and gradually I have become very much in favor of it, without the slightest reason for my becoming so except from the study and the consideration I have given it and the greater knowledge that I have gained.

Senator DILLINGHAM. From your knowledge of this law and the construction of it, do you see anything in it which will injure the country merchants as a class?

Mr. SATTERLEE. No, sir; I do not.

Senator SMOOT. You are like Prof. Bullock and many other people who started out in opposition to the sales tax. The more they studied it and the further they went into it the more they became the most enthusiastic advocates of it.

Mr. SATTERLEE. That has been my experience.

Then the third point I had in mind was the effect on the consumer. Of course, I have already spoken about it in a general way, the shifting of the burden, which I think is not a shifting of the burden at all, but simply a spreading of it to make it more equitable than dumping it down in hills.

This point may not have occurred to all of you, but I think it is very evident, when you look at it, that at present, as has been said, we have these specific sales taxes on what are supposed to be to some extent luxuries, when you run over the list—automobiles, candy, chewing gum, sporting goods, cameras, etc., and then come to various articles of clothing over a certain sum. Try to figure out who is actually paying those taxes. I think it is pretty evident that it is not the rich who are paying those taxes at the present day, but it is the poor who are paying them in outrageous proportion with reference to the amount of their own income.

If we take two of the taxes which may be regarded as topping the list of luxuries—jewelry and fur articles, for example—it is not the very rich man who, in a spectacular way, loads his wife and daughter down with jewelry or sables, who pays the bulk of the jewelry and fur taxes. It is the poor man, the man of comparatively small means—and there may be a few laborers in the country who do not do it, but I

do not except any considerable class—who will save and slave in order that he may buy a diamond for his wife or daughter, or some sort of a fur article; and we know from our personal observation that there are very few people in the country who can not afford and do not afford some sort of jewelry and some sort of furs.

Of course, when we come to other articles, such as candy and chewing gum, there is no question about it. Those taxes are paid by the people of moderate and small means.

So the result of the specific sales taxes which are confined to specified articles is not that the rich pay these so-called luxury taxes, because they do not. The poor pay them out of proportion to their income, and the rich people spend their income, in large measure, for things that are not taxed, such, for example, as furniture or expensive food, race horses, and things of that sort that are not subject to a tax at all, while, under the turnover tax, the man who spends \$100,000 would pay a hundred times as much tax as the man who spends \$1,000. He does not do it at the present time.

Of course, there is one point that is sometimes raised, that a man with an income of \$100,000 may spend only \$20,000 of it, in which case he would, of course, pay only 20 times as much tax as the man who spent only \$1,000. But there is where the surtax on individual incomes comes in; and the man with an income of \$100,000 would pay considerably more in proportion to his income in taxes than would the man with a \$1,000 income or a \$2,000 income who pays a turnover tax.

That, gentlemen, without taking up too much of your time, is, in a general way, my attitude on this subject. I practically am a crank on the subject of simplicity. My experience with taxation, both inside and outside of the bureau, has convinced me that almost above everything else is the desirability of establishing simplicity in Federal taxation. After all the study which I have been able to give the subject I have come to the conclusion that an income tax, properly revised, having, as complementary to it, a turnover tax on goods, wares, and commodities, as suggested—and I would like to see no other Federal tax at all, or have those as the two chief taxes—if only those two taxes, or those chiefly, were imposed the Government might rely on securing all the revenues it would need from year to year. It could very readily be adjusted, and the Internal Revenue Bureau, with its immense organization, which now is so largely given to working out unnecessary complexities in the law, could devote itself to a proper administration of these two statutes, and it would be worth the while of intelligent people throughout the country to study them from year to year and gradually evolve a system of Federal taxation which would have no superior anywhere in the world.

**BRIEF OF THE TRADES COUNCIL OF THE MANUFACTURERS' CLUB OF PHILADELPHIA.**

The trades council of the Manufacturers' Club of Philadelphia was organized over a year ago for the purpose of exerting a potent influence in the protection and advancement of the industrial and commercial welfare of Philadelphia and Pennsylvania. It represents practically every business, industry, and commercial enterprise of any size in the metropolitan district of Philadelphia. It embraces all the trade bodies, the Philadelphia Chamber of Commerce, the Philadelphia Board of Trade, the Pennsylvania Manufacturers' Association, the Maritime Exchange, the Manufacturers' Association of Montgomery County, the Camden Chamber of Com-

merce, and the various industrial and business organizations, numbering about 150. Philadelphia County alone has over 5,000 plants, with normally over 300,000 employees, to whom the wages paid annually amount to about \$350,000,000. The invested capital in these plants is \$1,006,000,000, and the value of the production is nearly \$2,000,000,000 per annum.

The union of interests initiates and directs appropriate action in such matters as opposition to unfair or discriminatory or unduly restrictive legislation, or inequitable methods of taxation, improper business practices, etc. The membership of the manufacturers' club, organized in 1887, is nearly 4,000, and its trades council comprises in the membership of its constituent bodies approximately 100,000 individual interests.

In pursuance of its policy of furthering the industrial and commercial welfare of Philadelphia and Pennsylvania, and therewith the welfare of the whole country, and in order to discharge the obligation which its members as public-spirited citizens feel to present their convictions with respect to the form of taxation that would be best for the common good, the Trades Council respectfully submits the following statement, which, aside from possible varying shades of opinion in minor details, represents the views as to general policy of the vast majority of its members and those whom they represent.

#### NEED FOR REVISION OF FEDERAL TAXATION.

It is universally recognized that a radical revision of the existing Federal taxes is essential to the prosperity of the country. This is so because the Internal Revenue Bureau can not administer the present taxes, the country can not progress under them, and the Government can not derive enough revenue from them.

It is no secret that with its immense organization the Internal Revenue Bureau has not yet completed auditing the income and profits tax returns for 1917, and barely has begun auditing the returns for 1918 and 1919. Meanwhile the sword of Damocles is suspended over the business of the country, and to the crushing weight of taxation is added the constant worry of uncertainty. So frequently as no longer to excite comment, an enterprise which has sunk its supposed surplus in additions and extensions finds itself subject to a substantial additional assessment of taxes for years gone by. Yet it may have exercised, and usually has exercised, good faith and good sense in rendering its returns. But altogether aside from their uncertainty, inequality, and complexity, the existing taxes betray an alarming diminution in their productiveness. As against a yield of \$5,400,000,000 for the fiscal year 1920, it is doubtful if the existing taxes, even if continued unabated, would adequately provide for the minimum needs of the Government for the next few years.

#### PROPOSALS FOR REVISION OF FEDERAL TAXATION.

The Secretary of the Treasury in his letter of April 30, 1921, to the Committee on Ways and Means of the House of Representatives has presumably expressed the tentative attitude of the administration. With his suggestion for the repeal of the excess-profits tax and the readjustment of the individual income tax rates to a maximum combined normal tax and surtax of 40 per cent, and eventually 33 per cent, we thoroughly agree, except that we favor a reduction of the surtax to a maximum of not exceeding 20 per cent. This action we urge, not because it will to some extent relieve the conscientious rich who now voluntarily pay the high taxes, but because the excess profits tax and the higher surtaxes retard progress, result in constantly diminishing taxable income, and above all are utterly repugnant to the democratic principles upon which this country was founded.

We realize the necessity of a tax on corporations designed to offset the surtaxes on individuals, but we look with misgivings upon the proposed increase of the income tax on corporations to 15 per cent without any exemption. Of course, the need of such a compensatory tax will decrease in direct proportion to reduction in the individual surtaxes.

We unqualifiedly favor the restriction by statute and by constitutional amendment of further issues of tax-exempt securities.

With the further suggestions of the Secretary of the Treasury we are unable to agree. He says:

"The Treasury is not prepared to recommend at this time any general sales tax, particularly if a general sales tax were designed to supersede the highly productive special sales taxes now in effect on many relatively nonessential articles."

Instead he suggests:

"Impose sufficient new or additional taxes of wide application, such as increased stamp taxes or a license tax on the use of automobiles, to bring the total revenues from internal taxes, after making the changes above suggested, to about \$4,000,000,000 in the fiscal years 1922 and 1923."

He also proposes the retention of the miscellaneous specific sales taxes, including the transportation tax, the tobacco tax, the tax on admissions, and also the capital-stock tax, although admitting that the transportation tax is objectionable and should be repealed if "Congress is prepared to provide an acceptable substitute."

As an acceptable substitute not only for the transportation tax but also for the whole mess of miscellaneous and heterogeneous sales and occupation taxes now existing, and for such further like taxes as would otherwise have to be levied, we propose the imposition of a uniform gross sales or turnover sales tax at a rate not exceeding 1 per cent on all sales of goods, wares, and merchandise in excess of \$6,000 annually.

#### NECESSITY FOR TAXATION OF SALES.

Using round numbers, it seems agreed that for the immediate present nearly \$4,000,000,000 annually must be raised by internal taxation. The income tax and the profits tax have in the past produced as much as \$4,000,000,000, but they can not now be depended upon for much more than \$2,000,000,000. With the abolition of the excess-profits tax, a revised income tax might perhaps properly produce nearly \$2,000,000,000. The estate tax, if retained, would yield \$100,000,000. The capital-stock tax, together with the 25 or so trivial occupation taxes, if retained, would yield another \$100,000,000. The present specific sales taxes have produced, and, if retained, might continue to produce, \$1,200,000,000. But there would still be a deficiency.

Because of constitutional restrictions Congress has about exhausted possible types of taxes. With the income tax, the estate tax, and the capital-stock tax, and other occupation taxes, utilized to the limit of their productivity, as a practical matter no source of revenue remains except the taxation of sales. The problem, therefore, is not whether we shall tax sales but how we shall tax them.

#### SALES TAX VERSUS SALES TAXES.

Sales may be and are being taxed in a bewildering variety of ways. Sales of specified commodities may be taxed at different rates when made by the manufacturer, producer, or importer, as in the case of automobiles, cameras, and candy, or to a consumer or user, as in the case of carpets, jewelry, and medicinal articles, or by anyone to anyone, as in the case of works of art. Sales of specified capital assets may be taxed at different rates, as in the case of real estate conveyances. Sales of the use of specified kinds of property may be taxed at different rates when made by the lessor, as in the case of pleasure boats, motion-picture films, and Pullman accommodations, or by the lessee, or by anyone to anyone, as in the case of admissions. Sales of choses in action may be taxed at different rates when made by the creator or issuer, as in the case of corporate securities, insurance and future deliveries of produce, or to a transferee, as in the case of stock, or by anyone to anyone. Sales of services may be taxed at different rates when made of one's own services, or of another's, or of both one's own and another's services, as in the case of transportation and telegraph and telephone service. In any of the above species, of course, the tax may be imposed on the seller or on the buyer, and may be required to be paid by rendering returns or by affixing stamps.

It would be hopeless to try to describe all the species of sales taxes. There might be a manufacturers' sales tax—that is, a uniform tax on sales of all articles when made by the manufacturer, producer, or importer. There might be a retail sales tax—that is, a uniform tax on sales of all articles when made to a consumer or user. There might be a gross sales or turnover sales tax on all sales of commodities and also capital assets, including real estate, choses in action, and services. The first two species have most of the disadvantages of specific sales taxes, on the one hand, and a turnover sales tax, on the other hand, without its advantages, and may be disregarded. The third species, which amounts to a universal turnover sales tax, has many merits along with patent difficulties which impair its present availability.

The real issue is between a continuation and extension of the present system or lack of system of specific sales taxes at high rates, on the one hand, and a turnover sales tax at the rate of 1 per cent or less on goods, wares, and merchandise, on the other hand. It is a case of sales tax versus sales taxes.

Because the excellence of any tax is relative, the advantages of the turnover sales tax can best be considered in a comparison with the specific sales taxes. Suppose we view the situation, first, from the standpoint of the Government; second, from the standpoint of the merchant; and third, from the standpoint of the consumer.



## STANDPOINT OF THE GOVERNMENT.

First, from the standpoint of the Government, the yield of a tax and its ease of administration are most important. The specific sales taxes, together with the capital-stock tax and the estate tax, can provide \$1,400,000,000, but \$600,000,000 more is needed. Can the specific sales taxes be increased and extended sufficiently to make up the required \$2,000,000,000?

That is something the Secretary of the Treasury and the advocates of specific sales taxes have not shown us. The Secretary merely suggests broadly that Congress "impose sufficient new or additional taxes of wide application, such as increased stamp taxes or a license tax on the use of automobiles." The tax committee of the National Industrial Conference Board, which, although its report has twice failed of approval, still continues its activities in opposition to the turnover sales tax, in its tentative report proposed the imposition of specific sales taxes on tea, coffee, and sugar, but, having found that it burned its fingers, was beautifully vague in its final report. In short, we are convinced that sufficient new specific sales taxes, which the country will stand for, can not be found.

On the other hand, the consensus of opinion indicates that the turnover sales tax on commodities will produce very close to \$2,000,000,000. If so, the capital stock tax and the estate tax could be eliminated along with the specific sales taxes, which would be well, because the capital-stock tax is unworkable and inheritance taxation should preferably be left to the States. But even if upon a careful survey by the Treasury Department it should be found that the turnover sales tax on commodities would yield only \$1,500,000,000, it would do no great harm to retain for the present the capital-stock tax and the estate tax, together producing \$200,000,000, as well as the tax on tobacco products with its nearly \$300,000,000. Or the turnover sales tax could be extended to cover capital assets and services.

The administration of the specific sales taxes is extremely difficult. Their bases are so varied that we doubt if even the most experienced revenue agent could offhand state the rate, the incidence, and the scope of most of such taxes. About 20 separate sets of regulations, each a sizable pamphlet, have been issued by the Internal Revenue Bureau, and it now in addition has a special bulletin service, to instruct its agents and the public in the administration of the specific sales taxes.

In the case of the taxes imposed on sales by the manufacturer, producer, or importer it is often practically impossible to decide who is the manufacturer of a specified article. In the case of taxes on sales to the consumer or user it is often equally impossible to tell who is a consumer or user. In every case embarrassing questions continually arise as to whether a certain article is included in the scope of one of these taxes. As certain sales of certain articles are taxed, while other sales of the same articles and all sales of other articles are not taxed, it is easy to imagine the job which a revenue agent has on his hands in checking over a merchant's sales tax returns.

On the other hand, the turnover sales tax, being imposed at a single rate on every sale of every article by every person, will in comparison be simplicity itself to administer. It seems quite reasonable to suppose that the present force of employees and agents of the Internal Revenue Bureau, who are engaged in the collection of \$1,200,000,000 through specific sales taxes, could collect \$2,000,000,000 through a simple turnover sales tax with comparative ease. There is no room for reasonable doubt that the imposition of further specific sales taxes would embarrass the Internal Revenue Bureau much more than the substitution for the existing sales taxes of a uniform turnover sales tax.

## STANDPOINT OF THE MERCHANT.

Second, from the standpoint of merchants, the features which make a turnover sales tax superior to specific sales taxes for purposes of administration give the turnover sales tax the advantage over specific sales taxes for the purpose of return and payment. For example, a department store may make some of its candy and purchase other candy for resale. On the sale of the candy it makes it must now pay a tax, but need not on the sale of the candy it buys. The store may also sell jewelry partly to consumers and partly to small retailers. It must now pay a tax on the jewelry it sells to consumers, but not on the jewelry it sells to retailers. In the case of its soda fountain the store pays no tax, but must collect a tax from its customers. Many other things it sells are not taxed at all. In making tax reports the bookkeeping department of the store must be careful to discriminate between taxed and untaxed articles, and taxed and untaxed sales of taxable articles, and must account for the tax collected by the store on articles taxed directly to the consumer.

On the other hand, in the case of a turnover sales tax the store would merely pay 1 cent of its gross sales for the month. Besides having no complicated computations to make, its returns would be most simple. The monthly or quarterly return would consist of a memorandum showing the gross sales for the period and the tax of 1 per cent thereon, and the yearly return would be little more than a summary of the periodical returns. In fact, it would be possible to combine the annual turnover sales tax return with the income-tax return, for the latter starts out with the same figure which would be the sole basis of the turnover sales tax—that is to say, gross sales.

It might as well be recognized without hypocrisy that both the specific sales taxes and the turnover sales tax are consumption taxes. Normally they are shifted to the consumer. The more nearly the burden is spread with substantial equality, therefore, the less does the tax affect the merchant's profits. The comparison here is especially interesting.

The specific sales taxes are imposed at rates as high as 10 per cent on certain species of business, but not on others. A taxed merchant accordingly is under no disadvantage as regards another merchant in the same business, but he is at a serious disadvantage as regards another merchant in an untaxed business. The inevitable tendency of heavily taxing specific articles is to decrease the purchase of such articles and to increase the sales of untaxed substitute articles, which in a general way satisfy the same needs or desires.

On the other hand, the turnover sales tax, being imposed at a uniform rate of 1 per cent on all commodities, approaches as nearly as possible to absolute equality. What could be fairer than to tax every business at a low rate in exact proportion to the gross business done? Blinding their eyes to the inequalities of other taxes, however, the opponents of the turnover sales tax are making a last stand on the argument of an alleged inequality in the operation of the turnover sales tax. We refer, of course, to the advantage claimed for the so-called multiple-process enterprise as against the single-process enterprise.

Let us see how serious this objection is. Assuming a maximum number of turnovers, the aggregate tax based on the final selling price would scarcely ever be more than 3½ per cent, and would usually not be more than 2 per cent. The difference in favor of a multiple process enterprise would usually be less than 1 per cent. If a single-process enterprise can now earn its overhead expense and its profit, it stands to reason that a 1 per cent tax will not affect the situation materially. In fact, as is well known, whether an enterprise is a multiple process or single process enterprise is a matter of choice, dependent upon location and a number of other factors, the least of which would be a possible 1 per cent difference in tax. The Harvard Bureau of Business Research in a survey of 197 retail shoe stores has found that the total operating expenses on net sales ranged from 13.62 per cent to 36.63 per cent, a range of 22 per cent. This is typical of other businesses and illustrates the comparative insignificance of any possible inequality in a low rate turnover sales tax.

Aside from the monstrous discriminations resulting from the excess profits tax, which was sponsored by the same persons who are now attacking the turnover sales tax, the 15 per cent income tax on corporations proposed as a method of rough equalization between enterprises conducted by individuals and enterprises conducted by corporations is glaringly unequal. As under this tax an individual in business might be taxed at a rate as low as 4 per cent on his income from such business, and on the other hand might be taxed at a rate as high as 73 per cent (or whatever the maximum individual income tax rate may be), while a corporation in the same business, irrespective of the amount of its net income, would always be taxed 15 per cent on such net income, there can be little doubt that the equalization would be rough enough.

The turnover sales tax of 1 per cent is fundamentally equal; accidentally it may result in slight inequality. The proposed corporation tax of 15 per cent is fundamentally unequal; accidentally it may sometimes result in approximate equality.

But a conclusive answer to the argument of inequality, as between a multiple-process enterprise and a single-process enterprise, is the entire practicability of incorporating in the statute a provision for taxing turnovers within the same enterprise, so as to produce the same effect as though each turnover was between two separate enterprises. Such a provision would naturally complicate the machinery of the statute, but even so the tax would remain incomparably simpler than the horde of specific sales taxes.

In the case of a turnover sales tax on goods, wares, and merchandise, commissions paid for selling goods would not be subject to tax. If the tax were extended to cover sales of services, as well as sales of commodities, the tax would be at the rate of 1 per cent on the actual compensation received by the commission house for its services.

The lesser arguments against the turnover sales tax, from the standpoint of the merchant, upon analysis are all found to apply equally to the specific sales taxes. For

example, in a period of falling prices it is doubtless true that the turnover sales tax could not always be shifted. But neither could a specific sales tax. Then again, one kind of enterprise may do business on a smaller margin of profit than another kind of enterprise, but as the tax is normally shifted the net profits are not affected. Certainly, as the opponents of the turnover sales tax show by their own figures, enterprises now subject to specific sales taxes do business on margins of profit which have no relation to the rates of taxes imposed upon them. Or it is said that the turnover sales tax would revolutionize business practice and encourage evasion. The avoidance of a 1 per cent tax would scarcely be worth the trouble of elaborate tax-dodging devices. Surely there would be more incentive to evade a high-rate specific sales tax.

#### STANDPOINT OF THE CONSUMER.

Third, from the standpoint of the consumer the turnover sales tax is even more advantageous than from the standpoint of the Government or of the merchant.

To start with, in addition to costing the Government about \$25,000,000 annually to collect the existing taxes, the revenue officials themselves estimate that the extra expense upon the people of keeping the required records, rendering reports and returns, hiring accountants and lawyers, etc., in connection with the payment of the present highly uncertain and complex taxes amounts to another \$100,000,000 annually. With the abolition of the excess-profits tax and the many and various specific sales taxes and the substitution of a uniform turnover sales tax, the bookkeeping bill of the country would be substantially cut down.

The enactment of a turnover sales tax would permit of the present exemption from income of \$1,000 for single persons and \$2,000 for married persons being raised to \$3,000 for single persons and \$4,000 for married persons. As a single man with an income of \$3,000 now pays \$80 in income tax and heaven knows what in loaded specific sales taxes, and as under the turnover sales tax program he would pay no income tax and, even though he spent his entire income, the turnover sales tax shifted to him would usually not amount to more than \$60, the consumer of moderate means would be directly and substantially benefited by the adoption of the turnover sales tax. As to the consumer with an income less than \$1,000 or \$2,000, who now pays no income tax, the total turnover sales tax which could be shifted to him would be perhaps \$20 or \$40 in one case or the other, and he would save whatever uncertain part of the specific sales taxes might be shifted to him. It is the sheerest nonsense to say that such individual under the present system does not pay, and under the proposed increase in specific sales taxes would not pay, on the average a substantial consumption tax, although conceivably one given individual might pay little or none and the next individual much more than the average.

The old argument that the specific sales taxes are limited to articles of luxury has been abandoned. Instead, the catch phrase has been substituted that they are or should be limited to articles not of absolute necessity. What such articles may be no two people will ever agree on, and most of the advocates of specific sales taxes prefer to leave to Congress the designation of such articles. As a matter of fact, of course, there are few families in this country whose income is so small that they spend nothing for articles not of absolute necessity.

So far from the existing and proposed specific sales taxes drawing revenue from the rich according to their ability to pay, such taxes actually bear more heavily in proportion to their income on those of moderate and small means. Most of the income of the rich man can be and usually is spent for nontaxable things, such, for instance, as furniture and expensive foods. Who chiefly pays the tax on sporting goods, chewing gum, candy, pipes, toilet soaps, and soda water, the rich or the poor?

On the other hand, under the turnover sales tax the man who spent \$100,000 would pay 100 times as much tax as the man who spent \$1,000. Being spread proportionately, the turnover sales tax would avoid the present uncertain and fortuitous incidence of the specific sales taxes. Instead of increasing the burden of the common lot, the turnover sales tax would ease it.

#### CONCLUSION.

From every standpoint, both in principle and in practice, the turnover sales tax is superior to miscellaneous specific sales taxes. To the extent that other countries have tried the turnover sales tax, their experience is encouraging and favorable. The Philippine sales tax is universally commended. The Canadian sales tax, although yet crude, is being extended. The French sales tax, although its effectiveness is also impaired by exceptions and restrictions, has justified none of the fears of the

opponents of a turnover sales tax. Mexico had a sales tax under Diaz, to which its then prosperity has been largely attributed.

In the income tax, properly revised, we shall have a tax imposed on a sound basis, as taxes go. To offset its inevitable defects, however, and to insure a stable revenue we must have another tax or other taxes to provide a complement and balance. The choice, as a practical matter, is between specific sales taxes and a turnover sales tax on commodities.

If we adopt the former alternative, we shall be obliged to retain most of the existing sales taxes, to increase the rates of some of them, and to impose new specific sales taxes. The table of existing Federal sales taxes hereto attached shows the sort of bramble bush into which we should be jumping again.

If we adopt the latter alternative, we shall be rid of the tangle of specific sales taxes and shall have, coordinate with the income tax, a turnover sales tax so certain, so equal, and so simple, that the present nightmare of taxation will speedily become one with other horrors of the past.

CHARLES P. VAUGHAN, *Chairman.*

EXISTING FEDERAL SALES TAXES.

A.—ON SALES OF GOODS, WARES, AND MERCHANDISE.

*By manufacturer.*

Automobiles.....per cent..	3-5	Fur articles.....per cent..	10
Musical instruments.....do....	5	Pleasure boats.....do....	10
Sporting goods.....do....	10	Toilet soaps.....do....	3
Chewing gum.....do....	3	Playing cards.....do....	\$0.08
Cameras.....do....	10	Distilled spirits.....per gallon..	\$6.40
Candy.....do....	5	Fermented liquors.....per barrel..	\$6.00
Firearms.....do....	10	Soft beverages.....per cent..	15
Knives.....do....	10-100	Tobacco.....per pound..	\$0.18
Electric fans.....do....	5	Narcotics.....per ounce..	\$0.01
Thermos bottles.....do....	5	Oleomargarine, per pound..	\$0.0025-\$0.10
Pipes.....do....	10	Filled cheese.....per pound..	\$0.01
Vending machines.....do....	5-10	Mixed flour.....per barrel..	\$0.04
Liveries.....do....	10	White phosphorus matches, per	
Hunting garments.....do....	10	hundred.....do....	\$0.02

*To consumer.*

Carpets, over \$5.....per cent..	10	Men's hats, over \$5.....per cent..	10
Picture frames, over \$10.....do....	10	Shoes, over \$10.....do....	10
Trunks, over \$50.....do....	10	Neckties, over \$2.....do....	10
Bags, over \$25.....do....	10	Silk stockings, over \$2.....do....	10
Purses, over \$7.50.....do....	10	Shirts, over \$3.....do....	10
Lamps, over \$25.....do....	10	Underwear, over \$5.....do....	10
Umbrellas, over \$4.....do....	10	Waists, over \$15.....do....	10
Fans, over \$1.....do....	10	Jewelry.....do....	5
House coats, over \$7.50.....do....	10	Toilet articles.....do....	4
Waistcoats, over \$5.....do....	10	Medicinal articles.....do....	4
Women's hats, over \$15.....do....	10	Soda water.....do....	10

*By anyone to anyone.*

Works of art.....per cent:..	10
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B.—ON SALES OF CAPITAL ASSETS.

*By anyone to anyone.*

Real estate, one-tenth of 1 per cent.

C.—ON SALES OF THE USE OF PROPERTY.

*By lessor.*

Automobiles.....per cent..	3-5	Pipes.....per cent..	10
Chewing gum.....do....	3	Hunting garments.....do....	10
Firearms.....do....	10	Toilet soaps.....do....	3
Thermos bottles.....do....	5	Pullman accommodations...do....	3
Liveries.....do....	10	Sporting goods.....do....	10
Pleasure boats.....do....	10	Candy.....do....	5
Dues.....do....	10	Electric fans.....do....	5
Musical instruments.....do....	5	Vending machines.....do....	5-10
Cameras.....do....	10	Fur articles.....do....	10
Knives.....do....	10-100	Motion-picture films.....do....	5

*By anyone to anyone.*

Admissions.....per cent.. 10-50

D.—ON SALES OF CHoses IN ACTION.

*By issuer.*

Stock, one-twentieth of 1 per cent.	Life insurance, two twenty-fifths of 1 per cent.
Time drafts, one-fiftieth of 1 per cent.	Future deliveries of cotton, \$0.02 per pound.
Fire insurance, 1 per cent.	Indemnity bonds, \$0.50.
Future deliveries of produce, one-fiftieth of 1 per cent.	Marine insurance, 1 per cent.
Corporate securities, one-twentieth of 1 per cent.	Casualty insurance, 1 per cent.
Promissory notes, one-fiftieth of 1 per cent.	

*To transferee.*

Stock, one-fiftieth of 1 per cent.

E.—ON SALES OF SERVICES.

*One's own and others'.*

Ocean passage.....per cent..	3½	Parcel post.....per cent..	4
Telegraph service.....do....	10-33½	Transportation.....do....	3-8

NOTE.—The foregoing summary is necessarily incomplete both in the enumeration of the taxes and in the specification of the rates, but it gives an approximate picture of the present sales tax situation.

**STATEMENT OF A. J. KELLY, PITTSBURGH, PA., REPRESENTING LEGISLATIVE COMMITTEE OF NATIONAL ASSOCIATION OF REAL ESTATE BOARDS.**

The CHAIRMAN. You reside in Pittsburgh, and represent what interest?

Mr. KELLY. I reside in the city of Pittsburgh, and I represent the legislative committee of the National Association of Real Estate Boards.

I want to be brief, and I will state our premises to start with, and if you have any questions that you desire to ask I will try to answer them.

As you may know, the National Association of Real Estate Boards throughout the country are interested in something which nearly every human being is interested in, namely, houses—

The CHAIRMAN. If you are going to address the committee on that subject, let me say that it has been very exhaustively investigated by a subcommittee of the Committee on Banking and Currency, of which Senator Calder was chairman.

Mr. KELLY. The only reason I suggest that, Senator, is to show you why we have taken any action in this at all. I do not intend to discuss that question.

The CHAIRMAN. No; I think the committee is thoroughly familiar with that question.

Mr. KELLY. I will not then mention it. That is the reason, however, why the association, composed of 400 boards and about 20,000 realtors scattered about throughout the United States, was particularly interested in this subject, outside of being generally interested as citizens as well.

To bring the matter to the attention of your committee; in the way that the realtors, or the National Association of Real Estate Boards look at it, I will read a resolution which is very brief, and it will explain the situation. This resolution was passed by the executive committee of the National Association of Real Estate Boards held a few days ago at New Haven, Conn., and it reads as follows:

We jointly recommend as follows: Therefore be it

*Resolved*, By the executive committee of the National Association of Real Estate Boards, in conference assembled at its meeting in New Haven, Conn., April 27 and 28, 1921, that we confirm our former position and urge upon the Congress the revision of the revenue laws of 1918 by repeal of the excess profits tax, elimination of the surtaxes in the Federal individual income tax system, or a reduction thereof so that the maximum rate will not exceed 30 per cent; repeal of the miscellaneous excise taxes, except those on tobacco and liquors, and the enactment of a gross sale or turnover tax at approximately 1 per cent to apply to all sales exceeding \$6,000 annual turnover: And be it further

*Resolved*, That attempts to effect legislation concerning the amelioration of the housing situation be, and hereby are, disapproved, that the result being adjudged by this association outside of the field of new laws, and considered subject to economic processes: And be it further

*Resolved*, That we urge realtors and others to actively foster and encourage building and loan associations and kindred institutions by depositing their idle funds therein, and the preachment of thrift by others to become participants in their services and benefits, particularly to use their assistants in the acquirement of homes for such participants.

The reasons that the realtors are urging this are two: First, to help the money market so that there will be more money in the market for mortgages; second, so as more nearly to equalize the Federal tax and, at the same time, raise enough money to pay our Federal expenses and debts.

The realtor is not trying to shirk any responsibility nor to get away from his share of taxes. He always pays his debts; but it is foolish to ask a repeal of the excess profits tax and the moderation of the surtax unless some other tax is substituted therefor.

The real estate interests have been studying this question for a whole year and, like the gentleman from Philadelphia, have changed their position. I suppose a year ago if a vote had been taken of the 20,000 members of the association it would have been found to be opposed to the sales tax, but studying this subject from every angle and from every standpoint, step by step, and discussing it in open

meetings three or four times this year we have come to the conclusion that the only fair tax and the only tax which at the same time would produce enough revenue, probably, was the sales tax, which is a simplified form of taxation and which would relieve the person paying the tax and the Government, both, of a great burden of collection.

Gentlemen, the reasons for this tax have been discussed pretty thoroughly this morning. I do not believe it is necessary for me to go into the various items of reasoning on the subject. I am very willing to answer any questions that you may wish to propound for further exposition of our position in the matter.

**STATEMENT OF C. H. SMITH, DIRECTOR OF CLERICAL OPERATIONS OF THE WESTINGHOUSE AIRBRAKE CO., PITTSBURGH, PA., REPRESENTING TAX COMMITTEE OF THE NATIONAL ASSOCIATION OF MANUFACTURERS.**

The CHAIRMAN. State your full name for the record.

Mr. SMITH. Mr. Chairman and members of the committee, my name is C. H. Smith.

The CHAIRMAN. What position do you hold in the Westinghouse Co.?

Mr. SMITH. Director of clerical operations of the Westinghouse Airbrake Co., and representing the National Association of Manufacturers as chairman of their tax committee.

The CHAIRMAN. You speak for them, do you?

Mr. SMITH. I speak for that committee.

The CHAIRMAN. Have you devoted a good deal of attention to this question?

Mr. SMITH. About two years the committee has considered this question of taxation, and a year ago this month we presented a report in favor of the sales tax to the annual meeting of the National Association of Manufacturers, which report was accepted.

The CHAIRMAN. Do you know whether that report has been forwarded to this committee?

Mr. SMITH. I have it with me.

The CHAIRMAN. It might be well for you to leave copies of that report here, a number of copies for the committee. Will you send me 100 copies of it at your convenience?

Mr. SMITH. Yes, sir. As I said, we have considered this question of Federal taxation in a general way for approximately two years, and we know from our experience that it has been a great task to the companies and corporations to prepare their tax statements, and in most cases it has necessitated duplicate work in the preparation of reports.

We have a system of keeping accounts, and, when we come to prepare our reports for the Federal taxation, it means another set of books, practically. Having considered the different methods of raising taxes, we know that the Government requires a certain amount of money, and it is the desire of the corporations to pay their share of it, whatever it might be. What we would like to have is something definite, so that when we pay our taxes we know that they are fixed and we shall not be called upon in one or two or three or four or five years after we have prepared our return for a year, to pay an additional amount, because our experience at this time is that the Government is checking our 1917 returns, and they have gone

over our books back to 1869, which was the date of the organization of the Westinghouse Airbrake Co., and have checked up our property and plant accounts to see what we have charged off under those various headings for depreciation.

As everyone knows, back 30 or 40 or 50 years ago accounting schemes were very crude, and at that time very few people thought anything about depreciation, and the consequence was that during a given year they set aside and charged off a certain amount of money for depreciation. Of course, when you average that up during a period of 50 years the percentage that we have charged into our accounts is very small when you compare it with the present-day rates. We do not know to-day whether or not we shall be called upon by the Government to pay any back taxes for 1917, even. Of course we have 1918, 1919, 1920, and 1921 yet to hear from.

We have set aside, just like all corporations have, a certain amount of money and have paid certain taxes, and if the Government comes along and asks us to pay an additional amount it is going to be a hardship on us, because we have felt in a general way that we have paid a large amount, and it means additional financing, probably, in order to pay any addition which the Government may call upon us to pay.

Senator McCUMBER. You do not mean to say that you lay aside money to meet back taxes? You do not lay aside a sum of money for the purpose of correcting any mistakes?

Mr. SMITH. No; only during the year we set aside in various months a reserve. We prepare a reserve for the yearly taxes.

Senator McCUMBER. For your year's tax?

Mr. SMITH. For our year's tax, and which we may get right or may not. For instance, some months are very good, and there may be certain adjustments in the next month which might affect it. Our inventories enter very greatly into our profits for the year. At the end of the year we take an inventory and use market or cost, whichever is lower, as recommended, and the next year there is a falling market—

Senator SMOOT. Will you get down to the sales tax, please?

Mr. SMITH. Yes, sir.

The CHAIRMAN. Your argument, as Senator Smoot is leading up to, is an attack on the complication or inconvenience of the present system, which we all admit; but it does not say that the sales tax is a good system of taxation. That is what the committee wants to get at, and it wants the benefit of your experience as a business man.

Mr. SMITH. My experience as a business man and as an accountant in connection with our shop and general books is that the sales tax, from my knowledge of its working, would be very simple compared with the excess-profits tax; and we know, of course, that every concern, every corporation or company keeps a record of its sales, and we would not need any additional bookkeeping other than what we are required to do to-day, to add up the sales and take a certain percentage of them for the Government's requirements.

The CHAIRMAN. Mr. Smith, the products of the Westinghouse Airbrake Co. are a very advanced form of product, are they not?

Mr. SMITH. In certain cases; yes.

The CHAIRMAN. How many turnovers would there be, for instance, in the average product of the Westinghouse Airbrake Co.?



Mr. SMITH. The Westinghouse Airbrake Co. would just have the final turnover, except as regards raw materials.

The CHAIRMAN. Preceding the completion of the airbrake, how many turnovers subject to taxation would there be?

Mr. SMITH. None in the airbrake. As to the raw materials there might be two.

The CHAIRMAN. What would they be?

Mr. SMITH. Take iron and copper, and things like that, of course our turnover would make the third; but the general average, I should imagine, would not be over four.

The CHAIRMAN. You have only turnover, do you, in the making of the airbrake?

Mr. SMITH. Yes, sir: outside of the raw materials that we need.

Senator McCUMBER. Do you sell directly to the consumer?

Mr. SMITH. Yes, sir.

Senator McCUMBER. The consuming companies?

Mr. SMITH. Yes, sir; the railroads in all cases. We sell directly to the consumer. There is no middleman or jobber in connection with our product.

The question has been brought up, just as you are bringing it up, that the man who does not manufacture the complete product would be handicapped by having to pay several different turnovers on his completed product, to pay several different parties as compared with other concerns. My experience with that has been that certain parts of our product are in competition with that of a man who makes nothing but just one thing, the small man, you might say, and we as a corporation can not compete to-day with him in certain things.

The CHAIRMAN. What things?

Mr. SMITH. For instance, a reservoir. Take a blacksmith shop that does not have any overhead, practically, compared with that of a large concern—nothing but himself and a few helpers and he does not have any office force or much bookkeeping. He can turn out half a dozen reservoirs at a great deal less cost than we can.

Senator SMOOT. Specialized work is taking the place of handwork?

Mr. SMITH. Yes, sir. He can undersell us on certain things, which he does to-day. There is a certain class of trade that we can not touch. Where a man wants certain things of that kind the small man can outsell us. We do not get that business.

The CHAIRMAN. What kind of a sales tax would you favor for that particular business?

Mr. SMITH. A gross sales tax on all turnovers.

The CHAIRMAN. On your airbrake?

Mr. SMITH. On our sales, whatever they might be.

The CHAIRMAN. You sell to the railroads, do you not?

Mr. SMITH. Yes, sir. I would suggest a tax, at the end of the month, or any period that might be designated, of so much per cent of our sales for the Federal Government tax.

The CHAIRMAN. Do you sell outright to the railroads?

Mr. SMITH. Yes, sir; directly.

Senator SMOOT. Do you sell to any other concerns in the United States than railroads? I mean, you sell other products?

Mr. SMITH. Yes, sir; we have compressors, and things like that. We sell to anybody. We might sell to a contractor or to an indi-

vidual farmer, or some one like that. We have motors of all kinds, and they would go to the farmer direct.

The CHAIRMAN. Have you or your association made any estimate of the revenue that would be derived from such a tax?

Mr. SMITH. We have estimated it in a general way on goods, wares, and merchandise, as amounting to about one billion and a half.

The CHAIRMAN. On what amount of tax?

Mr. SMITH. One per cent sales tax.

The CHAIRMAN. One billion five hundred million?

Mr. SMITH. Yes, sir. Of course, conditions in the country are changing every day and every month, and anything that we might suggest along that line is a mere matter of guess on the part of anyone.

The CHAIRMAN. We appreciate that. Have you given any consideration to what taxes could be replaced or eliminated by the substitution of a sales tax?

Mr. SMITH. The excess-profits tax in connection with corporations, and the surtax on individuals, which is practically the same thing.

Senator SMOOT. All of the sales taxes that are proposed now?

Mr. SMITH. Yes, sir.

Senator SMOOT. Nearly every other tax.

Senator SIMMONS. You mean all of the sales taxes?

Mr. SMITH. The higher ranges only.

The CHAIRMAN. Would the Westinghouse Co. pay a larger amount of Federal taxes or a less amount under this system?

Mr. SMITH. A slightly larger tax.

The CHAIRMAN. You would pay a larger tax under the proposition you have advanced than you pay under the present system?

Mr. SMITH. Yes, sir. Some years we might.

The CHAIRMAN. You urge it on account of its simplicity and convenience?

Mr. SMITH. Absolutely. We are now subject to a lot of inconvenience in preparing the tax returns for the Federal Government. We have to hire outside specialists, and after we do that we do not know that we are anywhere near right, any more than we do when we estimate for ourselves. We feel that we are a little nearer correct probably. The returns go in and they have different interpretations from what we have about certain things, and they have the last word and we have to submit to their finding.

The CHAIRMAN. Have you anything further?

Mr. SMITH. Nothing further.

Senator SIMMONS. Mr. Smith, do you absorb any part of the excess-profits tax, or do you pass it on to the consumer?

Mr. SMITH. Well, that is figured in addition to our cost. We do not include that in our cost, because if we do not have any excess-profits tax—

Senator SIMMONS. You do not absorb it?

Mr. SMITH. No, sir.

Senator SIMMONS. You do not have to pay any part of the excess-profits tax yourself?

Mr. SMITH. What is that, Senator?

Senator SIMMONS. I say, you do not ultimately have to pay out of your own pocket any part of the excess tax?

Mr. SMITH. We do.

Senator SIMMONS. I thought you said you passed it on to the consumer?

Mr. SMITH. No; we do not. I said we take that out of our profits—

Senator SMOOT. Of course you do.

Mr. SMITH (continuing). And do not include that in our costs at all. That is the requirement of the Government when we prepare our returns. It is not passed on to the consumer.

Senator SIMMONS. Then, practically, you pay and the consumer does not pay the excess-profits tax?

Mr. SMITH. Not in our case.

Senator SMOOT. You make a higher profit on account of the excess-profits tax?

Mr. SMITH. Yes, sir. We think we are going to have to pay so much to our stockholders as dividends, of course.

Senator McCUMBER. You sell your goods so as to realize that price?

Mr. SMITH. Absolutely.

Senator McCUMBER. Then, of course, the consumer pays for it?

Mr. SMITH. He eventually does, of course.

Senator CALDER. Your net profits are about equal or at least equal to what they were before the excess-profits taxes were put on?

Mr. SMITH. No; they are much less; if you will take the history of our dividends they are much less.

Senator CALDER. Your net profits with the taxes paid—

Mr. SMITH. Are less.

Senator CALDER (continuing). In the last three or four years than they were previously?

Mr. SMITH. Yes, sir; our rates are less.

Senator SMOOT. Why was that? Because your business was less?

Mr. SMITH. No; our costs were higher all the way through.

Senator CALDER. Your selling prices were higher too?

Mr. SMITH. They did not keep pace with the costs, of course.

The CHAIRMAN. As I understand it, when you sell an airbrake to a purchaser you sell it subject to the tax. You would not pay the tax?

Mr. SMITH. Well, we fix a certain price for the airbrakes.

The CHAIRMAN. Does that include the tax?

Mr. SMITH. No; we do not show it as tax.

The CHAIRMAN. A sales tax is never included in the purchase price, as a rule?

Mr. SMITH. No, sir.

The CHAIRMAN. It is added to the price to the consumer?

Mr. SMITH. In our airbrake business there is not any tax at all outside of the excess-profits tax and capital stock tax.

The CHAIRMAN. In other words, you pass this tax directly on to the consumer?

Mr. SMITH. As part of our costs.

The CHAIRMAN. Would you say simply so much for the airbrake and that would include an amount for Federal taxes? That is the way you do when you buy an automobile.

Mr. SMITH. That is the present taxation scheme.

The CHAIRMAN. That is a sales tax.

Mr. SMITH. Yes, it is; but my idea of the proposed sales tax is this, that the Westinghouse Airbrake Co. has a certain amount of business

every month or every year, or whatever you desire to base it on, and we are going to pay 1 per cent of the sales as a tax. The customer knows that when he is buying the airbrakes or any other of our products that we have in the price a certain amount, 1 per cent, for Government tax. While we would not show it as a separate item of the invoice as a tax, he knows it, just the same as anybody else. But here we make an affidavit quarterly or monthly, or whatever is necessary, and submit our check with our balance sheet and operating statement to the Government, and of course, if they see fit, they can make periodical checks.

Senator SIMMONS. In other words, Mr. Smith, as I understand you, at present, to meet the requirements of the excess-profits tax, you would add to the price which you propose to charge for your product a sum that you think would about equal the excess-profits tax you have to pay to the Government?

Mr. SMITH. We take our costs, whatever they might be.

Senator SIMMONS. Do you not sometimes, or if you do not, do you not think that in the course of trade others sometimes add a little bit more?

Mr. SMITH. Oh, there is no question about that. They want to be safe.

Senator SIMMONS. In order to be safe, do not some of them put in a pretty good slice for themselves?

Mr. SMITH. There is no question in my mind at all about that; and the customer is taxed to the limit. The estimate is that it is about 25 to 35 per cent more.

Senator SIMMONS. You say that you would pursue the same course if a sales tax is adopted?

Mr. SMITH. Yes, sir; it is convenient. If you fix a 1 per cent or one-half of 1 per cent or 3 per cent, even, the customer knows that 3 per cent is the sales tax, whether you show it on the invoice or not.

Senator SIMMONS. In your case you know what it would be and you would only add what it would be to your price?

Mr. SMITH. Yes, sir; absolutely, because we are competing with other people and we would have to sell to meet their prices, would we not? If we did not we would not get any business.

Senator SIMMONS. You are going to put that on, yourselves?

Mr. SMITH. Yes, sir.

Senator SIMMONS. You are not going to tell your customer how much you put on?

Mr. SMITH. He knows.

Senator SIMMONS. But you in your case would only put on the actual tax?

Mr. SMITH. Yes, sir.

Senator SIMMONS. In the regular course of business do you think that others would always be as scrupulously honest about it as you would be?

Mr. SMITH. That is not in human nature.

Senator SIMMONS. Do you not think that there are a great many people who, in adding this amount that they estimate they will have to pay on account of the sales tax, would put in a good little sum for themselves?

Mr. SMITH. Yes, they would, if they could get away with it.

Senator McCUMBER. They would under the present system?

Mr. SMITH. Yes. It does not make any difference to them.

Senator CALDER. They do it now?

Mr. SMITH. Yes. It is a matter of competition, anyway.

Senator SIMMONS. The point about it, Mr. Smith, is that if we impose a sales tax of the kind that is proposed here the purchaser of an article will not know whether he is paying only the amount which is to go to the Government or whether he is paying several times that amount.

Mr. SMITH. In any scheme of taxation you would never know. I might say 1 per cent in the invoice, but there may be other things put in regardless of what they are called.

Senator SMOOT. That may be your idea, but under the bill itself regulations are to be made by the Treasury Department; and if the Treasury Department says, under these regulations, that the invoice shall be \$100 and the tax added will be \$1, that is what you will do, and not what you say now you are going to do.

Mr. SMITH. Oh, no; we will do whatever the bill says.

Senator SMOOT. Whatever the law and the regulations say; and the regulations no doubt will say that is what you have got to do.

Mr. SMITH. Yes. It is only a matter of clerical work to specify on an invoice whatever amount it is. That is all it is; and my idea was that in eliminating that it would simplify the whole thing.

Senator SMOOT. If the regulations are the same as they are in the Philippine Islands, every man who pays a tax will know just exactly what he pays. That is what it will be in this case.

The CHAIRMAN. Is that all?

Mr. SMITH. Yes, sir; that is all I have to offer.

Senator JONES. I have a few questions.

Mr. Smith, you have just suggested, if I understood you correctly, that under the present system of excess-profits taxes you tried to make yourself safe; you tried to get a price which will return the dividends which you think your stockholders ought to have?

Mr. SMITH. Yes.

Senator JONES. But you have not been able to make the same dividends that you did before?

Mr. SMITH. No, sir.

Senator JONES. Why?

Mr. SMITH. As I say, we have not increased our profits because the market would not stand it in proportion to the increased cost. Materials have been high; labor has been high and everything has been high.

Senator SMOOT. That might have happened if there were not any tax.

Mr. SMITH. Yes; it would not make any difference.

Senator JONES. So it has been necessary in your trade for you to absorb some of these excess-profits taxes?

Mr. SMITH. There is no question about it.

Senator JONES. That being so, what is it, under any taxation scheme, which fixes the price to the purchaser?

Mr. SMITH. The whole thing resolves itself into a matter of simplicity for an individual or a corporation in preparing tax returns—knowing when he pays a certain amount—

Senator JONES. You do not get my question. My question is: What is it, then, that fixes the price which you charge a purchaser?

**Mr. SMITH.** Quite a number of things. There is no question about that.

**Senator JONES.** Is it not, Mr. Smith, after all, a question of ascertaining what is the reasonable price which the traffic or the commodity will bear?

**Mr. SMITH.** There is no question about that. We have increased costs. I would not want to say what percentage our costs have increased on account of the excess profits scheme of taxation. I would not want to say that, but we know costs have been very much greater in the matter of clerical work and things of that nature.

**Senator JONES.** Under any form of taxation the vendor, in arriving at a price at which he will sell, if he can sell it at a higher price, takes into consideration the excess profits taxes and everything else, does he not?

**Mr. SMITH.** Surely. It is natural to take in everything.

**Senator JONES.** But if he can not do that—

**Mr. SMITH.** He should not. The same way with your sales tax. There will be, no doubt, certain businesses that will not be able to pass all of it, but the majority will.

**Senator JONES.** With any kind of a tax, if the traffic will bear it the seller is pretty likely to augment the amount of the tax?

**Mr. SMITH.** There is no question about that.

**Senator JONES.** And use that as an excuse for raising his price higher?

**Mr. SMITH.** If a man wants to get business he brings the price down, and the other fellow will have to meet it.

**Senator SMOOT.** It is competition.

**Senator JONES.** It would be the same, whether the tax were an excess profits tax or a sales tax or any other kind.

**Mr. SMITH.** Yes; but we must not overlook the fact that the excess profits taxes make our cost higher, and that is why we want to get down to the simplest method of handling it.

**Senator JONES.** There you have brought in another element. You say that the excess profits tax will make your costs higher. Why?

**Mr. SMITH.** In the matter of clerical work and expenses. That is what I mean. It takes a lot of work.

**Senator JONES.** You mean in addition to the actual amount of money paid?

**Mr. SMITH.** Yes, sir. Our own expense is higher, that is, clerical expense. We have, say, half a dozen men with all of our different companies that probably have nothing else to do but go over the figures.

**Senator JONES.** How much is that extra cost in your business?

**Mr. SMITH.** As I said, I would not like to estimate that.

**Senator JONES.** Let us approximate it.

**Mr. SMITH.** I will say \$25,000 a year; something like that.

**Senator JONES.** What do your sales amount to a year?

**Mr. SMITH.** About \$30,000,000.

**Senator JONES.** What per cent is \$25,000 of that?

**Mr. SMITH.** It is a very small percentage, of course, but all those things considered affect the situation, and in getting out our other work it is quite an item. To-day we have got men looking up tax

returns and checking them, and when the Government men come around it takes the time of our people assisting them.

Senator JONES. For the purpose of saving that \$25,000 you are willing to have a 1 per cent tax put on your total output. Is that the idea?

Mr. SMITH. Yes, sir; and also to save the bother in connection with the dollars and cents feature.

Senator JONES. And 1 per cent tax on \$30,000,000 would be how much?

Mr. SMITH. \$300,000.

Senator JONES. I am not going to insist on your answering this question unless you choose to; but for the purpose of comparison I would like to get at the amount of excess-profits tax that your company paid.

Mr. SMITH. I really do not know just at this minute, Senator.

Senator JONES. I will not insist on it.

Mr. SMITH. I could not say that figure at all, because we are just working it out.

Senator JONES. How much dividends do you pay your stockholders?

Mr. SMITH. One dollar and seventy-five cents a quarter, 14 per cent on the capitalization. It is 7 per cent, really, on the value of the stock.

Senator JONES. Seventy per cent?

Mr. SMITH. Seven per cent on the value of the stock. That is what it amounts to.

Senator JONES. If you do not earn more than that you do not have any excess profits tax to pay, do you?

Mr. SMITH. We have heretofore paid some all the way through. To-day there is no question but what we will not have any profits to pay taxes on, and we probably will not pay any dividends on that amount under our present business.

Senator JONES. I was coming to that point. Is not business somewhat depressed now and are not prices falling?

Mr. SMITH. Yes, sir; absolutely.

Senator JONES. And are you selling below cost?

Mr. SMITH. We are not selling anything at cost or below, practically. We are not selling anything. In fact, our business to-day is running less time than at any time since 1893.

The CHAIRMAN. Are your works closed down?

Mr. SMITH. No, sir. We are working three days a week, eight hours a day.

The CHAIRMAN. How many men do you employ?

Mr. SMITH. At all of our plants I would say 12,000.

The CHAIRMAN. And they are working half time?

Mr. SMITH. No, sir. We have reduced our force probably 50 per cent, and the remaining 50 per cent are working about three days a week, eight hours a day. A lot of that is on stock that is not on sale, in order to keep the men working.

Senator CALDER. Do you think that the repeal of the excess profits tax law and the modification of the higher rates of surtax would tend to stimulate business?

Mr. SMITH. Yes, sir.

Senator CALDER. At once?

**Mr. SMITH.** No, not right away. I would say not for a period of five or six months until the thing got settled, because no scheme of taxation will get into operation for some little time.

**Senator CALDER.** Is it not a fact that under the present system the business man generally is discouraged from extending his business; that if it is profitable he pays a large tax, the Government takes it from him, and if he loses he has no relief?

**Mr. SMITH.** He does not start anything, practically. In fact, we have the same condition to-day. In some of the things that we have started we have practically not done anything at all with them.

**Senator CALDER.** Under the sales tax he would know that he paid a tax upon his sales.

**Mr. SMITH.** Whatever he sold. If he did not sell anything it would be all expense to him, anyway, and of course he would not have any profits.

**Senator CALDER.** Therefore he would not be afraid to take the risk of loss?

**Mr. SMITH.** Absolutely not.

**Senator JONES.** Suppose the time should come when you would sell your product at less than cost. Do you think it would be right for the Government to tax you on that when you were selling for less than cost?

**Mr. SMITH.** Why should they?

**Senator JONES.** That is what I am inquiring. This sales tax would amount to that, would it not?

**Mr. SMITH.** No. Your sales tax goes to the consumer, like any other tax.

**Senator JONES.** But if you are selling for less than cost?

**Mr. SMITH.** No; I do not think so. I do not think anybody is going to sell for less than cost, if they are in business to make a profit, which everybody is.

**Senator JONES.** I think I can point out a good many people in this country who are selling to-day at much less than cost.

**Mr. SMITH.** There probably are certain concerns trying to keep their forces on and to keep the plant in operation. Probably they are selling for less than cost. They would, even if they stuck to their present prices, operate their plants at a reduced force.

**Senator JONES.** I think I know of a great many cattle men and sheep men throughout the country that are selling their products for much less than cost.

**Mr. SMITH.** I am speaking of manufacturing and industrial concerns. As I say, no doubt some of them are selling at less than cost in order to operate their plants, because their overhead eats up what little profit they have.

**Senator McCUMBER.** Even if you sell at less than cost, and there is a 1 per cent tax, you do not lose. The consumer pays that 1 per cent tax. It does not add to your loss.

**Mr. SMITH.** Of course, business conditions are such that you would probably lose a great deal more money to-day than you would if you were operating a part of your plant a part of the time.

**Senator JONES.** Referring to the question of the Senator from North Dakota, if a man is selling for less than cost he is selling for all he can get, is he not?

**Mr. SMITH.** There is no doubt about that.



Senator JONES. He wants all he possibly can get, and he would get just as much, whether he had to pay a 1 per cent tax or not. He would get all he could, anyhow, or all the purchaser is willing to pay?

Mr. SMITH. The selling price would be less than it would be with 1 per cent sales tax.

Senator SIMMONS. You said a little while ago that as a rule goods are sold at all the traffic will bear.

Mr. SMITH. All you can get. That is practically so. Supply and demand, no doubt, regulate a certain proportion of your selling price.

Senator SIMMONS. The inquiry that I understood was directed to you was whether if prices are fixed on that basis and you had to take a part out of what you got and pay it to the Government in the shape of taxes, that would not reduce the profit that otherwise you might make?

Mr. SMITH. Of course, the prices are based to a great extent on cost as well as on supply and demand, because you have a certain cost to build it up to a certain point, regardless.

Senator SIMMONS. In that sense, when you put your prices at all the traffic will bear, if you have to take a part out of that and pay it to the Government as a sales tax, that diminishes the profit which, under other conditions, you might make.

Mr. SMITH. Unless we pass it on to the consumer.

Senator SIMMONS. So you do pass it on to the consumer? It is included in the price?

Mr. SMITH. Yes, sir.

Senator SIMMONS. If it were not for its inclusion, you could get the same price if you put the price at all the traffic would bear. It necessarily operates as a diminution of the profit you might make?

Mr. SMITH. I do not think that, because if you put any tax on, if it is higher than we are doing to-day, your price will go up. If it is less, your price will come down within a certain period of time.

Senator SIMMONS. Let me ask you this: Have you any competition in air-brakes?

Mr. SMITH. We have in our air-brake business competition with big concerns like the General Electric Co., in connection with our street car business, and the New York Airbrake Co. We have competition with dozens of them in connection with our steam-driven and motor-driven compressor products and other things.

Senator SIMMONS. What per cent of that business do you control?

Mr. SMITH. I do not know.

Senator SIMMONS. You have an idea, I am quite sure, Mr. Smith, You must have an approximate idea.

Mr. SMITH. About 50 per cent. As to some of them we do not control that. We do not control anywhere near that; in fact, we are the small side of it.

Senator SIMMONS. Do you sell at the same price that the independent manufacturers do that sell the other 50 per cent?

Mr. SMITH. Sometimes we do; sometimes we do not.

Senator SIMMONS. As a matter of fact, there is a standard price?

Mr. SMITH. The price is about the same.

Senator SIMMONS. You follow their price, or they follow your price?

Mr. SMITH. Yes and no. We do certain things to get business; somebody else does something else. It is not a fixed price.

Senator SIMMONS. If you could absolutely control the price you charge, you could, by combination, charge whatever you please?

Mr. SMITH. You can not do that.

Senator SIMMONS. Can not a monopoly do that?

Mr. SMITH. The Government will not permit anything of that kind.

Senator SIMMONS. There are monopolies, whether the Government permits them or not. We know that.

Mr. SMITH. We are not one of those.

Senator SIMMONS. If the product you make, such as the air brake, is a product that has got to be had and can not be dispensed with; it will be sold. I can dispense with coffee, but a railroad can not dispense with air brakes, because the law says they shall have them. If you had a monopoly—and it is supposed by a good many folks that you have. I do not say you have—

Mr. SMITH. I understand.

Senator SIMMONS. If you had a monopoly and the railroads are compelled by law to use your air brakes, then, under the rule that you have laid down, that the prices are fixed by what the traffic will bear, taxation of this kind would not trouble you at all one way or the other, except the little trouble and annoyance of making calculations and paying some money out.

Mr. SMITH. If there were such conditions, yes.

Senator SMOOT. This has nothing to do with the sales tax.

Senator SIMMONS. I think it has a great deal to do with the sales tax.

Mr. SMITH. No; nothing at all.

Senator CALDER. In your study of the situation have you considered the wisdom of raising the exemption on the income tax? In other words, where a sales tax is levied ought we not to increase the exemption over the present exemption of \$1,000 up to five or six thousand dollars?

Mr. SMITH. On personal income taxes?

Senator CALDER. Yes.

Mr. SMITH. By all means.

Senator CALDER. It ought to be raised four or five thousand dollars?

Mr. SMITH. Well, this is not a matter before the committee, but I think your exemption for children should be higher than it is. Of course, it has nothing to do with the sales tax.

The CHAIRMAN. It has nothing to do with the sales tax.

Senator SIMMONS. Mr. Chairman, I want to say that an inquiry by a member of this committee for the purpose of eliciting whether under this sales tax the people will have to bear a greater burden than they do now is a very pertinent inquiry. I am more interested in knowing with reference to the sales tax whether it is going to increase the burden of the consumers of this country or not; and as you propose to substitute it for an excess-profits tax and a surtax, any inquiries with reference to excess-profits taxes and surtaxes, so far as the consumer is concerned, is very pertinent to the inquiry, in my judgment.

Senator SMOOT. If the Senator confines himself as to how it is going to be more burdensome, that is all right.

Senator SIMMONS. That is what I was endeavoring to do.

Senator SMOOT. This witness has not said one thing about that.

The CHAIRMAN. The committee is much obliged to you, Mr. Smith.

**STATEMENT OF LEBBEUS R. WILFLEY, REPRESENTING THE TAX LEAGUE OF AMERICA.**

The CHAIRMAN. Judge, will you state your full name for the record?

Mr. WILFLEY. Lebbeus R. Wilfley.

The CHAIRMAN. Whom do you represent in this connection, Judge?

Mr. WILFLEY. I represent the Tax League of America.

The CHAIRMAN. Where is that association located?

Mr. WILFLEY. Its offices are at present in New York City.

The CHAIRMAN. Its membership embraces the whole country, does it?

Mr. WILFLEY. It embraces about 13 States.

The CHAIRMAN. How many members have you?

Mr. WILFLEY. I do not know the exact number. It has not been in existence very long.

The CHAIRMAN. How long has it been in existence?

Mr. WILFLEY. About two months.

The CHAIRMAN. Have they ever held a meeting?

Mr. WILFLEY. Oh, yes; the advisory board meets.

The CHAIRMAN. Has the whole association been represented in a convention or anything of that kind?

Mr. WILFLEY. No, sir; not the whole association.

The CHAIRMAN. You reside in New York?

Mr. WILFLEY. I reside in Greenwich, Conn., and practice law in New York.

The CHAIRMAN. You were formerly attorney general of the Philippine Islands?

Mr. WILFLEY. Yes, sir.

The CHAIRMAN. When?

Mr. WILFLEY. From 1901 to 1905.

The CHAIRMAN. You were appointed by the governor, were you?

Mr. WILFLEY. Yes, sir; by Gov. Taft.

The CHAIRMAN. Will you state briefly to the committee your views on the sales tax?

Senator JONES. Just a moment, Mr. Chairman, if you please. Who compose this league that you represent?

Mr. WILFLEY. It is made up of business men from various parts of the country. It represents no special group and no special interest.

Senator JONES. How were they brought together in a league?

Mr. WILFLEY. They were brought together as most organizations of that kind are formed, by a few men who believe strongly in the sales-tax principle, and they invited various men throughout the country to participate in the organization.

The CHAIRMAN. Do they pay dues?

Mr. WILFLEY. Well, I believe there are no dues. From \$2 to \$5, I believe, are the amounts fixed. The organization is just getting under way. I was called into it.

Senator JONES. Who commenced to get it under way?

Mr. WILFLEY. I did not organize it. I was invited into it. Maj. Opdycke here was one of the movers, and there are three or four other men—Mr. Hazen J. Burton and Mr. Charles T. Moffatt, of Minneapolis, are also very active in it, and we have one or two members in Philadelphia.

**The CHAIRMAN.** Who have you in Philadelphia?

**Mr. WILFLEY.** G. Searing Wilson is our treasurer.

**Senator JONES.** What is his business?

**Mr. WILFLEY.** I think he is in the real estate business. I think he owns buildings. So it is just a group of men gotten together rather hastily. The organization is hardly perfected yet.

**Senator JONES.** You reside in New York?

**Mr. WILFLEY.** Yes, sir; I was called into it because the originators of it knew that I was in the Philippines for some time.

**Senator SIMMONS.** In what way do you know that you represent any interest except the interest of those people who have been taken into your organization?

**Mr. WILFLEY.** Let me get the point of your question.

**Senator SIMMONS.** You have mentioned a number of gentlemen who belong to your organization and who hold offices in it.

**Mr. WILFLEY.** Yes.

**Senator SIMMONS.** In what way have you sounded out the general business so as to ascertain that you really have a right to speak for any persons or interests except those that you have taken into the organization?

**Mr. WILFLEY.** You are quite right, Senator—

**Senator SIMMONS.** There are so many of these paper associations that are formed and who come up here and say they represent a great mass of people. Sometimes they represent nobody except themselves.

**The CHAIRMAN.** They become infant industries.

**Mr. WILFLEY.** Senator, nothing could be more unpretentious than our organization. We are poor, we are weak, we are feeble. We have nothing behind us but a conviction that this is a sound principle of taxation and that it would be to the welfare and benefit of our Nation if it were incorporated into our fiscal system.

**The CHAIRMAN.** Judge, when you were attorney general of the Philippines was this sales tax in force?

**Mr. WILFLEY.** It was put in force while I was there, Mr. Chairman.

**The CHAIRMAN.** At what period of your official tenure?

**Mr. WILFLEY.** It was put in force toward the close.

**The CHAIRMAN.** How soon toward the close?

**Mr. WILFLEY.** About 1904 to 1905. I left the Philippines in 1906.

**The CHAIRMAN.** Then you had about a year's experience?

**Mr. WILFLEY.** Yes; I did.

**The CHAIRMAN.** The first year?

**Mr. WILFLEY.** Yes, sir. I was there when the tax was put on, and it was put on with great difficulty. There was a great protest against it by the business men and the citizens of the Philippine Islands, and all of the arguments which we hear in this country at this time were advanced there by the opponents of the measure, and all of the dire predictions of the results of such a move were put forth at that time.

As I say, the commission put it in force with very great difficulty, but in a very short time the opposition to the measure died out, and for 16 years the tax has been paid practically without a murmur.

The tax was originally one-third of 1 per cent. It has been increased to 1 per cent, and the authorities are now seriously contemplating raising it to 2 per cent. It has produced the most important item of revenue during these years and it is believed by those on the

ground to have contributed very materially to the prosperity which the islands have enjoyed in recent years.

Mr. Hord, who wrote the law and who administered it six years as collector of internal revenue, is present and he will testify before you in a little while and will throw a great deal more light upon the subject than I can. I am familiar, however, to that extent, with the operation of it in the Philippine Islands.

I lived for a number of years in Mexico under the administration of Porfirio Diaz and Limantour, his great finance minister. We took the sales tax from Mexico, where it has been in existence for about 50 years. It has become a part of the fiscal system of that country, and the people pay it without being conscious of it. It is the most popular form of taxation they have; and during the administration of President Diaz he and his great finance minister used it most effectively in rehabilitating that country financially.

Senator JONES. Do you think we want to follow in the footsteps of Mexico?

Mr. WILFLEY. I think we want to follow in the footsteps of any country that has a meritorious principle of government of any kind. I want to tell you that under the administration of Diaz and Limantour Mexico was a very well governed country and quite prosperous.

Senator SIMMONS. I understand you to say that the people paid it without knowing anything about it?

The CHAIRMAN. It was a pleasure to pay it.

Mr. WILFLEY. It was much more of a pleasure to pay it in that form than in any other. That is the point.

Senator CALDER. On the same theory that the customs duties are collected?

Mr. WILFLEY. Yes, sir. The people do not notice it. We all pay it when we buy a suit of clothes. When you buy your tobacco you pay a tax.

The CHAIRMAN. Do they wear many clothes in Mexico?

Mr. WILFLEY. We wear a good many clothes in this country.

The CHAIRMAN. You are asking us to follow the example of Mexico, and I did not know whether the Government was maintained on the sales of shoes and overcoats.

Senator SIMMONS. Judge, do you not think that a tax that the people pay without noticing it is generally a very dangerous tax, in that the man who collects the tax may get a larger part for himself than he gets for the Government?

Mr. WILFLEY. There is some danger in that. I mention these examples in actual history because the practical operation of the sales tax in those countries refutes many of the assertions made by the opponents of the tax in this country upon which fallacious arguments are based. The sales tax experience in the Philippines, Mexico, and Canada is useful for that purpose at least.

The CHAIRMAN. Do they have a sales tax in Canada?

Mr. WILFLEY. They do.

The CHAIRMAN. Of the general scope that you advocate here?

Mr. WILFLEY. Only on two turnovers.

The CHAIRMAN. We have a sales tax on many articles.

Mr. WILFLEY. Yes; but it is quite different from what we advocate. We now have a sales tax in its most iniquitous and destructive form. A fair and equitable form of sales tax is defensible on its merits. It has

the sanction of experience. It has been successful in those countries—backward countries, you may say, but nevertheless the Philippine Islands have been pretty thoroughly Americanized in the last 20 years, and they do business there very much as we do business here. Human nature is just the same there as it is here, and economic laws operate there just the same as they do here. We know from our own experience that it works in the Philippine Islands very successfully. I do not say this example should be controlling, but I do say that it should have weight. It is quite germane to this issue, and should have weight in determining what course our Government should pursue at this time.

Senator SIMMONS. You mentioned the Philippine Islands and Mexico. What other countries did you mention?

Mr. WILFLEY. Canada.

Senator SIMMONS. What other countries?

Mr. WILFLEY. And France.

Senator SIMMONS. Is the system in France the same as outlined in this bill?

Mr. WILFLEY. It is quite extensive in France. It has been put on only recently and it has been put on under very disadvantageous circumstances, so I am told. I am not familiar with all of the details of the operation in France. It is only an experiment yet; but the Canadian experiment is quite satisfactory.

The CHAIRMAN. How long has that been in existence in Canada?

Mr. WILFLEY. About two years, is my recollection, Mr. Chairman.

Senator JONES. Is it your recollection that in Canada they have a uniform tax on all goods?

Mr. WILFLEY. I understand that they do, but I am certain they have it on all manufactured goods. The manufacturer pays an overturn tax of 1 per cent, and if the manufacturer sells his product to the retailer or consumer, he pays 2 per cent.

Senator JONES. Does that tax there apply to all commodities?

Mr. WILFLEY. Practically it applies to all commodities except those specifically exempted.

Senator JONES. Or just to manufactured commodities—does it apply to bread?

Mr. WILFLEY. I think it does.

Senator JONES. I think you are mistaken.

Mr. WILFLEY. There are a good many exemptions. Just what the exemptions are, probably Senator Smoot is in a better position to state than I am.

Senator SIMMONS. That is a manufacturers' tax and not a turnover tax?

Senator SMOOT. It is not a manufacturers' tax.

Senator SIMMONS. I understood him to say that it only applied to manufacturers.

Senator SMOOT. When the manufacturer sells goods to the retailer, then he pays the 2 per cent tax; in other words, the Canadian tax law is limited to 2 per cent.

The CHAIRMAN. If there are a half dozen turnovers preceding the completed products, those turnovers are not taxed in Canada?

Mr. WILFLEY. That is my understanding, that they are not.

Senator SIMMONS. Then you are unintentionally, in my opinion, making a misleading statement when you say that Canada has a turnover tax such as you advocate here.

**Mr. WILFLEY.** In principle. It is limited in its scope; that is all. **Senator SIMMONS.** It is a manufacturers tax, pure and simple.

**Mr. WILFLEY.** My understanding is that it is a general turnover tax.

**Senator McCUMBER.** What is the difference between tweedle dee and tweedle dum? If it is turned once there is one sales tax; and if it is turned twice there are two sales taxes. What is the difference?

**Senator SMOOT.** We give you, Mr. Wilfley, \$6,000 exemption here to cover what Canada exempts.

**Mr. WILFLEY.** Our exemption in the Philippines extended to all of the farmers. We have considered exemptions, and our plan here exempts a dealer whose turnover only amounts to \$6,000 a year. Our contention is—

**Senator JONES (interposing).** Now, Judge, you say that our exemptions here are to reach all those who do not sell in a year more than \$6,000. How will that operate as to the price which the purchaser will pay for flour or cornmeal, coffee, or anything of that sort? Will the consumer get it for less than the fellow who only turns over \$6,000 a year, or will the consumer have to pay just the same whether he sells \$6,000 or \$60,000 a year?

**Mr. WILFLEY.** The price of all these things is fixed, of course, by competition, and it is impossible to know in advance just who will enjoy the exemption and who will not.

**Senator JONES.** This exemption of \$6,000 a year you think will not relieve the consumer at all, do you not?

**Mr. WILFLEY.** I do not. The great body and the great bulk of the commodities are sold by the large dealers, and that exemption is made very largely because it would be more difficult of collection. It is just an arbitrary matter.

**Senator JONES.** That exemption is put in there for the purpose of saving some administration expense and to benefit entirely the small dealer, the man who sells a small quantity, but it is not put in here for the benefit of the consumer.

**Mr. WILFLEY.** It is included, and it is a matter largely of administration.

To come to the main proposition, our proposition is this: I agree that the excess-profits tax law must go, and practically all agree that the high surtax must go. So the issue is narrowed down to the tax—

**Senator JONES (interposing).** Let me ask, why do you think the high surtaxes ought to go?

**Mr. WILFLEY.** I will give you my reasons: They have been raised so high that, in my judgment, they are quite as destructive to the business interests and the general welfare of the country as the high surtaxes.

**Senator CALDER.** As the excess-profits tax?

**Mr. WILFLEY.** As the excess-profits tax, yes; and the reason is this: That men of means who go into business and enjoy a profit from their investment are absolutely stripped of the profits, practically stripped—it runs up to about 70 per cent—with the result that it destroys initiative; it drains off the profits of the industry to budget channels and has the effect of crippling and destroying enterprise.

**Senator CALDER.** And the men with large incomes draw the money out of active business wherever they can and put it into tax-exempt securities?

**Mr. WILFLEY.** Yes.

**Senator CALDER.** And this is a tax on the worker and the doer?

**Mr. WILFLEY.** Yes.

**Senator CALDER.** The high taxes operate both ways, do they not?

**Mr. WILFLEY.** Exactly.

**Senator SIMMONS.** Judge, did I understand you to mean that you based your advocacy of the sales tax upon the ground that it is to be adopted as a substitute for the excess-profits tax and the high surtaxes?

**Mr. WILFLEY.** This is the general proposition—

**Senator SIMMONS (interposing).** Well, do you?

**Mr. WILFLEY.** Yes; I will state it a little bit broader than that.

**Senator SIMMONS.** If we should say, "We will not reduce these excess-profits taxes and surtaxes; we will retain the excess-profits taxes," you would not support a sales tax in that regard?

**Mr. WILFLEY.** I think you would have to have it anyway, because if you have those on you would not raise much revenue.

**Senator SIMMONS.** You are not supporting the sales tax outright, but you are putting it as a substitute?

**Mr. WILFLEY.** I am supporting the sales tax as a substitute of the profits tax.

**Senator SIMMONS.** And you would not support it unless that system is abolished?

**Mr. WILFLEY.** I believe, Senator, that it would be well under any circumstances to adopt the sales tax. I think it is the key to the solution of our great tax problem, which is the Nation's greatest problem, and will be the great problem before the Nation for a number of years.

**Senator SIMMONS.** But you are now supporting it only upon the theory that the profits tax system is abolished?

**Mr. WILFLEY.** I am supporting it upon the grounds that I state; I am supporting it and I have tried to state the real issue.

**Secretary Mellon** has laid down the policy of the administration with reference to our tax laws. He has eliminated the excess profits; he has recommended a reduction of the high surtaxes, but he has substituted a high flat rate upon profits of corporations, and he advocates the retention of these high taxes on so-called semiluxuries, which we are opposed to. We think they are inequitable, unjust, and uncollectible, and very annoying and irritating to the public; they are unsatisfactory in every particular. It is a sales tax in its worst form,

**Senator SIMMONS.** You refer to "semiluxuries." What about the real luxuries?

**Mr. WILFLEY.** It is very difficult to say what are luxuries these days. What was a luxury 10 years ago is a necessity to-day, and I think it is impossible to draw a line between what is a luxury and what is a necessity in these times.

**Senator SIMMONS.** Then, you think there should be no discrimination whatever?

**Mr. WILFLEY.** I do. I would abolish every one of them and substitute therefor a general sales tax that would apply to the sales of all commodities.

**Senator DILLINGHAM.** As a member of the committee, I would like to have you get onto the sales tax and tell us why.



**Mr. WILFLEY.** Let me tell you about the sales tax. We would substitute the sales tax for Secretary Mellon's high tax on corporations and for these high sales taxes on so-called luxuries.

**Senator DILLINGHAM.** What is your argument in favor of that?

**Mr. WILFLEY.** Our argument is this, that any profits tax has the tendency to be passed onto the consumer, augmented and pyramided, with the result that the price of the commodity is raised to the consumer, and the further effect that the constant rise of prices which results from the enforcement of this system brings about an unstable and dangerous condition in business, as we saw a year and a half ago and as we are suffering from now. We are opposed to all of those profits taxes because they are passed on. They give rise to profiteering; they give rise to high prices and throw actually the burden of taxation upon the consumer in a heavier form than he would have to pay under the direct sales tax. It is a species of deception and fraud, because it pretends to throw the burden of taxation upon the corporation and upon the wealthy classes when, as a matter of fact, it does nothing of the sort; it passes them on to the consumer augmented and in a heavier form.

**Senator DILLINGHAM.** And to what extent do you judge that it has done that under the present law?

**Mr. WILFLEY.** The Department of Justice has estimated that it does it to the extent of 23.2 per cent, and this attempt is corroborated by the accountants and auditors of a large group of our big retail establishments throughout the country. It is generally conceded and admitted that this tax pyramids and is augmented to the extent of about 23.2 per cent.

That is our objection to the so-called profits system.

**Senator DILLINGHAM.** And that is to the ultimate consumer?

**Mr. WILFLEY.** Yes, sir. It throws the burden upon the ultimate consumer, as nearly all of these systems of taxation do. The only difference is that we say at the outset to the consumer that he must pay it. We assume that he understands it. The general public understands now—is coming to understand—that the consumer pays the tax, always did, and always will, and we are treating it accordingly.

**Senator DILLINGHAM.** Now, that brings you down to this tax. Tell us how that is going to operate.

**Mr. WILFLEY.** This tax will operate in this way: We advocate the imposition of a small tax of 1 per cent on all turnovers of goods, wares, and merchandise. We limit it to the general body—wares, goods, and merchandise.

**Senator SMOOT.** That can be a half per cent or 3 per cent sales tax as in the Philippines?

**Mr. WILFLEY.** That is for you to determine with all of the facts before you, how much you need. But we are talking to the principle.

Our contention is that it is paid by the consumer without his noticing it; it is contained in the price just as the old tariff was contained in the price, just as it was contained in the excise tobacco tax. People pay hundreds of millions of taxes to the Government through purchases of tobacco and never notice it and never pay any attention to it. It is paid by the consumer; it is safe to say that it is invariably paid by the consumer. I will touch upon that a little later. But as a general proposition it is shifted—it can be shifted and naturally is shifted and paid by the consumer. It is collected by the mer-

chant, who is forced under this Smoot bill to keep books and at the end of each quarter he has but to add up his total sales and send 1 per cent to the nearest internal revenue collector.

Senator SMOOT. With a sworn statement?

Mr. WILFLEY. With a sworn statement. Another virtue of this law is that it creates a substratum for our national revenues, toward the creation of which the entire American people contribute. Our burden of tax is and will be for three or four years so heavy, that, in my judgment, it can not be borne unless it is made to rest down upon the shoulders of our whole people.

Mr. Mellon, for whom we entertain the very highest respect, has shown in his report that his plan will not raise the necessary revenues unless there are tremendous cuts all along the line. Mr. Mellon does not show how those cuts are to be made. Mr. Mellon realizes, probably better than any one in this country the very great problem that confronts the Nation.

He knows that we have a floating debt of two and a half billion; and probably there will be a deficit this year of one billion; that we have a large amount of debts coming in from the war, amounting from one billion to a billion and a half dollars—still coming in; how long they will continue to come we do not know and to what extent. As a matter of fact, if we were in a position to do so, sound financing would require a bond issue now of from four to six billion dollars to take up our present debts, and not including our former bond issues. Mr. Mellon knows all of this. He also knows another thing, that the situation in the field of our foreign relations is such that we are in no position to reduce our armament, either on the sea or on the land.

These two items, together with our interest, amounts to about two billions annually. How can they be cut at this time? It will be very difficult.

Our contention is that the plan proposed by Mr. Mellon, in the first place, is unsound, because of mere revamping and patching up the tax law that has wrought such havoc upon our industries; second, because even then it will not produce the needed revenues. How are you going to get \$500,000,000 from corporations if hard times continue? How can they pay it? They can not pay it—and when they can pay it they will pass it on; it will be pyramided and paid by the ultimate consumer, and operate in the same manner as the excess profits tax did.

Senator DILLINGHAM. As compared with the 23.2 per cent which you say is paid by the public now and is passed on, what is going to be the operation of this law? Have you made any estimate on that?

Mr. WILFLEY. Personally, I have deferred to others who are in a better position to know. The estimates vary quite considerably, as you know. So must the estimates of any system of taxation vary.

Senator DILLINGHAM. What are the estimates?

Mr. WILFLEY. Senator Smoot, I believe, estimates it at about a billion and a half, and a great many of the experts who have studied it estimate a billion to two billions. Probably that is conservative.

This must be said about it, according to our theory: If you should impose this tax and take the burden off the income from industry, and let it go into new enterprise and expansion of the plant, you will have a return of prosperity, and with the return of prosperity

this tax will yield a big income and it will be constantly increasing as the country develops.

Our contention is that this country can not raise the four billions to five billions annually unless we have a broad and permanent prosperity. It can not be done. Any system of taxation calculated to raise that sum will become a drag upon the economic life of the Nation and in the end bring disaster, unless we have prosperity on a broad and permanent scale. That is the basis of our argument.

Senator SMOOT. I think the Senator wanted to know what was the amount of tax under this bill in its most exaggerated form as compared with the 23 per cent tax that has been passed on to the ultimate consumer—the excess-profits tax.

Mr. WILFLEY. The 23.2 per cent has been passed on?

Senator SMOOT. As compared with the 23 per cent.

Mr. WILFLEY. Senator Simmons has touched on that and I see his arguments on that point. If you will make the mathematical calculation you will see it pyramids to about 2½ to 3½ per cent, and that is not denied. But there is a feeling among the opponents of this plan that it will roll up like a snowball and act just like excess-profits tax, and the merchants will roll it up. I contend it will not do that, and I will tell you why: In the first place, it is small, and, in the second place, it is fixed; in the third place, it is paid by all merchants and consumers alike.

Inducements under the excess-profits tax law for the merchant to pyramid were very great, and the opportunity was great. Why? Because the amount was unknown and uncertain and could not be determined. He had a good leverage on the public for doing it, but now the public will know that this tax is small, that it is fixed, and they will not tolerate it being pyramided.

Furthermore, the merchant has learned something by experience. The merchant has learned that abnormally high taxes are destructive to his business, and he does not want them. There is much to be lost by it; there is nothing to be gained. Each fellow is on the same basis identically, and if he pyramids it too much he will lose his trade; he will not be able to hold it.

Now, as a matter of fact, it does not pyramid in the countries where it operates; that is the real answer to it.

Senator JONES. Let me ask you, Mr. Wilfley, if a man paying an excess-profits tax is so anxious to pass that on to the consumer that he increases the amount which he will charge to the consumer so as to make himself safe on his excess-profits tax, do you not think it is reasonable to assume, and that the inducement would be greater, for a man to make himself safe when he knows that he has got to pay the tax whether he makes any profit or not, one being only payable out of profits, the other whether he makes any profit on it at all or not?

Mr. WILFLEY. That is quite true; but at the same time I do not believe it will work in the way the Senator indicates. I have stated why I do not believe it will be pyramided in normal times. There has been discussion this morning upon the operation of this tax when prices are falling. Of course, he loses the tax; the merchant has to pay the tax and lose it in a falling market, as he does his rent and his labor charge and all of his overhead.

Senator SMOOT. All of his taxes upon goods which he sells?

Mr. WILFLEY. All of them. They all have to do it when the prices slump and go down. It is not a matter of taxes; it is a matter of taking care of himself. But in normal times it is passed on; it is paid by the consumer without objection, and it is not pyramided, and it raises revenue in large quantities; and it produces a good psychological effect in the country, because the whole people realize that each and all are paying it according to his willingness and ability to pay, and there is no escaping it.

Senator JONES. Another question, Mr. Wilfley: If that is going to be such a small item, do you not think that there would be a greater opportunity to pyramid it?

Mr. WILFLEY. I have given my reasons why I do not think it would be pyramided, because the public would not tolerate it. The public would know about this; they know it does not amount to much at best.

Senator JONES. The public does not know the cost of commodities.

Mr. WILFLEY. I know that; but they do know this: They know there is no real excuse for running up prices on this account, and they will not tolerate it. Furthermore, it is not to the merchant's interest to do it; he has had an experience with abnormally high prices. Did not this gentleman testify that when prices go up it is undesirable? It makes for instability and danger.

Senator JONES. Does not that instability exist in the excess-profits tax just the same as it would with the other tax?

Mr. WILFLEY. The excess-profits tax, to my thinking, is practically eliminated. If this present system of taxation continues, I do not think there will be much revenues from the profits tax and not much from high surtaxes.

Senator JONES. Then, if they are a burden on business—

Mr. WILFLEY (interposing). I am not saying that it is a burden upon business; I am contending it is a burden on the consumer. This is a consumers' tax and a sales tax in a double sense in that it is paid by the consumer and not that it benefits the consumer. It deals honestly with the consumer; it does not presume upon his intelligence.

Our contention is that this plan will tap the only untapped reservoir of revenue large enough to meet the abnormally large demands of the budget without destroying prosperity, and prosperity we must have if we are to sustain this burden at all.

Senator McCUMBER. I understand, Mr. Wilfley, that you have a brief prepared by the Tax League of America that you would like to submit to the committee.

Mr. WILFLEY. Yes, sir; Mr. Chairman, I have the brief here.

Senator McCUMBER. It may be inserted in the record at this point.

**BRIEF OF LEBBEUS B. WILFLEY, ENTITLED "AN ADDRESS TO THE CONGRESS BY THE TAX LEAGUE OF AMERICA."**

Taxation is the great question now before the Nation. In the humble opinion of the Tax League of America, the importance and magnitude of it are underrated even by our wisest men. The Nation is in an economic crisis. The Great War all but wrecked the entire economic system of the world. It forced the nations to issue volumes of credits huge beyond all precedent, and at the same time forced them to resort to unscientific and ruinous systems of taxation to meet the emergency it created, with the result that the equilibrium of the economic system of the world has been unsettled to its foundations.

The situation confronting the Nation is wholly new.

Our present system of taxation, based in the main upon the principle of raising revenues from the profits of industry, has collapsed.

Our national budget for years to come will be large beyond all past experience in peace times.

We are in the midst of hard times, brought about in a large measure by our present destructive system of taxation.

On account of changed world conditions, the tariff can no longer be relied upon as a dependable source of revenue.

These facts give rise to a problem the solution of which calls for the exercise of constructive statesmanship of the highest order. To use the language Abraham Lincoln uttered in one of the crises of our history: "The occasion is piled high with difficulty, and we must rise with the occasion. As our case is new, so must we think anew and act anew."

#### THE ISSUE STATED.

It will not be disputed that the chief objective of the Nation at the present time is the adoption of a plan of taxation that will raise sufficient revenue to meet the expenses of the Government without rendering the return of general prosperity impossible. Obviously, unless the country is placed upon the road to a broad and permanent prosperity, the raising of the large amount of revenue necessary to meet the expenses of the Government will be an impossibility. With a solid and permanent prosperity the Government will be able to meet its expenses, gradually liquidate its public debt and aid in the restoration of the economic equilibrium of the world. Without such prosperity any system of taxation, calculated to yield the needed revenue will become a drag upon the economic life of the Nation and in the end bring disaster.

On the subject of the methods to be adopted to accomplish the end in view, our economists and statesmen are divided into two schools. One group supports the system of taxation based in the main upon the principle of raising taxes from the profits of industry, supplemented by a high retail sales tax on a large number of so-called luxuries, and a high tax on transportation and admissions, and consequently advocate as a solution of our present problem the modifying, revamping and patching up of our present tax laws. The other group advocates the substitution for the so-called profits system of an entirely new plan (new for this country) based upon the policy of raising the revenue by a tax imposed upon the general business of the country, and, consequently, supports the plan which calls for the imposition of a small gross sales or turnover tax on the sales of all goods, wares, and merchandise, supplemented by a judicious income tax. Both groups advocate the abolition of the present excess profits tax law and the reduction of the present abnormally high surtaxes, and both include in their plans imposts, excises, inheritance taxes, and an income tax. Broadly speaking, the foregoing statement contains the essential features of the two most prominent plans now engaging the attention of Congress and the public:

In the last analysis the issue between the above-mentioned schools is as to whether it is better and wiser for the Government to create a substratum of our national revenues by taxes raised from the profits of industry, or by a general sales tax, imposed upon turnovers of all goods, wares, and merchandise.

#### THE PROFITS SYSTEM OPPOSED.

The Tax League of America's position on this issue is as follows:

We oppose the so-called profits system for the reason, first: That it is based upon a species of deception; second, it, in the end, imposes an unduly heavy burden upon the consuming masses, and, third, it brings about a fictitious and unstable business situation which renders permanent prosperity impossible.

We contend that the system is tainted with deception in this, that whilst it pretends to relieve the consuming masses of the burden of taxation by throwing it upon the shoulders of the corporations and the wealthy classes, it in reality does nothing of the sort, but, as a matter of fact, produces just the opposite result. It does not place the burden on the corporations, but it does impose unduly heavy tax burdens upon the consumer. Everyone knows that the great bulk of profits taxes paid originally by the corporations, partnerships, and sole owners, is passed on and ultimately paid by the consumer, augmented and pyramided. This fact is not only familiar to students of taxation but is coming to be understood by the general public. Experience shows that the profits tax system operates to create an army of profiteers who almost invariably pass the tax on with "a margin for safety," with the result that prices are sent up in an ascending spiral until they actually threaten disaster. The Department of

Justice estimates that the pyramided profits taxes under our present system have added 23.2 per cent to the price of commodities which the consumer is now paying. All agree that our present profits system has contributed powerfully to the bringing about our present business depression, and it is universally felt that the dead hand of this system is still on the prostrate form of industry, which will not be quickened into life until it is lifted.

Dr. Charles J. Bullock, professor of economics at Harvard University, in a recent discussion of our present system of taxation, used the following language:

"The policy of taxation followed by our Government during the war was such that if the war had not ended when it did the country would have been broken wide open. It is a destructive, ruinous, and wicked policy that would have killed the Government and financial structure of this country within another year. Take the case of the many industrial houses that to-day are either bankrupt entirely or in the hands of their banks. It was a case of the survival of the least fit.

"Taxation such as that under which we are at present suffering can never be enforced as written. It creates a nation of liars. The effect on the taxpayer is alarming in the extreme. The present tax would almost wholly become a tax on honesty if it is allowed to continue.

"I have never heard any logical objection to a sales tax, and I offer it as the sane and logical solution of this country's greatest problem."

#### SECRETARY MELLON'S RECOMMENDATIONS ANALYZED.

Notwithstanding the high opinion which the Tax League of America entertains of the abilities of Hon. Andrew W. Mellon, Secretary of the Treasury, it finds it impossible for it to give adhesion to the plan he has just submitted to Congress as the basis for the new revenue laws, for the following reasons:

First. Because we believe it to be unsound in principle, being but a revamping and patching up of our present system which has wrought such havoc upon the business interests of the country.

Second. Because we do not believe it will yield the necessary revenues to meet the demands of the budget, and,

Third. Because it fails to provide a sinking fund for the slow but gradual retirement of our public debt.

We have the very strong conviction that any plan which is merely the patching up and revamping of our present destructive system will wholly fail to meet the demands of the situation.

A perusal of the Secretary's recommendations creates the distinct impression that he has included a number of items which are very objectionable to himself, and that a grave doubt exists in his own mind that his plan will yield sufficient revenue to meet the requirements of the Government. He makes it clear that this can not be done unless radical cuts are made in appropriations and estimates all along the line. Nor does he point out exactly how this is to be done. Manifestly our interest charges, which will amount to more than \$1,000,000,000, can not be reduced. Nor is it reasonable to suppose, in view of the situation in the field of our foreign relations, that our Navy and Army appropriations can be materially reduced at this time. These two items alone aggregate about \$2,000,000,000.

We all know that the wreckage from the war is still coming in, and will have to be met. How long and to what extent this will continue no one can tell. It is difficult to understand how it reasonably can be expected that our corporations and business institutions will yield the amount estimated, in view of the business condition of the country. Manifestly the corporations can not pay the large profits tax contemplated by the Secretary's plan unless the country enjoys an era of prosperity. Should the present business depression continue, it is obvious that revenues from this source are bound to be disappointing. Moreover, it is believed that whatever measure of prosperity may ensue as a result of the adoption of the Secretary's plan will be of an artificial character and short-lived for the reason that the proposed corporation tax is, in all essential respects, similar to the excess-profits tax, and that its operation will produce the same effects upon the country as did that system.

Most naturally the Secretary deplors the necessity for continuing the present tax on transportation which he estimates will yield about \$330,000,000. It requires no argument to show that this would produce a most unfortunate situation, in view of the critical condition of our systems of transportation and the absolute necessity for their rehabilitation in the immediate future. The taxes he recommends on semiluxuries, generally referred to as "nuisance tax," are also objectionable in that they are unfair, inequitable, difficult of collection, and harassing to the public. Furthermore, it is difficult, if not impossible, to determine what constitutes a luxury. Things that were luxuries 10 years ago are necessities to-day, and it is practically impossible to

draw the line between the essential and nonessential branches of industry. The admissions tax is also harassing to the public and should be abandoned.

That a sinking fund should be provided for the retirement of our public debt is too obvious to require the support of argument. The country assumed and had a right to assume that a provision of this kind would be made at this time and naturally condemns any plan which fails to do so as inadequate and unsound.

Therefore the fair and inevitable conclusion to be drawn from the foregoing analysis of the Secretary's proposed plan is that it furnishes no hope for the return of permanent prosperity in the near future; that it creates a grave doubt that it will produce the necessary revenue to meet the demands of the situation; and that it fails wholly to provide for the sinking fund for the retirement of our public debt.

#### THE SALES-TAX PLAN ADVOCATED.

Rejecting Secretary Mellon's recommendations as unsound and inadequate, the Tax League of America begs to offer as the best solution to the Nation's tax problem the adoption of the so-called sales-tax plan, as contained in the bill introduced into the Senate on April 12, 1921, by Senator Reed Smoot (see Appendix "A").

We believe this plan to be sound in principle and workable in practice. It is characterized by simplicity, equity, capacity to produce the needed revenue, economy of administration, and the very essential quality of honesty. It practices no deception. It does not pander to the prejudices of the poor by pretending to throw the burden of taxation upon the shoulders of the corporations. It frankly informs the public at the outset just where it stands. Nor does it presume upon its intelligence. It assumes that it is now generally realized that in the last analysis, the consumer does now, has always, and always will pay the great bulk of the taxes.

In a double sense the sales tax is a consumer's tax—first, because it is paid by the consumer, and, second, because it benefits the consumer. Under the present profits system the consumer pays about 23 per cent in taxes on all goods purchased whilst, under the plan we propose, he will pay about 3 per cent in taxes on all purchases, as we shall subsequently show. Prior to 1914 95 per cent of our national revenues were raised by a consumption tax. The great bulk of our revenues since the close of the Civil War and prior to the World War was raised by means of the tariff which was nothing more nor less than a consumer's tax. It is believed that the adoption of such a system would have a most wholesome psychological effect in this: That the entire body of the people would come to realize that the tax is paid by each and all in accordance with his willingness and ability to pay and that it can not be escaped. This very salutary effect has actually been produced in the countries where this system has been a long time in operation with the result that the tax is paid without a murmur from the consumer. It is also believed that this plan would produce a further wholesome result in that it would require the entire body of the people to participate in the support of the Government. Under it each American citizen would be interested in the administration of the Government because he would realize that he contributes directly to the support of it. He would be interested in checking its extravagances and in the event too much revenues were produced he would take steps to have the tax reduced. This plan would deal a severe blow to class legislation and to the socialistic tendencies which such legislation encourages.

#### WHAT THE SALES TAX IS AND HOW IT WILL WORK.

At this juncture, permit us succinctly and briefly to state just what the sales tax is and how it will work in practice:

Broadly speaking, the sales tax is a tax on the sales of all goods, wares, and merchandise, and accrues at the moment of the transfer of property from the seller to the buyer. It is collected and remitted to the Government by the merchant, but is actually paid in all instances by the purchaser, who does so unconsciously. No receipts or stamps are used. Like the tariff, it is included in the price of the goods and the consumer pays it without noticing it. One of the chief virtues of this tax is that it will provide a substratum for our national revenues, toward the creation of which every American citizen will contribute. To the thrifty moderate consumer the tax will be light, but to the rich and extravagant it will be heavy. It will be easily, completely, and economically collected. All merchants and corporations engaged in business will be required to keep books and at the end of each month or quarter they will be in a position readily to determine exactly the amount due the Government. Another virtue of this plan is that it will produce adequate revenues for all purposes, which will be forthcoming in a constant, steady flow, irrespective of good times or bad. Under the profits system a severe depression in business would practically wipe out the revenue

whilst under the sales tax plan it would only curtail it. The Treasury Department under the present system is now several years behind with its work. Treasury experts estimate that back taxes are now due the Government to the extent of many hundreds of millions, most of which probably will never be collected. This could not happen under a sales tax law, for the reason that all returns would be made monthly or quarterly. It is proposed that the tax be not in excess of 1 per cent on all turnovers, and it is estimated that such a tax will yield from one to two billions annually. When supplemented by a judicious income tax, this plan would be equitable in its operation. Therefore, we contend that the sales tax plan offers the following concrete advantages:

First. It will unquestionably produce all the revenue needed without destroying prosperity.

Second. It will reduce the high cost of living without reducing the profits of the producer.

Third. It will be completely, promptly, and economically collected and furnish a flow of revenue that will be constant and dependable.

Fourth. It will be paid by the whole body of the people, each paying in proportion to the amount of goods he consumes.

Fifth. When supplemented by a judicious income tax, such as we propose, it will rest down equitable upon the shoulders of all.

#### THE SALES TAX A MARKED SUCCESS IN THE PHILIPPINES.

The foregoing facts are asserted with confidence because of our knowledge of the practical operation of the sales tax in one of our dependencies, namely, the Philippine Islands. A sales tax was proposed for the islands in 1905 and strongly resisted by a large element of the Philippine people at the time, and the arguments advanced against it were identical with the arguments we are now confronted with here. It was with great difficulty that the government succeeded in placing a sales tax law on the statute books. Our experience in the Philippines, however, has set at rest all the numerous objections which were advanced against it. The law has been in existence for 16 years, and has been successful in all respects. It is now collected practically without a murmur from the taxpayer. The tax originally was one-third of 1 per cent. It since has been raised to 1 per cent, and we are informed the government of the islands is contemplating raising it to 2 per cent. The law was written by John S. Hord, and administered by him as collector of internal revenue for a period of six years. He says:

"The law is being successfully administered in the Philippine Islands, and is the biggest revenue-producing item. The whole tax burden is distributed among all and to each according to his ability and willingness to pay. It is not a tax against the living wage, and can be defended on the ground of social justice. The tax rate is small, and can be shifted and is not heavily accumulative. It is easily assessed and fully collected at a reasonable expense and without harassing the taxpayers."

Some time ago Secretary Houston made official inquiry of the Philippine government as to the success of the sales tax in the islands and his reply was that "the sales tax is the most satisfactory, accurate, economical, productive, and equitable tax in our system." (See records of the Treasury Department.)

The following is the testimony of Senor Isauro Gabaldon, the present duly accredited commissioner from the Philippine Islands to the Washington Government:

"In answer to your inquiry, I take pleasure in stating that the sales tax imposed in 1905 in the Philippine Islands continues to this date to produce substantial revenue. Since the initial opposition to this tax, which lasted only a few months, I have heard no further opposition to the payment of the sales tax, and therefore believe it is being collected with little if any opposition on the part of the taxpayers."

There can be no doubt about the fact that the sales tax in the Philippine Islands has been and is a marked success. The opponents of this plan brush aside our experience in the Philippines with a wave of the hand on the ground that that archipelago is a small country compared with our own and that conditions there are quite different from what they are here. We submit that it is not quite fair thus summarily to dispose of our Philippine experience. As a matter of fact, commercial conditions in the Philippines have been very largely Americanized. Business is done there very much as it is done here. True, everything is on a smaller scale there than here, but, nevertheless, we there have classes and conditions quite similar to those we have here. Human nature and economic laws are the same there as here. We submit, therefore, that our Philippine experiment, with which we are all so familiar, and which has turned out so successfully, is quite germane to the issue and is entitled to great weight in our present deliberations.



## MEXICO'S EXPERIENCE WITH THE SALES TAX.

The Philippine tax law was taken from Mexico, where it has been in operation for half a century and was utilized very effectively by President Porfirio Diaz and his celebrated minister of finance, Jose Yives Limantour, in the financial rehabilitation of that country. In order that you may have an authoritative statement in regard to the operation of the sales-tax law in Mexico, we submit a letter on the subject which has just been received from Senor Pascual Luna y Parra, who for many years was officially connected with the department of finance in Mexico under Diaz and Limantour and during other administrations, and which read as follows:

*To the Tax League of America.*

GENTLEMEN: In response to your request for information on the subject of the operation of the sales-tax law in Mexico, I take pleasure in saying that a general sales-tax law imposing a small tax on sales of goods, wares, and merchandise has been in existence, continuously since February 14, 1856, under the administration of President Comonfort, and has continued under the administration of President Benito Juarez, Sebastian Lerdo de Tejada, Porfirio Diaz, and subsequent administrations, and has uniformly yielded satisfactory results. The amount of the tax at present is one-half of 1 per cent. This tax has been in existence so long and the people have become so thoroughly accustomed to it that it is collected without friction or difficulty of any kind and on account of the amount being so small the consumer pays it unconsciously. It is economically collected and uniformly produces a very important item of the revenue. My recollection is that the revenue from this source amounts to about 10 per cent of the total income of Mexico, not taking into account the export tax on petroleum, which has reached an exceptional amount in late years, due to unusual production. It must be observed that this sales tax could produce more, and assuredly would, if it were possible to collect it from the Indians, who form at the present time about two-thirds of the population of Mexico; the majority of these escape payment of the tax through lack of education or through insufficient means of communication.

I was for many years connected with the treasury department of Mexico in several official capacities under the administration of President Diaz, when Mr. Jose Yives Limantour was secretary of the treasury, and in subsequent administrations, and, consequently, I am familiar with the revenue laws of Mexico.

I shall be pleased to furnish you with whatever information I can on the subject at any time.

Very sincerely, yours,

PASCUAL LUNA Y PARRA.

NEW YORK, April 15, 1921.

Actual experience over a long period of time in the above-mentioned countries furnishes a clear refutation of many of the dire predictions set forth by the opponents of this plan.

## THE CANADIAN EXPERIMENT.

Canada has also adopted a sales-tax law in a limited way, and has found it to work well. Our information is that the Canadian Government is seriously contemplating extending the scope of this law.

In response to an inquiry dated December 6, 1920, from the Hon. Joseph W. Fordney, chairman of the Committee on Ways and Means of the House of Representatives, Hon. George W. Taylor, assistant deputy minister inland revenue, wrote on December 9, in part:

"From indications based on returns of collections to date, it appears that unless there is a very great reduction in the volume of domestic trade during the balance of the present fiscal year, the total amount of collections through the medium of this tax will meet the expectations held by the Government at the imposition of the tax.

"It has been found that the levying of the sales tax has caused no appreciable disturbance of markets or market prices; no undue enhancement of costs, as reflected in index figures, is discernible.

"Judging from the paucity of complaint and the number of commendations expressed, the principle of the sales tax, being virtually a tax at the origin, appears to be universally acceptable to the Canadian people. As a matter of fact, observations of the department indicate that the sales tax is a popular innovation in the production of revenue.

"The initiation of so new a form of taxation was, as might be expected, attended at the outset by considerable difficulty, which, however, has now been almost entirely eliminated, owing to the close cooperation of the public with the department."

In this connection, we wish to quote from a recent statement made by Sir Edmund Walker, president of the Canadian Bank of Commerce. Sir Edmund Walker is perhaps the leading citizen of Canada and is an authority on the subject of finance and taxation of international repute. His statement is as follows:

"A small tax on the sales of commodities and real property in Canada would hurt so little, would be so fair, would be so easily collected, and would produce such a very large sum that to fail to levy it seems excusable only if it can be shown to be impracticable. We are levying heavy surplus-profits taxes, and many well-intentioned people think that we are justly punishing the so-called profiteer, but we are really killing the goose that lays the golden egg. When he can do so, he doubtless passes the tax on to the consumer and escapes punishment himself, and the tax thus becomes a boomerang as far as the public are concerned. If we clearly know what we mean by a profiteer and can find him, let us punish him in such a manner that the penalty imposed can not be passed on to the ultimate buyer. But in ordinary cases we are taking from enterprise the profit with which further enterprise would be created. It is from the accumulated profits of a business that growth both of plant and scope of operations mostly becomes possible. What do we think will happen if we steadily take such a large share of that profit away? It will be said that some concerns make too much money. But, as we argued a year ago, that should be demonstrated by the relation not of profits to capital but of profits to turnover, measured again by the proportion of possible turnover to capital. The manufacturer who turns his capital over many times, serving the public for a trifling profit on each sale, but making a large return on his capital because of his skill and activity, should surely not be punished by excessive taxation for being an excellent servant to the people. The tax is universally admitted to be unscientific and will do incalculable damage if continued. It was justified only by war conditions and only for the period of their duration. The surtax features of the income tax when carried to the extreme percentages now in effect, are little less unwise and unfair than the excess-profits tax. Those who are large shareholders in business enterprises should be ready to take up new share issues in such enterprise, as extension may prove necessary. Taxation which first takes a large share of the profits from the company, and then a large share of the dividends of the same company because they happen to be part of a large private income, may seem to be sound policy to many, but if what we seek is the general good, it is deadly in its effect upon business enterprise and industry.

"I believe every good citizen in Canada wishes to pay for part of the cost of the war. He only desires that his ability to pay shall be regarded.

"A tax on the turnover of all business transactions would punish no one, and yet would mean the reaching of a most important substratum of the national income in the creating of which everybody has joined." \* \* \*

"While we must for the time being levy enough taxes in some form to pay our interest charges and to make, as we hope, some steady if slow reduction of the national debt, we should always bear in mind that it is only by the growth of our national income that we can expect again to reach a time when taxes will not be a drag upon our prosperity."

#### THE PLAN WILL OPERATE EQUITABLY WHEN SUPPLEMENTED BY AN INCOME TAX.

The opponents of this plan have put forth numerous objections to it, only two of which, in our opinion, are worthy of serious consideration. The contention that the sales tax will have the effect of giving the large self-contained corporations a further advantage over their small competitors is a serious one, as is also the contention that, standing alone, taxation under this plan would weigh proportionately heavier upon the poor than upon the rich.

The last contention we believe to be effectively met by the imposition of a judicious income tax with moderate surtaxes which would have the effect of throwing upon the rich and prosperous their fair share of the burden. The manner in which those who have larger incomes would be taxed through the income tax would provide for the difference in treatment which modern taxation recognizes.

Justice and expediency alike demand that the rich and prosperous contribute to the support of the Government in proportion to their abilities to do so—that is to say, in proportion to the revenue which they enjoy under the protection of the Government. But there is a limit to which the burden of taxation can be thrown upon the shoulders of the wealthy classes. If it is sought to throw the entire burden upon their shoulders

or to tax them disproportionately, the result will be that they will withdraw their money from the field of productive investment and enterprise and invest it in tax-exempt securities, of which about fourteen billions are in existence in this country. This would not only defeat the object in view, but, what is more important, would be fatal to the growth and development of enterprise which is absolutely essential to the immediate prosperity and ultimate welfare of the Nation. Enterprise is mainly expanded and developed from the profits of business, and if they are diverted into other channels for budget purposes, enterprise will be halted. That it is absolutely necessary to permit the Nation to grow and develop and expand industrially is too obvious for discussion. This is a necessity from every point of view, and especially from the point of view of labor, which receives about 50 per cent of our national income from all sources. A substantial portion of profits must be permitted to go into the expansion of plant and the development of new business or enterprise will stop, labor will suffer, and our enormous burden of taxation will be too heavy to be borne.

#### THE CASE OF THE SELF-CONTAINED CORPORATIONS.

Now, as to the argument in regard to the self-contained corporations we have this to say: In the first place, in a large majority of cases, such corporations are composed of small companies which operate in the various branches of the industry with which the larger corporation deals. These intercompanies naturally keep their own books and could, without any extra provision of law, be compelled to pay the turnover tax as the merchandise passes from one to the other. In the instance where there are no intercompanies the law could draw a line between the various stages of production and arbitrarily impose a turnover tax which would substantially correspond to the tax paid by the smaller operators who are forced to go into the market for their commodities. Furthermore, it must be borne in mind that these small corporations are now and have for some years been able to hold their own in competition with the very large ones, and it is not believed that even the addition of 1 per cent would materially modify their status. Careful calculations show that at most the advantage gained by the big corporation would not exceed  $1\frac{1}{2}$  per cent, and in the great majority of cases would be less than 1 per cent. As a rule, by reason of the fact that the small concerns concentrate and specialize on a single branch of manufacture or industry, they become more efficient than the larger corporations and hence are able to hold their own in the field of competition. Furthermore, it is generally agreed among business men that in normal times there is a variation among producers of all classes, both large and small, of from 5 to 20 per cent in the cost of production and likewise in distribution. In view of this fact, it is clear that a further variation of 1 per cent, or even  $1\frac{1}{2}$  per cent, one way or the other would not materially affect results.

In the event it becomes necessary, we believe it is possible for the law to draw a line between the so-called raw material and manufactured products and, again, between the sale of such manufactured products to retail establishments owned by the same companies and impose a turnover tax accordingly. We realize the difficulties which attend the proper solution of this problem, but when one considers the difficulty of carrying out any form of taxation it seems absurd to be debarred from testing out the plan under consideration by this difficulty alone.

#### THE TAX DOES NOT PYRAMID.

In this connection we desire especially to call attention to a point which is of vital importance in this discussion and regarding which there is general misapprehension. It is this: There is a general feeling that in many lines of industry the turnovers are so numerous that the sales tax will pyramid and accumulate until it becomes a very considerable amount. This is not true. It has been demonstrated by mathematical calculation that in industries where the turnovers are the most numerous the tax will amount at most to only  $3\frac{1}{4}$ . This can only be understood by a study of the actual figures, and we have resolved to call your attention to actual computations in three instances: First, in the manufacture of a suit of clothes; second, in the manufacture of a rubber tire; and, third, in the manufacture of a pair of shoes.

It will be observed that in the creation of a suit of clothes there are normally seven turnovers and that the total tax amounts to about  $2\frac{1}{2}$  per cent. In the case of the fabrication of a rubber tire there are 11 turnovers, which accumulates a tax of only  $3\frac{1}{4}$  per cent. In the manufacture of a pair of shoes, there are six turnovers and the total tax amounts to  $3\frac{1}{4}$  per cent. If you will be good enough to study these figures it will aid greatly in the understanding of the practical operation of the sales tax as applied to industries in which there are a large number of turnovers. These figures

have a direct and important bearing upon the above-mentioned argument relating to self-contained corporations. Under the most unfavorable conditions the tax would give the large corporations only a slight advantage over their smaller competitors. The computations above referred to are as follows:

On a suit of men's clothing retailing at \$60 (furnished by Mr. William Goldman, of New York):	Tax at 1 per cent.
Raw wool in the grease, value about \$6.50.....	\$0. 0650
The wool dealer has the wool scoured and sells it to the spinner at, say, \$8.	. 0800
The spinner converts it into yarn and sells it to the cloth manufacturer for, say, \$10.....	. 1000
The cloth manufacturer weaves it into cloth which he sells for about \$4 a yard, \$13.33.....	. 1333
Trimnings, linings, etc., have a value of about 50 per cent of the value of the cloth and have gone through the same processes of conversion as the wool has to the finished cloth. The tax on these would therefore be 50 per cent of the sum total of the foregoing taxes, or.....	. 1891
These materials are converted into a suit of clothes by the manufacturer, who sells it for \$40.....	. 4000
This suit is sold at retail for \$60.....	. 6000
<b>Total tax on price for consumption.....</b>	<b>1. 5674</b>

Or 2.61 per cent of the price to the consumer.

On a rubber tire, 30 by 3½ cord tire retailing at \$35.10 (furnished by Mr. Horace DeLisser, president of the Ajax Rubber Co.):	Tax at 1 per cent.
Crude rubber used, at importation cost, \$5.35.....	\$0. 0535
Raw cotton, used as imported, \$3.....	. 0300
Raw cotton used, domestic growth, \$0.40.....	. 0040
Imported cotton into yarn, \$1.20.....	. 0420
Domestic cotton into yarn, \$0.80.....	. 0080
Yarn into fabric, \$5.50.....	. 0550
Yarn into fabric, \$1.....	. 0100
Miscellaneous pigments, \$0.70.....	. 0070
The above materials converted into tires by the manufacturer, who sells them to the franchise dealer, \$28.45.....	. 2845
The franchise dealer sells them to the dealer, \$29.90.....	. 2990
Dealer sells them to consumer, \$35.10.....	. 3510
<b>Total tax on price of consumption.....</b>	<b>1. 1440</b>

Or 3.259 per cent of the price to the consumer.

On a pair of men's shoes retailing at \$7 (furnished by Mr. R. P. Hazzard, of Gardiner, Me., Jan. 11, 1921):	Tax at 1 per cent.
Raw hide, raw material, etc., \$1.56.....	\$0. 0156
Tanner sells leather for, \$2.82.....	. 0282
Leather and findings are sold, \$3.13.....	. 0313
Manufacturer sells pair of shoes to jobber, \$3.88.....	. 0388
Jobber sells to the retailer, \$4.67.....	. 0467
Retailer sells to consumer, \$7.....	. 0700
<b>Total tax.....</b>	<b>. 2306</b>

Or 3.3 per cent of the retail price to the consumer.

It thus appears that the contention that, in the course of production the sales tax will grow and increase like a rolling snowball and be used by individual merchants as a pretext for pyramiding, as is done in the case of the excess-profits tax, is without foundation. We say this for the reason, first, that the amount is small, and, second, it is fixed, so that the pretext for pyramiding would not exist as in the case of the excess-profits tax, where the amount in question is unknown and uncertain. In the latter instance the merchant has not only a good pretext but a splendid opportunity to augment the selling price to an extent far beyond what the facts warrant. Furthermore, the merchant will know that the public who pays this tax will not tolerate its being pyramided; and he will also know from his recent experiences that it is not to his interest to do so and thus raise prices to an abnormally high standard. More conclusive, however, than all of the foregoing is the fact that in the countries where this law is in operation the tax is not pyramided. This is an actual fact and will not be disputed.

## THE TAX IS ALMOST INVARIABLY SHIFTED

There can be no question that the sales tax can be and generally is shifted. This assertion is based upon the experience of those countries in which the plan has been in operation. It is natural that this should be so. The tax is small, and it is understood by all that in the end it is to be paid by the ultimate consumer. Some merchants raise the point that it is impossible to add the tax in those instances where the cost of the article is very small. This is true. In such cases the tax can be treated as an overhead charge and added to articles which can stand the additional burden. The Government is not interested in how the merchant handles the tax. It is only interested in collecting 1 per cent of the proceeds of his total sales. In this connection there is one point which should always be borne in mind, namely, that in the matter of shifting the tax all merchants are on identically the same footing. No one has an advantage over the other.

## CONCLUSION.

It is the contention, therefore, of the Tax League of America that in view of all the circumstances surrounding the situation, namely: The breakdown of the present profits system of taxation; the huge amount of money necessary to be raised for the maintenance of the Government for a number of years to come; the small amount of revenue to be raised from the protective tariff; the inadequacy of the plan proposed by the Secretary of the Treasury; the absolute necessity for the expansion and growth of our industry and the development of new enterprises, to the end that prosperity may return; that the imposition of a moderate sales tax on the gross proceeds from the sales of all goods, wares, and merchandise has become a necessity. In our humble opinion, there is no other way out.

In conclusion permit us to say that the Tax League of America is made up of no special group of men and represents no special interest. It is composed of business men from various sections of the country and was organized primarily for the purpose of bringing the merits of the sales tax plan to the attention of the Congress and of the country, in the belief that the incorporation of it into our fiscal system would be the surest and most equitable way of raising the necessary revenue to meet the abnormally large demands of the Government at this critical time and of hastening the return of an era of general prosperity. We appeal to no party or class or section. We impugn no motives. We submit our case solely upon its merits. We realize fully the vexations and difficult circumstances under which Congress is called upon to solve this great problem. We believe the plan we propose has the sanction of experience and the support of reason, and we simply ask that Congress bestow that consideration upon it which the magnitude and importance of the subject demand.

## OFFICERS OF THE TAX LEAGUE OF AMERICA (INC.).

President, Hazen J. Burton, Minneapolis; first vice president, John Williams, vice president Irving National Bank, New York, N. Y.; second vice president, J. B. Vandevere, New York; treasurer, G. Searing Wilson, Philadelphia, Pa.

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 Leon Weinstock, wholesale meat, 240 Third Avenue, New York.  
 W. H. Whiting, president W. H. Whiting Co., New York.  
 Judge Lebbeus R. Wilfley, 27 Cedar Street, New York.  
 John Williams, vice president Irving National Bank, New York.  
 G. Searing Wilson, Pennsylvania Building, Philadelphia.  
 H. K. Wood, president Wood Shovel & Tool Co., Piqua, Ohio.

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APPENDIX.

In the Senate of the United States, April 12, 1921, Mr. Smoot introduced the following bill, which was read twice and referred to the Committee on Finance.

A BILL To provide revenue and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as "the Sales-Tax Act, 1921."*

TITLE I.—GENERAL PROVISIONS—DEFINITIONS.

Sec. 2. That when used in this act—

The term "persons" includes individuals, partnerships, corporations, and associations;

The term "Secretary" means the Secretary of the Treasury;

The term "commissioner" means the Commissioner of Internal Revenue; and

The term "collector" means Collector of Internal Revenue.

TITLE II.—SALES TAX.

Sec. 201. That in addition to all other taxes there shall be levied, assessed, collected, and paid upon all goods, wares, or merchandise sold or leased on or after July 1, 1921, a tax equivalent to 1 per centum of the price for which so sold or leased; such tax to be paid by the vendor or lessor.

Sec. 202. (a) That this title shall not apply to sales and leases made during any year in which the total price for which the taxable sales and leases are made does not exceed \$5,000.

(b) In computing the tax due under this title every taxpayer shall be entitled to an annual exemption of \$5,000.

(c) In any case where the full amount of the exemption is not claimed in computing the tax due for the first quarter, the part not so claimed shall be deducted in computing the tax due for the second quarter or succeeding quarters. For the purpose of this act the first quarter shall be the months of July, August and September; the second quarter, the months of October, November and December; the third quarter, the months of January, February and March; and the fourth quarter, the months of April, May and June.

(d) The taxes imposed by this title shall not apply to sales or leases made by (1) the United States; (2) any foreign government; (3) any State or Territory, or political subdivision thereof, or the District of Columbia; (4) any mutual ditch or irrigation company; (5) any hospital; or (6) Army and Navy commissaries and canteens; or (7) any corporation organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual.

(e) The taxes imposed by this title shall not apply to sales or leases of articles taxable under Title VI or VII, or paragraphs (1), (2), (3), (12), and (20) of section 900 of the revenue act of 1918.

(f) Under such rules and regulations as the commissioner, with the approval of the Secretary, may prescribe, the taxes imposed by this title shall not apply in respect to articles sold or leased for export and in due course so exported.

SEC. 203. That in computing the taxes imposed by this title no credit shall be allowed for any tax reimbursed or paid in any manner to any person in connection with any previous transaction in respect to which a tax is imposed by law.

SEC. 204. That every person liable for any tax imposed by section 201 shall make quarterly returns under oath in duplicate and pay the tax imposed by such section to the collector for the district in which is located the principal place of business. Such returns shall contain such information and be made at such times and in such manner as the commissioner, with the approval of the Secretary, may by regulation prescribe.

The tax shall, without assessment by the commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due there shall be added as part of the tax a penalty of 5 per cent, together with interest at the rate of 1 per cent for each full month from the time when the tax became due.

SEC. 205. That in the case of an overpayment of any tax imposed by this act, the person making such overpayment may take credit therefor against taxes due upon any quarterly return.

SEC. 206. That the commissioner, with the approval of the Secretary, is authorized to make all needful rules and regulations for the enforcement of the provisions of this act.

The commissioner, with such approval, may by regulation provide that any return required by this act to be made under oath, may, if the amount of the tax covered thereby is not in excess of \$10, be signed or acknowledged before two witnesses instead of under oath.

SEC. 207. That on and after July 1, 1921, sections 628, 629, 630, 902, 904, 905, 907, and 900, except paragraphs (1), (2), (3), (12), and (20), are repealed, except that such sections shall remain in force for the assessment and collection of all taxes which have accrued thereunder and for the imposition and collection of all penalties which have accrued and may accrue in relation to any such taxes.

#### STATEMENT OF HENRY G. OPDYCKE, VICE PRESIDENT TAX LEAGUE OF AMERICA, NEW YORK, N. Y.

The CHAIRMAN. What business are you in?

Mr. OPDYCKE. Civil engineering.

The CHAIRMAN. Where do you reside?

Mr. OPDYCKE. My residence is Bound Brook, N. J. My business is in New York.

The CHAIRMAN. What is your business?

Mr. OPDYCKE. Civil engineering. I am also the managing director of the Broadway Association in New York.

#### BRIEF OF HENRY G. OPDYCKE, REPRESENTING THE TAX LEAGUE OF AMERICA.

I desire to complete the record regarding the organization of the Tax League of America mentioned in the testimony of Judge Willsey.

Sixteen months ago a member of the Broadway Association brought to the attention of the executive committee the unfair tax situation in relation to a sale of some of his property on Broadway. This led to an investigation of the situation by the Broadway Association, and at the quarterly meeting of the association held on June 29, 1920, a special taxation committee was appointed to take action in the matter.

This committee determined that by reason of the fact that this was a Federal matter decided to organize a special and separate organization for the purpose of investigating the tax situation. The Tax League of America was incorporated on August 31, 1920, under the laws of the State of New York, with its first directorate selected by the Broadway Association, and which included the members of its taxation committee. The business organization was completed by the election of officers on February 16, 1921, and is now composed of 560 business men residing in 24 States of the Union, and who have evidenced their interest in the sales tax by a contribution for its support averaging about \$50 each. The president of the organization is Hazen J. Burton, of Minneapolis, Minn., and the vice presidents are John Williams and J. B. Vandever, of New York, and the treasurer is G. Scaring Wilson, Philadelphia, Pa.

I also desire to file with you at the request of our president a brief digest of fundamental economic principles and the opinions of leading taxation authorities on the sales tax, which pamphlet contains considerable valuable information which has not yet been brought to the attention of this committee. I have filed 100 copies of this pamphlet with the clerk of the committee:

**A BRIEF DIGEST OF FUNDAMENTAL ECONOMIC PRINCIPLES AND OPINIONS OF LEADING TAXATION AUTHORITIES.**

**A SALES OR TURNOVER TAX IS NOW THE ONLY LOGICAL SUBSTITUTE FOR ALL BUSINESS TAXES.**

[An address prepared for the Six O'Clock Club of Minneapolis, April 11, 1921, by H. J. Burton, president Tax League of America, Plymouth Building, Minneapolis.]

To the 500 thinking men in 16 States who have spontaneously initiated the Tax League of America, for diffusion of economic knowledge, to the end that governmental business shall be conducted on the same high plane as they strive for in the direction of their individual affairs, this digest of basic principles is respectfully dedicated.

**OPINIONS OF LEADING AUTHORITIES ON SALES TAX.**

Two excerpts from the comprehensive Sales Tax Primer, issued by Business Men's National Tax Committee, address 6 West Forty-eighth Street, New York City.

Question. Does the experienced business man fear that any definite tax can not be shifted if it is to his interest to shift it?

Answer. He does not. He has been shifting taxes, rent, salaries, and other operating expenses in the past, and the adoption of a small turnover tax in place of all other taxes on business will simply mean that he will shift the small definite tax instead of a large and indefinite tax.

Question. How would the consumer benefit by the adoption of the general gross sales or turnover tax in place of the profits taxes?

Answer. Under our present system of profits taxes, and under any system of taxation which imposes substantial profits taxes, these pyramided taxes grow as each turnover is made from raw material to the sale of the finished goods to the consumer.

The Department of Justice, in making investigations under the Lever Act, came to the conclusion that the pyramided profits taxes added 23.2 per cent to the price to the consumer. The taxation committee of the National Retail Dry Goods Association, composed of treasurers and controllers of some of the largest department stores in the country, has published the statement that every dollar spent by the consumer pays for 75 cents worth of merchandise and 25 cents worth of pyramided profits taxes.

The general gross sales or turnover tax not exceeding 1 per cent, which is offered as a substitute for the present system of complicated profits taxes, will not take over 3¼ cents of the consumer's dollar for taxes.

This statement is substantiated by several examples worked out by dealers in goods of universal use:

**BY SUBSTITUTING THE SALES TAX THE SAVING IN TAX COSTS TO ALL CONSUMERS ALIKE AVERAGES 20 PER CENT ON ALL PURCHASES.**

This saving is independent of any price fluctuations in commodities caused by the law of supply and demand.

Authorities on the sales tax emphasize the point that this 20 per cent tax cost difference between the pyramided existing Federal taxes and the pyramided 1 per cent sales tax must surely continue to hold down and depress the prices of wheat, wool, cotton, and all basic farm products, as well as to hold up and perhaps advance again retail prices of finished goods to ultimate consumers.



This economic cause works entirely independently of the daily fluctuations in basic prices caused by the law of supply and demand, and continues to work until the existing tax obstructions are all removed by the substitution of one simple sales tax to all alike with no class exemptions and so widespread and diffused by competition as to be almost negligible as a price factor.

The immediate result of legislation substituting the sales tax will be to reduce the overhead costs by 20 per cent of all the intermediate manufacturers and distributors, thus restoring normal relations between producer and consumer, and stabilizing and stimulating all trade and commerce by clearing from the track the chief economic obstacle to the restoration of prewar prices.

"Trade and commerce," said Thoreau, "if they were not made of india rubber, would never manage to bounce over the obstacles which legislators are continually putting in their way; and, if one were to judge these men wholly by the effects of their actions and not partly by their intentions, they would deserve to be classed and punished with those mischievous persons who put obstructions on the railroads." \* \* \* "Let every man make known what kind of government would command his respect, and that will be one step toward obtaining it."

#### BULLOCK ASSAILS PRESENT TAX SYSTEM.

Charles J. Bullock, professor of economics at Harvard University, chairman of the committee on economic research, and former president of the National Tax Association, assailed the present system of taxation in this country in an address delivered at a dinner of the certified public accountants of Massachusetts at the Exchange Club in Boston. He said in part:

"The policy of taxation followed by our Government during the war was such that if the war had not ended when it did the country would have been broken wide open. It is a destructive, ruinous, and wicked policy that would have killed the Government and financial structure of this country within another year. Take the case of the many industrial houses that to-day are either bankrupt entirely, or in the hands of their banks. It was a case of the survival of the least fit.

"Taxation such as that under which we are at present suffering can never be enforced as written; it creates a nation of liars. The effect on the tax payer is alarming in the extreme. The present tax would almost wholly become a tax on honesty if it is allowed to continue.

"I have never heard any logical objection to a sales tax," concluded Prof. Bullock, "and I offer it as the sane and logical solution of this country's greatest problem."

The following excerpts are taken from a series of articles on taxation by Prof. T. S. Adams, ex-chairman of the Federal Tax Advisory Board, also former president of the National Tax Association, published in the New York Evening Post in July and August, 1920.

NOTE.—Due perhaps to his advisory position in the Federal service he has been regarded as the chief defender of the present Federal tax system and an opponent of the sales tax who is entitled to rank among the notable economists of the day.

In our digest of opinions we have tried to fairly present Prof. Adams's principles as an economist, and have taken more space for an opponent than for any other authority, finding him, however, clearly and eloquently in accord with all the other authorities until we reach the paragraph on page 8 under the heading "For interest of all classes," wherein he seems to ignore economic laws and descend to politics, saying:

"It (tax reform) must appeal not only to intelligence and patriotism but to the self-interest of certain important classes, which, if they are not powerful enough to get what they want in the field of taxation, are yet powerful enough to block and veto what they do not want. The agricultural and laboring interests are likely to resent not only reduction of the surtaxes, but particularly the repeal of the excess-profits tax."

To the Tax League of America this remark seems to be not strictly in the line of duty of a university economist. It is a departure into the realm of demagogic politics, which too frequently disregards facts. It is a reversion toward bolshevism. It grossly misjudges the American farmer and the skilled laborer, as was proven at the last presidential election.

A teacher of economic truths ought, in our opinion, to state and explain facts to the voters and in this case to quote the findings of the Department of Justice, which will be stated and restated on the following pages, to wit: That the present pyramided taxes indirectly add 23.2 per cent to the price to the consumer. The sales tax advocates prove by a number of examples that sales tax not exceeding 1 per cent will only add at maximum 3½ per cent to consumer's prices. This is a plain matter of arithmetic. We appeal from Adams the politician to Adams the economist.

## INVITING DISASTER.

Prof. Adams, the economist, says:

"Friends of the income tax, advocates of 'liberal democratic finance,' should be the first to advocate a change in this situation. To attempt to take in one tax 60 to 70 per cent of the net income, when the taxpayer has, in addition, State and local taxes to pay, is to invite disaster. It must mean eventually the demoralizing and breakdown of the income tax itself. We are hitching a thoroughbred racer to a loaded dray and asking him to run a mile in two minutes. The general property tax has become a byword and a mockery largely because it has been forced to carry burdens heavier than it can bear. Great Britain has stretched income taxation to the uttermost and has set the pace in the use of other radical taxes, but she attempts no such impossible feat as the collection of income taxes in excess of 70 per cent. The British taxes are about four times as heavy as our own upon incomes in the neighborhood of \$10,000. At \$50,000 they are more than twice as heavy. At \$400,000 the rates become about the same, but the British tax stops at something under 60 per cent, while our taxes rise to a corresponding maximum of 73 per cent.

"One may predict with more confidence the eventual breakdown of such a system when it is remembered that there are outstanding more than \$6,000,000,000 (\$14,000,000,000 to \$17,000,000,000 in 1921?) of municipal bonds and other tax-free securities in which wealthy taxpayers may invest with no fear of taxation. Or they can place their money in speculative investments, the fruits of which will be garnered, if at all, far in the future." (Adams.)

## REPEAL EXCESS-PROFITS TAX.

"A great deal might legitimately be said, if space permitted, in favor of the excess-profits tax. But it is not enough. The tax should be repealed at the close of the year 1920. It should be repealed because it is breeding a political scandal; because it taxes corporations by an entirely different method from that applied to partnerships and individual business men, sometimes taxing one class heavier than the other, and again reversing this situation; because it penalizes conservative corporations and rewards their less conservative and less scrupulous competitors; because it exempts in whole or in part many overcapitalized trusts; because by its uncertain and unequal burdens upon business it is injuring every wage earner and salaried man, every stockholder and consumer whose interests can be adversely affected by the unnecessary bedevilment of business; because corporation taxpayers since the beginning of the war have played the game and stood the gaff, have fairly earned and may confidently ask the right to pay whatever share of taxes is decided to be their due by a tax which is simpler, more certain, and less capriciously unequal than the excess-profits tax." (Adams.)

## LOW RATE OF SALES TAX.

"The conglomerate group of sales taxes which we employed during the Civil War did not on the whole work satisfactorily. However, it is fair to infer that the failure of these taxes was due very largely to the heavy rates at which they were imposed; and the 1 per cent sales tax now imposed in the Philippine Islands is said by competent authorities to be a successful and satisfactory tax.

"A very great deal may fairly be said in favor of this proposal. The sales tax would perhaps possess the three greatest practical virtues which a tax can have; it would carry a very low rate; it would be highly productive, and the taxpayer would know with certainty the amount which he was expected to pay. If shifted to the consumer, as it is usually but not always predicted by its advocates, it would be paid piecemeal in small amounts as purchases were made. It would reduce the excessive dependence of the Treasury upon various forms of income taxation. These are great virtues, and the low rate itself may fairly be said to counterbalance many of the weaknesses to which the sales tax, in common with all other taxes, is subject." (Adams.)

## THE BACK TAXES.

"The literal truth is that the existing revenue law as it affects many large corporations, particularly affiliated or consolidated corporations, is so complex that it would probably take 15 years to work out formal legal answers to every one of the intricate questions which have arisen.

"Some day these cases must be closed. It is only a question whether they shall be taken up promptly and consciously disposed of in a settlement involving certain elements of arbitration and compromise or whether they shall drag their weary length

along for years and finally peter out in the hands of some obscure clerk—because it is physically impossible for the courts to settle all of the subtle questions which the application of the law arises.” (Adams.)

#### A “SUSPENDED AVALANCHE.”

“It is to the writer at least a matter of some surprise that the country has not awakened to the danger of this situation. Thousands of business concerns, particularly corporations, must some day be confronted with large additional tax bills for the war period. These ‘heavy but indefinable future obligations,’ as Secretary Houston has called them, hang like a suspended avalanche over American business.

“The back taxes, it has been said, hold the key to the entire tax problem, not only because they point the way to some of the additional revenue which we are seeking, but because they reveal an administrative machine at the limit of its capacity, make clear the imperative necessity for simplification of the tax law, and create a strong presumption against any revision or ‘reform’ which would increase the administrative burden. The simple truth is that the burden now carried by the Bureau of Internal Revenue must be reduced, or the administrative machine will crack. Existing tax laws must be simplified; it would be worse than folly to add new complexities.” (Adams.)

#### SIMPLICITY OF SALES TAX.

“This has a most important bearing on the sales tax proposal. In the long run a general sales tax in place of the income and profits taxes would greatly simplify the work of the Bureau of Internal Revenue. But if we abolish these taxes next week, the best brains and strength of the Bureau of Internal Revenue would still be occupied with income and profits taxes for two years or more.” (Adams.)

#### HIGH COST OF LIVING.

“However, the average critic of the excess-profits tax is not interested in economic theory. He is confronted, he says, with a condition and not a theory. He charges, not that the excess-profits tax may increase the cost of living at some indefinite time in the future, but that the present cost of living is in a large measure due to this tax, and he suggests or plainly says that if the tax were repealed the cost of living would be in even greater measure reduced.

“A particularly conscientious and candid business man, said a few months ago: ‘We have a sellers’ market. I can get pretty nearly any price I ask. I originally planned to put our prices about 20 per cent lower, but when I thought of the excess-profits tax I clapped on the 20 per cent.’ There can be no doubt that this case is fairly typical. But it means very little. Suppose this man had refrained from taking the 20 per cent, there is little or no probability that the rebate or reduction would have reached the ultimate consumer. It would almost certainly be absorbed by other dealers or handlers along the line of middlemen who intervene between producers and consumers. This fact is perfectly well appreciated by business men. One of the largest wholesalers in the Middle West said to me in 1919: ‘I am ashamed to take the prices which I am receiving. But if I did not take them the jobbers and retailers who distribute these goods will. If I thought the reduction would reach the consumer I would cut my prices one-third. Under the circumstances I have not the face to object to the excess-profits tax, although some of its detailed provisions are indefensible.’” (Adams.)

#### RECOGNIZED COST OF PRODUCTION.

“A very able accountant has said: ‘The excess-profits tax is being included in specifications and bids; it has become a recognized cost of production. This is why I think it is shifted to purchasers.’” (Adams.)

#### ADVANTAGES OF CONSUMPTION TAX.

“Financial history demonstrates that it is both permissible and necessary to utilize the great practical virtues of the better forms of consumption taxation. Such taxes are paid piecemeal, in small amounts as the consumer makes his daily purchases; their productivity is maintained in years of business depression, and while they will not enforce themselves they impose far less strain on the administrative authorities than income and profits taxes.

“Thus a well-known publicist in a recent statement argues strongly for taxation with a ‘low visibility,’ and concludes ‘that a consumption tax, sugar-coated so that it will not revolt the consumer, is the most satisfactory method that can be followed

to raise the revenue that we must have. But to be sugar-coated a consumption tax must be paid by the seller and included in the price charged, so that the buyer will not realize that he is paying a tax every time he purchases a paper of pins or a dozen eggs." (Adams.)

FOR INTEREST OF ALL CLASSES.

"But it is not enough that a proposed plan of tax reform should be practicable and based upon sound principles. If it is to be enacted into law it must appeal, not only to the intelligence and patriotism, but to the self-interest of certain important classes, which, if they are not powerful enough to get what they want in the field of taxation, are yet powerful enough to block and veto what they do not want.

"The proposed program will not appeal, at least on first examination, to the agricultural and laboring interests. They are likely to resent not only the reduction of the surtaxes, but particularly the repeal of the excess-profits tax.

"Despite this first reaction, in my opinion, it would be to the interest of the agricultural and wage-earning classes to acquiesce in the changes suggested. I make no special point here of the fact that farmers and wage earners are citizens of the United States, and as such deeply interested in the successful functioning of business, which is being crippled by excessive surtaxes and the maloperation of the excess-profits tax. And I shall not press the point that these taxes threaten to demoralize the entire system of income taxation, the successful maintenance of which is so vital to the political interests of the masses as distinguished from the classes. What I would urge here is the fact that the yield of the higher surtaxes and of the excess-profits tax is rapidly diminishing. Advocates of these taxes are clinging to a system which under their very eyes is changing from substance to shadow.

"In the long run a sales tax will be shifted to the consumer. That is theory, sound theory. But what we are now facing, in all probability, is a short run of two or three years of falling prices in many lines of production; and in these lines a sales tax is likely to be absorbed by the producer or dealer; i. e., by those dealers whose sales and profits are decreasing." (Adams.)

SUBSTITUTE SALES TAX.

"To many business men the preceding appeal will be wholly beside the mark. They do not accept the premise that a progressive income tax of some kind must be retained. They would substitute a general sales tax for both the excess-profits tax and the income tax on the ground that as practically all taxes are shifted to the consumer it would be foolish to retain complicated and difficult taxes such as the income tax. And, granting that the income and profits taxes are shifted, it is perhaps impossible to deny their conclusion." (Adams.)

FOR INCOME TAX.

"Abolish the income tax altogether or abolish the surtaxes and make it a flat tax, and many difficulties disappear. We would have no worries about the repressive effects of heavy taxes on savings and investments. All justifications for a tax on the undistributed profits of corporations would vanish. And there would be a strong, if not an unanswerable, argument for a general sales tax. Keep the surtaxes, however, and we must moderate the higher rates on saved income or it will flow inevitably into tax-free securities; there arises an unanswerable argument for some tax on corporations to balance or compensate for the surtaxes on the saved income and profits of individuals and we are plunged into all the niceties of defining income and deductions with which the public is so familiar.

"What is needed from the country is a clear mandate about the larger questions of policy; shall we pay our immediate debts or postpone them; shall we abandon the progressive income tax or perfect it; shall we blindly cling to the excess-profits tax or replace it, when, as appears plainly to be the case, it is beyond our powers to perfect it?" (Adams.)

Question. What is the economic justification of taxation of business?

Answer. Prof. Adams stated in his address to the National Tax Association, page 186 of Proceedings of Eleventh Annual Conference:

"The strongest reason for the retention and perfection of business taxation is found in experience and fiscal history. Business taxes are as old as organized business. They are all but universal throughout the world and show no tendency to disappear with the passage of time. We have hundreds of them in the United States. Frequently with us the necessity of taxing business is not frankly acknowledged, and all sorts of indirect efforts are made to accomplish the same end under the guise of

so-called franchise taxes, incorporation fees, corporate excess taxes, and the like. These are in reality forms of business taxation and, in my opinion, we shall never have even an approximately consistent scheme of taxation until the necessity for separate business taxation is recognized and imposed which are consciously designed to express the fiscal obligations of business as such.

From political and moral standpoints, the justification for this great class of taxes is plain. A large part of the cost of Government is traceable to the necessity of maintaining a suitable business environment. Historically, some writers maintain, the city has been evolved for the very purpose of fulfilling this function. Business is responsible for much of the work which occupies the courts, the police, the fire department, the Army, and the Navy. New business creates new tasks, entails further public expense. A small amount of new business may not show its influence at once upon public expenditures. The relationship between private business and the cost of the Government is a loose one, much like the relationship between the expenses of a railroad and the amount of traffic which it carries. The connection, however, is real and, in the long run, the more business the greater will be certain fundamental costs of Government. The industry which does not pay its due share of public expense is generally a source of weakness and not a source of strength. Surveyed from one point of view, business ought to be taxed because it costs money to maintain a market and those costs should in some way be distributed over all the beneficiaries of that market. Looking at the same question from another viewpoint, a market is a valuable asset to the social group which maintains it and communities ought to charge for the use of the community assets.

Finally, taxes upon business have great fiscal virtue as such. They are relatively inexpensive to collect and comparatively productive in yield. A given rate of taxation laid upon the business unit will usually yield a very much larger revenue than the same rate of taxation laid upon the individual owners of the business. \* \* \* In the taxation of a process so elastic and mobile as business there is necessarily present an element of the quid pro quo. You can not charge for access to the market in the long run more than such access is worth. It is for this reason you can not successfully or logically measure the business tax by property. There may be much property with little business or much business with little property. You can make shift, poor shift, with a property tax for this purpose if you will abandon the uniform rate, make all sorts of dickers with different classes of business, create franchises where there are no franchises, and manufacture with your fiscal imagination all sorts of intangible property based upon business, giving this intangible property a flickering, uncertain situs where the business is transacted. This is business taxation, but poor business taxation. Fortunately, however, we have already come to recognize this truth.

Question. Why is the gross sales tax at 1 per cent the proper substitute for all other taxes on all kinds of business?

Answer. Prof. Adams stated, page 189 of Proceedings, supra:

"Much in this connection can be said for a tax upon gross business. The supporting arguments in this connection are familiar; such a tax is not inquisitorial; it does not raise difficult questions about losses, depreciation, and the like; it is more easily allocated among competing jurisdictions than a tax upon net income. \* \* \* (The Government says:) 'You have come amongst us and have exploited our market; you have trafficked as much as your competitor; whether you have used your opportunity as well as he is not our concern. It is the gross volume of your trade which both represents your opportunity and causes our expense. Upon that you must pay.'"

NOTE.—Probably over 90 per cent of total national sales are made in the cities on account of their superior business facilities and concentration of opportunities. If the sales tax be not wholly shifted to the consumer, but assumed in part by the seller, the cities can well afford the slight discrimination against them in favor of the farmer, in view of the startling growth in the population of cities shown by the last census.

Question. Do taxation authorities favor the principle of tax-exempt bonds in considering income tax?

Answer. They do not. Prof. Bullock stated at the same (1917) conference, page 152 of proceedings, supra:

"It would have been very fortunate last spring if our Government had seen its way clear to issue bonds subject to taxation, enjoying no exemption of any description whatsoever, and had then been willing to go into the market and pay the current rate of interest. It would actually have meant money in the Treasury in the long run. And it would also have avoided the unfortunate result of creating in the community a class of people who, in accordance with the terms of their contract made with the Government, are exempted from ordinary taxation. Just at present this difficulty does not impress us as very important. It seems more important to get

the bonds sold, and it seems not to matter so much how they are marketed. But after the war if any politician, seeking to array one class against another class, points out that there are in the community millionaire bondholders who are exempt from the income tax, you want to remember that Uncle Samuel is responsible and that the millionaire bondholders are not to blame. They merely took the Government at its own terms; and the mistake which the Government made was trying to place its bonds at a lower rate of interest than it ought to have paid. It would have been vastly better to have issued a 5 per cent bond without any exemption from taxation; and if that bond did not go, it would have been better to make the rate 6 per cent. \* \* \* The important thing is to offer a rate that shall not create exemption from taxation, that shall in spite of the fact that the bonds are taxable carry them off the market; and then, having done that, reserve to the Government the right to begin the redemption of those bonds within a short period after the close of the war, when, the Government's circumstances having improved and its credit being better than it can be in time of such emergency, it is fair to presume that it can then replace war bonds by others running for a longer period and bearing a lower rate of interest."

At the thirteenth annual conference of the National Tax Association in 1920 the following resolutions were adopted by a practically unanimous vote:

"Resolved, That this conference is of the opinion that serious consideration should be given to devising some substitute for the present Federal excess-profits tax and securing the greatest practicable simplicity in matters of administration of Federal taxes."

"Resolved, That this conference is of the opinion that exemptions of private property or income from taxation should be confined within the narrowest possible limits."

Question. Why was Prof. Bullock's advice disregarded in 1917?

Answer. The enormous war demands of the Government for money were supplied under pressure in the United States regardless of economic principles and equality of taxation. Such hasty legislation has resulted in the present serious checks to enterprise by obstacles which trade and commerce can not overcome, obstacles which must not be permitted to become permanent.

It is very clear to business men, who create and determine values and who must be practical economists or fail in business, that all property must be protected by Government and should pay taxes in support of a good or better government, as follows:

1. A moderate, judicious tax on all personal individual incomes exceeding a moderate exemption to all alike.

2. A tax on all gross sales of not exceeding 1 per cent, with no exemptions whatever of any class of sales except to an amount not exceeding \$6,000 to all alike out of annual sales. This will assist small dealers and farmers and encourage thrift and enterprise among business beginners in their struggle with competition. Besides this sales tax there should be no other tax on business.

The correct valuation of property is its equivalent cash value at the time of sale, when both buyer and seller determine that it is for the best interest of each that such sale be made. This almost negligible 1 per cent tax may indeed be considered as an insurance premium for the continued value of the property by the continuance of the stable government without which property values would quickly disappear, and all sales would cease.

Every business man will welcome, as a substitute for the present unequal and complicated patch-work of tax legislation, a uniform 1 per cent rate of sales tax to all competitors alike on a property valuation determined by buyer and seller at time of sale, making a small tax on each individual business and individual consumption, with no exemptions to any competitor greater than \$6,000 of annual sales. This insures compliance with the basic economic principles of universality, equality of taxation, and ability to pay, as laid down by Adam Smith and John Stuart Mill and accepted by all subsequent taxation authorities, securing simplicity, collectibility, moderation, and permanence.

Question. What are some other basic principles of taxation which are closely obeyed in the proposed plan of sales tax at 1 per cent, but which were disregarded in the present Federal tax laws which were followed by the present business depression as effect follows cause?

Answer. Mill states, book 5, page 395:

"The tax which each individual is bound to pay ought to be certain and not arbitrary. The time of payment, the manner of payment, and the quantity to be paid ought to all be clear and plain to the contributor and to every other person.

"Every tax ought to be levied at the time or in the manner in which it is most likely to be convenient for the contributor to pay it.

"Taxes upon consumable goods are all finally paid by the consumer and generally in a manner that is very convenient for him. He pays for them by little and little as

he has occasion to buy the goods, as he is at liberty to buy or not to buy as he pleases. It will be his own fault if he ever suffers any considerable inconvenience from such taxes.

"Every tax ought to be so contrived as both to take and to keep out of the pockets of people as little as possible over and above what it brings into the public treasury of the State."

Page 397: "He who has twice as much property to be protected receives on an accurate calculation twice as much protection, and ought on the principle of bargain and sale to pay twice as much for it."

Mill states on page 416: "Overtaxation carried to a sufficient extent is quite capable of ruining the most industrious community, especially when it is in any degree arbitrary, so that the payer is never certain how much or how little he should be allowed to keep, or when it is so laid on as to render industry and economy a bad calculation."

On page 419 Mill states: "A peculiar taxation on the income of any class not balanced by taxes on other classes is a violation of justice and amounts to a partial confiscation."

On page 492 Mill deprecates overtaxation as follows: "Yet, mere excess of taxation, even when not aggravated by uncertainty is, independently of its injustice, a serious economical evil. It may be carried so far as to discourage industry by insufficiency of reward. Very long before it reaches this point it prevents or greatly checks accumulation or causes the capital accumulated to be sent for investment to foreign countries."

On page 488 of Walker's Political Economy it is stated of the best tax system: "How far it secures to the State the needed revenue with a minimum of irritation to the public mind with a minimum of expense and loss of collection, and with a minimum disturbance to trade and industry."

On page 502 he quotes Mr. McCulloch's Purely Economic Theory of Taxation: "The distinguishing feature of the best tax is not that it is most nearly proportioned to the means of individuals, but that it is easily assessed and collected, and is at the same time most conducive to the public interests," \* \* \* "collecting the revenue for the service by the most convenient, simple, and inexpensive means. By undertaking to effect an equitable apportionment of the burden through conflicting methods or by personal assessment you are not only likely to fail, you are certain at the best to add to the aggregate cost of the service and are in great danger of generating new and distinct evils by disturbing economic relations and obstructing the process of production and exchange."

Question. How do taxes tend to diffusion?

Answer. Walker states: "Taxes uniformly advanced on all like competing properties," says Mr. Wells, "will always tend to equate themselves and will never be a special burden to those who originally made the advances to the Government."

\* \* \* "It rests upon the assumption of perfect competition. It is true to the full extent only under conditions which secure the complete mobility of all economic agents."

Morley in his "Recollections," quotes Cobden as follows: "The base of your State," he urged, "in season and out of season, is economic; all depends on the soundness of national wealth. It is possible to be an economist without being a statesman, but you can not be a statesman without being an economist."

Hoover refers to the extraordinary growth of great national associations covering our entire country representing the special economic interests of the different classes. (Note: Banks, railroads, manufacturers, merchants, employees, wage earners, farmers, Government bureaucrats, etc.)

"If these powerful organizations expand their claims for special favor into a great conflict then the whole fabric of our national life has gone by the board. Hoover calls for cooperation, the initiative of the individual and service to all."

Question. How can the American farmer benefit by the substitution of a 1 per cent sales tax for all present taxes on business?

Answer. The cost of a good or better government is secured by this 1 per cent tax on all sales except farmers' products which are exempt for export. This Government tax cost of 1 per cent (3 per cent when pyramided) means a net saving of 20 per cent when compared with the present 23 per cent increase of cost to the consumer, resulting from the economic mistakes of the past four years. It will probably be saved twice over by the increased efficiency resulting from the constructive advice of our new Secretaries of Commerce and of Agriculture. The farmers comprise the largest number of business men, capitalists and employers of labor of any single class in this country. They have been indirectly the chief losers by faulty taxation. The American farmers are individualists by temperament and training. They are not slaves to political demagogues, and are only occasionally imposed upon by appeals to class prejudice.

They have a reason for resentment, says Mr. Barnes, former United States wheat director in his article entitled, "A straighter road to market," in the April number of *The Nation's Business*, as follows: "The economic collapse, which carried down the price of farm products along with the general commodity decline this fall, brought a pressure that spelled distress, loss, and disaster to the producer. Not able to gauge the world-wide economic currents that created the deflation, his resentment has flared hot against the market places where the deflation price has been recorded."

"During this period of deflation, the grain exchanges, daily and hourly, through a world-wide collapse in many commodities, furnished the trading place where at least there could be terminated on a moment's notice the liability which followed shrinking inventories. What would the dealer in leather, and wool, and textiles, and commodities of a thousand kinds, have given for such a market place: to be able to obtain a breathing space, at some sacrifice, instead of standing helplessly by and seeing the whole structure of values fall before his face without a chance to set a limit to the loss?"

"This demonstration in the possession of such a national protection and national asset in the grain marketing system has stimulated intensive study of the whole marketing structure."

"It is greatly desirable that the marketing tolls be not burdened with the maintenance of duplicated storage facilities of this country, and that instead a better utilization of the existing storage be worked out." Mr. Barnes has no hesitation in saying that there can be evolved, probably entirely by voluntary agreement with the owners of these facilities, such an improvement and extension of their service that it can be made to do these things:

1. Furnish adequate grain storage to growers desiring to move their grain from the farm into marketing position.
2. Give that grower adequately accrued negotiable evidence of the grain available for instant marketing at any time thereafter in his judgment.
3. Provide the grower with adequate borrowing power of a wider character than his local banker, because of the existence of this negotiable evidence.
4. Automatically set up the competitive buyers, thus carrying assurance, free of the local buyer's present monopoly, of a price fairly related to the terminal markets.
5. Furnish a ready appeal, without expense, from the single judgment of the local buyer regarding the grade and quality of his product.

These conditions seem to be so attainable and so effectively to reinstate the individualism of the grower, with a sense of fair play toward him, that Mr. Barnes has ventured to urge the creation of a National Marketing Commission to make these changes effective and to consider the extension of those and similar remedies into other marketings than grain. This may meet the approval of our new Secretary of Commerce.

"There is one analysis that can be applied with a safety and advantage in gauging the value of any suggested course. This rests on the fact that free competition readily established and adequately maintained, is a greater safety in preserving individual rights than is the judgment of any human authority or tribunal. If we can by test ascertain that competition is present, free of the influence of combination, free of dominance by any selfish interest, then we may be measureably sure that substantial justice is being commercially administered. The total of 1 per cent sales tax on all sales of a bushel of wheat from the farmer to the bread would increase the cost of a loaf of bread one-sixth of a cent to the consumer, as compared with the average 23 per cent which was the pyramided increase under excess profits and super tax laws."

Question. Does the economic law of supply and demand apply to the services of both labor and capital?

Answer. Prof. W. I. King, author of the *Wealth and Income of the People of the United States*, in a recent article entitled "Why wages are high or low," refers to the common assumption that the income accruing to the owners of capital is lost to the wage earner and general public. He discusses it as follows:

"One of the most common errors of students in this field is to assume that the share of the national income paid for the use of property is entirely lost to the wage earners. As a matter of fact, this is far from being the case. Everyone knows that many skilled workers and a still larger proportion of the salaried classes desire some income from property. The point which is commonly overlooked, however, is that the wealthy property owners consume but a small fraction of their total income. The rest of it is invested in industry, thus equipping each worker better and making him more effective. As a result, the products of industry grow more abundant and cheaper and the purchasing power of the laborer's wage is thereby increased. Thus, the income which the property owner invests this year increases the well-being of the laboring classes of next year. If this share of the national dividend now saved and



invested by the wealthy were instead paid directly to the laboring classes as wages, the chances are that most of it would be used for current needs, but little being saved. As a result, the laborers of to-day would gain, but the laborers of the future would receive reduced incomes because of the change.

"Large property owners, while not usually wage-earners, are frequently, nevertheless, because of their organizing and managerial ability, among the most effective laborers in the industrial world. A considerable reward is necessary in order to induce them to exert their best efforts and thus to maintain productive efficiency. It appears, therefore, that the only additional fraction of the national dividend which could be safely turned over to labor for current wages is that part used by the rich in the purchase of needless luxuries. While this is an immense sum in the aggregate, it is still not large enough materially to enhance the average wage rate.

"The ordinary wage-earners of Russia have made the most vigorous effort in recent history to profit by the confiscation of the property of the well-to-do and wealthy classes. The resulting paralysis of industry, with the dire poverty and even starvation resulting for those very working classes that the confiscation was intended to benefit, are facts too well known to require elaboration. It is clear that the workingman can not with safety destroy the equipment both tangible and intangible which aids him in production, and that, without the organizing ability of the captains of industry and the savings of the propertied classes, the equipment needed for production is hopelessly inadequate."

Politicians or others seeking to array one class against another class, and especially the farmer's business against the manufacturing business and the distributing business, should bear in mind that the continuance of a moderate personal income tax, (that will not drive away capital), is advocated by the proponents of the sales tax, and also a \$6,000 exemption to all alike, from these annual sales, subject to 1 per cent tax.

There is no evidence whatever that 1 per cent (3 per cent maximum pyramid) sales tax will increase existing prices to any consumer, if there are no other business taxes. On the contrary prices will decrease because the present actual pyramiding, due to existing taxes averages 23 per cent. Consequently the consumer should greatly profit by this difference of 20 per cent when present taxes are abolished, to say nothing of the restored business activity, healthy competition and permanent employment of labor which will create the demand for food products and manufactured articles alike.

Assuming, however, that the consumer, that is, everybody alike, does pay 1 or 2 per cent more for what he buys, and that one-half the buyers, or those who have no capital, have also to pay this 1 or 2 per cent as consumers.

Some mistaken Representatives in Congress greatly underrate the intelligence of their farmer constituents by claiming that they will not approve this minimum indirect tax to all alike, for the support of a wise and beneficent Government. Does any American voter, man or woman, feel proud of such a fact, if it be a fact, that not pay a cent, directly or indirectly, in support of the Federal Government?

Or proud of his representative in Congress who claims that that is what the farmer wants to say and vote?

On the contrary, let us quote a paragraph from the autobiography of the senior Senator of the great farming State of Wisconsin, who has long been very radical in his support of the poor man as compared with the rich, and whom no one has had the temerity to accuse of ignorance of facts and theories applicable to the business of law-making.

This paragraph in his chapter on "Taxation," reads as follows:

"When De Tocqueville said 'the most powerful and perhaps the only means of interesting men in the welfare of the country is to make them partakers in the Government,' he uttered a truth which applies quite as forcibly to Taxation."

#### ECONOMIC AXIOMS.

In Emerson's essay on "Wealth," economic truths appear like axioms, indisputable to any man or woman of common sense. It is easy to comprehend why the business men of this country, who well know that they must be practical economists or fail in business, are supporters of a simple "Sales tax and no other tax on business." The great majority of these business men, from the producing farmer to the distributing retailer know that they must depend upon the satisfaction of their customers.

At the last election they demanded that the Nation's business, the largest in the world, with a debt of \$24,000,000,000, should be run, in future, on sound business principles, both as to taxation and expenditures. Party politicians and demagogues can gain no advantage by misstating facts or principles any longer.

Emerson says: "The right merchant is the one who has just the average of faculties we call common sense; a man of strong affinity for facts, who makes up his decision on what he has seen. He is thoroughly persuaded of the truths of arithmetic.

"There is always a reason, in the man, for his good or bad fortune, and so in making money. He knows that all goes on the old road, pound for pound, cent for cent—for every effect a perfect cause—that good luck is another name for tenacity of purpose. He insures himself in every transaction, and likes small and sure gains. Probity and closeness to the facts are the basis \* \* \*

"Political Economy is as good a book wherein to read the life of man and the ascendancy of laws over all private and hostile influences as any Bible which has come down to us. \* \* \*

"Wealth brings with it its own checks and balances. The basis of political economy is noninterference. The only safe rule is found in the self-adjusting meter of demand and supply. Do not legislate. Meddle and you snap the sinews with your sumptuary laws. Give no bounties. (Note: No tax exemptions to any class.) Make equal laws, secure life and property, and you need not give alms. Open the doors of opportunity to talent and virtue and they will do themselves justice and property will not be in bad hands. In a free and just commonwealth, property rushes from the idle, and the imbecile to the industrious, brave, and persevering. \* \* \*

"The level of the sea is not more surely kept than is the equilibrium of value in society by the demand and supply. And artifice or legislation punishes itself by reactions, gluts and bankruptcies." \* \* \*

"Whoever knows what happens in the getting and spending of a loaf of bread and a pint of beer, that no wishing will change the rigorous limits of pints and penny loaves; that, for all that is consumed so much less remains in the basket and pot, but what is gone out of these is not wasted but well spent if it nourish his body and enable him to finish his task—knows all of political economy that the budgets of empires can teach him. \* \* \*

Since this essay was written the improvement in farming machinery culminating in 1920 has increased the efficiency of 1 man's skilled labor to that of 50 men in Emerson's time, and required large farming investments of capital in land and equipment.

#### A CORNER STONE OF BUSINESS.

Wall Street is becoming better acquainted with the Department of Agriculture at Washington. It is a wonderful organization, touching the economic life of the people at every angle. It has added uncounted millions and perhaps billions to the country's wealth. It represents one of the corner stones of business.

Beneath the main floor of the Capitol at Washington is a row of marble columns, known as the cornstalk pillars. Figuratively, the Capitol rests upon them. They were the conception of Thomas Jefferson, to typify that this country is founded upon agriculture. Its capital investment now represents \$80,000,000,000, an amount equalled by no other industry in the world.

In the past six years our combined agricultural output aggregated \$111,000,000,000, practically twice the German reparation judgment. Within a generation our average acre yield has been increased 25 per cent. Plant and animal diseases and insect pests have been successfully met. New types of cereals, grasses, fruits, and textiles have been developed. Desert wastes have been made to blossom and produce food and clothing. The food supply has been greatly increased in quantity and variety, with a consequent improvement in public health and wealth.

But agriculture did not accomplish these things by a blind groping. The organization at Washington is the directing brain of American agriculture. Wonderful are its scientific and technical accomplishments. In one Government department at least economists and scientific men of the highest order have deliberately turned their backs upon business advancement for the joy that comes from service to mankind.

The head of a division said to the Wall Street Journal: "Salaries are small, but the men stay until their family needs make it absolutely necessary to leave us." The tale of recent years is an impressive one, showing what it costs these men to serve the common welfare. One young man, whose salary was not large, laid aside an offer of \$4,000 a year more than he was getting to carry on absorbingly interesting work. Another, when he had to leave his \$1,500 position, took a \$10,000 place; another went from a \$4,500 position to a business firm that paid him \$20,000. Another not long ago refused an offer of \$16,000, and is still giving his services at \$5,000. Instances of this kind can be multiplied over and over again.

This is the spirit that is building up the agriculture of the country and adding so much to the general prosperity. Wall Street can take off its hat to the Department of

Agriculture, knowing that true creative work is poor humanity's nearest approach to the divine. (Wall Street Journal.)

The American farmer to-day is not a mere laborer—he is a capitalist and employer of skilled labor and teacher of unskilled labor, and a worthy successor to Washington, the skilled farmer of his day, who was likewise, naturally, economist and statesman.

Mr. Hoover stated in February, 1921: "The investment of capital in reproductive works is the most beneficial operation known to humanity. Export surplus can be reinvested in productive enterprise outside our borders."

#### HIGHEST WAGES IN THE WORLD.

"American industry has always paid the highest wages of any country in the world, and in the past has still been fairly successful in world trade. The reason is that its industry produces more per man than that of any other country. The American workman produces more, simply because of more horsepower behind him. In England, for example, the average is 1½ horsepower per worker. In this country, 15 years ago, the average was 2½ horsepower per industrial worker, and now it is 3½ per man. From this comparison with one of the most forward of European manufacturing countries it is easy to see how American industry can compete with the cheaper labor of Europe."

The quick recovery of this Nation from present economic conditions is within the power of the American farmers, and they will heed the object lesson of Soviet Russia and the consequences of delay.

They will instruct their Representatives in Washington to speedily repeal all tax laws that now obstruct business, and constitute 23 per cent of the present tax cost and price to the consumer.

Make the small 1 per cent sales tax universal with no class exemptions except of \$6,000 per annum to the small dealer and farmer alike. Then watch the country grow in wealth and prosperity.

Edward A. Bradford, in a valuable paper on "Congress's tax problems," in the New York Times, April 24, states: "The business sentiment underlying the sales tax is a revolt from the theory that taxes are best levied on profits, that is on production and capital \* \* \* Until there is a business revival the Treasury can not rely upon profits taxes whatever their merits or rates. \* \* \* Naturally business thinks that the weight of taxation should be shifted from profits and production by capital, to consumption by the masses. Naturally the politicians pose as defenders of the masses, believing that defeat at the next election awaits the 'taxers of the backs and bellies of the people.'"

(Note: Such politicians are certainly not statesmen nor economists or they would know the fact that the Federal Department of Justice in its investigations under the Lever Act came to the conclusion "That the pyramided profits taxes added 23.2 per cent to the price to the consumer." The 1 per cent sales tax adds only from 1 per cent to a maximum of 3½ per cent for tax cost when pyramided according to the number of manufacturing or other steps between the farmer and the ultimate retail consumer. The substitution of the small sales tax would thus make an immediate saving in tax cost of the difference between 23.2 per cent and a maximum 3½ per cent or over 20 per cent reduction on retail prices.)

#### WHAT IS THE SCOPE OF THE GENERAL SALES TAX?

From address before the Economic Club of New York, by Hugh Satterlee:

"So far I have purposely refrained from particulars as to what things might be exempt from a general sales tax. Certainly goods, wares, and merchandise should be subject to it. Some leading advocates of a general sales tax, among whom is Mr. Charles R. Lord, stop there. They say it is easy to determine what are goods, wares, and merchandise; that a 1 per cent tax on such articles will yield sufficient revenue; and that an attempt to extend the tax to other things would cause complications that might defeat it altogether. On the other hand, another group, among whom is Mr. Meyer D. Rothschild, believe in applying the tax to all sales with the fewest possible exceptions."

"It may be recalled that my table of possible subjects of sales divided them into five classes—goods, wares, and merchandise, real estate and capital assets, the use of property, choses in action, and services—all of such classes furnishing instances of existing sales taxes. It is perhaps a matter for further study and consideration whether the last four classes should be included under a general sales tax. Certainly the exclusion of one or more of them would not be fatal to the principle.

"However, there seems to be no conclusive reason why sales of real estate and capital assets, sales of the use of property and sales of services should not be taxed

along with goods, wares, and merchandies. But sales of certain choses in action, notably stocks and securities, present features of considerable difficulty, and some exceptional treatment must undoubtedly be accorded them.

"What the people undoubtedly want is lower taxes. But, realizing that taxes must remain high for a considerable period, they demand and will insist upon three things: (1) That the burden of taxation be equally spread; (2) that taxes be capable of being forecast with reasonable certainty; and (3) that the labor of computing and reporting tax liability be reduced to a minimum. As between a multitude of heterogeneous specific sales taxes and a uniform turnover tax, who can doubt the eventual decision."

#### SALES TAX IN CANADA.

We quote from a recent statement made by Sir Edmund Walker, president of the Canadian Bank of Commerce. Sir Edmund is perhaps the leading citizen of Canada and is an authority on the subject of finance and taxation in international repute. His statement is as follows:

"A small tax on the sales of commodities and real property in Canada would hurt so little, would be so fair, would be so easily collected, and would produce such a very large sum that to fail to levy it seems excusable only if it can be shown to be impracticable. We are levying heavy surplus profits taxes, and many well-intentioned people think that we are justly punishing the so-called profiteer but we are really killing the goose that lays the golden egg. When he can do so he doubtless passes the tax on to the consumer, and escapes punishment himself, and the tax thus becomes a boomerang as far as the public is concerned. If we clearly know what we mean by a profiteer and can find him, let us punish him in such a manner that the penalty imposed can not be passed to the ultimate buyer.

"But in ordinary cases we are taking from enterprise the profit with which further enterprise would be created. It is from the accumulated profits of a business that growth of both plant and scope of operations mostly become possible. What do we think will happen if we steadily take such a large share of that profit away? It will be said that some concerns make too much money. But, as we argued a year ago, that should be demonstrated by the relation not of profits to capital but of profits to turnover measured again by the proportion of possible turnover to capital. The manufacturer who turns his capital over many times, serving the public for a trifling profit on each sale, but making a large return on his capital because of his skill and activity, should surely not be punished by excessive taxation for being an excellent servant to the people.

"The tax is universally admitted to be unscientific and will do incalculable damage if continued. It was justified only by war conditions and only for the period of their duration. The surtax features of the income tax when carried to the extreme percentages now in effect are little less unwise and unfair than the excess profits tax. Those who are large shareholders in business enterprises should be ready to take up new share issues in such enterprises, as extension may prove necessary. Taxation which first takes a large share of the profits from the company, and then a large share of the dividends of the same company because they happen to be a part of a large private income, may seem to be sound policy to many, but if what we seek is the general good, it is deadly in its effect upon business enterprise and industry.

"I believe every good citizen in Canada wishes to pay for part of the cost of the war. He only desires that his ability to pay shall be regarded. A tax on the turnover of all business transactions would punish no one, and yet would mean the reaching of a most important substratum of the national income, in the creating of which everybody has joined." \* \* \*

"While we must for the time being levy enough taxes in some form to pay our interest charges, and to make, as we hope, some steady if slow reduction of the national debt, we should always bear in mind that it is only by the growth of the national income that we can expect again to reach a time when taxes will not be a drag upon our prosperity."

#### THE INQUITOUS INCOME TAX.

The Northwestern Miller states as follows:

"A recent editorial in the London Times says: 'The underlying idea of the excess profits duty was theoretically sound. \* \* \* Unfortunately, as usually happens when legislative enactments are insufficiently considered, the actual results were unforeseen. The duty encouraged waste and discouraged enterprise; it has affected prices, introduced a fatal element of uncertainty, and has been unfair in its incidence.

"The business world heartily condemned its continuance after the armistice, and last spring vigorously urged its remission; \* \* \* there is no doubt that the present trade depression was precipitated and accentuated by the crippling results of

overtaxation, which deprived commerce and industry of capital needed so much for conducting operations on the prewar scale owing to higher costs, as for development.'

"What has proved true in Great Britain will prove true and is now proving true in the United States. It is not alone the amount of the tax, but the method or rather lack of method, of its collection which is taking the spirit of confidence out of American industry, discouraging enterprise and forcing capital into investments which, being tax free, are not giving that individual incentive to business which is the natural and proper expression of the American desire to develop and expend the resources of the country, thereby restoring it to a reasonably prosperous state. \* \* \*

"The new administration came into power with the implied promise of reform in Federal taxation. Since its accession the feeling has been made manifest, in a manner overwhelmingly positive, that its very first duty to the country was to effect an immediate change in the income tax, to make it less complex and burdensome, and to afford the taxpayer prompt relief. The country is anxiously awaiting positive and direct action, and is not content to perpetuate the old system for a single day longer than may be necessary to affect a radical change.

"It is now indirectly informed that the new administration is of the same opinion as its predecessor; that it retains the same advisor and holds the same point of view, doubtless through the influence of this advisor, concerning the direct sales tax, which meantime has been rapidly growing in popular favor.

"It is not clear what the objection of the politicians and bureaucrats to the sales tax is actually based upon."

#### NATIONAL REAL ESTATE JOURNAL.

Excerpts from paper in National Real Estate Journal, April 11, 1921, on Federal tax program by Chas. T. Moffett, chairman of the tax committee of the National Association of Real Estate Boards, also chairman of the tax committee of the National Association of Building Owners and Managers, and a vice president of the Tax League of America.

Real estate, while representing interests of very great importance, has definitely refused the bait of immediate relief by way of claims for exemptions of mortgage interest under the Federal income tax and now has no self-seeking demand to make. What measures are for the good of the whole country are assumed to be good for owners and agents of real property, and to the extent that those remedial changes are wise or not lies the interest of this group of business men.

Nationally organized real estate does not demand any exemptions or subsidies—it will await the legal and economic changes that the wisdom of the legislators and courts, backed by the intelligence and resourcefulness of the citizenry, approve and aid.

Realtors have carefully studied the effects of the revenue laws of 1918 and have made up their minds where remedies are to be sought. They have suffered from the unusual features of those laws, such as the surtax income application to gains from sales of capital assets over the fair market value of March 1, 1913, but they do not complain because the revenue collected was for the winning of the war.

To be able to pay the war debt as soon as is practicable, it holds that business, including all activities in merchandise as well as in realty, should be heard to point out the manner which its exponents deem most fitted.

Industry has been clogged with new taxes as well as with discredited forms of taxes. The usual selected excises are arbitrary and indefensible on any known principle, crippling those persons engaged in particular lines of production, letting escape many more in lines not affected. There is no proper equity in this state of affairs. If excises are to be laid, and they must, why should they not be as nearly universal as possible with important or even vital reductions in the rates? Heavy business interests are demanding just this with a view of spreading the burden throughout the whole Nation. It is the Nation's affair to pay the debt and the whole Nation can do it more easily and quickly than can selected lines of business.

So industry asks instead of 75 "hit-and-miss" excises that a low rate, preferably 1 per cent, sales tax or excise be laid upon all persons or institutions selling goods, wares, and merchandise, whereon the cost of collection does not exceed the tax. Whether the Congress will extend this tax to cover services, leases, rents, gains from sale of capital assets and chooses in action, is unsettled.

For itself real estate comes forth to say that if business wants this general, equitable tax, and it should be held back by a consideration of whether or not the tax apply to rents and gains, then real estate is nevertheless for it. This attitude ought to settle any question as to whether or not real estate wants the old patchwork of excises blown away and a fair, equal tax laid on sales. It carries, too, the proposal that this tax is to discard the now generally unworkable and discredited excess-profits tax, and also

the capital stock tax, the excessive rates of income surtaxes, the admittance taxes, the transportation taxes, the luxury taxes, miscellaneous excise or sales taxes now in effect.

One of the most compelling reasons why real estate should actively join other great interests in urging this form of taxation, new in form but old to American practice, is this: Business always has supported the Government of the United States; business expects to; business interests now say that they demand an opportunity to use their trained intelligences on the form of Federal taxation to relieve themselves of the obnoxious forms which are now in operation, known as the revenue laws of 1918.

If business men want a different form of tax, real estate should encourage them to get it. Business wants it because it presents to their minds several cardinal virtues of a good tax. It is simple; it has equitable universality; it is privately ascertainable by the taxpayer; it is abundantly productive. The proponents of this tax do not deny that there would be many taxpayers, and there ought to be; and the administrative machinery of collection of the tax is a mere detail and should not be put up as a bar. Students of taxation for years have been demanding a wider spread of the tax burden; and Government officials now come forward and say the gross sales tax would be too widely spread. It is no such thing; it is far otherwise.

We consider the gross turnover or sales tax highly practicable. Its simplicity is apparent. The tax attaches to the one thing that every business man for his own satisfaction finds out voluntarily; he knows his gross turnover, either daily, weekly, monthly, or annually in any event, it being the interesting feature of any business, and it is on this point of information, free from any complications, that it is proposed to tax 1 per cent.

This tax may be in one way looked at as a layer of the expense of doing business, 1 cent out of the hundred of the selling price being the share and proportion of the Federal Government. For this share the Federal Government guarantees the value of the commodities dealt in by the maintenance of internal peace. It is not a loss; it is a just expense. A good government gives solidity to commodity values. Goods lose part of their value under poor government, and have no value where there is no proper government.

The incidence of the tax is the price set upon the thing wanted by the buyer in the hands of the seller, or vice versa. The sale is necessarily the meeting of the minds of the two parties as to the reasonable value at the moment and it is finally ascertainable and true.

There never was so much interest displayed in our country on taxation as at the present time, and there is a very simple reason why this is so. Heretofore all citizens have been willing to allow our political representatives to make the tax laws, aided by what help they sought from business men, economists, and Government officials, but we have never before had so stupendous a debt nor such large annual appropriations, and it behooves business men who pay these bills to express themselves upon the form best suited to accomplish the end in the simplest, fairest, and most expedient manner. It is the form of the tax which is urged and not the amount of it.

It certainly seems but proper that the Congress and Government officials should sympathetically listen to business men whose main work is the labor in finance. They also represent the tax-paying capacity of the Nation. It is much more difficult to pay the taxes than to legislate and collect them.

The gross turnover or sales tax originates outside of the Treasury Department. It is urged against the opposition of some of the Government officials and that opposition has not been merely passive, but it has been active in presenting its objections to numerous conventions and through nationally organized institutions. Let no one assume who has not followed the contest over this form of tax that some of the Treasury officials have not actively worked for its destruction. Every device is brought forward to bar consideration of this business men's proposal. We believe the moment it becomes an accomplished fact it will justify itself.

In this connection it is but fair to say that the obnoxious features of the revenue laws of 1918 were not thoroughly submitted to the taxpayers and the taxpayers raised no objection on account of the emergency feature of the legislation at the time, nor did that objection become at all crystallized until more than two years after the cessation of hostilities and the burdensome features of the laws were fully experienced. Fair play itself would seem to indicate that the Congress and the administration, having secured its ends and conducted the war under the present laws, should give business men the "half a chance" to indicate what forms of taxes would be most agreeable to them in carrying the tremendous load of debt and present expense.

The gross turnover or sales tax should be collected more frequently than annual taxes, giving less disturbance and strain to the financial situation. It should be optional with the taxpayer to pay his taxes monthly, quarterly, or annually, and the

likelihood is that the great majority of revenue collected under this form would be paid monthly, relieving the strain now imposed on our banking facilities.

Should the gross turnover or sales tax be put into effect in 1921 it is said by business men, and we believe it, that they would prefer to start their monthly payments the moment the necessary blanks were ready for distribution by the Government, in addition to paying their taxes under the older forms concurrently and during the next year or two, thus closing out their tax liability with finality as they go along, instead of being continually threatened with unknowable demands at future times. The fact is that the Government officials who have proposed the present tax laws have a certain pride of accomplishment in their work and they would like to see that work perpetuated in some reasonable form if that form can be found. The gross sales tax originates outside of the usual tax law foundry and for that reason, so far as I see it, it has very hard sledding with some officials.

#### REMOVE TAX OBSTRUCTIONS TO BUSINESS.

The United States Chamber of Commerce at its annual convention on April 29 ordered that the subject of sales tax be immediately submitted to a referendum of the organization's membership.

The chamber adopted a declaration of principles on American enterprise which urged the Government to adopt a "hands off" policy toward business except for the purpose of preserving a fair and active field of free competition.

"A wholesome standard of living is essential to general contentment," said the declaration. "That standard depends upon the intelligence, work, and thrift of the individual and improves as the total production of the county increases. Hence, restriction of production or *obstruction to distribution* must necessarily undermine that standard, resulting in injury to all citizens of every class." (Italics ours.)

Asked that the Government adopt a policy of less burdensome rates upon capital gains and income received from business.

#### COOPERATION OF FARMER AND RETAILER.

The retail merchant is the buying agent and representative of the consumer. His success depends upon how well he suits his customer. This obligates him to carry a full assortment of stock for the convenience of the consumer to select from. Good will becomes his chief asset, and disappears if he overcharges in price or fails to give good service.

On the other hand there are the manufacturers, brokers, and other intervening stages between the crops of the farmer and the finished product, who can, any and all, close their offices or factories from three months to six months at a time, discharge their employees, stop buying and thus depress the market for the farmer's raw products, and thus create artificial advances in prices of manufactured goods. The manufacturer can increase the price of labor at will or at the demand of any irresponsible minority of wage earners, and pass along the bad results of any errors of judgment or management to the retailer who must work primarily for the farmer as his largest customer.

The farmer can not stop his farming operations for six months at a time and go to Europe for a pleasure visit as the owners of some textile mills did in 1920, and the retailer, likewise, must not only take all risks of carrying on business, including depreciation of stocks on hand, but can close his store only by selling out or going bankrupt. Again it is up to the retailer to collect the cash from the consumer for the support of the manufacturer, wholesaler, etc., and also to collect the tax to support the Government.

The retailer has no choice in the matter. The Federal tax is the first claim on his assets. It is a cost that must be considered first of all the costs of doing business. It comes ahead of the pay roll or the rent. Unless these costs are all included in the price paid by the consumer, there is nothing left for the retailer's interest on the capital invested or reasonable living profit for conducting the business.

It, therefore, behooves the farmer and the retailer to cooperate and remove the chief obstruction to normal business to-day, which is—"The destructive, wicked, and ruinous policy of taxation" (as stated by a leading economist)—and which continues until such laws are repealed which now add indirectly (see report of investigation by the Department of Justice under the Lever Act) 23.2 per cent of the excess price now paid by the consumer.

The National Retail Dry Goods Association, composed of the largest department stores in the country, states 25 per cent as the tax addition included in the consumer's price.

## THE CRUX OF THE BUSINESS SITUATION.

The Literary Digest for April 30 refers to the Federal Trade Commission report to the President as stating in part "The movement toward the reduction of prices to the consumer is retarded chiefly in the retailing stage." The consumer's cost of living—and the farmer is one of the principal consumers—is too high and must be reduced before renewed buying will restore business to healthful conditions." It would seem obvious that a conference between the Department of Justice and the Federal Trade Commission would disclose that the Government, i. e., Congress, is responsible for any delay in removing the chief obstruction to lower retail prices.

*Calculations of the sales tax on a suit of men's clothing retailing at \$60 presented for analysis.*

Commodity, July 15, 1920.	Sale value.	1 per cent sales tax.	Proportion per cent of total sales tax.	Proportion of shifted pyramided present tax.
Farmer:				
Raw wool.....	\$6.50	0.065	0.04	0.9
Scoured wool.....	8.00	.08	.05	1.2
Wool yarn.....	10.00	.10	.06	1.4
Woolen cloth.....	13.33	.13	.09	2.1
Linings, trimmings.....	18.91	.18	.12	2.8
Manufactured suit.....	40.00	.40	.25	5.8
Retailer, retail value.....	60.00	.60	.39	9.0
		1.66	1.00	23.2

Total sales tax, 1.56, is 2.61 per cent of the price, \$60, paid by the consumer. Present pyramided shifted tax is 23.2 per cent of the price paid by the consumer, nearly 10 times as much as the tax cost included in the reduced retail price by the proposed sales tax.

It may be noted by the above table that wool, the basic raw material, pays 1.2 per cent, but the finished suit 9 per cent of the total 23.2 per cent tax cost which is included in the price of the suit to the consumer.

The law of supply and demand has already reduced the cost of this quality of suit as of May 1, 1921, by 30 per cent, as compared with July 15, 1920. Prices change from day to day, according to supply and demand, but the 23.2 per cent tax cost is independent of market fluctuations and will persist until the present business taxes are all repealed and the sales tax substituted, when a permanent saving of average 20 per cent will be realized in lower prices and increased sales.

We present for analysis calculations of the sale tax on the same quality suit of men's clothing, but now retailing at \$40:

NEW YORK, May 3, 1921.

MY DEAR MR. BURTON: In regard to your telegram in relation to the sales tax primer and my estimate of the cumulative taxes on the cost of a suit of clothes made a year ago, asking that I bring it up to date and give you these items, based on existing costs for same quality suit. They are as follows:

Commodity May 1, 1921.	Sale value.	1 per cent sales tax.	Proportion per cent of total sales tax.
Farmer:			
Raw wool.....	\$2.45	0.024	0.02
Scoured wool.....	2.80	.03	.03
Wool yarn.....	3.50	.035	.04
Woolen cloth.....	8.75	.09	.10
Linings, trimmings.....	8.75	.09	.10
Manufactured suit.....	27.50	.27	.30
Retailer, retail value.....	40.00	.40	.40
		.94	100.00

Or 2.34 per cent of the price to consumer.



You will notice that the percentage has been reduced from that shown in the original estimate made a year ago. This is due to the fact that raw materials are now abnormally low, whereas manufacturing processes, which include labor, have scarcely been reduced at all.

Trusting that this information will be of service to you, I am, with friendly regards,  
Very truly, yours,

WM. GOLDMAN.

**STATEMENT OF JOHN S. HORD, WASHINGTON, D. C., FORMERLY COLLECTOR OF INTERNAL REVENUE IN THE PHILIPPINE ISLANDS.**

Mr. HORD. My name is John S. Hord, and my address 1436 M Street, Washington. My occupation has been in past years collector of internal revenue in the Philippine Islands.

Senator McCUMBER. For how many years, Mr. Hord?

Mr. HORD. I was collector for six years.

Senator McCUMBER. Between what years was that?

Mr. HORD. From 1904 to 1910. I was called on by the commission to prepare a draft of a sales-tax law for enactment, which I did. Subsequent to leaving the Bureau of Internal Revenue I was put in charge of the Bank of the Philippine Islands, and although I was very unpopular when the tax law was started, I was made president of the Manila Merchants' Association by the merchants of all nationalities, and for eight years I was president of the bank and for three years president and a director of the Merchants' Association. Therefore I claim, as regards commercial conditions in the Philippines, through those various activities I acquired a good knowledge.

Senator McCUMBER. Will you kindly, then, explain just what the Philippines sales or turnover tax was, and how it operated during the time you were there, and how it has since operated, so far as you know?

Mr. HORD. I should like, if you will permit me, first, to disabuse your minds of any statements that have been made here this morning discrediting the Philippine Islands as a commercial country and as a proper example for a tax system for this country. May I do so?

Senator McCUMBER. Follow your own course of explanation.

Mr. HORD. I will not ask you, gentlemen, to believe what I have to say, although I lived in the islands for 16 years, but I will ask you to believe what a Member of this Congress has said lately.

Senator JONES. I would rather have what you have to say about it. We can hear these Congressmen at any time.

Mr. HORD. It is very pertinent. I am quoting from a speech made on the floor on the 16th of December.

Senator SIMMONS. What Congressman?

Mr. HORD. Congressman Frear, who with 20 other Members of Congress made a visit to the Philippine Islands. Mr. Frear made a speech on Philippine independence.

Senator SIMMONS. He is the Congressman who was rather decidedly opposed to this bill?

Mr. HORD. Yes, sir. He has made another speech against the sales-tax law. He gave me a copy of both speeches, and I want to refer to what he said about conditions as he found them in the Philippines a few months ago, not as regards what he said about the sales tax.

In 1905 it became necessary to adopt a sales tax in the Philippine Islands, together with other taxes then existing, which provide sufficient revenue to supply the islands with the amount they would lose through the cessation of customs duties whenever those islands were given reciprocal free trade with this country.

The sales tax then adopted produced within a few years sufficient funds to justify Congress in giving the Filipinos free trade, such as had been given some years previously to Hawaii and Porto Rico. The amount collected to-day from the Philippine sales tax is somewhat greater than the total customs revenues were 16 years ago.

Also it has been possible since the establishment in the Philippines of the sales tax to very greatly increase the number of schools, hospitals, public works, etc. But I will quote from a speech delivered on the floor of the House on the 16th of last December by Representative Frear of Wisconsin, former member of the Ways and Means Committee, formerly a member of the Committee on Insular Affairs, and who last year, with 20 other Senators and Representatives, visited the Philippines.

Senator McCUMBER. What you have just read is your own statement?

Mr. HORD. Yes, sir. I shall now quote the substance of Mr. Frear's remarks:

First. That the Philippine Islands have made the most wonderful development in all history. Have progressed most marvelously since 1898. A record of 20 years of unexampled progress.

Second. That they have risen rapidly in the scale of education, industry, and general enlightenment during the 21 years that have elapsed, having trebled the number of public schools and cut down their percentage of illiteracy from 55 per cent to 30 per cent in the last 10 years.

Third. That, compared with the results in the United States, the advancement in the Philippine Islands is marvelous. For years they have maintained their own Government against the strenuous efforts of exploiters and speculators.

Fourth. That they have a modern budget law and, in 1919, a cash balance of \$6,000,000 in the Treasury. That they are completely self-sustaining, the United States not contributing \$1 to their support.

Fifth. That their foreign trade has reached \$250,000,000 a year, two-thirds of which is with the United States. They have a large number of well-managed manufactories and have built 600 miles of railways and 7,000 miles of macadamized highways.

Sixth. That less than 2 per cent of their farms are mortgaged, and that 90 per cent of the Filipinos own their own homes. That they have modern hospitals and strictly enforce their health regulations. That they subscribed more than their quota of Liberty bonds during the war.

The above is the situation as found by Representative Frear to exist in the Philippine Islands 15 years after the sales-tax law went into operation. Any member of this committee who desires to obtain a gloomy contrast to the vivid figure painted by Representative Frear should certainly read the annual reports of the Philippine Commission to the Secretary of War in this city during the five or six years that elapsed before the sales-tax law was enacted in those islands.

The islands were then bankrupt. The sales-tax law saved the islands.

Sixteen years ago the Philippine Commission did me the honor to ask that I prepare a draft of a sales-tax law. This I did, and four years later when, as collector of internal revenue, I could certify that the new tax law would supply the necessary revenue, I was detailed by the Philippine Commission to come here and make these facts manifest to Congress. Twelve years ago I appeared before the Committee on Ways and Means and before members of this committee with all necessary data to show that the sales-tax law in the Philippine Islands was a success. Largely on the strength of these proofs Congress saw fit to give the islands free entry into this country for all of their products.

The reason I have come before this committee—the chairman of this committee has not asked me individually; but he stated in December as follows, as quoted in most of the papers:

We are facing the biggest problem ever faced by any country. It is going to tax the ingenuity of experts, and it requires the help of legislators, the Government, and the business community to equip America with proper revenues.

No less an authority than the Hon. Ogden L. Mills, chairman of the advisory committee on platform and policies of the Republican National Committee, a couple of months before Senator Penrose's statement, pointed the way. In a report to the full committee he refers to the Philippine sales tax as being "in successful operation," and adds:

Other things being equal, it would be desirable in this country to test, by actual practice, side by side, the comparative virtues of the sales tax and the income tax.

It would be, if not easy and simple of operation, at least more simple and certain than the income and profits tax.

One of the questions up now, as I learned by the papers, is the general belief or attempt to produce general belief that the burden of the sales tax will be on the poor man. There never was a more complete delusion than that. We have lots of proof to the contrary. I am sorry I have not time to present all of the evidence to you, but here is the statement made by James F. Smith, now a member of the Court of Customs Appeals in Washington. In his inaugural address as Governor General, some three or four years after the sales-tax law went in, he stated, in referring to what America had accomplished in the Philippines, as follows:

She destroyed without hesitation a wrong system of internal taxation, which imposed upon the poor almost the entire charges of government, and for it she substituted a modern system of internal revenue which so distributes the load that every citizen is compelled to bear his fair share of the governmental business.

This is a copy of an address I delivered before the New York Chamber of Commerce last January. I will file this with the recorder.

Senator McCUMBER. You may have it printed with your remarks, if you so desire.

Mr. HORD. I will not read the article, but I will refer to my summary, which is quite brief, and shows what the sales tax accomplishes. [Reading:]

#### SUMMARY.

I hope I have been able to convince you that the Philippine sales tax was carefully prepared and enacted, so—

1. That the total tax burden is distributed amongst all and to each according to his ability and willingness to pay.

2. That it is not a tax against the living wage and can be defended on grounds of social justice.

3. That the tax rate is small, can be shifted, and is not heavily cumulative.

4. That it is easily assessed and fully collected at a reasonable expense, and without harassing the taxpayers.

5. That its productivity is such that it soon paved the way for free trade with this country.

6. That its operation is so equitable that the Philippine Government now intends to double the tax rate.

7. That 16 years' satisfactory operation proves that it is neither unsound in principle nor impracticable.

8. That commercial and industrial conditions in the Philippines and this country are sufficiently similar to prove that a sales tax would produce good results here.

9. That it would provide sufficient revenue to meet the extraordinary present needs of this country.

10. That with Canada on the north, Mexico on the south, France to the east, and the Philippines to the west, all enjoying the benefits of sales-tax laws, it would seem that this country could safely and profitably follow their example.

Senator McCUMBER. I assume we would understand it better if you state what it is before you state what it accomplishes.

Mr. HORD. The Philippine sales tax is 1 per cent tax on all goods, wares, and merchandise, which accrues at the time of change of ownership and is paid quarterly by the merchant who makes the sales. It imposes upon the—

Senator DILLINGHAM (interposing). It is not confined to merchants?

Mr. HORD. Merchants and manufacturers. There are certain exemptions. We exempted all farmers out there. We considered that farming is a basic industry, and they should probably be exempted from produce of their own that they sold. Of course, the merchant who sold farm produce began to pay the tax. There would be one less middleman in the line from the producer to the consumer in the case of products raised in the Philippines. Everything imported would pay the sales tax, sold by the importer or by the man he sold it to.

It is really a very simple tax. There never was any trouble about collecting it. It was collected automatically.

I would rather, if you will permit me in these cases, to give the evidence of other men, for instance, the taxpayer—

Senator McCUMBER (interposing). May I ask you a question? You take it in the matter of sugar manufacture in the Philippines. The farmer raises the sugar cane for cane sugar, and probably they have some cooperative industries where they have an interest in it after it is sold to the manufacturer of sugar, or is the system such that he simply has no further interest than merely disposing of his product?

Mr. HORD. The sugar raiser in the Philippine Islands if he exports his sugar directly, pays no tax. If he sells to another exporter, neither does any sales tax accrue.

There are no sugar refineries in the Philippine Islands. Therefore, there are no manufacturers of sugar. In fact, the Philippine sugar is taken to Hongkong or sent to this country, and the refined sugar that is consumed in the Philippines is brought back in a refined condition, and that pays a sales tax when it is sold.

Senator McCUMBER. That helps us to understand.

Mr. HORD. Yes, sir.

Senator McCUMBER. I was not aware of the fact that there were no refineries there.

Senator DILLINGHAM. I did not mean to take you away from the statement you were making. You were going to give us the results from the summary of your New York address on the Philippine tax.

Mr. HORD. I gave that to the recorder. It is a summary, and it is quite short.

Mr. Martin Bourne, who was vice president of the Manila Trading & Supply Co., one of the large concerns in the Philippines, and who has an office at No. 11 Broadway, gave a voluntary statement last October. I might read just a few excerpts, wherein he explained what the tax is. That is in answer to your inquiry as to how the tax operated. This was published by the Business Men's National Committee of New York and circulated very widely. They sent me this copy:

Although not given to public discussion, even in the form of press statements, I am very glad to give testimony in favor of the sales tax as the simplest and most efficient form of business tax. Having been so innocent as to voice my enthusiasm on the subject to American friends, they insist that the public here would be glad to know how a 1 per cent sales tax operates in another country. I know that I express unanimous sentiment of both citizens and officials in the Philippines. My enthusiasm is theirs.

Possibly its greatest single advantage from the merchant's viewpoint is its certainty and simplicity. It involves no guesswork. He does not have to figure in graduated profits percentages to know what amount of price-loading is necessary to cover the tax. He does not have to wait a year to know the amount of his tax. At the close of business every day we know the amount of our tax for the day's business. We pay it quarterly. We also feel that we are mere collectors. The tax is a recognized cost item which is figured in the selling price.

The Philippine Government has found it a great success, both in the revenue produced and also in its effective collection. One never hears of any effort at evasion. In a sense it both collects and pays itself. No one feels that the Government is taking anything from him. He is simply collecting for the Government. If he failed to account and pay over the tax, it would seem more like theft than ordinary tax avoidance. Unlike the profits taxes in the United States, the Philippines sales tax makes for conservation and certainty in figuring profits and selling prices and leaves nothing to the future to embarrass credits and endanger solvency.

We will gladly share with you the benefits of wise revenue legislation in the form of the sales tax which we have received from wise American administrators.

The Secretary of the Treasury last September wrote to the Governor General of the Philippines asking how the sales tax worked, and he received in answer a cablegram on December 2, which I will read. It came through the Bureau of Insular Affairs, and this is an official copy from the bureau [reading]:

Hon. DAVID F. HOUSTON,

*Secretary of the Treasury.*

(Secretary of War (McIntyre), Washington.)

Referring to letter from your office of September 30, 1920, I hope the Bureau of Insular Affairs has already answered most of the questions in time to be of service to you. They have all laws, forms, and regulations issued under our percentage tax on merchants sales. This system was a part of our first internal revenue law, in 1904, and has continued in effect ever since. The tax began with one-third of 1 per cent on the gross value in money of all goods sold for domestic consumption. In 1914 the law was amended to increase the tax to 1 per cent, and "merchant" was defined to include manufacturers who sell articles of their own production, and commission merchants. We are now considering increasing the tax to 2 per cent. It is the most satisfactory, accurate, economical, productive, and equitable tax in our system, and produces no public complaint except the just criticism that some articles of ordinary consumption are taxed more than once in changing hands several times before reaching the the ultimate consumer. Written report follows.

HARRISON.

I think I mentioned awhile ago that it produced more revenue now and has done so for some years than the customs taxes amounted to, which was the sole support of the island before the sales tax was put in.

There was such an objection made here when I returned from Mexico a few months ago against the sales tax that I did not know what had become of it. I went to Mr. Gabaldon, who is Resident Commissioner for the Philippines and has an office over here in the House Office Building. I asked him about it. This is his answer [reading]:

In answer to your inquiry, I take the pleasure in stating that the sales tax imposed in 1905 in the Philippine Islands continues to this date to produce substantial revenue. Since the initial opposition to this tax, which lasted only a few months, I have heard of no further opposition to the payment of the sales tax, and therefore believe it is being collected with little, if any, opposition on the part of the taxpayers.

Inasmuch as we all should assist, as Senator Penrose remarked, in helping this Government to provide a proper revenue law, I was surprised at the time and since then that for several months after this information was received here by the Secretary of the Treasury his spokesmen and others have been around this country—New York, Cleveland, and Chicago, and elsewhere—attacking the sales tax, but not giving this information from the Philippines any publicity.

In view of what Mr. Frear has said and what reports from the Bureau of Insular Affairs will prove, the Philippine Islands contain one-tenth of the population of this country, and have advanced marvelously. Mr. Frear has not exaggerated in that statement. Their methods of commerce and manufacture and industry are the same as ours here. There is practically no difference. Their sales tax law is based on certain simple principles that govern everywhere, fundamental rules that govern wherever goods are purchased and sold in any part of the world, and it is so simple that six sections in the law cover the provisions of the whole tax.

This is a statement of which I will give copies to the committee, published by the American Review of Reviews, which encourages the investigation of the working of the sales tax law in the Philippine Islands, stating that this is the place where most useful and most valuable information can be obtained.

Senator McCUMBER. Do you want this article printed as part of your remarks in the record?

Mr. HORD. I suppose it should be, yes; as part of it is part of the article I gave the reporter.

(The article referred to is as follows:)

#### THE SALES TAX IN THE PHILIPPINES.

[From the American Review of Reviews for February, 1921.]

In the discussion of a sales tax as a practical measure for adoption in the United States comparatively little has been said regarding the experience of those countries which for several years have enjoyed this form of taxation. The country which we can study with the greatest profit and from which we can most easily obtain information is the Philippine Archipelago, where a sales tax has been in operation continuously since 1905. The man who prepared the original plan for this tax, adopted by the Philippine Commission and who served as collector of internal revenue in the Philippines during the first six years of the operation of the tax, is Mr. John S. Hord.

In the course of an address before the Chamber of Commerce of the State of New York on January 6, Mr. Hord outlined the features of the Philippine system and stated some of his reasons for believing that a similar tax might be successfully administered in the United States.

Before his experience in the Philippines Mr. Hord had for a time been in business in Mexico under the régime of Porfirio Diaz and his secretary of the Treasury Lemantour. At that time the Mexican Government was collecting a sales tax which made it possible to liquidate its heavy foreign and domestic obligations and to achieve prosperity. From his observation of the workings of the Mexican tax Mr. Hord had concluded that it was both equitable and productive, and that its enforcement and the manner of its payment would not harass the taxpayers. This led him to propose and formulate a sales tax project for the Philippines. In working out this project it was necessary to convert the very complicated system of license taxes (known as the "industria" law under the Spanish administration) into a consistent, uniform tax, easy to understand, assess, and collect. He devised a scheme for a sales tax at a 1 per cent rate per turnover, whether by manufacturer, wholesaler, or retailer. As to the working of the law, Mr. Hord says:

"When this tax law was first promulgated there was a universal protest of discontent. To-day there is scarcely a murmur. This happy result is probably due to the following facts—now well established:

"It is easily assessed and fully collected. Therefore there are no nontaxpayers to enjoy an unfair advantage over law-abiding competitors. There are no provisions in the law impossible of fulfillment and all administrative regulations were made to fit commercial conditions.

"The tax rates are low, but, notwithstanding, the tax collections are ample for all needs, which, together with the present general satisfaction with the law, would seem to indicate that the total tax burden is evenly distributed.

"Internal revenue stamps are in no case affixed to articles of merchandise coming into the hands of consumers. The stamps are glued to merchants' licenses and to invoices from the manufacturer to the merchant, but never are they glued to the goods themselves. Therefore, the ultimate consumer is allowed to forget (and has forgotten) that he is paying a tax.

"The Philippine sales tax is not heavily cumulative, seldom exceeding 3 per cent, and normally less than 3 per cent of the cost price of the goods to the ultimate consumer. Compare this with the luxury consumption taxes in this country, which run from 3 per cent to 100 per cent, and on such necessities as the working girl and boy lunch at soda fountains will range between 10 per cent and 15 per cent.

"A report by the United States Department of Justice on the effects of the excess profits tax in this country said that it had increased the cost of some necessities over 23 per cent to the consumers.

"It soon became well known to all in the Philippines that the tax on sales was normally shifted along until the goods reached the ultimate consumer, and that on him the final incidence of the tax rested. And that as all must eat food and go clothed all must pay the sales tax."

I shall be very brief. I have written another article, for the Annals of the American Academy of Political and Social Science. They sent me some advance sheet proofs and told me they would come off the press to-day. I have covered the sales-tax proposition very fully in this article. I can file this?

Senator McCUMBER. You can file it and have such portion inserted as you desire.

(The article is as follows:)

#### THE SALES TAX.

The Secretary of the Treasury has informed Congress that this country's revenue needs are now about four times as great as they were in prewar times. Four billion dollars will be needed each year for several years to come. Probably less than 20 per cent of this amount can be economically collected as customs duties and internal taxation must be relied on to produce the remainder.

But, unfortunately, the two main sources during war times of internal revenues, excess profits and income taxes, are declining in importance. It is this awkward situation which has brought a discussion of the sales-tax principle to the forefront in this country during the last six months. Some productive, untapped reservoir of revenue must be discovered without delay.

This monograph is being written on the eve of the change in the national administration. For a proper appreciation of the trend of events in the immediate past affecting the subject matter of this discussion a review thereof is made, as follows:

## TAX REVISION PROGRAM OF THE SECRETARY OF THE TREASURY.

In his last annual report and in statements made to the Ways and Means Committee and in articles published in leading magazines and newspapers Secretary Houston and his official spokesmen and tax advisers have made recommendations to the following effect:

(a) That the rates of the surtaxes on the higher incomes be reduced and the rates on the lower ones be increased.

(b) That the excess-profits tax be repealed.

(c) That certain consumption taxes, which have proved to be uncollectible, be repealed, and that a new set of consumption taxes, also at high rates and equally discriminatory, be imposed on still other commodities.

The reaction to these recommendations was immediate. On the floor of the House the leaders of both political parties opposed the Secretary's recommendations, and Chairman Fordney, of the Ways and Means Committee, expressed the opinion that the income-tax returns were "now really a Chinese puzzle." Even ex-Secretary McAdoo, during whose régime the present income taxes were enacted, is quote in an interview of the New York Times as follows:

"I am opposed to increased taxes on moderate incomes. Already these incomes are bearing a larger proportion of taxation than is justified. A radical revision of the war income taxes is essential to the prosperity of the country, and in that revision the moderate income taxpayer must have his burdens reduced instead of increased."

A national referendum vote conducted by the United States Chamber of Commerce has just been made public and shows that a majority voted against any increase in income taxes.

## EXCESS PROFITS AND INCOME TAX TANGLES.

It appears from an official statement by Treasury officials made in February, 1921, that the income-tax returns for 1919 and 1920 were practically untouched in the final audit, and that taxes amounting to over \$1,000,000,000 remained, therefore, uncollected.

Referring to a hearing held by the Ways and Means Committee on December 14, one newspaper says:

"Methods of raising sufficient revenues to offset losses through the prospective repeal of the excess-profits tax were considered to-day by the House Ways and Means Committee as the second step toward tax revision.

"The day's hearings brought from the Treasury an estimate that 'more than a billion dollars' were outstanding in uncollected taxes, most of which, the Treasury spokesman said, was traceable to inability to audit thousands of corporation returns. He said the revenue bureau had not yet certified the work of auditing returns for the year 1917 because of the gigantic administrative burden of tax collection."

Another newspaper reported the Ways and Means Committee hearing as follows:

"Because of the complex nature of present revenue laws, Dr. Adams, of the Treasury staff, said the internal revenue bureau has been unable to complete the checking up of tax returns for 1917. He saw no immediate hope of making the audit current with the tax returns filed.

"The task of auditing the tax returns and of tracing evasion and other causes of failure to pay all taxes due, Dr. Adams said, has become so stupendous that the internal revenue bureau sees no way out. Dr. Adams urged the committee to simplify the tax laws for two reasons: first, because such simplification would insure a greater and more thorough collection, and, second, because it would make the administrative work easier and more efficient."

Referring to the complexity in the present tax laws and the urgent need for simplification, Secretary Houston said in his last annual report:

"Complexity in tax laws violates the most fundamental canon of taxation--that the liability shall be certain and definite. \* \* \* At present the taxpayer never knows when he is through."

Mr. Otto H. Kahn, of Kuhn, Loeb & Co., gives some very practical and pertinent advice in this connection, which was published very widely during last October. He says:

"One of the essentials of wise taxation is simplicity of method. Nothing tends more to create a sullen animosity against fiscal measures, nothing is more apt to cause a man to feel justified in his own conscience to give himself the



benefit of any doubt or technical loophole, than to be compelled, in addition to paying heavy taxes, to sit down and grapple with complicated tax forms and intricate schedules or to spend money for the employment of lawyers and accountants to tell him what he has to pay."

Resident American merchants living abroad in Europe, Asia, and South America find it hard to believe that the income-tax provisions of this country have been properly interpreted. They are coming here to see about it. Representatives from the Philippines have already arrived in this country. The following quotation is from a news item in a daily published in Washington:

"American business men from 35 foreign countries have been invited by the National Foreign Trade Council to present, during the eighth national foreign trade convention, their views on the taxation of American citizens living abroad. This important meeting will be held in Cleveland, Ohio, May 4, 5, 6, and 7, 1921.

"Serious efforts are already being made by the American Chamber of Commerce of Rio, Buenos Aires, Mexico City, Shanghai, London, Sao Paulo, and Barcelona to obtain from Congress the elimination of American taxes now levied on the income received by Americans living abroad and derived from foreign sources.

"This taxation has put American foreign traders at a great disadvantage in competition with their foreign rivals, who pay no taxes to their home governments on income derived from foreign sources.

"In the Philippines, for instance, an American conducting a business in the city of Manila and realizing a net profit of \$50,000 therefrom, pays a combined Philippine and United States income tax of \$9,190. A Filipino, Britisher, Spaniard, Chinaman, Japanese, or citizen of any country except the United States, conducting a like business and earning a like profit, pays only the Philippine tax, which amounts to \$2,535. In other words, the American merchant would have to pay \$6,655 more than his foreign competitors. Should the net income be \$100,000, then the margin against the American merchant is \$24,205.

"It is evident that, to the extent of his advantage in income tax, the foreigner can undersell and overbid the American, or can use the amount in advertising or in otherwise pushing his wares."

The Business Men's National Tax Committee of New York City has printed for circulation a statement by Mr. Martin R. Bourne, vice president of the Manila Trading & Supply Co. The following are excerpts from Mr. Bourne's statement:

"I know something about American taxes because Americans in the Philippines have their own Federal tax troubles and are just now in an even worse situation than their fellow citizens here. The surtaxes on their business profits can not be passed to the consumer, as is done here, because our non-American competitors not being subject to the tax make it impossible. American citizenship comes very high in the Orient, where our competitors, brown and white, pay no income tax. \* \* \* We are hoping that the next Congress will not only give us relief from future American taxes but return us what it has taken so unjustly and we need so greatly to protect our competitive position in the Orient. \* \* \* I think we should all pay on our incomes from secure investments, and I like the idea of limiting the surtaxes to an amount based on a secure 6 per cent return from the taxpayer's capital. \* \* \* Such an income tax, supplemented by a sales tax such as we have in the Philippines, should give Uncle Sam more money than he can spend wisely. In fact, in the long run, it will give him all the money he can get, because it is very evident that what he is trying to get now is rapidly destroying the source from which it is sought."

At a hearing before the Ways and Means Committee on December 13 the spokesman for the Secretary of the Treasury said that the excess profits was fast reaching a point where its yield would be reduced greatly. He is quoted in the press as stating:

"Unless the administrative burden of the excess profits is reduced, the administrative machinery will break down."

Referring to the income tax, this spokesman told the committee that the present rates on high incomes were "merciless," and said they must be made "reasonable, moderate, and bearable," and that "as a friend of the income tax, I say we must reduce it or it is going to go. I have always been resolutely opposed to the high rates which are certain to break the back of the income and sur taxes."

In the course of a recent address, former Commissioner of Internal Revenue Roper said:

"It seems that the excess-profits tax must go. It is now practically without friends. It is inequitable and complicated. Furthermore, Congress will soon discover that it will no longer yield the revenue which it was designed to produce."

It was during Mr. Roper's régime as Commissioner of Internal Revenue under former Secretary of the Treasury McAdoo that the excess-profits tax was enacted. Surely Mr. Roper should know its faults.

A former counsel for the collector of internal revenue in New York City said at a recent conference of the State Bankers' Association at the University of Iowa:

"In addition to being beset with barnacles of the past and burdened with the responsibility for the enforcement of reform measures, the bureau (of internal revenue) has had to administer, in the excess-profits tax, the most complicated tax ever devised by the brain of man."

Chairman Good, of the House Committee on Appropriations, is quoted in the daily press a few days ago as saying:

"Unquestionably the excess-profits tax is in a large measure passed on to the consumer and is one of the elements that have tended to keep living costs excessively high."

Returns from a nation-wide referendum conducted by the United States Chamber of Commerce have just been received. It appears that a practically unanimous demand is made by the chamber's membership for the repeal of the excess-profits tax. A statement issued by the chamber says:

"The vote makes it clear that business men are united in their view that the excess-profits tax hampers business operations and retards the progress of readjustment."

On December 27 Secretary Houston is quoted by the daily press as having stated at a hearing before the Senate Finance Committee:

"The excess-profits tax should be repealed, primarily because it is losing its productivity and promises in the near future to become a statute of exemptions rather than an effective tax. Moreover, the tax is so complicated that it imposes upon both taxpayers and administrative authorities burdens too difficult to be permanently carried."

Mr. Otto H. Kahn clears away some popular misunderstandings as to the operations and final incidence of the excess-profits tax in the following excerpts from an article published under his name last October:

"The excess-profits tax has tended, furthermore, to increase actual cost of production, inasmuch as costs naturally are deducted before taxable profits are arrived at, and therefore under the operation of the excess-profits tax there is not the same inducement as under normal circumstances to keep cost down as much as possible, but, in fact, rather the reverse. It is a fact well known to those familiar with business practices that there has been gross wastefulness in certain line of expenditures since the excess-profits tax went into effect and as a direct consequence of it.

"The conditions I have sketched lead inevitably to the conclusion that a continuance of the present system of taxation will not yield sufficient revenue for the needs of the Government. Not only is the excess-profits tax so complicated and so open to different constructions that taxpayers can scarcely be blamed for giving themselves the benefit of the doubt and making their initial tax payments often less than they should be, but, because of the delay in auditing their returns, a delay forever growing longer, much of the tax that is actually due for any year can not be discovered and collected until years after."

And in order not to leave his good work half finished, Mr. Kahn, in the following words, completely exposes a certain widespread fallacy to the effect that the higher income surtaxes and the excess-profits tax favor the poor man by taxing his rich neighbor:

"By taking a little thought a millionaire may to-day pay less tax than the man who earns \$5,000 or \$10,000 a year by the sweat of his brow. So I say the country can not prosper, it can scarcely live, under such conditions. \* \* \*

"Even those of us who might like to see the rich pay all the taxes must admit that the present system does not achieve their ends. Let no one delude himself with the notion that because the present tax laws appear to tax large incomes the rich are in the final analysis paying the taxes. \* \* \*

"To those who take the view that criticism of our existing surtax schedule is necessarily the "squeal" of a rich man, I would point out that the rich man, considered merely as such, has little to squeal about on the score of the income tax, for all he needs to do is to invest his available capital in tax-exempt securi-

ties—bonds of States and their subdivisions, of which vast amounts are offered for his choice, and then all income or excess-profit taxation ceases to trouble him. By so doing he may obtain a considerably greater yield than he could hope for by investing his money in taxable securities or in his business, subject to the present scale of surtaxes."

No one will dispute the validity of the testimony as to the defects discovered by Secretary Houston and former Commissioner Roper in the provisions and operation of the excess profits tax law; all will accept their criticism as being the evidence of experts. And equal credence will for the same reason be given to Mr. Kahn's testimony regarding the manner in which the law allows the rich man to spend or save his income and profits.

#### TAX-COMPLEXITY EXPERTS.

The army of "tax experts," "income specialists," "tax-trained accountants and auditors," etc., which during the last few years have invaded this country from coast to coast, are the legitimate offspring of the complexities, ambiguities, and actual contradictions of the provisions of the excess profits and income tax laws, and of the rulings, interpretations, and regulations administratively provided for the enforcement of the said laws.

The fees charged by these tax-complexity experts are by no means modest. Were the provisions of the tax laws simple and understandable, this new profession would not be so popular as a vocation. Therefore, as a direct result of the law's complexity, taxpayers are forced to pay these tax-complexity experts substantial sums which are in the nature of tax surcharges but which never reach the Treasury vaults.

The spokesman for the Secretary of the Treasury told the Ways and Means Committee on December 14, that—

"The turnover in our high-grade tax experts is enormous. It amounts to over a hundred per cent a year. \* \* \* Men come in, become expert, and leave for private fields, where they make much more money."

On January 18 he is quoted as having stated in effect to a group of bankers and merchants at Cleveland that the taxes must be simplified or better salaries paid to the Government tax experts in order to prevent their quitting the service and disrupting the tax administration. Secretary Houston told the Senate Finance Committee on December 27 that tax experts earning annually \$5,000 salaries in the Bureau of Internal Revenue were bid away by taxpayers at higher salaries, in some cases as high as \$100,000.

Viewed practically, all these complications and the sinful loss of time and money by tax collectors and taxpayers seem unnecessary. Had simple, understandable laws been enacted in the first place, the taxpayers would not now be forced to pay surtaxes into the pockets of these tax-complexity experts and the tax administrators would now find their personnel satisfied as to compensation, and sufficient in number to keep their assessment, collection, and audit work up to date.

As it is, the audit of returns is from two to three years in arrears, and between one and two billion dollars, representing accrued taxes, remain uncollected. What portion of this money will never be collected? Can anyone doubt that a substantial portion of this total is due by concerns that have either already gone out of business or will do so before collection day—following the long-deferred audits—comes around? In what frame of mind will this leave the men who have paid their taxes?

Unquestionably there has been too much striving, in theory, after absolutely equal justice to each and all; too much show of intellectual dexterity as the cardinal virtue in lawmaking; too much interweaving and thread tying; and also too little regard for the familiar advice of Adam Smith that "the certainty of what each individual ought to pay is in taxation of so great importance that a very considerable degree of inequality is not near so great an evil as a small degree of uncertainty."

#### UNITED STATES SALES TAXES.

Those who have read objections by opponents to the introduction here of a flat 1 per cent tax rate on all sales (such as has been in successful operation in the Philippines for over 16 years) would naturally suppose that sales taxes are unknown in this country. They are, however, very much mistaken. The existing internal revenue law of this country imposes excise or luxury or consump-

tion taxes, as they are variously called, on the sale of a long list of articles beginning with ice-cream sodas, continuing with carpets and umbrellas, and ending with neckties and pajamas. The tax rates range in amount anywhere from 3 per cent ad valorem up. In addition, there is a widely assorted list of specific rates which no storekeeper would ever live long enough to memorize. These taxes are frankly discriminatory. Certain articles are taxed at, say, 10 per cent or at other high rates, while other articles not identical but similar enough to be competitive are taxed at lower rates or are not taxed at all. These various taxes were evidently imposed in a hit or-miss sort of way, as no consistent theory in their application is discernible.

A former counsel for the collector of internal revenue in New York City said recently in the course of an address before the bankers' association at the University of Iowa:

"Aside from the practical difficulties of administration which loom large in my mind, because I have had some experience with them, the existing and proposed sales taxes on the articles enumerated are monstrously unequal and inequitable."

If the intention of the framers of the regulations for enforcing payment of these taxes had been not to allow the taxpayer to forget them, they certainly succeeded admirably, because the reminders are ubiquitous and omnipresent. On a sultry afternoon a business man before going home takes a cooling drink at a soda fountain, and a little machine passes out a slip with "Tax 1 cent" on it. He takes his wife to the movies and purchases their tickets according to the "tax included" sign above the teller's window. They stop at the drug store on their way home and the druggist attaches a "tax paid" stamp to their purchase. When they get home the wife reads the advertisements in the evening paper and finds a bargain. She reads it aloud, "Banded bags, greatly reduced, \$11.95, tax additional."

The writer saw a notice on Tenth Street, in Washington, in front of an old-style house, stating that a large collection of articles formerly belonging to a Civil War President were on exhibition. Beside it was the following sign: "Admittance 27 cents, war tax 3 cents, total 30 cents." And in the same neighborhood was a milliner's show window where, amidst a garden of hats and shirt waists, a card informed the passers-by, "Miss So-a So, income-tax expert."

It is some of these arbitrary, discriminatory, consumption, or sales taxes on certain goods that the Secretary of the Treasury asks, in his last report, that Congress repeal on the ground that they are "ill defined, uncertain, vexatious, and widely evaded," and that "such evasion can not be stopped" without incurring expenses greater than the tax collections would justify.

Unfortunately, the Secretary advises simultaneously the imposition of other discriminatory taxes, also at stiff rates, on such necessities as sugar and tea. It is not to be expected that a dealer in tea and sugar will go on good-naturedly paying a high tax on his goods while his neighbor and competitor, say, in coffee and molasses, across the street, pays no tax at all. It will not work. It might work if his store, and thousands of others like his, could be put in charge of gaugers, watchmen, and inspectors, as distilleries and tobacco factories are, and no nontax-paid sugar or tea or other goods be allowed to leave the premises. But that is, of course, impossible. It would cost more than the taxes collected would amount to.

Now, if the sales tax applied uniformly to all goods, wares, and merchandise sold by all merchants or manufacturers, then the tax rate could be made so low that there would be little temptation to defraud the revenues. At least that has been the experience with the Philippines sales tax law during the last 16 years, where there are no discriminatory taxes on sales, where all pay cheerfully, and where attempts at fraud are a rarity.

But so long as there are discriminatory sales taxes on general commodities and at high rates, imposed in this country, just so long will the Secretary of the Treasury be periodically requesting Congress to repeal certain sales taxes on the ground that they are "ill-defined, uncertain, vexatious, and widely evaded," and that "such evasion can not be stopped."

Thousands of newspaper columns are at this writing being filled with advice to taxpayers of all kinds. Many of these items are quite amusing. One such is quoted below. A dealer in automobile parts had asked the National Automobile Association to enlighten him as to the proper assessment, for tax purposes, of his sales. Part of the advice given him reads as follows:

"There is no criminality, however, in overcollecting the tax, provided it is based on average figures and provided further that all of the tax collected is returned. The net result is that you average these taxes at your peril and if your ratio changes so that the Government does not receive the full tax you will be held for it, while if you overcollect it the Government will take it all."

At a hearing before the Ways and Means Committee the spokesman for the Secretary of the Treasury said, "We are having a perfectly enormous amount of evasion in the collection of the sales taxes now in effect." And later he stated that the introduction in this country of a sales tax similar to that in the Philippines would involve extending the administrative machinery to millions of additional taxpayers and would break it down. Evidently the Secretary's representative knows a lot about his own law and very little about that of the Philippines.

#### OTHER UNITED STATES LAWS IMPOSING TAXES ON SALES AND PERSONAL PROPERTY.

It is amusing to read the indignant remarks of the opponents to the introduction here of a 1 per cent per turnover sales tax and of its iniquitous, cumulative effects—opponents who nevertheless nimbly recommend the continuance here of their own high rate sales tax law described above. This they propose to do by simply switching the incidence of the taxes from commodities which have heretofore evaded them to a new line of commodities which promise to prove equally fickle.

But the most inexplicable oversight on the part of the opponents of the sales tax principle is their failure, so far, to recognize the fact that both the Federal and local revenues of this country have in the past been derived mainly from indirect consumption taxes paid on everyday commodities sold in this country. This was especially true up to the year 1914 when customs duties and internal revenues supplied about 90 per cent of the Federal Government's needs. Due to prohibition and the enactment of large war taxes the proportion of these taxes to the total is less than it was. But it is still important.

Customs duties collected on imports from abroad are on an average at very high tax rates when compared with the 1 per cent rate of the proposed sales tax. It is true that the sales tax normally accumulates from two to four times on its way to the ultimate consumer, but even then the increase in price to the ultimate consumer will normally range between 2½ and 3½ per cent. That is, after the manufacturer, wholesaler, and retailer have all added their profits on the original price of the goods plus their profits on the profits of the merchant or merchants who handled the goods before them. Even then the ultimate consumer will, because of the 1 per cent sales tax, only pay the retailer from whom he buys from 2½ to 3½ per cent more than he would if the sales tax was abolished.

Now compare this with the duty paid by the importer at the customs house, say 15 per cent, although the import duties on many articles are as a rule very much higher. This 15 per cent the importer adds to the cost of the goods, and on the total thus obtained he estimates and adds his percentage of profit. The wholesaler and retailer of these imported goods each do likewise, and when the consumer finally takes the goods he pays, together with the original price when landed in the United States, three profits on the original price, by importer, wholesaler, and retailer, respectively. He also pays the original 15 per cent customs duties, which go into the Treasury vaults, and in addition pays three profits on the original duties, which are in the nature of surtaxes but which remain in the pockets of the importer, wholesaler, and retailer, respectively.

So far as the Government is concerned, it must be satisfied with the original 15 per cent duties paid at the port of entry. There are no further turnover customs duties to go to the Government. But this 15 per cent means several times as much as a sales tax with three or four turnovers at a 1 per cent tax per turnover.

So far as the ultimate consumer is concerned, the manner of the accumulation on the original duty would follow the same course as do the various turnovers on the original sales tax such as exists in the Philippines. But due to the fact that the customs duty paid is greater than the 1 per cent rate of the sales tax the amount finally accumulated is correspondingly increased.

As regards the internal-revenue taxes on tobacco products, beverages, etc., the same procedure follows as is described above in the case of imports. The original tax rates are much higher than the 1 per cent sales tax rate and accu-

multate much more heavily. The manufacturer of tobacco products, etc., pays the original high internal-revenue tax just as the importer pays the original high customs duty. After that the procedure through the dealers to the ultimate consumer is the same in both cases.

In this country most States, counties, and cities impose flat ad valorem taxes, usually 1 per cent or more, on personal property. These taxes are collected periodically on the assessed value of all personal property, including stocks of goods on wholesalers' and retailers' shelves and in their warehouses. The tax is assessed on the value of the same articles as is the sales tax; i. e., goods, wares, and merchandise. It is collected by the same man; i. e., the storekeeper. It is finally paid by the same man; i. e., the ultimate consumer. It is imposed at approximately the same rate; i. e., 1 per cent. All of which would seem to prove that the personal-property tax on goods, wares, and merchandise in this country and the much-disputed sales tax in the Philippines are laws which are well-nigh identical in amount, manner of assessment and collection, and final incidence.

But there is a vital difference between the two systems: The sales tax in the Philippines accrues on goods which have left the merchant's shelves; that is, when he has sold them and is therefore best able to pay the taxes on them. The personal-property tax in this country accrues, periodically, on the goods which remain on the merchant's shelves, and if they remain unsold a sufficient length of time the next assessment period rolls around and the merchant pays a second tax on the same goods.

The opponents to the sales tax have asserted that its introduction here would disrupt business and produce a diversity of dire calamities. If such a result is inevitable because of a tax law which makes it easy for the merchant to pay his taxes by collecting them when he is flush, what then should logically have been happening to business in this country during the past years under a law, such as the American personal-property tax, which forces the merchant to pay his taxes on unsold goods when his shelves are full and his cash till probably empty?

Yet notwithstanding these object lessons at home an unreasoning fear against sales taxes seems to persist in the minds of many in this country. Nearly a year ago the Secretary of the Treasury wrote a letter to Chairman Fordney of the Ways and Means Committee informing him that there are "grave objections" to a "sales tax which I understand your committee is considering."

#### ATTEMPTS TO REHABILITATE THE PRESENT LAWS.

The Secretary of the Treasury recommended to Congress the regrading of rates and a general revamping of the present tax laws. The main trouble appeared to be the very natural tendency of the wealthy to invest their incomes and profits in tax-exempt securities.

Congressman McFadden, as a remedy to this oversight on the part of the original framers of the tax laws, proposed an amendment to the United States Constitution making all such securities subject to Federal taxation. This remedy, however, involved such a long wait while the various States acted, that the patient would probably not survive the delay. Nothing more has been heard of the proposed amendment.

In order to supplement the falling revenues, Representative Treadway proposed a tax of one-fourth of 1 per cent on bank deposits, which he believed would produce \$1,000,000,000 annually. Nothing further has been made public as to the fate of this bill. Possibly it will be decided that this proposed remedy, economically considered, is worse than the disease it is intended to cure.

Other remedial legislation was suggested and dropped. Congress seemed unwilling to merely revamp a number of discredited laws and send them again to sea in a patched-up condition. Treasury officials had made no secret of the fact that for a long time the tax machinery had been gradually slipping. Now, evidently, it had finally slipped!

At this stage the chairman of the Senate Finance Committee issued a warning and a call to duty to the American people in the following words:

"We are facing the biggest problem ever faced by any country. It is going to tax the ingenuity of experts, and it requires the help of legislators, the Government, and the business community to equip America with proper revenues."

## SALES TAX INDORSED IN THE HOUSE OF ITS ENEMIES.

Mr. Alfred Reeves, general manager of the National Automobile Chamber of Commerce, surprised the antisales tax proceedings of the National Industrial Tax Conference in New York City by stating that—

"No person and no Government has a right to so pile taxes on any one industry as to jeopardize its very existence. \* \* \* We hear occasionally that it would be difficult to impose a sales tax. It is worth noting that a sales tax has been imposed on the automobile industry for the past two years, and there has been no difficulty about collecting it. Before there is any doubling up on the taxes on the industries now paying a sales tax it has occurred to our people that it might be well to have some other industries joint with us."

## WAR ON SALES TAX.

On February 18 a news item from Chicago reading as follows was widely published:

"CHICAGO, February 17.

*"Urges war on sales tax—Revenue official tells business to unite against proposed levy.*—Business men were urged to unite in opposition to the proposed sales tax by Dr. Thomas S. Adams, chairman of the advisory board, Bureau of Internal Revenue, and special adviser to the United States Treasury Department, in an address to-night.

"It is time that the business man, the consumer, and all those who desire economy in public expenditures should arouse themselves to the menace in the propaganda now being conducted in behalf of the sales or turnover tax," Dr. Adams said."

Some days earlier Dr. Adams stated at a taxation discussion at the National Republican Club, in New York City, that he felt as a "lifelong Republican" he had the right to protest against the support given by a small faction of the Republican Party to the sales tax, the effects of which would be:

"To bring about great combinations and make terrific political problems. Such taxation in its results does tend to separate the classes and it is going to be increasingly difficult in the coming years to prevent class warfare."

Editorially, the New York Times refers to these and similar unnecessary alarms under the title, "Sales tax ghosts."

## INTEREST IN AND INDORSEMENT OF THE SALES TAX.

The Review of Reviews (February) says:

"The country which we can study with the greatest profit and from which we can most easily obtain information is the Philippine Archipelago, where a sales tax has been in operation continuously since 1905."

The sales tax has been publicly indorsed by a number of chambers of commerce, industrial and commercial associations, and by many prominent men, including Mr. Edison.

The Government of the Philippine Islands has informed the Secretary of the Treasury in Washington that the sales tax law over there has during the last 16 years proved to be the most productive, accurate, satisfactory, and equitable tax they have; that its administration was not expensive and that it produced no public complaint.

Mr. Martin R. Bourne, vice president of the Manila Trading & Supply Co., with offices in the Philippines and New York City, says in a statement printed and circulated by the Business Men's National Tax Committee of New York City:

"I am very glad to give testimony in favor of the sales tax as the simplest and most efficient form of business tax. \* \* \* I know that I express the unanimous sentiment of both citizens and officials in the Philippines. My enthusiasm is theirs. \* \* \* Possibly its greatest single advantage from the merchant's viewpoint is its certainty and simplicity. It involves no guesswork. He does not have to figure in graduated percentages to know what amount of price-loading is necessary to cover the tax. He does not have to wait a year to know the amount of his tax. At the close of every business day we know our tax for the day's business. We pay it quarterly. We also feel that we are mere collectors. The tax is a recognized cost item which is figured in the selling

price. \* \* \* The tax is tremendously popular with all, and so far as I have ever heard has never been criticized either by the merchant or the consumer. The Philippine Government has found it a great success, both in the revenue produced and also in its effective collection. One never hears of any effort at evasion. In a sense, it both collects and pays itself. No one feels that the Government is taking anything from him. He is simply collecting for the Government. If he failed to account and pay over the tax, it would seem more like theft than ordinary tax avoidance. Unlike profits taxes in the United States the Philippine sales tax makes for conservation and certainty in figuring profits and selling prices and leaves nothing to the future to embarrass credits and endanger solvency. \* \* \* We will gladly share with you the benefits of wise revenue legislation in the form of the sales tax which we have received from wise American administrators. This is the only tax which should rest directly on business."

That tax collectors and taxpayers should share each other's enthusiasm over a tax law which also produces ample revenue, seems too good to be true. How different from the situation in this country, where tax collectors and taxpayers abuse the tax law all day and then take turns sitting up at night and denouncing it further. And now it is about to lose even its right to be called a revenue producer because it threatens to stop producing.

In a report to the Republican National Committee the Hon. Ogden I. Mills, chairman of the advisory committee on platform and policies, refers to the Philippine sales tax as being "in successful operation" and recommends:

"Other things being equal, it would be desirable in this country to test, by actual practice, side by side, the comparative virtues of the sales tax and the income tax. \* \* \* It would be, if not easy and simple of operation, at least more simple and certain than the income and profits tax."

Mr. Mills's recommendation is most practical; there is nothing the advocates of the sales-tax principle would welcome more than a thorough investigation of the merits of the Philippine sales tax through a practical test such as Mr. Mills recommends. This would settle for all time the much debated question as to the applicability of the sales-tax system to the commercial and industrial conditions obtaining in this country.

Mr. Mills's comparison of the Philippine sales tax and the income tax of this country is also most logical. There is a strong resemblance between the incidence of the two taxes. The sales tax also comes out of the ultimate consumers' income. The main difference is that here the tax falls on the net income and in the Philippines on the gross income.

In this country the taxpayer in order to arrive at his taxable income is allowed to make deductions such as the salary due by a farmer to a woman worker while milking cows but not while the same woman was doing housework, etc. There is a large assortment of ingenious administrative provisions of this type which really amount to law-making by tax officials. One income taxpayer complains that he is obliged to make 86 reports to Federal and State collectors of income taxes, and that recent laws will add 23 more.

In the Philippines each taxpayer grades his own income tax when he buys things to eat and wear. He increases or decreases his tax at will (within reasonable limits) and has no reports whatever to make. The amount of his income (or sales) tax varies in amount according to his ability and willingness to pay. He pays it as he goes along and does not feel its effects. Whereas in this country to-day (especially since the commercial depression began), there are hundreds of thousands of taxpayers who now, when their salaries and incomes have been reduced, are called on to pay taxes on the much higher salaries or incomes they enjoyed last year when the taxes accrued but were not paid.

#### THE PHILIPPINES SALES TAX.

The writer of this monograph was asked over 16 years ago by Governor General Taft and Secretary of Finance and Justice Ide, of the Philippines, to submit a draft of a tax on general business in the islands. This was done and sent to the Philippine Commission for legislative action with a letter of transmittal from which the following excerpt is taken:

"The system of taxation proposed in the inclosed draft may be described as an indirect tax on certain personal property collected at the time of change of ownership. \* \* \* Whether or not there is any absolutely certain, complete, and equitable method devisable for the assessment of personal property will



probably forever remain an unsolved problem. I submit the inclosed draft of law because I believe it will eliminate most of the objectionable features of the existing law, establish a more uniform rule of taxation, and will put merchants and manufacturers on an even footing in so far as such equal rights and opportunities can be secured by legislative enactment."

*Tax provisions.*—The Philippine law as finally enacted provided a tax of 1 per cent on every turnover of goods, wares, or merchandise, whether by manufacturer, wholesaler, or retailer, which accrued at the time of change of ownership of the goods, and whether the sale was made on a cash, credit, or installment basis. Farmers, small booth keepers, peddlers, and others subject to license taxes, were exempted. Services, real estate, and capital stock sales were not included, some of these being considered properly exempt and others as taxed in other ways. Transfers of stock, bonds, etc., were variously reached in the documentary tax schedules, and brokers, etc., were subject to specific license taxes. The sales tax was made exclusively applicable to goods, wares, and merchandise which changed ownership within the Philippine Islands.

*Assessment and collection.*—Each merchant and manufacturer was registered each year and was furnished a license form with four columns and four coupons, one of each for each quarter. At the end of each quarter he totaled up his sales in a book which, even before the tax was imposed, he kept for that purpose. The only additional work which the sales tax law imposed on him was to make him move the decimal point in his total sales two columns to the left—at a 1 per cent rate—tear from his license the coupon for the proper quarter, enter thereon the tax due, send it with the necessary funds to the local tax collector, get the serially numbered stamps and glue them to the license on the wall of his store in the column for the quarter just expired. No receipts were ever issued for tax payments—the serial numbers on the stamps spoke for themselves and were sufficient to identify the individual payments. All that the merchant or manufacturer had to see to was that he did not lose the license form with the attached stamps.

*Simplicity of provisions.*—The provisions of law just recited are about all that are essential in the Philippine sales tax. They all relate to fundamental facts which hold good in all parts of the world where goods, wares, or merchandise change hands. Canada, Mexico, and France have successful sales-tax laws with provisions equally simple and understandable. Why would not such a tax law work here? The answer is that a uniform tax law with simple, understandable provisions would work here, just as such laws are successfully functioning in the countries I have enumerated.

#### TAXATION OF SELF-CONTAINED INDUSTRIES.

Opponents of the sales-tax principle have insisted that it would be inapplicable to this country because of the existence here of large self-contained industrial manufacturing concerns, which assumedly would pay the sales tax only once, whereas their functioning from raw material to finished product involves several distinct processes. The argument lies in the claim that the small manufacturer would have to pay the sales tax several times to turn out the same finished products, namely, an additional tax for each change in form of the article manufactured.

The answer to this objection is quite easy: Collect the tax from the large integrated concern as many times as there are processes between the raw material and the finished product. Whether or not this would be a throw-back on the economic history of civilization during several generations, whether or not this would be an attempt, in a tax law, to penalize efficiency, are questions for the lawmakers to decide on grounds of public policy.

Modern machinery and methods began over 200 years ago to furnish more goods, better goods, and cheaper goods to consumers the world over. Surely any attempt at this time, by means of a few 1 per cent taxes, to force a resumption of the crude, expensive methods of yesterday would prove but a silly gesture.<sup>1</sup>

<sup>1</sup> Further information regarding the Philippines sales tax will be found in the Report of the Philippine Commission to the Secretary of War for 1905. Also in an article prepared by the writer hereof, entitled "Internal Taxation in the Philippine Islands," and published by the Johns Hopkins Press in January, 1907.

Mr. HORD. I should like to simply read the closing paragraphs to show what the summary is. You will find in here I have taken up several of the problems asked this morning and I will not take up your time with those details. [Reading:]

#### RECOMMENDATIONS.

Investigations made by Prof. Irving Fisher, by Mr. Joseph McCoy, actuary of the Treasury Department, and others, as to the potential annual productivity of a sales tax in this country at a 1 per cent rate per turnover, give widely divergent results. The amounts range all the way from under two billion to over five billion dollars. If an average of the varying estimates be taken the amount is still sufficient to meet the extraordinary revenue needs of this country.

In this estimate it is assumed that customs duties and internal excise taxes on such old, tried, and true articles as tobacco products, etc., will together produce one billion. This would leave approximately three billion more to come from a sales tax, from a reasonable flat-rate income tax and from all minor sources, not, of course, including excess-profits, income surtaxes, and the present discriminatory luxury or consumption taxes, all of which should be repealed with as little delay as possible.

Taxation has not yet been placed in the category of exact sciences. Whatever system is adopted is bound to meet with just criticism. But if the text of the new law is free from complexities, certainty of assessment and collection will follow, and the nearest possible measure of justice will be secured to all taxpayers.

The advocates of such modification of the present taxes as will give them a new lease of life may be divided into three groups, thus:

*Group 1.*—Academicians and official tax advisers, experts, etc. This group represents pride of authorship. Their mental attitude is quite understandable. They no doubt act in perfect good faith but their intellectual dexterity is such that they have succeeded in convincing themselves that their position is irrevocably right.

*Group 2.*—The tax complexity experts. The monetary attitude of this group is also clear. They have fattened on the weaving, interweaving, and thread-tying dexterity of those included in group 1.

*Group 3.*—The men of moderate means who were led to believe that their taxes would be shifted to the shoulders of their well-to-do neighbors. Their position is pathetic. Their eyes have been opened at the eleventh hour to the fact that an exit marked "Tax-exempt securities," on the working plan of group 1, escaped attention when the tax scheme was originally prepared. The number in this group is fast dwindling.

Soon they will all have passed over to a new group embracing all taxpayers in this country, whose ambition will be to really pay taxes and be taxpayers in something more than the name; who will hold no longer to the hope of becoming parasites on the body politic. And this new group will recognize in the repeal of the excess profits and income surtaxes and in the enactment of a simple, sane, and just sales tax law the opportunity for each and all to bear their full share of the national tax burden—and no more.

Senator DILLINGHAM. You have mentioned Mr. McCoy of the Treasury Department?

Mr. HORD., Yes, sir.

Senator DILLINGHAM. Do you remember what his estimate was of the amount?

Mr. HORD. One billion seven hundred million. Mr. McCoy made that estimate if a sales tax was imposed on everything that was sold in this country similar to the Philippines; and he also stated to me at the same meeting that they were collecting a billion dollars on a sales tax we have here on only 57 or 58 articles, and on only one turnover at that. I can hardly believe that his estimate is right. It is probably too low, because you can pick out any 58 articles you want, and the balance of the goods sold in this country will certainly produce more money, and as his claim stands they would not produce half as much again.

I have so far limited my talk to an explanation of the Philippine sales tax.

Of course, absolute justice is impossible where all tax laws are necessarily faulty. The most we can do is to ask a reduction of that burden which is the least bearable and most unnecessary. But from what examination I have made here of the tax laws of this country, I have come to the conclusion that there are three burdens imposed on the taxpayers, two of them quite unnecessary. There is, first, the burden of the tax payment itself, and I have found in my experience as tax collector in the Philippines and Porto Rico that all honest men are only too anxious to pay their tax, and most taxpayers are honest men; they are anxious to pay taxes, but they want to know what the liability is. The dishonest business man I have found is very well pleased with a statute that is complex, which gives him his opportunity to commit fraud. The fact that in this country there is over a billion dollars, as stated by Government officials, due since 1917, I think, is the year, would show or seem to indicate that the honest man has paid his income and excess profits tax, but due to the complexity in the law the men who are not so honest and who made a confused report have not yet paid them.

I have asked about these consumption taxes, and I could show by one of the men in the office that they did not attempt to enforce them for over a year. I asked that because in a hearing before the Ways and Means Committee the question came up about the Philippine sales tax, and this gentleman, who was spokesman for the Treasury, stated that they could not think of adopting a sales tax like the Philippine sales tax because it would complicate matters and break down the machinery; that the present American sales tax was very complicated, had an enormous amount of evasion—I remember he used that word "evasion," and I asked him afterwards why he had said that, whether they had really attempted to enforce their own sales taxes, and found out that they had not; that for a year at a time they had taken everybody off the sales tax and put them on the income tax because they were so far behind on the excess-profits and income-tax audits.

I hold that there is no greater nor more unmerited punishment being imposed on the honest taxpayer than to tax him while letting his competitor in the sale of similar goods go tax free. It means either his ruination or the making a dishonest man out of him.

The third burden that the taxpayer has to bear is a sort of a surtax which does not get into the Treasury. It also is due to the complexity of the present law. If the provisions of the law were clear, the taxpayer would understand what he had to pay, and pay it just as he does in the Philippines, where it is simple, and would never have to engage the services of lawyers and tax experts of different kinds. There is an army of tax experts in this country to-day, and they live off the taxpayer; they collect what is practically a surtax from the taxpayer, which he is obliged to pay directly because of the complexity of the law, but which surtax never reaches the Treasury. That is a burden which should not be imposed on him and which he resents.

Banker Kahn, of New York, who came before the Ways and Means Committee some months ago, and who stated in published articles about the complexities of the present law, was very frank. He said nothing makes the taxpayer more resentful and more anxious to give himself any benefit of the doubt—he was talking about excess profits

and income surtaxes—than the complexity in the law, and its obliging him to spend valuable time and money engaging legal and expert tax advice.

I was at a meeting of the bankers' club in New York. One of the men there complained that there were \$3,000,000 lying idle in the bank because they did not know, and nobody could tell them here in Washington, how much tax was payable, and there are probably thousands of other cases similar to that.

That is the disadvantage to a complex law. Any tax law is necessarily bad, but if you can get a simple tax law you will at least get the cooperation of the taxpayer with the tax collector, and that is the biggest asset I have found in tax collection, to have that cooperation. They do not have it in this country to-day. It is one of the proofs of the way the Philippine tax operates that taxpayers like Bourne, and others who have certified in the same way, are friends of the law and would like to see it in use here.

**STATEMENT OF GEORGE W. POUND, REPRESENTING MUSIC INDUSTRIES CHAMBER OF COMMERCE OF AMERICA, NEW YORK, N. Y.**

The CHAIRMAN. Mr. Pound, will you state your full name for the record?

Mr. POUND. My name is George W. Pound.

The CHAIRMAN. What is your business?

Mr. POUND. I am general counsel of the Music Industries Chamber of Commerce of America.

The CHAIRMAN. You appear here as an attorney representing those industries?

Mr. POUND. Yes, sir.

The CHAIRMAN. You are not in the business yourself?

Mr. POUND. No, sir.

The CHAIRMAN. Do you want very much time?

Mr. POUND. Oh, no. I will file a statement of figures and statistics and make a brief presentation.

The CHAIRMAN. Do you advocate taking the sales tax off of musical instruments?

Mr. POUND. Yes, sir.

The CHAIRMAN. And in place of that you think it would be a good thing to have a uniform tax on all sales of commodities?

Mr. POUND. Yes, sir.

The CHAIRMAN. All right, Mr. Pound. You may proceed now with your statement.

Mr. POUND. Our chamber, gentlemen, is a centralization of every element of the industry in America manufacturing or merchandising music. It includes the following associations:

National Piano Manufacturers Association of America.

National Association of Music Merchants.

Committee of Phonograph Manufacturers.

Organ Builders Association of America.

National Music Roll Manufacturers Association.

National Musical Merchandise Association of the United States.

Musical Supply Association of America.

Music Publishers Association of the United States.

Band Instrument Manufacturers Association.

National Association of Talking Machine Jobbers.

National Piano Travelers Association.

National Association of Piano Tuners.

We have some 400 factories in America with some 40,000 employees; some 8,500 merchants with many thousands of employees

We have circularized and interrogated every member of our industry, every one of our manufacturers, every source of our supplies, every one of our 8,500 merchants, upon the proposition of a sales tax bill. We have received only one objection in all those inquiries.

The CHAIRMAN. Mr. Pound, is not a large part of the proposition a desire on the part of certain groups and trades to get rid of luxury taxes, so called, and sales taxes and put it on some nebulous proposition about which they do not know much and do not care whether it works out or not? Their chief interest is to get the tax divested from their own interest?

Mr. POUND. I hardly think so, Senator.

The CHAIRMAN. That is my observation.

Mr. POUND. I think it is a broader proposition than that.

The CHAIRMAN. You say you canvassed 40,000 people. How many of them know anything about it?

Senator SMOOT. He said 8,500 merchants. He did not say employees.

The CHAIRMAN. Well, take the 8,500 merchants. How many of them know anything about it?

Mr. POUND. They know about it very thoroughly. We have submitted all plans of taxation that have been proposed and have gone very thoroughly into the question. Mr. Chairman, we do believe that the tax should be taken off music. It has been taken off music in practically every other country. Canada took it off. France has taken it off. Music is not a luxury.

Every organization that has gone into this question has come to the view that these excise taxes should be done away with. The Chamber of Commerce of the United States at its Atlantic City meeting voted in every group to rescind their former action and take away the excise taxes; the American Bankers' Association likewise.

The CHAIRMAN. Do you know how much money would be lost to the Government if the excise taxes were abolished?

Mr. POUND. Yes; about \$13,000,000, I believe.

Senator SMOOT. On music you mean?

Mr. POUND. On all excise taxes on music, including every tax on the music.

Senator McCUMBER. Do you know how much it is on all the excise tax?

Mr. POUND. \$800,000,000.

The CHAIRMAN. You have no conception of how much the Government would lose? Have you any idea how much the sales tax would give to the Government?

Mr. POUND. Yes; our examination showed that this tax would bring about \$2,000,000,000. I think that is the generally accepted figure.

The CHAIRMAN. That is a higher figure than has ever been given before to this committee.

Mr. POUND. No; it was given here the other day at a billion and a half or two billion, and the estimates run to three billion.

The CHAIRMAN. Is that all you have to say, Mr. Pound?

Mr. POUND. On this question, Senator Penrose, as an illustration, take the lumber that we use in our industry. As one of your constituents told you, the price was increased \$8 a thousand feet on that lumber, and in reply to why that was done we were told that that was to cover the excess profits. They could not figure it; they did not know. We would prefer a tax that we can absolutely and definitely compute. Ours is a specialized industry. We sell these goods under deferred payment. I will submit figures showing that the present tax of 5 per cent on the cash payments upon our production per month is more than we actually receive in a majority of those cases from the public. It is the poor people who buy our instruments, not the wealthy people.

**BRIEF OF GEORGE W. POUND, GENERAL COUNSEL MUSIC INDUSTRIES CHAMBER OF COMMERCE, NEW YORK, N. Y.**

The music industry, comprising the manufacturers of pianos, piano players, phonographs, organs, band instruments, music rolls and records, sheet music, musical merchandise and allied trades, and representing a manufacturing and merchandising turnover in excess of a billion dollars annually, respectfully presents to the Committee on Finance the subjoined argument upon the questions of sales taxes.

We favor the enactment of a uniform tax on all sales of commodities, wares, and merchandise and the repeal of the specific sales or so-called war-time excise taxes imposed at high rates on a few commodities only. Bill S. 202, introduced by Senator Smoot, and now before your committee, conforms to these principles of tax revision.

We are not unmindful of the gigantic problem now before Congress of providing enough revenue for the needs of the Nation and at the same time of lifting, if possible, some of the burdens of taxation which weigh heavily upon business, retarding its recovery, and at the same time greatly increase the cost of living of our people. The question of elimination and revision of certain taxes is inseparably tied up with that of the adoption of a sales tax, as a sales tax is the best if not the only method of raising the necessary revenue without disastrous effects on business and an especially heavy tax burden on consumers.

**EXCESS-PROFITS TAX SHOULD BE REPEALED.**

It appears to be generally agreed that the excess-profits tax must be eliminated not only because it has proved to be difficult of administration, discriminatory, and conducive to excessive "loading" of prices, extravagance of business management, and hostility between taxpayers and the Government, but also, because its productivity has already greatly decreased and its future yield is very uncertain.

**SURTAXES SHOULD BE REVISED.**

The higher rates of individual income surtaxes have proved to be confiscatory, with the result that the individuals subject to them have placed their funds in tax-exempt securities instead of in business enterprises. The Government has been deprived of the revenue which these taxes were intended to yield and normal business development has been greatly retarded. Therefore, we believe the surtax rates should be revised, so as to eliminate such conversion of investments from taxable to tax-exempt securities. Surtax rates in excess of about 30 per cent will cause a general transfer of funds to tax-exempt securities and defeat their own purpose.

**WAR-TIME EXCISE TAXES VIOLATE PRINCIPLES OF JUSTICE AND FAIRNESS IN TAXATION.**

The revenue acts of 1917 and 1918 created consumption or sales taxes on about 30 classes of manufactured products selected hurriedly without any evidence that the selection was based upon any definite principle of taxation or economics. These taxes impose an additional and discriminatory tax on a limited number of industries and violate the principle of "equal taxation for all." These taxes were justified at the time only by the existing emergency and the imperative need for additional revenue from whatever source obtainable. They were understood to be emergency taxes, to be repealed after the war.

EXCISE TAXES WILL NOT YIELD EXPECTED REVENUE.

Not only would continuance of these war-time excise taxes violate the essential principles of justice and fairness in taxation, but they would fail in many instances to continue to yield the expected revenue. Few industries in normal times, and certainly not all those now subject to excise taxes, can maintain volume of sales and a reasonable profit when subject to an additional tax burden of from 5 to 10 per cent. To the extent that these taxes curtail industry they curtail the source of the very revenue which they are supposed to yield, and also decrease the revenue from the income taxes of those industries.

The depressing effects of the Canadian excise or "luxury" taxes became so evident that the Canadian Government was compelled to abolish them. The repeal has met with general public approval. It is reported that a number of plants have already resumed or are planning to resume production largely as a result of the repeal of these taxes.

COMMODITIES ARE IMPROPERLY SELECTED FOR EXCISES.

Several of the commodities now subject to excise taxes do not meet the test which advocates of excise taxes themselves advance, while hundreds of commodities conforming to such a test are not so taxed. The tax committee of the National Industrial Conference Board, perhaps the foremost advocate of a continuance of excise taxes, states: "The preliminary test of the availability of a commodity for such a tax is whether its use is so widespread and general and its distribution so well established that neither will be substantially curtailed by the imposition of a tax and the tax will be normally passed on to the consumer in its exact amount." It has always been generally understood also that excise taxes are applicable only to commodities of relatively quick consumption and constant use.

As illustrative of how some of the commodities now subject to excise taxes conform to these tests, the products of the music industry may be cited. Musical instruments, particularly pianos and phonographs, which are the most important, are purchased usually with the expectation of lasting a lifetime. They are in the nature of investments, being an essential part of the home, and usually require a relatively large investment for the purchaser. The retailer almost never makes a cash sale and in the great majority of cases the initial payment scarcely offsets the tax which has been advanced to the Government months previously by the manufacturer. In normal times the transaction is not completed by the final payment for two, three, and often four years after the initial sale is made by the retailer. The instrument is not infrequently returned and has to be sold again. The great single problem of the music industry is the financial one of converting outstanding credits into the cash needed to carry on current operations. No industry operating under such conditions can flourish with the extra burden of an excise tax draining a large part of its cash resources in a constant stream. The sales and credit methods of such an industry can not be changed without entailing a serious decrease in volume of sales and consequent loss of revenue to the Government and profit to the industry. It is absurd and indefensible to retain a special excise tax on such an industry.

The following tables, which analyze the sales in the industry from the financial standpoint, indicate clearly the disastrous effects of an excise tax, which drains the cash resources of the industry in the initial stages of every sale:

*Analysis of piano and phonograph sales, 1914 and 1920.*

PIANOS.

	Per cent of total number.			Per cent of total number.	
	1914 (712 sales).	1920 (1,019 sales).		1914 (657 sales).	1920 (984 sales).
Cash received at time of sale:			Elapsed time between dates of sale and final payment:		
Less than 2 1/2 per cent of price...	12+	4+	Less than 1 year.....	10+	8+
Less than 5 per cent of price...	25+	11+	1 to 2 years.....	12+	24+
Less than 10 per cent of price...	33+	26+	2 to 3 years.....	27+	20+
Less than 15 per cent of price...	5+	17+	3 to 4 years.....	23+	21+
Less than 25 per cent of price...	8+	15+	4 years and over.....	15+	6+
25 per cent and over.....	21+	24+			

*Analysis of piano and phonograph sales, 1914 and 1920—(Continued).*

## PHONOGRAPHS.

	Per cent of total number.			Per cent of total number.	
	1914 (2,049 sales).	1920 (4,704 sales).		1914 (1,926 sales).	1920 (4,183 sales).
Cash received at time of sale:			Elapsed time between dates of sale and final payment:		
Less than 2½ per cent of price...	7+	2+	Less than 1 year.....	60+	55+
Less than 5 per cent of price...	3+	2+	1 to 2 years.....	33+	42+
Less than 10 per cent of price...	15+	20+	2 to 3 years.....	4+	1+
Less than 15 per cent of price...	24+	22+	3 to 4 years.....	300/81	1+
Less than 25 per cent of price...	20+	23+	4 years and over.....	530/81	
25 per cent and over.....	28+	27+			

## CURTAILMENT OF ALLEGED LUXURIES BY TAXATION IS INDEFENSIBLE.

Excise taxes have been defended at times on the grounds that they are usually imposed on luxuries which can stand them without curtailment, or whose curtailment does not deprive the public of anything which is essential to its welfare or which is even desirable. From a tax standpoint such a theory is indefensible, for a tax which curtails the taxable source, irrespective of the desirability of curtailment, defeats its only real purpose, namely, that of obtaining revenue. As a method of curtailing alleged luxuries it is sufficient to point out that Government curtailment of industries which are harmful to neither public health or morals, and indirect Government regulation of the buying habits of the people, are contrary to the true American conception of the rights of the individual and the function of government. Furthermore, if such were not the case excise taxes could be defended as luxury regulations only if applied to all luxuries and to luxuries only. Such is decidedly not the case with the present excise taxes.

The existing excise taxes tax the motor truck, but not the horse-drawn vehicle doing the same work; they tax the fur coat of the farmer and lumberman which he can scarcely do without, but not a cloth coat which for many uses is less desirable; and they tax the piano necessary for the child to obtain its proper musical education, or the band instrument with which he may later earn his living, but not the toy with which he amuses himself.

It is impossible to develop a satisfactory system of excise taxes on so-called luxuries, because it is impossible to determine what is or what is not a luxury. Almost any commodity can be used either as a luxury or as an essential. What often appear to be luxury uses of commodities prove upon investigation to be essential, and many uses commonly thought of as essential are frequently not essential at all. The experience of the Government with its priority and raw material regulations proved conclusively that even in war time it is impossible to classify industries into luxury or essential groups, and that a general grading of industries as to their relative essentiality can at best be only crude and subject to innumerable exceptions.

## MUSICAL INSTRUMENTS ARE NOT LUXURIES.

Even though it were either just or possible to tax luxuries in a proper manner, musical instruments and many other commodities now subject to high excise taxes should not be so taxed, as they are not luxuries. Musical instruments constitute the means whereby thousands of persons earn their living and are essential to religious worship and indispensable to many forms of public life. Music is being used as a means of improving morale, promoting efficiency, and decreasing industrial unrest. Music is the most potent, universal, and cheapest factor in making life worth living as distinct as making mere existence possible; and in these days of advanced civilization to exist merely is not really to live.

Music is being enjoyed by millions to-day who never had any opportunity to enjoy it a decade ago. It has taken a far more important place in the child's education, which is as it should be, if education is to fulfill its one great function—preparation for life.

The idea that music is a luxury which only the overrefined can relish is rapidly disappearing. The few that still hold to it have had the tremendous unifying and



uplifting power of music brought home to them through the recognition of music where they may have least looked for it, namely, by our great military and naval leaders. Though these serious men referred in their commendation of music principally to the simpler types of it—to the songs of a soldierly and patriotic character—yet even these simpler types serve as stepping-stones toward music of higher and highest order. Their—and the Government's—recognition of the spiritual influence of music is an additional confirmation of the view of it which has been held and forcefully expressed by every great philosopher from the earliest times to the present day.

What Plato has said of music has never been controverted, nor even questioned, by serious minds and by the greatest educators of the world's history, namely:

"Music is a moral law. It gives a soul to the universe, wings to the mind, flight to the imagination, a charm to sadness, gaiety and life to everything else. It is the essence of order and leads to all that is good, just, and beautiful, of which it is the invisible, but nevertheless dazzling, passionate, and eternal form."

The typical piano or phonograph is not the expensive concert grand or the phonograph de luxe. On the contrary, the great bulk of these products go into humble homes where they become the most potent factor in keeping the home together, especially when the children grow old enough to be allured by outside attractions unless there is a pleasant home life. A discriminatory tax on music is a blow at the home and at education.

From the best information available to us it appears that the Government must raise our annual revenue of approximately \$4,000,000,000; and that existing taxes, minus those which we believe should be abolished or decreased, and with expected increases in customs duties will raise an annual revenue of from \$2,000,000,000 to \$2,500,000,000. If these estimates are correct the great problem is that of raising from \$1,500,000,000 to \$2,000,000,000 annually by new taxes. After a very careful study of the subject we are convinced that a uniform tax of 1 per cent on the sales of all commodities is the best, and in fact, the only feasible method of raising the required revenue.

#### MERITS OF COMMODITY SALES TAX.

The merits of a sales tax on commodities are:

(1) It is simple to administer by the Government, and easy to compute and pay by the business concern.

(2) It is definite, and the exact amount which the tax adds to the cost of doing business is known at the time of the transaction, which is not true of profits taxes.

(3) It avoids the necessity of making a huge increase in the corporation income tax rate. Such increases would add materially to the evil of price "loading" as a means of insuring against a profits tax which can not be anticipated. An increase in a profits tax causes much more than an equivalent increase in "loading." An increase in profits taxes would also add to the enormous difficulties which business faces under the necessity of providing large sums of money as tax payments which, even though they have been collected from customers, are often tied up in the form of accounts receivable, raw materials, and merchandise.

(4) It avoids the necessity of expanding the present discriminatory excise taxes, and in effect substitutes a low rate and just sales tax on all business for a special high rate and discriminatory sales tax on a few businesses.

(5) It carries out the principle of "equal taxation for all." As Prof. E. R. A. Seligman has said: "Finally, we must, I think, all be agreed as to the importance of ethical implications of a system of taxation. We should \* \* \* demand equality, and we must demand equality from two points of view: we must demand that kind of equality which is inherent in the uniformity among different members of the same class who pay the tax. If it is imposed on the business man, it must be uniform among all business men; if it is levied upon the consumer, it ought to be uniform among all consumers. The other aspect of this ethical principle of taxation is that the equality must be predicated also as among the different classes in the community."

#### ARGUMENTS AGAINST COMMODITY SALES TAX ARE NOT WELL FOUNDED.

Every argument which has been brought against the commodity sales tax can be disposed of easily and finally. Chief of these arguments are:

(1) The tax will be "loaded." A 1 per cent tax which adds a definite amount to the cost of doing business which is known exactly at the time of each transaction does not have nearly the inducement for "loading" that there would be with its only alternative, an increase of about 50 per cent or more in profits taxes, the amount of which can not be anticipated.

(2) The self-contained business would have an advantage. The pyramiding of a 1 per cent sales tax would seldom amount to more than 3 per cent. In the piano and phonograph industry it would seldom, if ever, exceed 2½ per cent, as shown by a very careful investigation. A sales advantage of 2 per cent to an integrated business is negligible. Furthermore, such an advantage is far less than that which would result from an increase in profits taxes sufficient to yield the same revenue, because of the inevitable "loading" which would accompany it.

(3) The amount of revenue which such a tax would produce can not be calculated in advance. It is equally difficult, if not more so, to anticipate the yield of increased profits taxes and expended excise taxes. Gross sales in general vary less than either net profits of all businesses or sales of a few specified commodities on which is imposed a high excise tax.

(4) Where the tax is not shifted it becomes a tax on gross income. Such a small tax would practically always be shifted. Every business man knows that a uniform increase in the cost of doing business of only 1 per cent would be shifted, at least in the long run. If not shifted, it is still preferable to 10 per cent specific sales taxes now imposed or suggested.

(5) To the extent that it is shifted, it adds to the tax burden of the consumer. This is the most appealing and at the same time the most fallacious of all arguments against the sales tax. No thinking person, certainly no business man, will deny that in the long run practically all taxes are paid by the consumer. Especially is this true of the corporation income or profits tax. Furthermore, the consumer pays the tax plus "loading" charges. A commodity sales tax will cost the consumer far less than an increase in profits taxes sufficient to yield the same revenue. In other words, business taxes are paid by the consumer whether they be sales or profits taxes; but in the case of the sales tax the consumer pays directly and immediately the exact sum of the tax, while in the case of a profits tax the consumer pays indirectly but ultimately much more than the amount of the tax.

The adoption of a commodity sales tax will inaterially relieve the consumer of his present tax burden.

The tax burden on the people of this country must necessarily be heavy for years to come, and everyone must cheerfully bear his just share. However, no revised system of taxation will be successful except it conforms to the principle of "equality of taxation," and relieve the consumer of paying much more than the Government ultimately receives.

**STATEMENT OF GUY W. COX, CHAIRMAN TAXATION COMMITTEE OF THE BOSTON CHAMBER OF COMMERCE.**

Mr. Cox. I am chairman of the taxation committee of the Boston Chamber of Commerce and I have been sent down here as chairman of a delegation to put the Boston Chamber of Commerce on record in the matter of taxation now pending before this committee.

Senator WALSH. You are omitting the great distinction that you are a brother of the governor of Massachusetts.

Mr. Cox. The taxation committee of the chamber of commerce was requested by the chamber to make a study of Federal taxation matters. It did so at some length and made a report to the directors of the chamber, and the directors saw fit to have a referendum taken of all its members.

In that connection I wish to say that the Boston Chamber of Commerce consists of about 7,300 members, and, rather unusual in the case of a chamber of commerce, it does not comprise simply merchants and manufacturers in the community alone, but it takes in the professional men and all people interested in industry. Some of its members are leaders of organized labor.

In that referendum the questions that were asked were as to whether the members favored the abolition of the excess-profits tax on corporations, and the vote was 2,232 yes and 99 no.

On the question as to whether the chamber favored the abolition of the present surtaxes on individuals, the vote was 2,085 yes and 203 no.

Senator SIMMONS. Was that vote on the total abolition of the surtax?

Mr. Cox. The abolition of the present surtax.

Senator SIMMONS. I mean the present surtax; the elimination of the present surtax?

Mr. Cox. That would not be a fair interpretation of that vote, as I will explain in a moment.

The proposition that the committee reported was that the present surtaxes should be abolished and that in place thereof there should be taxes levied at such a rate as would permit the general flow of capital into ordinary business channels; that is, that the point should be fixed at which the surtaxes should be productive.

We believe that the point of productivity has been passed and that the higher surtaxes have dried up and that they are not only dried up but on account of the higher rate they have driven the money into nontaxables and out of ordinary business channels and have also placed a great hardship upon business and raised interest rates, and so forth.

Senator SIMMONS. I supposed that was what you meant; and without that explanation it might have gone in and been misleading.

Mr. Cox. Thank you, Senator. I intended to make that explanation.

On the general question as to whether the chamber of commerce would favor the principle of a sales tax the vote was overwhelming—2,201 yes and 120 no.

We divided that question to get an expression of the members simply as to what general form of sales tax they would favor; and while the committee's report was in favor of a general sales tax at a uniform rate, that was sustained by the vote of the chamber, which was 1,235 in favor of it. But as to the alternative question, as to whether the tax should be at different rates and on different kinds of business, there were 850 votes in favor of that proposition.

So, in all fairness to the members of our chamber, I submit the full story to this committee.

Senator WALSH. What information did you send out with the referendum vote on this question?

Mr. Cox. The directors of the chamber prepared a pamphlet which contained brief arguments in favor of the sales tax and arguments in opposition to the sales tax, and the report of the chamber of commerce committee on taxation.

Senator SIMMONS. Let me ask you a question right there.

Mr. Cox. If I may be permitted, I would like to leave those with this committee.

Senator SIMMONS. You say you had arguments on both sides?

Mr. Cox. Yes, sir.

Senator SIMMONS. Were the arguments against the sales tax prepared by some one who was opposed to the sales tax?

Mr. Cox. Yes.

Senator WALSH. You say there was also a recommendation of the committee on taxation of the chamber?

Mr. Cox. Yes.

Senator JONES. Are you going to insert the articles sent out as well as your interrogatories and the replies?

Mr. Cox. Yes, so that the committee will have the full story in so far as the point which the chamber wishes to make is concerned and

the attitude that was adopted. Of course we will allow the committee to make use of that.

Senator McCUMBER. Did your organization or some subcommittee of it make a careful investigation of the whole subject of sales tax?

Mr. Cox. It did.

Senator McCUMBER. And you speak for that organization?

Mr. Cox. I do.

Senator McCUMBER. And you represent its views and have an argument to present on the question of a turnover tax?

Mr. Cox. Personally, I am not going to present any argument in favor of the turnover tax except as it is stated in the recommendations of the committee of which I was chairman, which recommendations I am leaving with the committee.

Senator SMOOT. Make that a part of the record so that we will have it at this point.

Senator McCUMBER. Yes. It should be inserted with such data and explanations as you deem necessary.

(The papers referred to are as follows:)

BOSTON CHAMBER OF COMMERCE.

BALLOT FOR MAIL VOTE ON REPEAL OF EXCESS-PROFITS TAX AND HIGHER SURTAXES ON INDIVIDUALS, AND THE SUBSTITUTION THEREFOR OF A SALES TAX.

To the Board of Directors of the Boston Chamber of Commerce:

Having in mind the facts and arguments contained in the pamphlet received with this ballot, I vote on the questions submitted in this referendum of the chamber as follows:

1. Are you in favor of:

(a) The abolition of the excess-profits tax on corporations?

(b) The abolition of the present surtax on individuals?

2. Do you believe in the general principle of a sales tax in some form?

3. For the purpose of equitable distribution, do you believe that the sales tax should be levied:

(a) At a uniform rate on all sales?

(b) At different rates in different kinds of business, *e. g.* manufacturers, wholesalers, and retailers?

Mark X to indicate vote.

Yes. No.

2332	99
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2085	203
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2201	120
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Check one only.

1235
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850
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Ballots received after April 4, 1921, will not be counted.

Member's Signature \_\_\_\_\_,

Address \_\_\_\_\_.

REFERENDUM ON REPEAL OF EXCESS-PROFITS TAX AND HIGHER SURTAXES ON INDIVIDUALS AND THE SUBSTITUTION THEREFOR OF A SALES TAX.

To the Members of the Boston Chamber of Commerce:

At a recent meeting the board of directors voted to refer to the members of the chamber for a vote thereon by mail the questions stated below. In accordance with the provisions of Article VII, section 12, of the by-laws these questions are accompanied by the arguments in favor of, and in opposition to, the proposal contained in the questions submitted.

In order to be counted, ballots must be received at the office of the secretary on or before April 4, 1921.

The printed ballot form must be used.

If the members desire to make a fuller statement of their views, they should do so in a separate letter accompanying the ballot.

By order of the board of directors.

JAMES A. MCKIBBEN, Secretary.

No attempt has been made in this referendum to cover the entire field of Federal tax revision. The repeal of the excess-profits tax and of the higher surtaxes on individuals and the levy of a sales tax in some form in lieu of these are the proposals which will receive the most prominence in the impending consideration at Washington, and accordingly the questions in this referendum have been limited to these important proposals.

#### QUESTIONS TO BE VOTED UPON.

1. Are you in favor of—
  - (a) The abolition of the excess-profits tax on corporations?
  - (b) The abolition of the present surtaxes on individuals?
2. Do you believe in the general principle of a sales tax in some form?
3. For the purpose of equitable distribution, do you believe that the sales tax should be levied:
  - (a) At a uniform rate on all sales?
  - (b) At different rates in different kinds of business; e. g., manufacturers, wholesalers, and retailers?

#### ABOLITION OF THE EXCESS-PROFITS TAX.

##### ARGUMENTS IN FAVOR.

The excess-profits tax should be abolished because:

1. The burden is loaded on the consumer.
2. The tax is undeterminable—no taxpayer knows what he will pay.
3. It is expensive to the taxpayer, being so complicated that it requires expert clerical assistance and the services of a specialist.
4. It is expensive to the Government, requiring thousands of employees and the expenditure of millions of dollars in its administration and collection.
5. It is conducive to excessive litigation because of claims for refund, credit, or abatement, arising under changed rulings.
6. It obstructs the development of natural resources as well as established business. Capital hesitates to enter new fields because fearful of their impairment by taxes.
7. The Department of Justice admits that 23.2 per cent of the cost of necessities is due to business taxes. This causes high prices.
8. It is in effect a tax on exports—taxes enter into the cost of production of exports.

##### ARGUMENTS IN OPPOSITION.

While almost everyone agrees that the excess-profits tax law in its present form should be repealed, it does not follow that all taxes of the same general character should be abolished. If the principal revenues of the Government are to be derived from income taxes on corporations and individuals, the taxes must necessarily be graduated, since a flat tax at a rate sufficient to produce the necessary revenue would be intolerably burdensome upon the less prosperous corporations and individuals. In the case of corporations, a tax graduated in proportion to the total net income, without regard to its relation to the invested capital from which it was derived, it would be out of the question; and the only sound method of taxing corporations on their income is to levy a tax graduated in accordance with the relation of income to invested capital which is the general principle behind the present excess-profits tax, although the name should be cast aside as misleading, and the rates should progress more gradually. Inasmuch as all corporations are bound to have their invested capital determined in any event in the course of the audit of their excess profits tax returns of the past few years, the difficulties of administration would be largely overcome.

#### ABOLITION OF THE SURTAXES.

##### ARGUMENTS IN FAVOR.

Surtaxes on individual incomes should be abolished because:

1. As applied to income earned by endeavor and risk, surtaxes are subject to the same criticism as excess profits taxes. (See above.)
2. Applied to unearned income they are avoided largely by investment of capital in tax-exempt securities.
3. They are largely evaded by investment in foreign enterprises, so manipulated, that income is "borrowed" or dividends are received through "dummies."
4. The abolition of the excess profits tax, without the abolition of the surtaxes would discriminate against individuals in business, forcing those that are able, to incorporate, and the others, possibly, out of business.

## ARGUMENTS IN OPPOSITION.

Unless some drastic change is to be made in our system of Federal taxation it will be necessary to raise a very large amount of revenue from the taxation of individual incomes. If income taxes are to be retained as one of the principal sources of revenue, they should be graduated, as it is generally recognized that taxes should be apportioned in accordance with ability to pay, and an income tax at a uniform rate bears more severely on those with moderate incomes than upon the wealthy, who have more left to live upon even after the payment of heavy surtaxes. The principal argument against the present surtaxes is that they drive large investors out of productive industry and compel them to invest in tax exempt bonds. This difficulty could be overcome by providing that corporations should be subject to a graduated income tax based on the relation of net income to invested capital, and that dividends on stocks in corporations should not be subject to surtaxes as income in the hands of the individual stockholder. With such a system of taxation it would be possible to get the benefit of individual surtaxes without their evil effects.

## SUBSTITUTION OF A SALES TAX.

## ARGUMENTS IN FAVOR.

1. It is determinable in amount.
2. It will produce an amount of money that the Government can rely on—tending to vary directly in proportion to the population. Variances due to good and bad times would be negligible instead of wide as under the income tax laws.
3. No loading in excess of the tax is possible, and the tax is light ("pyramiding" by successive sales is less than 2½ per cent instead of 23 per cent, as under the present tax laws).
4. It is not expensive to the taxpayer, the labor of computation and reporting being negligible.
5. It is inexpensive to the Government. The money now spent by the Government in collection and administration (estimated by the Revenue Department to be over \$125,000,000) would be saved.
6. It accomplishes in effect what, in theory, an income tax is supposed to do—namely, places the burden of taxation in proportion to the ability to pay. It is also in proportion to the benefits received by the ultimate taxpayer.
7. It removes taxation as a disturbing element in competition, because the dishonest taxpayer, now able to cut his prices, could not cut below the honest taxpayer.
8. The purposes of the present graduated rates on income are accomplished as well under a sales tax. It is a fact that the wants of the well-to-do consumer are many times those of the average individual. It serves the purpose of the luxury tax as the well-to-do will naturally purchase the higher priced grades. It effectively reaches unearned income, as the truth "easy come, easy go" applies to the spender who does not work for what he receives.
9. It is free of the ambiguities and legal jargon of the present income tax, as sales are easily defined, e. g., the commission man is not taxed, except possibly upon the actual commissions for his services, as he merely effects sales.
10. It will be highly productive, yielding, according to very conservative estimates made by those opposed to it, more than \$2,000,000,000 a year, at a 1 per cent rate.
11. It will remove discrimination now operating against particular industries and commodities specially taxed.
12. Exports are not taxed. The Canadian and French laws exempt them from even a light sales tax.
13. It is not an untried method of taxation. A sales tax law has been in force in the Philippines since 1906 without opposition except from Americans who contend that they can not compete with the natives who are not subject to the present business tax laws. It has been in force in Canada for nearly a year with no evidence that the large manufacturers and those selling direct to retailers have benefited at the expense of other manufacturers.
14. It encourages employment of capital in fields now untouched on account of the present tax law.
15. In brief, it is a simple, equitable, easily paid tax, in sharp contrast to the complex, unjust and burdensome income and profits tax.

## ARGUMENTS IN OPPOSITION.

The tax on sales must necessarily be borne either by the seller or producer on the one hand, or by the buyer and consumer on the other. If the former is the case, when we adopt the sales tax in place of the income tax we are substituting a tax on gross

receipts for a tax on net income. Whatever inequalities may be found in the present system of income taxation would be trivial compared with those which would arise under a tax on gross receipts, which, in some lines of business activity, are twenty or more times the net income and in others, such as the practice of law, are but a small fraction greater than the net income, so that of two persons of equal net income one might pay twenty times as great a tax as the other. If, however, the tax is paid by the buyer or consumer, as is generally contended by the advocates of the sales tax will be the case, the tax is equally indefensible. That the burden of taxation should be apportioned in accordance with ability to pay has long been the principle prevailing in this country, and to reverse the principle and to apportion the burden of taxation in accordance with the necessities of the taxpayer would be unsound in economic principle, unjust in practical application, and bound to arouse resentment in the community as a whole.

Furthermore, the administration of the general sales tax would not be as simple as its advocates would have us believe. Already it is proposed to exempt from its operation sales upon the various exchanges. Doubtless other transactions of similar character would require like treatment to avoid the complete extinction of essential occupations, and, once the field of exceptions and qualifications is entered upon, no end can be foreseen. Narrow distinctions can be readily imagined between transactions which would be taxable and those which would not, and there might be as great confusion among taxpayers and as great congestion in the Internal Revenue Department as has existed in the past few years under the present system.

#### THE LEVY OF THE SALES TAX AT A UNIFORM RATE ON ALL SALES.

One of the strongest arguments in favor of the sales tax has been its simplicity, this simplicity resting upon the application of such a tax in a uniform flat rate levy. If a tax scheme provided for a graduated rate levy, different rates being applicable to different types of business, this would result in injecting into the new tax situation the very complexity which has militated against the success of our present scheme of taxation, the difference, if any, being merely one of degree. The administration of a graduated rate sales tax would necessarily be very complicated and would prevent the scrapping of much of the collection machinery which would be possible under a flat-rate tax. Moreover, it would be very difficult to frame a law conceived in such specific terms that every business in the country would fit easily and naturally in one of the rate classes established in the statute. The door would still be open both for honest dispute and attempted evasion.

The argument for a graduated rate law seems to be predicated on the supposition that it is necessary for each type of business to absorb the tax in its cost of doing business. If this were the case, and retail businesses were taxed at 1 per cent, it is argued that it would be necessary to make the rates for certain manufacturers, jobbers, and wholesalers materially less. This, of course, would impair the productivity of the tax very considerably. But the argument is based on a false premise. It would be to the interest of such businesses to pass the tax on as such, as has been very clearly shown in a statement issued by Mr. Meyer D. Rothschild, chairman of the Business Men's National Tax Committee, in answer to the recommendations contained in the tentative report of the tax committee of the National Industrial Conference Board. In connection with the above argument, Mr. Rothschild said:

"Finally, it is to the interest of all producers and dealers in raw materials, and of manufacturers and wholesalers, to pass along a small definite sales or turnover tax. They can not pretend that the tax which they are obliged to pay the Government is greater than its actual amount, and, as there is no investment of capital or outlay of money involved before they make a sale (as is the case where they buy goods increased in cost by duty or heavy excise taxes), the obvious and convenient method will be to add the small turnover tax at the bottom of the bill. The wholesale buyer immediately includes this tax in his cost, and, adding other costs and expenses, he arrives at his selling price, and then in turn he adds the turnover tax to each sale as it is made.

"The retailer has a different problem. His overhead expenses are generally very substantial, sometimes ranging as high as 30 per cent. This overhead fluctuates somewhat, increasing as rents, salaries, and other fixed expenses rise, but often decreasing in percentage by reason of increased turnover.

"Under a small general gross sales or turnover tax, the retailer will naturally figure this tax as part of his overhead expense and will not be obliged to take any more notice of this tax than he takes of his rent, salaries, heat, power, or other general expense. This is the practice to-day with regard to some of the heavy excise taxes imposed by the act of 1912, and would undoubtedly be the practice of clear headed merchants under a general gross sales or turnover tax."

THE LEVY OF THE SALES TAX AT DIFFERENT RATES IN DIFFERENT KINDS OF BUSINESS.

In the process of distribution one or more intermediaries may be necessary. Generally speaking the intermediary does not exist unless the service he performs is an economic necessity. Usually this intermediate service between the original producer and the retailer is performed at a small gross charge and at a small expense.

A tax of 1 per cent at retail, which would represent a small fraction of the cost of operating a retail business and be a small fraction of the gross profit necessarily incident to handling a retail business, would in many cases, if applied at the same rate, be a much larger charge upon the intermediate transaction than the total cost of the intermediate service. Many of these services for handling merchandise are performed at a cost ranging from one-quarter of 1 per cent to 2 per cent.

If a tax of 1 per cent should be levied as an equitable retail tax, to apply this same rate to an intermediate transaction necessarily connected with distribution which cost from one-quarter of 1 per cent up to, say, 2 per cent would make the Government in many cases a partner with the intermediate handler, in which partnership the Government might receive several times the revenue in connection with the service that the merchant, broker, or factor would receive. This would tax the consuming public unjustly. It would also have the effect of making the tax paid by certain types of corporations performing this service many times greater than it is under the excess-profits plan. In such a case it would be a tax which could not stand, because it would be in essence inequitable. Therefore, unless the sales tax were to be applied at some single stage of the transaction, so that but a single tax would apply to a single article of merchandise, it would seem to be necessary to apply a different rate of taxation to the different types of business which bore a relation to the business proportioned to the service performed by the distributor. A tax upon a concern which charged one-quarter of 1 per cent of the value of merchandise for services or a flat rate of, say, one-half cent per pound gross charge for services must be taken into consideration in the apportionment of a tax, as compared with a business in which the addition to cost as the basis of retail sale may range from 25 per cent to 100 per cent, or even more.

REPORT OF THE COMMITTEE ON TAXATION REGARDING PROPOSED REVISION OF THE FEDERAL TAX LAWS.

FEBRUARY 14, 1921.

*To the executive committee and board of directors:*

The committee on taxation has examined the various proposals for changes in Federal taxation and submits the following report to the chamber:

The committee recommends that the following Federal taxes from the revenue act of 1918 be abolished:

1. Excess-profits tax on corporations.
2. Present surtaxes on individuals.
3. The tax on transportation and other facilities and on insurance.
4. The taxes on nonalcoholic beverages.
5. The taxes on admissions and dues.
6. The excise taxes contained in Title IX.
7. Special and capital stock taxes.
8. The stamp taxes.

LOWER SURTAXES ON INDIVIDUALS.

As to the present surtaxes on individuals, it is the consensus of opinion among those who have studied the question that these taxes at present are so high that the limit of productivity of such a tax has been passed; that persons subject to such taxation are investing their capital in nontaxable securities to the detriment of the welfare of business and of the entire community. We believe that these surtaxes should be limited to a point where capital would be permitted to flow into ordinary business channels. What this point is we do not attempt to determine, as it should be fixed by the law making power upon evidence submitted to it.

GENERAL SALES TAX RECOMMENDED.

As to the other taxes which we recommend be abolished, there seems to be a general consensus of opinion that they are inequitable and discriminatory, uncertain in their incidence and in their yield, difficult to administer, and burdensome to the taxpayer. Some are incapable of exact computation, and in many instances impose a greater



expense upon the taxpayer to compile an accurate return than to pay the tax. As a substitute for these taxes when abolished, the committee recommends the tax on gross sales, otherwise called the general turnover tax.

We are committed to the tax on gross sales, or the general turnover tax, because we believe that this is the only source from which needed revenues can be derived without making the present intolerable situation worse than it now is. We are also committed to this tax because:

1. It has the great advantage of a low rate applied to the widest possible base, making slight defects negligible and making it acceptable to the taxpayer.
2. It will be highly productive, yielding, according to very conservative estimates made by those opposed to it, more than two billion dollars a year, at a 1 per cent rate.
3. It will test by practical experiment the comparative merits of income and sales taxes.
4. It will be paid probably by dealers monthly, thus distributing the burden upon the taxpayers and banks throughout the year and will probably be passed on ultimately to consumers and so paid by them in minute installments varying with their daily purchases.
5. It is entirely practical and has operated successfully in other countries.
6. It will be comparatively simple and inexpensive to administer and will remove discrimination now operating against particular industries and commodities specially taxed.
7. It will be passed on to the consumer with less profiteering additions than are the present taxes.

We do not believe it wise to commit ourselves at this time to all the details that must be worked out in regard to this general sales tax. So far as we are advised, no tax law has ever been perfect any more than any other human law. We believe in the principle of this sales tax and urge that the proper authorities shall draft such a law and put it into operation. We reserve our rights to criticize any feature of such a proposed law and to advocate such changes as from time to time are deemed to be wise and necessary. This would be our position after such a law became operative, when we shall have had the benefit of experience under it.

#### PUBLIC EXPENDITURES SHOULD BE LIMITED.

Any system of taxation may become unbearable if too much is demanded of the taxpayer; public expenditures should, therefore, be kept within the limit of reasonable demand upon his resources.

Respectfully submitted.

GUY W. COX, *Chairman*,  
HENRY HERRICK BOND,  
ROBERT H. HOLT,  
GEORGE B. JOHNSON,  
WILLIAM J. McDONALD,

FREDERIC E. MOORE,  
PHILIP NICHOLS,  
CHARLES F. ROWLEY,  
F. R. CARNEGIE STEELE,  
*Committee on Taxation.*

Messrs. Nichols and Steele dissent, and submit attached minority report.

#### MINORITY REPORT OF COMMITTEE ON TAXATION.

The undersigned do not approve of the adoption of the general sales or turnover tax, whether confined to the sale of commodities or extended to cover the gross receipts of every form of business or professional activity, as a substitute for all other forms of Federal taxation upon business, or as the principal means of raising revenue for the United States Government.

The objections to the sales tax are numerous and weighty and have been set forth at length by many of the leading authorities on taxation but may be briefly restated as follows: The tax must necessarily be borne either by the seller or producer on the one hand, or by the buyer and consumer on the other. If the former is the case we are substituting a tax on gross receipts for a tax on net income. Whatever inequalities may be found in the present system of income taxation would be trivial compared with those which would arise under a tax on gross receipts, which, in some lines of business activity, are twenty or more times the net income and in others, such as the practice of law, are but a small fraction greater than the net income, so that, of two persons of equal net income, one might pay twenty times as great a tax as the other. If, however, the tax is paid by the buyer or consumer, as is generally contended by the advocates of the sales tax will be the case, the tax is equally indefensible. That the burden of taxation should be apportioned in accordance with ability to pay has long been the principle prevailing in this country, and to reverse the principle and to apportion

the burden of taxation in accordance with the necessities of the taxpayer would be unsound in economic principle, unjust in practical application, and bound to arouse resentment in the community as a whole.

Furthermore, the administration of the general sales tax would not be as simple as its advocates would have us believe. Already it is proposed to exempt from its operation sales upon the various exchanges. Doubtless other transactions of similar character would require like treatment to avoid the complete extinction of essential occupations, and, once the field of exceptions and qualifications is entered upon, no end can be foreseen. Narrow distinctions can be readily imagined between transactions which would be taxable and those which would not, and there might be as great confusion among taxpayers and as great congestion in the Internal Revenue Department as has existed in the past few years under the present system.

We believe there is no panacea in Federal taxation and that a certain amount of annual vexation over Federal tax returns is part of the inevitable price which we must pay for the Great War. Our best hope is to take what is good in the present system and gradually improve upon it in detail, discarding the unreasonable and oppressive features of the present law and building up on the remainder a just and equitable system founded primarily on the principle that taxes should be apportioned in accordance with ability to pay but recognizing the practical limitations upon that principle which render futile attempts to reach by taxation an unreasonable share of the income of either an individual or corporation. We accordingly recommend the adoption of the following system:

(1) Individual income tax to be imposed substantially as at present, except that the highest surtax is not to exceed 40 per cent; and dividends from stock in corporations which themselves pay an income tax are not to be subject either to the normal tax or surtax except as provided in paragraph 4.

(2) Corporate income tax to be imposed with a surtax graded in proportion to the relation between income and invested capital; the increase in rates to be gradual and the highest rate not to exceed 40 per cent.

(3) Stockholders of small corporations to be allowed by unanimous vote to be taxed on all income earned by the corporation, whether distributed or undistributed.

(4) Dividends on stock in a corporation which itself pays a tax on its income not to be subject to the regular income tax but to be subject to a fixed excise not in excess of 10 per cent of the income as a tax on the privilege of receiving income from a business enterprise without personal liability for its debts and the other advantages received from corporate organization.

(5) Repeal of excess-profits tax, capital-stock tax, and such other of the present special excise taxes as cause annoyance and expenses in collection out of proportion to the revenue received.

The reasons in favor of the foregoing system are as follows: As already stated, the modern conception is that taxes should be apportioned in accordance with ability to pay; and it is now recognized that a proportionate tax is not graded in accordance with ability to pay, since, for example, a person with an income of \$100,000 is much more able to pay a tax of 10 per cent on such income than a person with an income of \$10,000, and consequently an income tax with rates increasing proportionately to the amount of the income is more nearly apportioned to ability to pay. It can not be expected that the graded income tax will be given up as long as the present conception on the proper measure of taxation persists. Nevertheless, for practical reasons, the surtax should not be at too high a rate, since a rate above 50 per cent defeats its own ends by either driving the taxpayer out of the country or necessitating investment of all his funds in nontaxable securities and his retirement from active business. The highest rate of surtax should accordingly not exceed 40 per cent.

Corporations should be taxed as far as possible in the same manner as individuals, but for obvious reasons it is not practicable to tax corporations upon their income upon a scale graded solely in proportion to the aggregate net income without regard to the relation of the net income to invested capital, and beyond all doubt, in theory at least, grading of income taxes upon corporations should be based upon the relation of net income to invested capital. The difficulties of satisfactorily determining invested capital are so great, as has been demonstrated by the experiences of the last three years, that few would desire to adopt this measure if we were now beginning the period of high Federal taxation; but in fact, often at enormous expense and difficulty, substantially all existing corporations have had their invested capital determined for purposes of taxation under the excess-profits tax, and it would be a matter of comparatively small difficulty to keep track of the changes in invested capital accruing from year to year. It would seem wasteful in the extreme to throw into the discard results of all this labor and expense when the result has been to establish, as

nearly as may be done, a basis for taxation which is most consistent with sound economic theory, and to start upon some wholly new and untried method for which neither the taxpayers nor the Federal authorities have had any preparation. The violent graduation in the excess-profits tax and the very high rate of tax upon comparatively small amounts of income should be avoided and the surtax should proceed by gradual steps and the highest rate should not exceed 40 per cent.

With respect to small corporations, the stockholders of which are the persons actively engaged in the business, there has been great difficulty in differentiating between the return on invested capital and the return from the personal activities of the stockholders, and in many cases grave injustice has been done. In the case of such corporations the stockholders should have the right by unanimous vote to elect to have the corporate fiction disregarded and to be taxed in the same manner as a partnership upon the basis of proportionate share of income of the corporation actually earned, whether distributed or not.

One of the evils of the present system has been the subjection of income to double taxation when the dividends of corporations paying a high excess-profits tax have been received by individuals subject to a large surtax. The effect of subjecting income from money invested in corporate business enterprises to heavy surtax has been to discourage the investment of capital in new enterprises and to drive all wealthy taxpayers to investments in tax-exempt securities, to the great detriment of the public by discouraging new enterprise and checking the extension of existing business growth. There is no reason why income from a business whether incorporated or otherwise should be taxed twice, and it would be accordingly both just and wise to exempt the dividends of corporations which themselves pay an income tax, from liability to the regular income tax, either the normal tax or surtax. Stockholders of corporations should, however, pay something for the privilege of receiving income from a business without personal liability and with the other rights which a stockholder has and which are not enjoyed by a member of a partnership, and on account of this privilege stockholders in corporations should pay a fixed tax on their dividends not exceeding 10 per cent.

The reason for advocating the repeal of the excess-profits tax in its present form and of some of the special excise taxes which cause annoyance and expense in collection out of proportion to the revenue received require no elaboration. The capital-stock tax would cease to have any logical basis to stand upon if the suggested excise tax on dividends were adopted.

It is recognized that the revenue derived from the foregoing system might be somewhat less than the present revenue act furnishes, although if coupled with a carefully drawn tariff act it would probably be sufficient for the purpose if the affairs of the Government are economically administered. It is, moreover, believed that such a system would furnish the maximum revenue that can be produced without the levy of taxes economically injurious and unsound, and this fact demonstrates the vital necessity of a drastic retrenchment in governmental expenditure. If, however, the present high rate of expenditure is to continue, it will be necessary to supplement the foregoing system with some form of tax of the same general character as the sales tax and which may be either a tax on gross receipts or a tax on consumption. In this class a proposed tax on bank deposits, intended as a convenient means of taxing gross receipts of every description, is not without some merit if levied at a sufficiently low rate as not to discourage the use of banking facilities. So, also, a tax on retail sales, to be collected from the purchaser, might be effective both to raise the necessary revenue and to impress upon the public at large the need of reducing governmental expenses without raising the resentment which the proposed shifting of the entire burden of taxation upon the consumer would produce.

Perhaps the most desirable method of raising this additional revenue, however, would be through a careful revision of the existing special taxes, involving an increase in the rate of the estate tax and the stamp duties and the levy of excise taxes on the sale, and in some instances the use, of articles which are not essential to comfortable living.

But, as already stated, what is primarily needed is, first, a reduction in Government expenditures and, second, the gradual improvement and development of the system of taxation which we now have.

Respectfully submitted.

PHILIP NICHOLS,  
F. R. CARNEGIE STEELS.

REPORT OF THE GOVERNING BOARD OF THE RETAIL TRADE BOARD ON THE TAXATION  
REPORT OF THE NATIONAL RETAIL DRY GOODS ASSOCIATION.

JANUARY 17, 1921.

To the executive committee and board of directors:

At a special meeting of the governing board of the retail trade board on Friday, January 14, 1921, the report on taxation of the National Retail Dry Goods Association was considered in detail. It was voted that the governing board approve this plan as a whole and, in the opinion of the governing board, that it represents the best revision of the Federal tax laws.

The plan contains seven main features, which are as follows:

(a) Income from manual or mental effort (salaries, wages, bonuses, etc.) not to be taxed at as high a rate as income from business or investments.

(b) Income derived from business to be taxed on the business itself and to be subject to no further tax when distributed.

(c) All other income, including profits from sales of capital assets, to be taxed at a higher rate than income from business, and in still greater degree than income from manual or mental effort.

(d) The elimination of the excess profits tax; surtaxes on individuals; taxes on "sodas," theater admissions, transportation, etc.; special and capital stock taxes; stamp taxes; and the so-called "luxury taxes" at present in force.

(e) A minimum tax of \$5 on all persons resident in the United States who have reached the age of 21 years and are in receipt of an independent income. This is in recognition of the fact that every resident owes an obligation to support the United States, which obligation can not be measured solely by wealth.

(f) A tax on the gross sales of all goods, wares, and merchandise sufficient, when added to the other taxes proposed, to aggregate the \$4,000,000,000 necessary to support the Government.

(g) A uniform exemption to all businesses and an increase in the exemptions to individuals.

Several of the members of the governing board are members of the National Retail Dry Goods Association and will vote in favor of this plan on the referendum sent out by the national association.

It was also voted that this expression of the governing board be forwarded to the president and board of directors of the Boston Chamber of Commerce.

Respectfully submitted.

Felix Vorenberg, president; Charles F. Adams, Charles F. Bacon, J. J. Buckley, F. Alexander Chandler, Sidney S. Conrad, George E. Damon, Albert F. Flint, Victor A. Heath, Arthur C. O. Hill, George B. Johnson, Robert O. Kingsley, Louis E. Kirstein, John H. MacAlman, James O. McCormick, George W. Mitton, S. St. John Morgan, William J. Norcross, P. A. O'Connell, Henry Penn, Louis Rivers, John Shepard, 3d, Marcell N. Smith, Frank A. Stearns, Joseph Wiggin,  
Governing Board, Retail Trade Board.

Messrs. Adams, Heath, Kingsley, Kirstein, McCormick, Morgan, Penn, Rivers, and Smith were not present at the meeting and were unable to pass on this report.

Senator SMOOR. You say there are laboring men belonging to the chamber of commerce?

Mr. COX. Yes, sir.

Senator SMOOR. Were they in favor of the sales tax?

Mr. COX. They were. We believe in the Australian ballot in Massachusetts, and while I could not divulge the names of the members who voted one way or the other, I know, as a matter of fact, that some of the labor members were in favor of the sales tax, because one of the members of my committee who is present here this morning has a letter from a member of the chamber who is on the executive council of a labor union.

Senator WALSH. Of course, the overwhelming membership is business, professional men, and educators?

Mr. COX. I think that is true, Senator.

Senator SIMMONS. You say that you know that some laboring men belonging to your organization were in favor of the sales tax.

You do not mean to lead the committee to believe that the majority of the laboring men are in favor of the sales tax, do you?

Mr. COX. I do not know whether they are or not.

Senator SMOOT. I have some resolutions, I will say to the Senator, from labor organizations which are in favor of it.

Senator WALSH. A good many of them are labor leaders, Mr. Cox?

Mr. COX. They are.

**STATEMENT OF CHARLES F. BACON, CHAIRMAN TAXATION COMMITTEE OF THE MASSACHUSETTS RETAIL MERCHANTS' ASSOCIATION, BOSTON, MASS.**

Senator McCUMBER. Will you give your name in full?

Mr. BACON. Charles F. Bacon, Chandler & Co., Boston.

Senator WALSH. They are a dry goods concern?

Mr. BACON. Yes, sir.

Senator McCUMBER. Whom do you represent?

Mr. BACON. I represent the Massachusetts Retail Merchants' Association. I am also on the same committee with Mr. Cox, from the chamber of commerce.

Senator McCUMBER. We will be very glad to hear from you now on the subject.

Mr. BACON. I have been very much interested in trying to get some figures that would show where taxation begins and who pays the taxes. I know that merchants now have to devote about one-half their time to the excess-profits tax and the surtax.

I am not sure that I can express this matter just the way I have worked it out. A lawyer could do this much better than a merchant. I wanted to find out where we landed. And I discovered that there is only one class of money in this country that pays taxes; that is the money of trade. I hark back to the good old word "trade." We have a great many chambers of commerce and other high-sounding names for business, but after all it is simply a matter of trade.

When the excess-profits tax was first planned out and I learned that capital was to be taxed, I wondered how it would be done. I figured the matter out in the ordinary way—the only way a merchant can do. I took a suit of clothes and started with the wool—\$5 worth. After all the different processes were finished, the suit sold for \$50. If it had been ripped apart, all that could be seen in it was the original \$5 worth of wool. There was some profit, practically \$10, and the other \$35 went for labor.

Trade consists of three things—raw material, transportation, and money.

Senator WALSH. And profit?

Mr. BACON. No; I mean money to go into business with. One has to have money to start with. One has to have transportation, raw material, and money to do business. I thought how disastrous it would be if any one of these three should be taken away. I figured that trade, all told, amounted to about \$100,000,000,000. I believe the census report shows that we have 6,400,000 farms, and some one has estimated that the farmer makes about \$1,500 out of his farm. This would give a production of raw material of about \$10,000,000,000. The next figure was the total amount of new

material produced in this country in a year, which I estimated to be about \$100,000,000,000. Out of that \$100,000,000,000 I tried to figure, after raw material, every move that was made in connection with the raw material until it was finally sold. There were only two features to add. One was profit and the other wages or salaries. I do not call it wages, because everyone thinks about the hard-working man who only gets small wages. I prefer to class this item as salaries and wages. Seventy-five billion dollars has to be paid for salaries and wages, \$7,500,000,000 for interest on capital, \$2,500,000,000 for upkeep and replacement, and then, taking the \$10,000,000,000 for raw material, it amounts to \$95,000,000,000, which trade has to pay before it gets a profit of \$5,000,000,000.

I am in trade, so I know a little about it. It has to pay every penny on the capital invested. I have heard the capital of this country estimated at about \$300,000,000,000. I think it is about \$150,000,000,000, or something like that. That surely must be paid for, because a house does not earn anything of itself; a store does not earn anything of itself; railroads do not earn anything of themselves. They are all capital assets. Capital assets have to be supported by trade year by year. Altogether it takes about 5 per cent of \$150,000,000,000, which amounts to about \$7,500,000,000—all paid by trade.

There is another thing which does not come in the way of production, and that is the upkeep. That amounts to about \$2,500,000,000 which has to be paid by trade, leaving a profit of about \$5,000,000,000 to trade, as stated above.

Now, when it comes to this great excess-profits and surtax business, it means that that is to come out of this \$5,000,000,000 profit on trade, leaving trade with a profit of only \$2,500,000,000, or practically broke. Trade must have money, but the Government is taking it all away from trade. In the first place it took \$25,000,000,000. That had to come from trade. It could not come from railroad ties; it could not come from capital assets, brick and mortar, houses, roads, locomotives, or steamboats, or anything of that kind. It had to come out of the actual earnings.

Taking the various kinds of business comprising trade, there is somewhere in the neighborhood of \$50,000,000,000 used. I am getting at the enormous amount of interest one has to pay nowadays. Twenty-five billion dollars were owned by the people in trade. The Government took \$25,000,000,000 for war bonds. Trade had to borrow it back at 8 per cent. Formerly it only paid 5 per cent on \$25,000,000,000. Now it pays 8 per cent on \$50,000,000,000.

Senator JONES. According to your theory, the retail merchants of the country are paying all the taxes?

Mr. BACON. Oh, no; they are not the only people who pay. There are all sorts of men in trade. The whole thing is trade. It started from very little and has grown to enormous proportions. It is the exchange of commodities that pays all expenses. I would like to know how any other expense is paid. Trade is the only creative element in the country.

If I am making this too long, I wish you would tell me, because I do not know just how to express it briefly.

Senator WATSON. You are doing very well. Go right along.

Mr. BACON. The expense that merchants were put to was enormous, because when that \$25,000,000,000 was taken away it was diverted from trade. They had to borrow it back and pay 8 per cent, and 8 per cent on \$50,000,000,000 is \$4,000,000,000. If you wish to go a step farther, they are really paying 16 per cent, because, if they buy to-day in the market some common ordinary article like \$1,000 worth of sheets, the price is about double what it was a few years ago. In 1914 they could buy 1,000 sheets for \$1,000. To-day they would have to pay \$2,000, and pay 8 per cent, which would be \$160, so they are really paying 16 per cent.

The tax, therefore, in the way of interest is pretty close to \$4,000,000,000. If the \$1,000,000,000 which is paid back is taken into consideration it amounts to about \$3,000,000,000. When the Government took \$25,000,000,000 away, it was bad enough; but then in addition it took for taxes 50 per cent of all the money trade made. I do not understand why this does not show that the Government took all the cash trade had, because a man in business never has all his money in cash. Part of it is tied up in stock on hand, and generally a large part is in accounts receivable. The Government taking all the money of trade practically bankrupts trade.

This is where high prices come in. The first thing we knew, we had a great flood of money, due to the Federal Reserve bank loans. Prices were not so very high during the first part of the war, but then came an enormous amount of speculation; and where in the world the money came from for speculation is a mystery, unless it came from the Federal reserve banks, because they had an abundance of money, and ostensibly it was to be loaned to trade, but it also went to the speculator. This took control away from trade. Prices went up nearly 100 per cent, and they have not yet come down.

Senator WATSON. The farmer has gone back to prewar prices, has he not?

Mr. BACON. I think the farmers and the people in the South, the West, the North, and the Middle West had an idea that they were going to take the excess-profits tax from capital, but they did not. They took it from trade, and trade almost came to a standstill, due to the high interest rates and in trying to get even with speculation. Trade never put the prices up where they are. If a man buys goods he generally figures what he is going to pay for them and knows to whom they will be sold. The speculator, as a rule, does not get into trade; when he does he puts the prices where he pleases and has no responsibility; he has but little money to start with and is an excellent borrower.

I recently saw a letter from a man in the sugar business who did not think he could pay 1 per cent sales tax, and the same evening I read in the Boston Transcript that the consumption of sugar in 1920 was 9,000,000,000 pounds. It was worth about 8 cents a pound. It was sold for 20 cents a pound, and an indirect tax of about \$1,000,000,000 was collected on it from 100,000,000 people. That is more than the grocery business would pay in five years with a sales tax.

Senator WATSON. What is your solution of the problem, if all this be true?

Mr. BACON. The money that belongs to trade must be allowed to get back into trade.

**Senator WATSON.** What is the process?

**Mr. BACON.** That is about as far as I have gone. It is too big a problem to go much beyond that. One can not conduct business without money, and when the money is taken from trade, the men in trade are handicapped. There are plenty of people in this country, plenty of workmen, plenty of transportation and plenty of raw materials.

**Senator WALSH.** Mr. Bacon, you seem to account for the present unfortunate and bad condition in business by saying it is the taking of money away from trade. I thought it was the fact that the consuming class had stopped buying and that that was responsible for a lot of the trouble.

**Mr. BACON.** That is only one of the results. The responsibility there is very plain. There is not a statistician or an economist who does not know that the government must let trade alone if they want a prosperous country. This assumption is based on the fact that the whole trade goes together—the manufacturer, the farmer, and the seller. The seller has to have a profit.

**Senator JONES.** From what source would you raise money to run the Government?

**Mr. BACON.** I do not know; I can only figure it out this way, and I may be entirely mistaken, but if \$75,000,000,000, out of \$100,000,000,000 are paid for salaries and wages, it is obvious that the people who receive these salaries and wages must buy about 75 per cent of everything that is bought.

**Senator SMOOT.** As I understand you, you think that the excess profits tax ought to be repealed.

**Mr. BACON.** I do; I do not think it ever should have been put into effect.

**Senator SMOOT.** Then you believe that the surtaxes on incomes ought to be abolished, so that it will not pay men of mammoth incomes to invest in tax-exempt securities, rather than to put that money into business, with business so greatly needing it?

**Mr. BACON.** I do not think people in this country put their money into old jars; they keep it active. There are a hundred ways in which one can spend money as soon as it is earned. There is no hoarding of money. It goes right back in the regular channel of circulation, and if there is a profit it is generally used for the development of our country.

**Senator SMOOT.** That does not answer my question.

**Mr. BACON.** Possibly I did not get the question right. What was it?

**Senator SMOOT.** From your remarks I was trying to get down to just what your position was in relation to the existing revenue laws. First, you believe that the excess-profits tax ought to be repealed?

**Mr. BACON.** I do believe that it ought to be repealed. I think the idea was when the excess-profits tax was instituted that it was to be taken from capital, but I do not think it hit capital at all. It only hit trade.

**Senator SMOOT.** Have you any suggestions to make to the committee as to what kind of a tax you think the business interests or the trade of the country would favor? What kind of a tax do you favor?

**Mr. BACON.** I do not know how the average man would figure it, but this is the way I would figure it. At present there is an indirect



tax of 2 per cent on raw material and on salaries and wages, and I do not believe many people know it. I was just wondering how much tax you paid on that suit, Senator Watson.

Senator WATSON. I do not know.

Mr. BACON. It is a pretty nice looking suit.

Senator WATSON. Thank you.

Mr. BACON. I think you paid about \$9 tax on it. It did not bother you very much, did it?

Senator WATSON. I would rather you would not ask me that question.

Mr. BACON. That is an indirect tax, Senator. There is a tax of about 2 per cent on commodities; then there is a tax of about 13½ per cent on capital, and a tax of about 50 per cent on trade. Taking these all together, they are in the same boat. Each man has to make a profit.

I think eventually the sales tax would be the solution. I do not see how any other tax could bring about the desired results. I believe the sales tax is sure to come.

What the merchants wish is to have some method of taxation which is definite and certain, and the sooner some plan of this kind is devised, the better it will be. I do not know how soon a sales tax could be put through.

Senator SIMMONS. Would you suggest the abolition of other taxes, except a sales tax?

Mr. BACON. I do not think that could be done now. But I believe the biggest thing before the whole country at present is the tax proposition. I would recommend putting a tax on all profits. That would be called an income tax, would it not?

Senator SMOOT. Yes.

Mr. BACON. If the tax business has to be postponed for one year, or two years, or whatever length of time it may be, I would recommend a sales tax. If this can not be done, give the merchant something definite to figure on. Tax him 15 per cent.

Senator SMOOT. You mean a normal tax on all his gains of 15 per cent?

Mr. BACON. Yes; and let it go at that.

Senator WALSH. And a graduated income?

Mr. BACON. If 15 per cent is not enough, I think the majority would rather pay 20 per cent and know just what the amount would be than to have the uncertainty which exists at the present time.

Senator SMOOT. The business of the country wants something definite?

Mr. BACON. It certainly does. It wants something right to the point, so it can know where it stands.

Senator McCUMBER. When the merchant has that 15 per cent he knows just how much more to put on to the price of his goods to sell to the consumer?

Mr. BACON. My dear sir, the merchant in selling goods never figures anything but what he pays for the goods.

Senator SMOOT. Certainly.

Mr. BACON. If you men around this table were selling jackknives at a dollar apiece and one was inclined to be a "tight wad," and said to himself, "I am going to try and get \$2," the result would be that he would not sell it.

Senator McCUMBER. There seems to be a difference of opinion as to whether it is competition or whether it is what the trade will bear. I think some of us are inclined to believe that the prices are fixed by what the trade will bear—

Senator WATSON. That is when the demand exceeds the supply.

Senator McCUMBER. After all, you sell a thing for just what you can get. I think statistics will show that people—unless it be within the last year—who have sold goods have sold them for enough higher prices and made enough more profit to take care of the excess-profits tax.

Mr. BACON. In our own business it would be absolutely impossible to do that. In the first place we could not put 50 per cent onto the price of an article—

Senator McCUMBER. Certainly not, because you have already reached the limit of the capacity of the public to buy.

Mr. BACON. They are still affected by trade.

Senator McCUMBER. That is the real reason.

Mr. BACON. Speculation put prices up so high that people were forced to stop buying. We are only selling one article where we ought to sell two.

Senator McCUMBER. And the reason is that the price is so high.

Senator McLEAN. We have already been over this. Where there is competition the man that produces the cheapest controls the price. The others have to come to his price if they desire to do business. The excess-profits tax can not be figured in legitimately. We have got to figure on what you can get for your goods. It does not make any difference what the tax is.

Senator SMOOT. Where there is a greater demand than supply they are going to get what they can.

Mr. BACON. And with \$75,000,000,000 going for the payment of salaries or wages, the people receiving those salaries or wages will buy the goods anyhow.

Senator WATSON. How about the farmer, the miner, the manufacturer, the transporter, the jobber, all being deflated and the retailer only keeping up war prices; is that so?

Mr. BACON. In Boston the other day we had a meeting of some bankers. It was a retail trade meeting, and the bankers were amazed at the fact that we had reduced our prices. They thought we were keeping prices up and keeping our shelves full of goods. How many times do you think we turn the stocks in our establishment?

Senator WALSH. Four or five?

Mr. BACON. Ten. In the last four months our entire stock has turned three and a half times. We cannot keep anything. In the month of January we turned our stocks one and a half times.

Senator WATSON. Does that answer the question as to whether or not you have reduced prices, or whether or not there is any sort of arrangement by which prices are kept high?

Mr. BACON. It was all done at replacement prices. We have forgotten the original prices.

Senator WATSON. Is it only a question of replacement price?

Mr. BACON. Replacement values. The price is marked down according to what was paid for the last purchase. That has to be done.

There is another thing that has to be considered, and that is, the style feature. If a merchant keeps his goods too long they are not worth very much. A last year's straw hat would not sell for very much this year.

ESTIMATE OF TRADE.

Total trade.....		\$100,000,000,000
Total disbursements of trade:		
Raw material.....	\$10,000,000,000	
Salaries and wages.....	77,500,000,000	
Capital.....	7,500,000,000	
Profit.....	5,000,000,000	
		<hr/> 100,000,000,000

It would be rather a serious matter to jeopardize the above salary and wage returns, the capital return, and the distribution of raw material, by so taxing the profit on trade as to put it out of business—rather suicidal.

TAXES.

Raw material.....	\$10,000,000,000	
Salaries, wages.....	77,500,000,000	
Excise tax and customs, 2 per cent.....		\$1,750,000,000
Transportation.		
All paid by trade before trade can have a profit.		
Return of capital.....	7,500,000,000	
Income tax, 13 1/2 per cent.....		1,000,000,000
All dividends and interest on all stocks, bonds dealt in by the stock exchange; all interest paid to all banks; all rent paid on capital assets; all State taxes—in fact, the upkeep and interest of all capital assets.		
All paid by trade before trade makes any profit.		
Profit on trade.....	5,000,000,000	
Excess profit and income tax, 50 per cent.....		2,500,000,000
After trade has successfully met an obligation of \$95,000,000,000.		

Trade is practically ruined by this tax, while it is doubtful whether those earning salaries and wages would know there was any such charge as a 2 per cent tax.

NOTE.—It is rather interesting to find that trade is the most complex and at the same time one of the simplest self-governing bodies in the world.

And it is marvelous to see how, in 1914 and 1915, before the war, without very many jolts, it was able to pay a return on approximately \$150,000,000,000 worth of capital assets, transport, and move the manufacture of \$10,000,000,000 worth of raw material; to finance and produce in its various courses, the raw material, transportation, manufacturing, wholesaling, and retailing, a volume of successful business which resulted in the payment of more than \$77,500,000,000 in salaries. But it did, and it is a marvelous fact that out of this it only asked a profit of 5 per cent net, or in other words, it handled this money earning feature of the entire United States successfully, for what it cost the Federal Government of the United States to run its portion.

NOTE.—The various processes from raw material through the manufacturing stages, jobber, wholesaler, and retailer, would require what is generally known as a turnover of \$200,000,000,000 to produce the above \$100,000,000,000.

**STATEMENT OF FELIX VORENBERG, REPRESENTING THE MASSACHUSETTS RETAIL MERCHANTS' ASSOCIATION AND THE RETAIL TRADE BOARD OF BOSTON.**

Mr. VORENBERG. I represent, Mr. Chairman and gentlemen, the Massachusetts Retail Merchants' Association and the Retail Trade Board of Boston. The Retail Trade Board is a subsidiary organization of the Chamber of Commerce of Boston, consisting entirely, however, of merchants. I have come here with the gentlemen preceding me for the purpose of laying before you first of all the sentiments existing in our part of the country, which exist to the

degree that I have on file correspondence from labor leaders, professional men, business organizations, and others all decidedly on record as wanting to do away with the excess profits tax—

Senator JONES. Will you please tell us the reasons why they want to do away with the excess-profits tax?

Mr. VORENBERG. Yes. May I come to it as we go along?

Senator JONES. Surely.

Mr. VORENBERG. (continuing). And the reduction of the higher surtaxes.

The same organizations and individuals that I have just referred to are strongly in favor of substituting therefor (realizing that the country is in need of a certain amount of money), as the most simple method of raising taxation, a sales tax, or, let me say, a turnover tax along the lines of what is proposed by the National Retail Dry Goods Association.

Senator WATSON. Are they the same as provided in Senator Smoot's bill? Are you familiar with its provisions?

Mr. VORENBERG. I am familiar with some parts. I do not think it is just the same. I would rather stick to my own, if I may.

Senator SMOOT. The principle is the same.

Mr. VORENBERG. The foundation is the same, is it not, Senator Smoot?

Senator SMOOT. Yes; the foundation is the same.

Mr. VORENBERG. The answer that we have received—I say, “we” with reference to the delegation that I represent here in Washington—in consulting public men seems to be almost wholly along the line of—“I do not know that we need a sales tax; but if we do need a sales tax I do not think it is politically a good thing to do just now.”

And then of course it usually winds up with the old argument, which is a little bit overworked by this time, that a sales tax would be nothing more nor less than a shift of the burden from the rich man to the poor man.

It is a peculiar thing that one hears so much about the rich man and more still about the poor man but very little about what might be considered perhaps the strongest member of the population, namely, the middle man, that great big class which probably consists of anywhere from 75 to 85 per cent of our entire population. Yet one rarely hears of an individual who talks as a representative of the middle class, the middle class which consists probably of you and myself, of bankers and business men, of employers and employees and professional men. The principal argument that is usually put forward by demagogues when talking of sales tax is that it merely means a shifting of the tax from the rich man to the poor man.

Let us analyze it and see just how that would work out.

Senator SIMMONS. You think that anybody that makes that argument is a demagogue?

Mr. VORENBERG. I think, generally speaking, yes. Don't you?

Senator SIMMONS. No; I do not.

Mr. VORENBERG. The fact that taxes of all kinds, with the exception of possibly the inheritance tax, are handed, in the last analysis, to the consumer, who may be poor or rich or may belong to the middle class of people, I think bears out the statement that after all there is no such thing as a taxation, outside of the inheritance tax, that is not borne by all of us.

When everything is said and done, why should not the taxes be assumed by all of us in proportion to our means; and why is it not perfectly reasonable that you and I and everybody else, in proportion to our means and in proportion to our expenditures, shall pay some part of the Government's needs for the maintenance of the Government, for the purpose of getting all of the benefits that come with it?

Senator JONES. Are not those two terms contradictory—in proportion to our means and in proportion to our expenditures?

Mr. VORENBERG. Not exactly contradictory, because I take it for granted that a man ought not to live beyond his means.

Senator JONES. A man usually does not live up to his means, does he?

Mr. VORENBERG. By "means" I would not want you to understand that I mean that he ought to live up to every cent that he earns.

Senator JONES. Is there not a vast difference between paying the Government's burden according to your means and paying it according to your expenditures?

Mr. VORENBERG. There would not be from the viewpoint of people living within their means. If I have an income of \$5,000 and spend \$3,000 I would consider myself living within my means.

Senator JONES. About the fellow who is earning \$1,000 and spending it all?

Mr. VORENBERG. He still lives within his means.

A consumption tax is a tax which could be borne easily by anyone in this country in comparison to his income.

Senator REED. I would like to interject a question here. I want to make a preliminary statement so that the question will be as plain as I can make it.

The citizen gets from the Government protection in his life, his liberty and his property, and the Government exacts from him two things: One, financial support, and the other is the support of his body in time of war. Here are two individuals. One of them is merely a laboring man earning \$1.50 or \$2 a day, supporting a wife and four or five children. The other man is a capitalist owning a vast number of industries; and he has a wife and five children. The Government can call on either one of them for military service. In that respect they are on an equality; but the Government protects one of these men in fifty or a hundred or maybe five hundred dollars' worth of household goods. It protects the other one in all his vast fortune, with his property perhaps scattered in 8 or 10 States. For that protection the Government maintains police forces, constabulary, fire departments, soldiers.

Do you think that the man who has only a small income and who spends it all, who renders the full military service, and who gets protection only on the little tiny bit of goods that he has ought to pay taxes on the same basis as the man who has all those instrumentalities of government constantly exercised for his benefit?

Mr. VORENBERG. No; it could not be, and, as a matter of fact, it is not.

Senator REED. The tax that you advocate falls with exact equality in this sense, that the poor man, if the tax is 5 per cent, pays 5 per cent out of his meager earnings upon everything that he uses, and he consumes his entire income, so that he pays 5 per cent on his entire

income. The other man pays 5 per cent on what he expends, which, of course, we will assume, is a much larger amount. Nevertheless, he only pays it on a part, for his income far exceeds his expenditures for his necessities.

Do you think that is equitable or fair?

Mr. VORENBERG. That would not be equitable nor fair if it were so.

Senator REED. Is not that just exactly where your tax comes out?

Mr. VORENBERG. Will you allow me to answer?

Senator REED. Certainly. That is why I am asking you the question.

Mr. VORENBERG. You have overlooked the fact that the other man whom you have pictured with considerable resources has to pay, besides his sales tax, as the other one has, a normal income tax, surtax, and a great many other taxes. I am not speaking here for the elimination of all taxes.

Senator REED. No. I know he has to pay some of these other taxes; but here is a particular tax for the man who gets really no protection from the Government at all except the mere protection of his life, and this particular tax is put on an exact equality with that of the man who has a large income and who enjoys further protection.

Mr. VORENBERG. In proportion to the expense, of course.

Senator JONES. Are you not proposing these sales taxes for the purpose of taking off some of these other taxes?

Mr. VORENBERG. No; I am proposing it for the purpose of reducing the higher surtax and eliminating the excess profits tax and substituting therefore the sales tax, not as an additional tax, merely, but as a tax which has the one great big thing in its favor of being at least understood and making it possible for the Government to collect without spending a large part of the amount collected for the expense of collecting it.

Senator JONES. In this connection do you desire to discuss the reasons why excess-profits taxes should be repealed?

Mr. VORENBERG. Yes; I would be very glad to.

Senator McCUMBER. Let me suggest to the committee that we are in the habit of adjoining at 1 o'clock. This witness comes from a distance and wants to get away, and the committee will adjourn as soon as we get through with this witness. I hope he will be allowed to close his testimony as soon as possible.

Mr. VORENBERG. I shall not take more than perhaps 15 minutes.

To come back to your question, Senator, the reason for business men wanting to do away with the excess-profits tax is best illustrated by the statement made recently by the Secretary of the Treasury in which he referred to the fact that \$16,000,000,000 were invested in untaxable securities. That \$16,000,000,000 or at least a very large share of it—

Senator JONES. I can understand how that argument might be used to reduce surtaxes, but can you explain how that argument could be used to eliminate excess-profits taxes?

Mr. VORENBERG. Perhaps if you want that first I will be very glad to give it.

The excess-profits tax in the main is objectionable because it taxes at a time when one does not know what the tax may be—

Senator JONES. If he is sure that the tax will not apply unless he makes an excess profit, unless he makes, we will say, more than 8 per cent on his business, why should he be concerned about it?

Mr. VORENBERG. Because at a time when he is supposed to have made preparations for it he does not know how much that tax will amount to.

Senator JONES. Why should he be concerned about it if he knows that he has got to make his 8 per cent on his invested capital before he has to pay any of it?

Mr. VORENBERG. I do not think business men usually are satisfied to make 8 per cent on their invested capital.

Let us take a concrete case. Let us take a case of a retail merchant—since we are talking on behalf of the retail merchants—who sells a million dollars' worth of merchandise and his capital was \$200,000. Eight per cent on \$200,000 would be \$16,000, after taking all the risks and paying all the expenses, taking care of the establishment, which is neither large nor small, but still has considerable responsibilities connected with it.

Senator JONES. I grant you that there is a good deal in what you have just said if you are in a line of business that ought not to be limited to 8 per cent. I agree with you about that. But assuming that there is a reasonable allowance for a profit—and anything below the reasonable allowance it seems to me ought to be exempted—when you get beyond a reasonable allowance and it is what can properly be called an excess profit, why should there not be a tax, and why should there be any concern regarding the amount of that tax?

Mr. VORENBERG. I do not think it is so much the amount of it as the fact that he has to engage counsel in order to become a law-abiding citizen.

Senator SMOOT. No one can tell whether he can make the 8 per cent?

Mr. VORENBERG. Of course not.

Senator SMOOT. No business man can tell whether he can make 8 per cent, and he has to take into consideration every cost attached to it.

Senator JONES. When he knows that the excess profits tax will not cost him a cent unless he does make his 8 per cent?

Senator SMOOT. But he does not even know whether he is going to make the 8 per cent. He may not make anything.

Senator CALDER. Then, again, in the effort to make 8 per cent, he may not make any money at all?

Mr. VORENBERG. That is very true.

Senator CALDER. And there is the return influence on that. A man says, "I have got to make an unusual struggle to make a profit this year;" and then he makes a loss, and he is discouraged from increasing his business. If a man makes 8 per cent and has it all invested in bricks and mortar, in the development of his business or in stock on his shelves, if he does make any profit he has to go to borrow the money—

Mr. VORENBERG. You are quite right. Aside from all that, the principle objection of business men all over the country—I do not think I am overestimating when I say all over the country—is the fact that one has to go to a great deal of trouble in order to make out returns.

Senator JONES. What is there in making out a return that has caused trouble?

Mr. VORENBERG. The complication of the return itself.

Senator JONES. Has not that complication arisen almost entirely from the ascertainment of the invested capital?

Mr. VORENBERG. No; I am not prepared to say that. The complication has come from the fact that not only is there a number of questions in the return referring to the invested capital but a number of other questions that you will have to answer. I am sure you gentlemen are familiar with the returns—I mean as they are made out. I know that it is impossible for me to understand the return.

Senator JONES. It has been my information that the great objection to the excess-profits tax arises from the fact that it is based upon invested capital and that it is difficult to ascertain invested capital.

Mr. VORENBERG. I should say that is part of it.

Senator JONES. Is not that the principal part?

Mr. VORENBERG. No. I really do not think it is. I think the principal part of it is that, taking it as a whole, as business men would view it, not as a lawyer would view it, it is impossible for me to make out a statement unless I engage the service of some attorney or expert and in some cases both. That is the general impression, without going into the details of it.

Senator SIMMONS. Is it your opinion that this excess-profits tax is absorbed by the taxpayer or passed on to the consumer?

Mr. VORENBERG. It is my opinion that it is partly passed on to the consumer.

Senator SIMMONS. To what extent?

Mr. VORENBERG. That is a pretty difficult question to answer.

Senator SIMMONS. I mean, your approximate estimate in percentages.

Mr. VORENBERG. I would not try to answer that, because it depends entirely upon the conditions, the part of the country one lives in, the business one is engaged in, whether it is large or small, whether it is wholesale or retail, manufacturing, etc. I would not make an attempt to answer that, except that I am reasonably sure that it is absorbed to quite an extent—

Senator SIMMONS. That it is not absorbed?

Mr. VORENBERG. That it is not absorbed by the dealer. I mean it is passed on to the ultimate consumer.

Senator JONES. When you say a good part of the excess-profits tax is not absorbed by the dealer, when the dealer is charging enough for his commodity to return to him an ordinary profit, is it not a fact that when he has provided for the ordinary profit and charges more for his goods so as to bring him an excess profit he is basing his price solely upon the price which the traffic will bear, and if the traffic would bear it, would he not charge it whether he had to pay any excess-profits tax or not?

Mr. VORENBERG. No; because competition would regulate that.

Senator JONES. If competition regulates it, then why should the factor of excess-profits tax enter into it? Competition fixes the price then, and not the excess-profits tax.

Mr. VORENBERG. Yes; but competition is subject to the excess-profits tax no matter where or what the commodity may be.

Senator JONES. Why does a dealer figure excess-profits taxes in the face of competition? In the face of competition would he not be willing to accept the ordinary returns upon his dealings, his in-



vestment, and not extend into that realm where there would be an excess profit?

Mr. VORENBERG. You mean that he would be satisfied in making a smaller profit rather than to get into the class of excess profits?

Senator JONES. If competition comes into play, if the law of supply and demand is operating, if competition is the controlling factor, does he take into consideration the excess-profits tax?

Mr. VORENBERG. Does the individual dealer, you mean?

Senator JONES. I mean the dealer.

Mr. VORENBERG. I do not know—yes; I think he does.

Senator SMOOT. Every dealer would, of course.

Senator McCUMBER. Go ahead, now, and finish your statement, please.

Mr. VORENBERG. In view of the facts about the cost of the turnover tax to the consumer, as compared with the cost of the present tax, "no party would be so foolish as to put a sales tax on the backs of the American people." I am quoting now from a Congressman. It means very little when, as a matter of fact, to-day many of our American workers have not that with which to put anything on their backs; and a great many American workers, to the extent of anywhere between four and five million to-day, are seriously in need of not only something to put on their backs, but what is infinitely more important, a job.

Why is it that all these people are idle? I maintain that the conditions with reference to the excess-profits tax and with reference to the surtax which, as I alluded to a minute ago, has made it possible for \$16,000,000,000 to be invested in untaxable securities, have taken, if not that entire amount, at least a large part of that out of circulation for the purpose of promoting industry.

Senator JONES. If those people did not buy those tax-exempt securities, who would hold them?

Mr. VORENBERG. Exactly the same people that held them before this impossible tax was put in operation.

Senator SMOOT. And the price would be the same as other bonds?

Mr. VORENBERG. Exactly, along the same line. I think you will agree with me that city bonds or State bonds bore 4 per cent, and they found a very ready market. There was never any difficulty in selling State or city securities. In fact, they were sold at premiums.

Senator JONES. Ought not that rate to be reduced now, if all of this money of the very wealthy is going into those securities and there is a great demand for them? Ought not the interest rate to be reduced? But on the other hand, is it not a fact that the interest rate on those securities is rising very materially?

Mr. VORENBERG. Yes.

Senator SMOOT. The Government fixes the rate now, does it not?

Mr. VORENBERG. The Government is entirely responsible for that part of it, of course. If the Federal Reserve Board insists upon charging to its own member banks 6 per cent—I think it is a little more—how could one expect that cities and States that are in need of money could get along with less than that?

Senator SIMMONS. Do you know a State that does not exempt its own bonds from State taxation?

Mr. VORENBERG. Any particular State?

Senator SIMMONS. Yes.

Mr. VORENBERG. No.

Senator SIMMONS. Is not that the universal rule in this country?

Mr. VORENBERG. I think it is. I am reasonably sure it is.

Senator SIMMONS. The Government is not right now issuing any additional bonds, but the States are issuing enormous quantities for road construction and all sorts of internal improvements; and even if the Government should stop issuing nontaxable bonds the States would continue, probably, to issue them—not taxable by the State, at least—and the same condition would exist.

Mr. VORENBERG. As a matter of fact, I wanted to refer to one illustration which shows that one week of unemployment costs the worker what he would pay for a sales tax of 1 per cent in the entire year. One week's wage taking the average man that is earning \$25 a week—the loss of one week's wage would be on a par with what he probably would have to pay in a sales tax for his supplies for an entire year if there was a turnover tax of 1 per cent.

But it is more than that. Is there any doubt in the minds of the gentlemen here but what he is paying to-day more invisible tax, as it might be called, than he would pay if there was a 1 per cent sales tax levied upon all commodities?

If you follow up the report of the Department of Justice of the United States about a year ago during the time it tried very hard to to find out something about retailers profiteering, when they said then that it cost about 23.2 per cent charged off from one turn to the other—

Senator JONES. Is it your purpose to suggest that if we put on this sales tax it would eliminate the profiteers?

Mr. VORENBERG. Profiteers can not be eliminated if they feel like wanting to be profiteers. But you could eliminate a great deal of additional cost. You could reduce the cost of taxation to 3½ per cent, as it would probably figure out, or even 4 per cent, as compared with 23.2.

Senator JONES. I do not agree with you that the present taxes are responsible for that 23½ per cent on the consumers. I believe that the trade as it is at present carried on would charge that much just the same, whether the sales tax were put on or not put on. At the present time in this country the trade is carried on by charging all that the traffic will bear, anyhow.

Mr. VORENBERG. If that were so—and I do not want to disagree with you—if it were so, if your statement is correct, that they would charge just exactly the same as they have been charging, then I can not see why the so-called poor man, or the man that earns a limited salary, should complain, because he is in exactly the same position. If you are not going to charge any more, if he is going to pay exactly the same, irrespective of whether we have the sales or an excess-profits tax, then certainly your argument could be disposed of with reference to the poor man.

Senator JONES. I think the sales tax would come from those who are not reaping the big profits, just the same as it would come from those who are.

Mr. VORENBERG. The sales tax would come probably from all sources, as it ought to, and it ought to be absorbed by all sources.

The fact is, gentlemen, that the part of the country that I represent desires a sales tax. I am not going to argue at this moment with

reference to all the reasons why we do not like excess-profits taxes or surtaxes in the higher brackets, because I take it for granted that there is not much of an argument for it, as far as I have been able to ascertain.

I confine myself principally to a substitute therefor; because it is easy to suggest to the Government to do away with taxes; but that, without any further suggestion to limit the evil, would be a useless procedure.

Therefore we believe that a sales tax offers all the merits of a tax in substitution of those that we would like to eliminate; and the most important of its merits, or one of the most important, is the simplicity of the collection of the tax, which, as I am told, would save the Government between twenty-five and thirty millions and probably would save the taxpayers in the vicinity of three or four times as much.

So that I say a popular vote, in my opinion at least, taken in the part of the country that I represent, and even beyond that—because I have spoken on the subject beyond that—would be in favor of a sales tax or a turnover tax.

Senator McCUMBER. I think, Mr. Witness, that we are more interested in knowing the merits or demerits of the tax, rather than its popularity or unpopularity. At this time what the committee wants is the facts bearing upon its propriety rather than what somebody who has not studied the question believes about it.

Mr. VORENBERG. I have been going along those lines. There is very little to be added. I take it that you gentlemen are familiar with the details of it, such as proposed by the National Retail Dry Goods Association?

It seems to me rather the fashion—it ought to be—for you gentlemen to have business men come here to see you on a question which is more or less a business question. I consider the taxation of the country more or less a business question, and it seems to me that their opinion in the matter, while it may not be any better than that of the representatives of the farmers or the representatives of labor or representatives of bankers, ought to be at least on a par.

Senator McCUMBER. If you say that some man in Chicago believes that this sales tax is a good thing, it does not help out this committee. The committee is seeking information, and you have been giving it along that line. But I think there is not much use in taking up the time of the committee, especially as we want to get through to-day, in simply stating how many people believe in it or how many do not.

What we want to get at is the fact, whether it is a good tax or whether it is a bad tax, from those who can speak concerning its propriety.

Mr. VORENBERG. I have stated it, I think, without going into it in great detail.

Senator WALSH. You might let that statement that you have there go into the record. It is connected and without interruption.

Mr. VORENBERG. I have some newspaper clippings here.

Senator WALSH. I think you can put it into the notes that the newspapers of Boston are in favor of the sales tax.

Mr. VORENBERG. Yes, sir.

Senator WALSH. What papers have advocated it?

Mr. VORENBERG. The Boston Post and the Boston Herald.

Senator WALSH. The Boston Globe has not advocated it editorially, but it has made a very thorough investigation of its operations in Canada, and has written some very able arguments on the subject?

Mr. VORENBERG. Yes, sir.

Senator WALSH. What is the position of the Herald and the Transcript?

Mr. VORENBERG. The Herald has merely commented upon it editorially.

Senator WALSH. Most of the sentiment in Boston, so far as has been expressed through the press, is favorable to the sales tax?

Mr. VORENBERG. Yes, sir.

Senator JONES. If I have understood your position, your only reason for a reduction of the surtax is because it is driving capital into tax-exempt securities. How much would you have to reduce those surtaxes in order not to do that?

Mr. VORENBERG. I imagine that a surtax in its highest brackets amounting to 25 per cent would probably accomplish it.

Senator JONES. You think that the income taxes extended beyond 25 per cent—

Mr. VORENBERG. Up to 25 per cent.

Senator JONES. That the whole income tax should not be beyond 25 per cent?

Mr. VORENBERG. No; I think if the surtax alone were up to 25 per cent, not exceeding 25 per cent.

Senator JONES. Why does that make any difference between the normal tax and the surtax? You do not have to pay even a normal tax on the tax-exempt securities. If we continue the payment of an 8 per cent normal tax, then would you not have to reduce your surtaxes to about 15 or 16 or 17 per cent in the maximum?

Mr. VORENBERG. No. It would be desirable if the Government could raise its revenues, but we will have to look at both sides of the ledger.

Senator JONES. There are good securities to-day selling in the market—and I mean by that not tax-exempt securities—on the basis of between 6 and 7 per cent.

Mr. VORENBERG. Yes.

Senator JONES. And there are tax-exempt securities which are selling in the market as high as 6 per cent, are there not?

Mr. VORENBERG. Yes.

Senator JONES. How much would you have to reduce your surtaxes in order to prevent the capital from going into tax-exempt securities? Would you not practically have to eliminate them?

Mr. VORENBERG. No; because if you reduce the surtaxes not in excess of 25 per cent, one would have to pay, including the 8 per cent normal tax you have just referred to, 33 per cent.

Senator JONES. If you take away 33 per cent or one-third and figure the difference between the tax-exempt securities, the market values of tax-exempt securities and other good securities, you would not find the difference as much as 33 per cent.

Mr. VORENBERG. Not quite; but it would affect the income of those in the higher brackets to the extent, plus the desire of doing their duty to the country or helping to keep the money in circulation, which I think ought to be the duty of people generally, that it would give them a chance to do that without sacrificing too much.

**BRIEF OF FELIX VORWERBER, REPRESENTING MASSACHUSETTS RETAIL MERCHANTS' ASSOCIATION, TOGETHER WITH NEWSPAPER COMMENT.**

This country is facing many problems which must have the attention of all its citizens and foremost among these problems to-day stands the question of taxation, which should be considered in a spirit of fairness and good will and not in a spirit of prejudice. Where there is such an overwhelming demand for a change in our present taxation coming from all over this country and where there seems to be a keen desire to substitute such a taxation in part at least, with a turnover tax, arguments against it are of no great avail, unless they are constructive and mean to propose something better.

I am not going into details with reference to why I favor the turnover tax except to say that it would be productive, equitable, simple, and extremely difficult to evade.

Demagogues, in and out of Congress, use the much overworked argument about taking the burden from the "rich men" and placing it on the "poor man." There is nothing new, or even interesting, about such arguments, which, as everybody knows, are designed for the galleries only. One wonders, however, why it is always a question of the rich or poor man and never once does one hear anything about the great masses, known as the "middle class," who, after all, represent the real backbone of our country.

Bankers, manufacturers, wholesalers, retailers, educators, professional men, employers, and employees—all of these and many others belong to the great "middleman" class and almost all of them are desirous of changing the present impossible taxation, and substitute therefor a turnover tax, or simplicity tax as it ought to be called.

We hear, in opposition, that the turnover tax will be passed on to the ultimate consumer. Well, what of it? Is it not a fact that all forms of taxation, with the exception of the inheritance tax, are added to the cost of commodities and passed on to the ultimate consumer, and, what in more, who is the consumer? You and I, rich and poor, young and old. In fact, all citizens are consumers and all citizens should be willing to pay their share toward the support of the country in which they live. The real burden, however, laid on the consumer is the present form of taxation, which far exceeds the amount which would fall on him as a result of a 1 per cent turnover tax. Government experts intimate that by reason of the present tax measures there is added to prices 23.2 per cent while the 1 per cent turnover tax would not be in excess of 3½ per cent. In other words, the present taxes are six times as great a burden to the consumer as the proposed turnover tax.

In view of these facts about the cost of a turnover tax to the consumer, as compared with the cost of the present tax, such a statement as that made by one of our Congressmen not so long ago, that "no party would be so foolish as to put a sales tax on the backs of the American people" means very little when, as a matter of fact, to-day many of our American workers have not that with which to put anything on their backs. Millions of workers now out of employment, because the present taxes have diverted funds from industry, would be reemployed if a turnover tax were substituted. When one week of unemployment costs the worker as much as he would pay for a 1 per cent sales tax for a whole year, it is not difficult to ascertain which he prefers.

President Harding, in his address to Congress, said that the demand is not for the "shifting" but for the "lifting" of the tax burden. That is a sentiment to which all of us cheerfully subscribe, but sentiment, though well expressed, will not and does not pay the bills. How can Republican leaders expect to hold the confidence of the country if they fail to eliminate unpopular forms of taxation and do not replace them with means of supplying the Government with adequate revenues?

Many other countries have tried a sales tax and have found it satisfactory, while we have found our system of taxation decidedly unsatisfactory. Why not, then, try a tax system that has been successful in other countries?

A popular vote, in my opinion, will result in legislation for a sales tax or turnover tax, and if we are not ready to pass such legislation to-day, as a permanent measure, then at least we ought to pass it as a temporary tax. The result would mean a return of prosperity and the employment of millions who are now idle.

The finances of the country ought to be fairly well understood by business men who have financial problems of their own and who by their very experience in matters pertaining to finance are well equipped to advise. Therefore is it not noteworthy that we find business men to-day all over the country interested in removing the excess profits tax and part of the surtaxes and substituting the sales tax, because they have realized the deadening influence of the present taxes on the industries of the country.

Why should they, therefore, not exert themselves in favor of this proposed taxation which they find to be the only possible solution to this problem? The taxation of the country is a business question. Why not therefore, for once at least, accept the business men's suggestion, if not as a permanent cure, then at least on trial? Why not listen to the business man on business affairs?

The turnover tax which we advocate, will give the country all the revenue it needs, and give its citizens the privilege of being taxpayers without the feeling of being burdened as they do to-day.

So far no practical suggestions have been made to satisfy those in favor of a turnover tax, and until something better is suggested, let us assist in the endeavor to make the tax situation fit the needs of the country.

In conclusion, let me say that I know you will consider this vital question profoundly, because upon your recommendation and upon your votes depends the welfare of our farmers and our workers and the prosperity of the country.

The principal reasons assigned are political reasons. Why must political reasons stand in the way of constructive legislation? I know there are men in Congress who will have the courage of their convictions, and who know but what the passing of a tax as we desire may be the building of a stronger foundation for the party now in power.

Opposers mostly oppose because they do not understand the proposed legislation.

A correct taxation will do more to increase the value of the dollar, to increase industrial activities, to restore confidence than anything else this Government can do.

#### SALES TAX BEST PLAN IN NATION—LIGGETT SAYS METHOD IS EASIEST AND SIMPLEST.

Louis K. Liggett, president of the United Drug Co. and head of the largest system of retail drug stores in the country, favors a 1 per cent sales tax on all commodities as a means for meeting the ordinary expenses of the Government.

"I am strongly in favor of a sales tax for paying the ordinary expenses of the Government, because it is the simplest, easiest, and most direct way of securing the national revenue. I believe in the principle of the income tax, but feel that it ought to be revised and the rate reduced one-half.

#### "EFFECT ON INCOME TAX.

"A sales tax of 1 per cent will not be a burden on anyone, not even on the man who has to spend the most of his income for the necessities of life. The present system of taxation has increased prices generally, so that the ordinary man is paying more for the necessities of life under the present system than he would be required to pay under a sales tax. If a sales tax is adopted, it will be possible to reduce the heavy schedules of the income tax. This will take some of the burden off business and distribute the whole tax more evenly. Lower prices will result, so that the ordinary man will find his cost of living reduced. Any system of taxation that will lower prices will help everybody.

"As part of a sales-tax system, I believe that every dealer in goods, wares, and merchandise should be licensed and supplied with a book containing a coupon for each month of the year. These coupons when filled out would represent the total sales for the month. Everybody who is selling anything, from the newsboy up, knows how much his sales amount to, even if he does not know anything else. Therefore it will be a rather easy matter to keep account of the sales on the basis of monthly reports. Any dealer who is found evading the law should be deprived of his license and compelled to suspend business for three months. Such a penalty, while not severe, would have a greater tendency to inspire respect for the law than any other measure I can think of in the way of penalties. It would touch the dealer in his most sensitive spot—his desire to continue in business.

"I believe that a sales tax as low as 1 per cent would tend to relieve the public of a great deal of the tax burden. By that I mean this: There are certain well known articles of everyday use which retail for a nickel or a dime. That is their selling price. A merchant can not very well sell them for 6 cents or 11 cents. It is possible that he may, but it is not likely. A tax of only 1 per cent on such articles would be so low, one-tenth or one-twentieth of a cent that the dealer would most likely absorb the tax as part of the expense of doing business. The tax would come out of his profits. Practically speaking, I believe a low sales tax will work out that way in a great variety of articles in common use. This will shift the burden from the consumer to the dealer and help reduce ordinary living costs.

"I am against exemptions of all kinds in connection with the sales tax. The 1 per cent tax is so low that it will not be a burden on anyone.

"If the ordinary man can live and still pay the heavy costs of the present tax system, he will be much better off under a reduced tax scale. Everybody should be willing to pay his share of the expense of government. By making no exemptions the tax will be spread over the widest possible number of people. This will keep the rate low and no one will have cause to complain because everybody will be treated the same. It is a fair a tax as could be devised.

"The income tax is just in principle, and I favor it as a means for paying the war debt, but the rate is too high. It takes money out of business channels and tends to drive it into tax-exempt investments. Anything that hurts business hurts the country. A tax of 63 per cent is extortionate. If the tax was cut to 30 per cent I feel certain that the receipts from it would be greater, because while most men are willing to pay their fair share of the tax burden, they do not feel that 63 per cent under the profits tax is a fair share of the burden. It is a good deal like carrying your own burden and helping the other fellow to carry his at the same time. With that feeling men are going to avoid it if they can because it is an unfair division. That is why I believe if the heavy schedules of the income tax are reduced the receipts from it will increase. It will take money out of tax-exempt investments and put it back in the ordinary channels of trade. Just at present we need a change of that kind."

[Boston Post, Apr. 1, 1921.]

**SALES LEVY FAVORED BY LABOR MAN—CONVENIENT TAX FOR WORKERS, DECLARED  
E. A. JOHNSON.**

E. A. Johnson, secretary of the United Building Trades Council, and a well-known figure in labor circles, believes the proposed sales tax will be the easiest tax for the working man to pay.

**"EASIEST WAY OUT.**

"If wages are going to be reduced all along the line, I can readily see why new taxes will be necessary. The average wage of workmen in the building trades is \$1,400 a year. If this wage is to be reduced from 10 to 25 per cent there will not be much income left to tax.

"As the easiest way out of the difficulty I feel that a sales tax offers a solution. The ordinary workman pays his income tax out of his last week's pay. A sales tax is based on a pay-as-you-go policy, which is a very good policy for the average man. I believe in it. I feel that it will be particularly convenient for workmen in the building trades who are not regularly employed. The tax will be paid in small amounts from time to time instead of in a lump sum.

**"FAIRER THAN LUXURY TAX.**

"Just at present we have a luxury tax which is imposed on certain articles which are classed as luxuries. Personally I feel that a sales tax would be better if more money is needed. Then everything sold would be taxed. That seems certainly fair. Everybody would have to bear an equal share of the burden in making purchases.

"There is a sales tax in Canada. I was up there since the tax went into effect and found everybody satisfied. On many things the dealer pays the tax in Canada. For instance, a certain well-known laxative, which sells for 25 cents in Canada, with a 2-cent tax stamp on it, sells for 27 cents here. In Canada the tax is paid by the dealer. Well-known brands of shirts which sell at a fixed price in the United States are selling at the same price in Canada under a sales tax.

**"MERCHANTS WILL ABSORB TAX.**

"I feel that owing to the fixed price of certain articles and to the customs of trade, merchants will absorb the sales tax in many instances, thus relieving the consumer of a part of the tax burden. This will be possible only in case the sales tax is low enough not to be a burden on anybody whether he is a merchant or not.

"Workmen believe in the principle of the income tax, but many of them feel that the Government is too much in a hurry paying the war debt. If payment of the debt was extended over a greater number of years, the present generation would be relieved of a great deal of taxation. Future generations will profit just as much as the present, if not more in consequence of the war, and they should bear a fair share of the war burden. If the Government was not in such a hurry to pay this great debt, it would be possible to reduce the present rate and to allow higher exemptions.

"Under the income tax the State allows an exemption of \$250 for each child and the Nation \$200. Many workmen feel that such an allowance should be doubled. If \$500 was allowed for each child, workmen would have no serious grievance against the income tax.

"While I believe in exemptions under the income tax, I do not favor any exemptions under a sales tax. A sales tax in order to be effective should be very low, say 1 per cent, and it should be levied on every sale. No one should be exempt. There

is no good reason why one man should pay a tax in purchasing a pound of sugar and another man should not. If all are obliged to pay the tax all will be satisfied. The moment distinctions are made, dissatisfaction begins."

[Boston Post, Apr. 2, 1921.]

**CALLS SALES TAX FAIR AND SIMPLE—PRESIDENT DRISCOLL, OF THE CENTRAL LABOR UNION, ALSO FAVORS CHANGES IN INCOME TAX LAW.**

Jeremiah Driscoll, president of the Boston Central Labor Union, regards the sales tax a fair method of raising the national revenue.

"It seems to me that a sales tax is as fair as any method of raising taxes. None of us have any hankering to be taxed, but many of us are dissatisfied with the methods now used and would like to see some improvement

**"AGAINST EXEMPTIONS.**

"I believe that with a sales tax some adjustments can be made in the income tax that will help to make the present system more acceptable to everybody.

"If we must raise additional money to pay for the war, I favor a sales tax of 1 per cent for everybody. There has been some talk about exempting small dealers whose business amounts to less than \$3,000. I see no reason for it. The small merchant will charge the tax to the consumer anyway, and the Government is entitled to the tax and ought to have it.

"If everybody has to pay it, then there will be less temptation to try and evade it. Besides, if anybody is exempted, the door will be wide open to others to attempt it, and in the end nobody will want to pay the tax. If everybody has to pay it, that will be the end of it and everybody will be satisfied since nobody is being favored.

"Besides, a sales tax is a convenient tax to pay. A little of it is paid every day, so that it is hardly noticed. For the average man who works for a weekly wage this method of paying his taxes is the least troublesome. A man who has a young, growing family, that can eat all that he is able to earn, feels the income tax pretty hard when he has to pay the tax in lump sums quarterly. It would interfere less with household economy if he was allowed to pay it as he went along.

**"SAYS TAX IS SIMPLE.**

"Another thing about the sales tax is that it is easily collected. That is one of the troubles with the income tax. It requires a lot of financial experts to handle it for the Government. Any clerk could handle the sales tax. No experts would be required, either by the Government or individuals, to find out how much the tax is in each instance. Nothing could be clearer to the taxpayer.

"It is difficult to collect the income tax because it is almost impossible to tell, in many instances, whether a person is receiving the required income or not. It is possible to conceal certain kinds of income. It is difficult to conceal sales. Every store will have to collect the tax for the Government, and stores are easier to find than people who owe an income tax.

"Personally, it seems to me that a sales tax has everything to commend it and nothing to condemn it, except that it is a tax. Some men never want to pay taxes anyway, but the majority of people are willing to bear their fair share of the burden of government.

"I am informed that the sales tax is working satisfactorily in Canada and in France. There is no reason why it should not work just as satisfactorily here. If it is as low as 1 per cent it will be no great hardship to anyone, and it will produce plenty of revenue.

"Many workingmen feel, and I agree with them, that to tax a single man on an income of \$1,000 is unjust. If the sales tax is adopted, the income tax ought to be adjusted so that it will be more liberal with the workingman. A man who gets \$5,000 a year is in a much better position to pay an income tax than a man who gets only \$1,000.

**"FLAWS IN INCOME TAX.**

"The Government ought to be more liberal with men who have children. The Government allows only \$200 for a child. Any good mother who is rearing a household of children will tell you that she will spend more during the year on any one of her children than she will spend on herself. Besides, if a man is trying to educate his children and send them through high school, \$200 is a mere drop in the bucket toward their maintenance. At least \$500 ought to be allowed for each child. That amount will be spent easily on boys and girls in high school.



"If the sales tax goes through, Congress ought to revise the income tax and make it more liberal for the poor man as well as for the rich man. They are talking about eliminating the excess-profits tax and surtaxes. Well, while they are doing this for the rich man they ought to ease up a bit on the poor man also, who is trying to live like a white man and to give his boys and girls a chance at an education.

"With everybody contributing their share under a sales tax, the income tax can be adjusted easily, allowing exemptions of \$2,000 or \$3,000 to single persons and \$5,000 to married persons and \$500 each for children. If these changes are made and the excess profits tax and the surtaxes are removed, I believe that just as much money can be raised under the income tax by increasing the tax on incomes over \$5,000. I understand this is part of the program of revision. I hope the sales tax will make it possible to frame a more liberal income tax that will ease the poor man's burden as well as the rich man's.

(Boston Post, Friday, Mar. 23, 1921.)

#### APPROVES DUAL TAXATION PLAN.

James Duncan, vice president of the American Federation of Labor, and the man whom organized labor wanted as its representative in President Harding's Cabinet, favors a sales tax as a means for increasing the national revenue.

#### APPROVES BASIC IDEA.

"Taxation is a bit out of my line," said he, "but as a taxpayer I suppose I am entitled to an opinion on how I should be taxed. There are several varieties of sales taxes, but I shall confine myself to the idea behind them all, that of collecting the tax at the time purchases are made. That seems to me as easy a method of collecting taxes as it is possible to devise. The tax is concealed in the purchase price, and should be so low as not to be appreciably felt. What a person does not see or feel will not disturb him a great deal. Therefore a sales tax would be not only easy to pay and collect but it would be the least disturbing in its effects.

#### ONE POSSIBLE OBJECTION.

"As a part of a national tax system, a sales tax undoubtedly has merit, but it appears questionable to me just how far it will work as a successful producer of revenue in dull times. When the income of the consuming public is small and people can not buy as readily as at other times, it is usually just at such times that the Government needs great revenues. That is the only case in which it seems to me it might prove disappointing. Just how far it will work under panicky conditions is a question for experts to solve and not for ordinary citizens.

"There is one thing certain about a sales tax and it is this, it can not under any circumstances be any more complicated than the present tax system. When bank presidents, who are supposed to be experts in finance, need the assistance of expert accountants in order to make out their tax returns, I think such a system is open to condemnation. I, for one, hope that the present system will be simplified.

#### DISAPPROVES OF EXEMPTIONS.

"Exemptions do not appeal very strongly to me. All should bear their proportionate share of the public burden. Naturally, the rich and well to do will be the largest buyers and pay per capita the largest portion of the sales tax. If the sales tax is to be judged in comparison with the income tax, the rich will be greatly relieved by it and the poor will undoubtedly have to pay more than they are paying now in taxes. I know that the wealthy people in this country resorted to a somewhat similar argument when the income tax was proposed. They claimed that it would place the burden of taxation entirely upon the rich and that the poor man would be relieved entirely from his just share of the public expense. To be democratic, it is admitted that such differences should not be made as against one citizen and another. All should be equal before the law. There should not be one law for the rich man and one for the poor man. The law should not know either rich or poor. It should know only citizens who are pledged to uphold it.

#### BETTER TO HAVE BOTH SYSTEMS.

"And so whatever inequalities appear in the two systems, the income tax and the sales tax, as against the rich or the poor, I feel that these inequalities tend to disappear when both systems are put in operation. I regard it infinitely better to have

both systems rather than one. One tends to counteract the defects of the other, and both, working together, strike a just balance, or as near just as we are likely to make it. As a nation we have not advanced very far in working out a just system of taxation, although I admit that there is virtue in the income tax as compared with previous methods of securing revenue, but the income tax system as now administered is in need of considerable revision to whip it into proper shape.

**"INJURY TO UNDERPAID PRODUCER.**

"There is one danger in the sales tax that I feel I ought to point out. It is this: It may work injury to the underpaid producer. In the industrial institutions that have been handed down to us through our civilization there are many underpaid producers, men who are giving great service to an institution, but who are paid less for their contribution to the finished product than another simply because they do not happen to be the son of the proprietor, who is paid an enormous sum usually for that reason alone. But as no system of taxation yet proposed is perfect and as this is the greatest democracy on earth, I believe that in accordance with the democratic principle on which the Republic is founded, it would be unwise to make distinctions between citizens before the law. The law knows no distinctions of persons. That is a fine principle and we should never do anything to lessen its force and vigor in the community.

"Apart from the general taxes we all pay, I think that the income tax is fair and equitable. It has been tried out in other countries as well as here. The heaviest part of the income tax falls upon those best able to bear it, and as they quite frequently secure incomes through combinations which when opposed to the general laws of our country are somewhat shady they should not complain about bearing their mathematical share of the tax.

"As recently as the days when such great Senators as John J. Ingalls, of Kansas, and James G. Blaine, of Maine, were in the United States Senate it was publicly stated on the floor of that dignified Chamber in one of the greatest speeches that Senator Ingalls ever delivered that no man in the United States had ever made a million dollars honestly. Yet at the present time we speak of men with hundreds of millions at their command with less stress and wonder than Senator Ingalls expressed his opinion, and that was not so long ago. According to the conditions and methods now in vogue which permit such enormous accumulation of wealth, it seems questionable if any method of taxation could be more equitable than the present method of administering the Federal income tax.

"I have an idea that a sales tax, generally speaking, can be made to supplement an income tax in such a way that the dual system will supply revenue for the National Government more plentifully, more easily, and more equitably than any single system of taxation could do."

[Washington Herald, Mar. 25, 1921.]

**SELECTIONS FROM OUR MAIL BAG—TAXATION OF LAND.**

*To the Editor of the Herald:*

Do your readers know that many business men are urging a bill—the Ralston-Nolan bill—now before Congress, which proposes to put taxation upon land, where it would seem to belong? Somewhere near half the wealth of the country (say, \$100,000,000,000) resides in land—in tillable ground and pasturage, in forests, in mines, and oil wells, in the site values of towns. This vast wealth (or, more accurately, the source of wealth) was created without man's labor. No man deserves the rent to be drawn from it, as if he had made any contribution to human welfare by building a fence around it. Its money value arises merely from the presence and the needs of human society. If an intelligent community were setting up national housekeeping, they would be sure to allow no private ownership in this kind of property; but they would expect everyone who needed to use any of it to pay a rental for its use into the fund for the common expenses. Neither would anyone be so foolish as to fence off for himself more than he could use.

Suppose a few held our water supply and compelled the rest to pay them for every drop of our drinking water, should we not cry out against them as doing us cruel injustice? Why is it not so with private landlordism over the land of a nation? Do you readers not see that a public rental upon all the land, which any of us are now privileged to hold, is the fairest of taxes? If individuals or corporations, having somehow got hold of land, for which they have no present use, should give this up what harm would it do? If we found in due time that we could raise all our taxes

from the rental of the lands and other natural resources of the country, and could thus relieve everyone from meddlesome and inquisitional public burdens, could any of us justly complain because the privilege of owning land (which never had a valid title) had been withdrawn for the great advantage of all of us? In fine, I can not see why a tax upon a privilege, which does not permanently belong to anyone, should worry any except the few, who never want to part with a privilege; whereas almost every other kind of tax (surely including a "sales tax") seems likely to annoy and vex everyone.

CHARLES F. DOLE.

JAMAICA PLAIN, March 22.

[Women's Wear, Mar 22, 1921.]

MASSACHUSETTS RETAILERS BEGIN SALES TAX CAMPAIGN—URGE MEMBERS TO SEND LETTERS TO CONGRESS URGING PASSAGE OF MEASURE PROVIDING FOR LEVY OF SALES AND ABOLITION OF EXCESS-PROFIT TAX AND SURTAX.

BOSTON, March 4.—The Massachusetts Retail Merchants' Association is conducting an active campaign in favor of the sales tax and is urging the members to write to their Representatives in Congress asking them to favor the plan and to get their friends to do likewise. The following letter has been sent to members:

"What are you doing as an individual about the taxation proposition?"

"We know from the unanimous vote in favor of the referendum put forward by the National Retail Dry Goods Association, that the members of the association are overwhelmingly in favor of:

"1. A commodity sales tax of about 1 per cent on goods, wares, and merchandise, on every sale of raw material, sales of manufactured goods, sales at wholesale, etc., and sales at retail.

"2. A 10 per cent income tax on business profits which will not be taxed further

"3. Custom duties, excise taxes, etc.

"Now, we want you and every member of this association, as well as every member of every other association that you can get in touch with, to tell his individual Congressman that he would like to have him vote for the above law.

"It is a fact that no committee or organization, representation, nor the Ways and Means Committee of Congress, is going to decide this question. It is the vote of each and every Representative and Senator in Congress that will enact a new tax law. Therefore, the most effective results will be obtained by each and every business man telling his individual Congressman that he means business and wants a sales tax.

"We inclose herewith a letter which has been sent to one of our Members of Congress, and would like to have you write a letter, embodying the same ideas, to your Member of Congress. We also want you to tell us what you have done and what results you get."

The following letter to be sent to the Members of Congress was inclosed, together with a list of the Massachusetts Senators and Representatives:

"DEAR SIR: I understand that the matter of taxes will be one of the first to come up before Congress. As you are my Representative, I wish you to have my views on this subject.

"Business taxes are vexatious problems. I have talked with a lot of fellow-business men, some of large affairs and others of small, and they all want to do away with the excess profits tax and heavy surtax, and have a sales tax.

"And why not have a simple sales tax of 1 per cent to be paid on the sale of goods, wares, and merchandise, from the producer to the consumer?"

"Every one knows there is a constant fluctuation in the values of raw materials and manufactured goods, and 1 per cent is such a small fraction to add to the value of the raw material, the cost of manufacturing, the value of goods at wholesale, and the value of goods at retail, that it would not cut much of a figure, and in most cases would not be added at all. Some claim it would make a difference of from 3 to 4 per cent—average it between nothing and 4 and call it 2. Then if an income tax of 5 or 10 per cent were put on the profits of all business, and let this be the only tax on the profits of business, I think with reasonable excise and customs taxes the whole problem of business taxation would be solved.

"Of course, there will be thousands of objections, most of which will come from nonproducers, tax experts, accountants, professors, and theorists.

"Personally, I should like to know that you are in favor of the above tax. However, if I am in the minority of your constituents, or differ with your own view, will you kindly let me know wherein I am wrong?"

[Women's Wear, Apr. 12, 1921.]

**SALES TAX AND TARIFF MEASURES AMONG THOSE INTRODUCED IN HOUSE—BACHARACH AND MOTT EACH PROPOSES ONE—EMERGENCY FARM TARIFF IMMIGRATION RESTRICTION, "TRUTH-IN-FABRIC," PANAMA TOLLS, METRIC SYSTEM AND OTHER BILLS PUT BEFORE CONGRESS.**

WASHINGTON, April 12.—The legislative clouds hovering over the Nation since last election day have burst at last, and a deluge of bills overwhelmed Congress to-day and yesterday. Taxation and the tariff, the two subjects of greatest concern to the lawmakers and their constituents, received their due share of attention, two separate sales tax bills being introduced and the emergency agricultural tariff measure also being placed again before the House.

In addition, the emergency immigration bill that died a pocket veto death at the last session of Congress was resuscitated and restored to standing as a live measure; a "truth-in-fabric" bill was placed on the voting list; and bills aiming at indirectly exempting American vessels from Panama Canal tolls, abolishing the Railroad Labor Board, providing for the substitution of the metric system for the present system of weights and measures, and directing the consolidation of third and fourth class mail matter were introduced.

A resolution was also adopted authorizing the Speaker of the House to appoint a committee of five to consider the budget principle in governmental finances.

The two sales tax bills were referred to the Ways and Means Committee, as was the emergency tariff measure. The "truth-in-fabric" bill and the one providing for the abolition of the railroad board were given over to the Interstate and Foreign Commerce Committee.

#### SALES TAX BILLS.

Representative Mott's bill is a straight-out sales tax bill, providing a levy of 1 per cent on all sales and the repeal of the excess profits tax. It is very similar to the sales tax bill of Senator Smoot of Utah, which was explained in Women's Wear yesterday.

Mr. Bacharach's bill is more general, and not only would produce new revenue, through the medium of a sales tax, but would repeal some of the existing taxes and reduce others.

[Women's Wear, Apr. 11, 1921.]

#### SALES TAX PLAN WILL EXEMPT SMALL FARMER.

Hazen J. Burton, of Minneapolis, president of the Tax League of America, which is urging the enactment of a general sales or turnover tax, announced yesterday that legislation to be introduced at the coming session of Congress will provide an exemption for all those farmers doing a gross annual business of \$6,000 or less.

"In the case of those doing a yearly business of less than that sum," explained Maj. Henry G. Opdycke, vice president, "farmers will not be required to pay a tax on their sales, while those in the position of selling \$500 worth or more of commodities a month, will be enabled to add the proposed tax of 1 per cent to each sale and pass it along, as in the plan of the manufacturer and the merchant.

"The legislation proposed by the sales tax advocates, all of whom are united on the bill now being drawn for Congress, is such that it will commend itself not only to the farmers of the country but to the business interests generally.

"Much interest is being shown in all parts of the country in the proposed remedy of the sales tax, and especially in the successful operation of the present law in the Philippine Islands, in the recent legislation along the same lines in Canada and in France. Among the witnesses to appear in Washington in support of the sales-tax plan will be those familiar with the operation of the present law in the Philippines."

[Washington Herald, Apr. 14, 1921.]

#### ASSAILS PRESENT TAXATION SYSTEM—PROF. BULLOCK, OF HARVARD, SAYS IT CREATES NATION OF LIARS.

Charles J. Bullock, professor of economics at Harvard University, assailed the present system of taxation in this country in an address delivered last evening at a dinner of the certified public accountants of Massachusetts at the Exchange Club. He said in part: "The policy of taxation followed by our Government during the war was such that if the war had not ended when it did the country would have been broken wide open. It is a destructive, ruinous, and wicked policy that would have

killed the Government and financial structure of this country within another year. Take the case of the many industrial houses that to-day are either bankrupt entirely or in the hands of their banks. It was a case of the survival of the least fit.

"Taxation such as that under which we are at present suffering can never be enforced as written, it creates a nation of liars. The effect on the taxpayer is alarming in the extreme. The present tax would almost wholly become a tax on honesty if it is allowed to continue.

"I have never heard any logical objection to a sales tax," concluded Prof. Bullock; "and I offer it as the sane and logical solution of this country's greatest problem."

Attorney Spring and Guy W. Cox, chairman of the taxation committee of the chamber of commerce, the other speakers of the evening, expressed themselves in favor of a sales tax.

(Post, Apr. 14, 1921.)

**FAVORS LEVY ON ALL SALES—PROF. BULLOCK ALSO RAPS PRESENT TAX SYSTEM.**

Prof. Charles J. Bullock, head of the department of economics at Harvard University and one of the leading authorities on taxation in the United States, came out in favor of a sales tax for raising the national revenue in an address before the Certified Public Accountants of Massachusetts at the Exchange Club last night.

Prof. Bullock stated that he came to believe in a sales tax only after considerable reluctance and some difficulty in accepting it, but that finally he failed to see any difficulty in accepting it. His mind, though, was still open he said.

The professor's remarks were confined more to an attack on the present system of taxation rather than to any extended argument in favor of the sales tax, which was supported by Guy W. Cox, chairman of the committee on taxation of the Boston Chamber of Commerce, but opposed by Attorney Samuel Spring, who is regarded as an expert on certain forms of taxation.

**STATEMENT OF C. HUDSON JOHNSON, LYNN, MASS., VICE PRESIDENT OF THE MASSACHUSETTS RETAIL DRY GOODS ASSOCIATION.**

Mr. JOHNSON. Gentlemen, I am not here to file any brief. I am down here with the sales tax men. I did not propose to place these figures before you, but the talk this morning has led me to believe they would be of extreme interest to you, because I do not represent big business—and, by the way, I will not consume more than five minutes of your time.

I represent medium-sized business, not the smallest and not the largest.

These figures are a compilation by one auditor of 71 of the best department stores in New England doing a business from a quarter of a million dollars a year, which is a small department store business, to \$3,000,000 a year, which is not a large one. It is, in my judgment, very representative from all angles of what all business is doing, because the department store, after all, represents the retail business very nearly in its entirety.

These figures are taken for a six-month period to January 31, 1920, and a corresponding period to January 31, 1921—that is, the last six months in 1919 and the last six months in 1920. The six months end on the last day of January.

I will say that from those 71 stores 31 of the most profitable and best organized stores were selected. There were also 35 for which I have not the figures before me. You are getting a very much more serious condition with the 31 represented here.

In that six-month period these stores each did a business in 1919 of fifteen and a half million dollars, with a profit of 6.9 per cent.

In the corresponding period in 1920, when they increased their volume to \$16,500,000; that is, increased the volume somewhere in

the neighborhood of \$500,000 for the 31 stores—do not confuse this. That is the total business for 35 stores. In the corresponding period in 1920 after their taxes were paid they made a net loss of 4.2 per cent. In 1919 they made a profit of \$1,000,092. In 1920 they made a net loss of \$700,000, which is a considerable spread.

These are divided into three groups. The first group consists of stores doing business from a quarter of a million to a half million; second, from one-half a million to one and a half millions; and the third, from one and a half millions to three millions. There is comparatively little difference between them.

In the first group, in 1920, in the period referred to there was just one store that made money. They made 5 per cent on their business.

In the second group there was just one store, and that includes my own store—just one store that made money. They made one-half of 1 per cent.

In the larger groups there were just two stores that made money, and they made 3 per cent and 2.3 per cent.

The reason I bring these figures is not in advocacy of any particular plan, but simply to show the retail business at large, that you will not get any return from your present system of taxation.

I think, gentlemen, that this does actually represent the retail condition not only in New England but all over the country. I want you to take into consideration that these stores from which these figures are compiled are the very best stores that you could select in almost every town in Massachusetts and in neighboring States in close proximity to Massachusetts.

The compilation is made on a very efficient retail basis by an auditor with a great deal of experience, and the figures for all stores are audited by the same auditor.

Senator JONES. I take it you did not have to pay any income tax last year. Your business showed a loss, and you did not have to pay any income tax?

Mr. JOHNSON. I am not speaking specifically for my own business here, Senator.

Senator JONES. I am speaking with reference to the bulk of the business. The total of the business which you just presented, taking that business as a whole, would show that it paid no income tax?

Mr. JOHNSON. That is true.

Senator JONES. Do you think it would be fair to have those businesses which are carried on at a loss pay taxes?

Mr. JOHNSON. Senator, I am not here to discuss the advantage or disadvantage of any particular tax. My own thought is, and I want you to understand it, that I have not had the opportunity, as many other gentlemen with me have, to go into this tax proposition as thoroughly as they have. My own thought is that the sales tax would make no difference to us; and I would prefer to pay a sales tax, a definite one, so that I know I can approximate what my overhead expenses will be.

Senator JONES. Did you not charge for those goods you sold all that you thought the purchaser was willing to pay?

Mr. JOHNSON. I think that is perhaps a reasonable statement, if you take into consideration that competition keeps those prices where they should be. It is not, as your statement unqualified would lead people to think, that every man that made a profit was necessarily

a profiteer. Competition in any retail business in any decent sized town is keen enough so that when he gets all he can he gets just what he should.

Senator JONES. And in your case, speaking to you as representing that large number, they are doing that and selling at a loss?

Mr. JOHNSON. True.

Senator JONES. Why should they be compelled to pay a tax when they are doing business at a loss, when there are a great number of concerns in this country not doing business at a loss and making a large profit and even an excess profit?

Mr. JOHNSON. There are not many retail concerns, Senator, in the country making a large profit or making any profit.

Senator SMOOT. You know there is no contention here that you would have to pay this 1 per cent sales tax. That would be paid by the person to whom you sell the goods. The Senator keeps insisting that that would come out of your pocket.

Mr. JOHNSON. This 1 per cent tax would be paid by the consumer, the same as a great deal larger tax is paid to-day, only he does not see it, and he would not see this either.

Senator JONES. He did not pay it in buying the goods he got from you?

Mr. JOHNSON. He did not what?

Senator JONES. He did not pay a larger tax in buying the goods he got from you?

Mr. JOHNSON. He paid some tax in 1919.

Senator JONES. According to your theory, if we add a sales tax, you would have gotten precisely the same price for your goods and the consumer would have paid—

Mr. JOHNSON. I do not think so.

Senator JONES. That is the contention of the Senator from Utah and I understood that you agreed with him.

Mr. JOHNSON. I said competition regulated these prices, and if it did not, my competitor would have to pay 1 per cent higher, and it would be reflected here just the same. I would not have lost any more money.

Senator WALSH. Is one of the chief reasons for the loss in profits during the past six months of 1920 due to the sudden and sharp decline in the value of merchandise on hand which compelled you to sell this same merchandise at a loss?

Mr. JOHNSON. Yes, of course, Senator.

There is another thing that I want to bring before you, a very important thing from the retailer's standpoint. He of course is the last man that deals with the consumer, and of course he is now and always will be charged with maintaining his prices, because the consumers naturally deal with him and they recognize in the transaction nobody else. But this loss here is almost a unanimous loss by these stores—

Senator JONES. Why did you sell the goods at those prices?

Mr. JOHNSON. Will you let me answer the Senator first? My contention is that this shows that the merchants of New England and the stores all over the country have put their merchandise on a replacement value.

Senator WALSH. Rather than the value at which they purchased them?

Mr. JOHNSON. There is no question about that. Merchandise has been sold in every store in this country at less than cost.

Senator WALSH. Could you give us some estimate of the depreciation in value which you had to charge on the 31st day of January, 1921, by reason of changing the purchase price?

Mr. JOHNSON. You ask me a question, and I can give you the figures on this, Senator, which I am very glad to do. I will give you those figures to show you just exactly the amount that those stores reduced, if you want them. Do not take those figures and say they represent a certain percentage of the volume of business, because that merchandise has been rapidly turning all the time.

Senator SMOOT. We do not have a World War every year.

Mr. JOHNSON. I should say not. I do not want you to forget that this merchandise was turning all the time. These stores did \$16,000,000 worth of business and they marked down their merchandise \$3,000,000.

Senator WALSH. I am glad to have some evidence presented to the Senators that somebody besides farmers have suffered by reason of the unusual conditions that took place last year.

Senator SMOOT. In other words, if there had been no sudden drop caused by the war and you had sold the same amount of goods exactly, with the same percentage, you would have made \$3,000,000 more?

Mr. JOHNSON. Certainly.

Senator SMOOT. That is all there is to it.

Senator JONES. Why did you sell those goods at those prices? So as to cure the loss in your business?

Mr. JOHNSON. As long ago as the first indication of the depression, Senator, we did what I believe every progressive and every live store owner did—we took our buyers into conference with us and we told the buyers—if you understand anything about the retail business, you know that these buyers have certain quotas that they work on, so much sales, so much profit. It is a mechanical operation with them, except the selection of the merchandise. We figure a fair loss on the merchandise. Every merchant must mark down his merchandise, always.

We took our buyers into conference with us, as I said, every week, which I believe is the universal condition, and we told them we would not hold them responsible for losses. We told them that we would hold any buyer in the organization responsible for merchandise in our store on a basis of replacement; that is, if we had hosiery that, for instance, cost \$1 we sold it for \$1.50. That is a common proposition. Suppose that hosiery sold for \$12 a dozen and was on our shelves at \$1.50 a pair. If that hosiery was marked down by the manufacturer or jobber to \$9 a dozen, it is the common practice that we sell it for 98 cents a pair. The moment that the agent notified us of a change from \$12 to \$9, the hosiery was marked at \$1. We did not mark it at \$1.15 so as to equalize. It was marked at exactly what the replacement value was.

There are five department stores in our city. My condition might reflect the condition of the other department stores. They are not stores with large cash reserves behind them. They are almost all



stores that have been built up by the energy and effort of some particular people who have made some money and applied it to their business. That is the by and large condition. They have not a great deal of money so that they can afford to take losses over long periods of time. They must do what amounts to a capacity business in order to live at all. Their first consideration is not to get a profit; their first consideration is to get volume. That volume they have got to have or they can not pay their expenses.

So, in this particular instance when the merchandise commenced to shrink in value, what did the department stores do? You can see that in 1920 they bought more stuff than they did in 1919—

Senator SMOOT. If you had not undertaken to dispose of your goods when they were at the very highest stage, you would have had those goods to-day on your shelves?

Mr. JOHNSON. I would be in the bankruptcy court, or somewhere else.

Senator WALSH. It goes to show, after all, that there is an abnormal condition in every business.

Mr. JOHNSON. Yes, sir.

Senator JONES. Just file those papers and make any written explanation which you may care to make. They are very interesting.

Senator WALSH. I want to file and have inserted in the record this letter which a spectator has given me, which develops the same thought expressed by the last witness, that there has been a sharp decline in the retail prices.

WASHINGTON, D. C., May 12, 1921.

Hon. HERBERT C. HOOVER,

*Secretary of Commerce, Washington, D. C.*

Sir: Mr. Franklin Simon, of Franklin Simon & Co., New York City, president of the National Garment Retailers' Association, an organization of 1,200 retail merchants handling women's, misses', and children's garments throughout the country, being unable to attend the conference to-day with you, has asked me, as executive secretary of the association, to say for him:

It is his observation that retail prices on women's garments to-day show a marked decline over prices of a year ago. It is his opinion, based upon years of experience, that an individual store can not sustain high prices, nor can there be any concerted action to maintain high levels. He has found that competition and a discriminating comparison by the shopping public always regulate prices.

As an illustration of the mark downs taken by retailers of garments during the past year, he cites from his own store: For the six months' period beginning August 1 and ending January 31, 1921, Franklin Simon & Co., to meet new price conditions, had mark downs amounting to \$1,367,000, running into different departments, amounting to from 20 to 43 per cent of sales. For the month of December alone that firm took reductions of almost one-half million dollars in order to anticipate replacement costs.

Very truly,

FRANKLIN SIMON.

**SUPPLEMENTAL STATEMENT OF C. HUDSON JOHNSON, LYNN, MASS., VICE PRESIDENT OF THE MASSACHUSETTS RETAIL DRY GOODS ASSOCIATION.**

The figures presented below were compiled by James Eadie, jr., authorized public accountant and auditor for 71 department stores in New England. They represent the totals of 35 of the best stores from the standpoint of being most progressive and profitable from the 71 which he audits.

They are divided into three groups—group 1 doing a yearly sales volume between \$225,000 and \$500,000; group 2 doing a yearly sales volume between \$500,000 and \$1,000,000; and group 3 doing a yearly sales volume between \$1,000,000 and \$3,000,000.

These figures are for a six-months period from August 1, 1919 to January 31, 1920, which I shall refer to hereafter as the 1919 period; and from August 1, 1920, to January 31, 1921, which I shall refer to hereafter as the 1920 period. They represent figures showing the condition of retail businesses at the peak of inflation prices compared with figures taken during the most active time of the deflation.

They are presented for the consideration of your committee in order to show the extent to which retailers in this section of the country have put their high-priced stocks on a replacement basis, because the profit and loss column in this particular line of business will show the necessity for a different basis of taxation in order that these stores will yield something in taxes to cover the needs of the Government.

	Sales.	Gross income.	Gross expense.	Losses and depreciation.
<i>1920 period.</i>				
Group 1.....	\$1,612,642.29	\$372,259.86	\$410,900.76	\$21,276.90
Group 2.....	5,417,973.75	1,285,657.14	1,517,136.32	72,037.21
Group 3.....	9,482,646.56	2,400,679.03	2,534,917.96	173,019.78
<b>Total.....</b>	<b>16,513,262.60</b>	<b>4,058,596.03</b>	<b>4,482,955.06</b>	<b>266,333.89</b>
<i>1919 period.</i>				
Group 1.....	1,537,863.12	492,827.08	356,990.38	15,620.51
Group 2.....	5,315,666.22	1,766,939.85	1,465,377.47	56,536.39
Group 3.....	9,096,287.81	3,117,964.82	2,309,450.54	140,493.53
<b>Total.....</b>	<b>15,949,817.15</b>	<b>5,377,731.75</b>	<b>4,071,826.39</b>	<b>212,652.40</b>
	Net income.	Taxes.	Net income before taxes.	Department salaries.
<i>1920 period.</i>				
Group 1.....	\$ 859,917.60	\$31,548.39	\$ 828,369.41	\$153,518.36
Group 2.....	1,333,539.39	117,869.31	1,215,667.05	458,702.63
Group 3.....	1,307,239.73	177,356.81	1,129,901.92	754,530.72
<b>Total.....</b>	<b>\$ 3,500,712.02</b>	<b>326,774.54</b>	<b>\$ 3,173,937.38</b>	<b>1,366,752.01</b>
<i>1919 period.</i>				
Group 1.....	\$ 120,217.19	34,456.59	\$ 85,760.60	131,942.60
Group 2.....	304,724.02	116,675.28	188,048.74	408,513.72
Group 3.....	668,031.75	191,059.59	476,972.16	627,861.97
<b>Total.....</b>	<b>\$ 1,092,972.96</b>	<b>322,231.46</b>	<b>\$ 770,741.50</b>	<b>1,168,318.29</b>

† Losses.

‡ Profits.

In the figures shown above it is interesting to note that the sales during the deflation period increased and that there was no so-called buyers' strike, and that the income from larger sales was less, showing that retailers in order to maintain a volume necessary to take care of the overhead of their establishments sold merchandise cheaper.

The expenses during that period increased in dollars and cents and also in percentage, because the increased volume of sales was not sufficient to take care of the increased expense. In the increased expense figures \$200,000 was represented by salary increases, showing that although merchandise was decreasing wages increased with retail stores during the deflation.

The losses and depreciations were only slightly increased, and these losses and depreciations have no reference to merchandise, but only to furniture, fixtures, and plant.

The fact that the taxes were almost as great to the Government in time of loss as in time of profit is accounted for by the fact that these taxes are paid during a subsequent period from which they are incurred, and are, according to all practical retail systems, charged into the expenses of the period in which they are paid. It will mean, of course, that during the next corresponding six-month period these stores will pay no taxes to the Government.

	Purchases, invoice value.	Mark up.	Mark down.	Average monthly balance.
<i>1920 period.</i>				
Group 1.....	\$1,134,731.75	\$596,508.73	\$327,167.90	\$1,351,006.58
Group 2.....	4,055,828.70	2,100,434.78	1,005,208.21	3,582,841.78
Group 3.....	6,982,877.59	3,665,377.81	1,482,374.78	5,652,728.32
Total.....	12,173,508.04	6,362,321.32	2,814,748.79	10,889,578.63
<i>1919 period.</i>				
Group 1.....	1,244,743.00	660,001.62	145,183.01	1,341,112.15
Group 2.....	4,270,731.61	2,403,623.72	410,204.68	3,587,779.87
Group 3.....	7,028,004.53	4,024,538.86	463,573.27	5,919,708.16
Total.....	12,543,479.14	7,127,164.20	1,018,930.96	10,848,601.18

In the above figures you will note that the purchases were almost equal in the two periods, which clearly shows that merchants as well as consumers were on no buying strike and that manufacturers and jobbers who chose to meet the changed conditions could and did sell their merchandise.

The mark downs indicate to what extent merchants met the new conditions, showing an increase over the corresponding six months of approximately \$1,800,000.

The average monthly balances in these stores—that is, the merchandise that they had on hand—averaged during the six months' period to be, in the 1920 period, \$10,889,578.63, and their losses during that complete period were \$2,814,748.79. If you consider their monthly balances as a fair criterion, they then reduced their merchandise during that period approximately 26 per cent; and considering that expenses at that time were increasing, particularly wages as represented by department, not executive, salaries, it would seem that the retail merchants had accepted and met the readjustment period in a very practical manner.

**STATEMENT OF MR. CARLOS B. CLARK, REPRESENTING NATIONAL RETAIL DRY GOODS ASSOCIATION, NATIONAL ASSOCIATION OF RETAIL CLOTHIERS, AND CONTROLLER THE J. L. HUDSON CO., DETROIT, MICH.**

Mr. CLARK. Mr. Chairman, I am controller of the J. L. Hudson Co., a department store in Detroit. I am chairman of the taxation committee of two associations, one the National Retail Dry Goods Association and the other National Association of Retail Clothiers.

I have also been asked to say to this committee that the plan of revision which our association, the National Retail Dry Goods Association, presents, has the approval as well of the National Shoe Retailers' Association and the National Garment Retailers' Association.

I would like to point out that the membership of the National Retail Dry Goods Association is about 2,500; that 1,700 of those stores are doing a business of less than \$200,000 a year. The National Association of Retail Clothiers has a membership of about 6,000, and one-half of them are rated under \$10,000, and they are situated in towns of not exceeding 10,000 in population.

The plan which I have the privilege of presenting has not only been approved by referendum and by convention votes of these associations, but it has also been approved by other associations.

The basis of our plan was that there must be raised for a considerable number of years an amount of at least four billions; possi-

bly more; that the consumer pays all taxes in the end, or a very great part of them. And in working out our plan, we believe that we arrive at a plan which would provide for a practical parity in the proceeds of a profit dollar.

I would like to say that I myself am simply a plain business man, and that the members of our taxation committee are simply business men. We have no lawyers, and we do not claim to be tax experts in any way.

Last year just about this time the National Retail Dry Goods Association put out a referendum. That referendum established by a large majority that its members were in favor of the repeal of the excess-profits tax, the downward revision of the surtaxes on individual income, the establishment of a national budget, the raising of individual exemptions and the provision for the revenue which will be lost by the repeal of the excess profits; the downward revision of the surtaxes, and the raising of exemptions by the imposition of a turnover or sales tax on all goods, wares, and merchandise.

In thinking of the proposition we divided all income first into three classes. The first class, that which comes to an individual as his wage or salary, derived because of his manual or mental effort, and we have suggested that on the first \$4,000 above exemptions there shall be imposed a normal tax of 4 per cent; on the remainder, 8 per cent. That follows the 1918 law.

We believe in order to get at the equity which must underlie any plan of taxation that there must be an increase in individual exemption, and we have proposed that on the unmarried man it be raised to \$2,500; on the head of a family, to \$5,000; and for children, to \$500.

I would like to point out that one great need, to my mind—

Senator SIMMONS (interposing). Does your plan include the abolition of the surtaxes altogether?

Mr. CLARK. Not altogether, Senator.

Senator SIMMONS. How high would you carry them?

Mr. CLARK. Our surtax plan is based on what we call the third class of incomes—that is, incomes from investments, into which, as we believe, there does not enter the element of manual or mental effort, that there should be surtaxes according to the 1913 rate, or, starting with an exemption from surtax of \$20,000, imposing a surtax of 1 per cent, and for from \$20,000 to \$50,000 and upward in the scale so that all incomes above \$50,000 are taxed at 6 per cent.

Our next class we have denominated as business income.

Senator SIMMONS. That is a very important matter to my mind. That will apply, as I understand you, to unearned income?

Mr. CLARK. What is commonly called "unearned income," all income not directly derived either from wages or salaries or from business investment.

Senator SIMMONS. It would not apply to incomes earned by manual labor?

Mr. CLARK. No, sir.

Senator SIMMONS. Or by intellectual labor?

Mr. CLARK. No, sir. In our thinking upon business income, we have believed that it really consists not only of the income derived from manual or mental effort, but that there is a plus element of

investment of money, and because of the plus element of that investment of money, making it, to a certain degree, as contrasted at least to wages, a sort of an unearned income.

Senator SIMMONS. Will you please give an illustration of what you have in mind as coming within the designation "plus"?

Mr. CLARK. I mean this, that I at the present time, sir, am working for a salary for my own particular concern. That would come under, in our plan, the first class of wage and salary tax.

If I invested a little money in an outside business, with no particular attention being paid by me to that business, but getting a profit from it, I believe that that business income should be taxed to me at a higher rate.

Do I answer the question?

Senator SIMMONS. Yes; that is, I understand you to say that you would apply the kind of income from that business derived from the investment, and then your salary you would regard as earned income?

Mr. CLARK. Yes, sir.

Senator SIMMONS. And would not apply it to that?

Mr. CLARK. I do not denominate business income entirely as unearned income, but I do believe there is in it an element of unearned income which is subjected properly to a slight increase in the amount of the taxed rates.

We have recognized that, which we believe is a fact, that at present there is a discrimination between the forms of business—individual, partnership, and corporation—which makes for extreme complexity and inequity. Therefore we have proposed a tax of 10 per cent on all business, regardless of the form; that that tax should be imposed on the business itself, and that income from business should be subject to no further tax when it is distributed. We have provided that there shall be an exemption of \$5,000.

I would point out that an individual, as I cited in answer to Senator Simmons's question, who received an income above the exemption, which we propose, would pay the individual rates on that amount, but that if he got a thousand dollars from an outside business investment, all of the tax would be paid on that business, and when he got it he would get 100 per cent of his profit dollar.

Senator SIMMONS. I do not understand that quite clearly as to that part of your income derived from the corporation which is disconnected altogether from your business. You would expect the corporation to pay the total tax?

Mr. CLARK. Yes, sir.

Senator SIMMONS. And you would not expect that you would pay anything upon dividends from that corporation?

Mr. CLARK. That is the plan which we propose. We believe it would remove a great deal of the complexity of the present law, and that it would be a great deal more equitable than the present plan, or, in fact, any plan which we so far have had an opportunity to study.

In the plan which we have drawn up, we have made no particular effort to define business. We believe that from the charter of a corporation there could come a determination of what that corporation's business was. We believe that possibly from partnership agreements there could come, or could be arrived at, the exact nature

of the business. But we recognize that when it comes down to the individual it would be at least slightly more difficult to determine when a man was in business, or what that business was.

Senator JONES. As a practical proposition, do not the charters of corporations usually take in everything?

Mr. CLARK. I think they do in some States, Senator. I know that by our own charter we are very clearly confined to our own particular business, which is that of a department store, and I think that in a very great many cases that is a fact. It depends very largely, I think, on the corporation laws of the State in which the business is situated, as to the clarity of definition and policy of the corporation.

Senator JONES. Of course we are all familiar with the general rule to make the charter just as broad as it can be made, in order to let the concern do any kind of business it may want to do.

Mr. CLARK. I think in spite of that, at least I would suggest, that the corporation itself, the actual business, the predominate business in which it is engaged is clearly outlined on the surface without very much investigation.

When it comes down to the individual as I said, we admit that there might be some technical difficulty, perhaps great technical difficulty, in getting at the income of the individual as derived from business. But still we do believe that if it were required in the individual's return that he should define his principal occupation, with the stipulation that he must set up schedules of his various incomes and their sources and amount, that it would be entirely within the ability of the inspector to set up and decide whether his claim as to principal occupation—which, of course, necessarily would be his business—was conclusive.

The third class of income, as we have defined it, is that outside of these two classes. It may be termed other income. We think of it, perhaps, more generally as investment income, and we have continued the rate which we have suggested as applying properly to business income, 10 per cent, to this unearned or investment income. We go back to the 1913 rate, and suggest that there should be a surtax, as I tried to explain to Senator Simmons, which, with an exemption of \$20,000, would impose a surtax of 1 per cent from \$20,000 to \$50,000, and, like the 1913 rate of surtax, slide up in the scale as the income advanced, so that as it went above the half-million point there will be imposed a rate of 6 per cent.

Senator SIMMONS. Why? You must have some reason for making that exemption so high?

Mr. CLARK. \$20,000?

Senator SIMMONS. Yes.

Mr. CLARK. I will tell you, Senator Simmons, I believe this, that in a very great many cases people realizing that they are getting old, people who are careful in their investments and look forward, have gradually put their accumulated savings into this sort of investment, and I believe in a great many cases when people live above the productive age they are dependent entirely on the money that they get from investments in bonds, and that to impose or to suggest any lower exemption would work a hardship on that class of people—old people, people who are disabled, people who can no longer work, who have no business investments, who can not possibly get money in any other way.

Senator SMOOT. Do very many old people who retire from business require \$20,000 to live on?

Mr. CLARK. A great many?

Senator SMOOT. Yes.

Mr. CLARK. Senator, offhand, I could not state with any authority how many, but I can imagine that there are a great many.

Senator SMOOT. That would require more than \$20,000 a year for their wants?

Mr. CLARK. I am quite definite in the conviction that the provisions in the act of 1913 of the \$20,000 exemption is equitable and necessary.

Senator SIMMONS. Do you not think that in legislating we ought to give attention to the general condition and not to the exceptional condition?

Mr. CLARK. I certainly do.

Senator SIMMONS. The condition that it requires more than \$20,000 to live on would be rather an exceptional income, would it not?

Mr. CLARK. Now?

Senator SIMMONS. Generally.

Mr. CLARK. It might be even now. It is a principle, gentlemen, that I am advancing.

Senator SIMMONS. I see a reason in the principle, but I think you have got your exemption rather too high, except in an exceptional case.

Mr. CLARK. But, Senator, I would like to point out that we do impose a normal tax of 10 per cent on this kind of income, with no exemptions from a normal tax, merely providing the exemption on account of the surtax. I propose no exemption of \$20,000 from a normal tax rate. Does that change the situation?

Senator SIMMONS. That does change it.

Mr. CLARK. That is what we had in mind. I believe, after all, the more it is considered the fairer it is.

I would like to explain that in our plan, as to individual exemptions, suppose we had the head of a family whose income was entirely in this class. He would get the entire amount of exemption, \$5,000, which we propose as individual exemption. If, however, his exemption of \$5,000 had been used as against the wage or salary income which he had, he could apply to this income only that which remained.

I will illustrate that in this way, if I may: That if a man had an income from wage and salary for mental or manual effort of \$7,500 and \$2,500 from this class 3 investments, he would have to apply the normal tax exemption of \$5,000 entirely to the \$7,500 from wages; he will have no exemption as applying on his \$2,500 income from class 3. But if he had only \$2,500 from wages, he would have an exemption of \$2,500 from his wage income, and he would have a remainder of \$2,500 which could be applied against the income derived from investments.

We have proposed as to eliminations, first, that the transportation tax should be repealed. Our reasons for that are that it would immediately help in the reduction of commodity prices; that it would encourage shipping and consumption; and I would like to point out that in a degree at least the long haul of a railroad pays, of course, necessarily a great deal higher tax in amount than the short haul. And it is easy to believe that commodities which are consumed at a

great distance from the source are, on account of the very inclusion of a heavier element of tax on transportation, priced a great deal higher than at the source, and that there is possibly a certain amount of discrimination against the consumer for that reason.

Senator SIMMONS. And against the producer, too, because if you make that long haul rate too high the producer can not find a market for his product in his section that is absolutely so.

Senator JONES. But, in some instances, the transportation rate is less on the long haul than it is on the short haul.

Mr. CLARK. The rate, Senator, is less, but the amount which will be taxed is more, and consequently the amount of the tax will be more. The rate is less, of course, in some cases.

Senator JONES. The sum total is less in many instances, and it costs a good deal less to send a carload of farming implements from Chicago to California than it does to drop that same carload off in New Mexico?

Mr. CLARK. Yes. But that situation ought not to obtain.

I would like to go back just for one minute to call attention to a point which I should have emphasized in regard to income from business. In our plan we have proposed, quite arbitrarily, and only after a great deal of consideration and a great number of calculations, a plan to control a situation which under the present laws attaches to claims for salary which are in effect transfers of profit claimed as deductible expense from income-tax returns, which at the present time is placing upon the Bureau of Internal Revenue a great burden in deciding as to whether such claims are correct.

The point I was trying to raise was as to the salary allowance of businesses at the present time which, in fact, really transfer business profits in very large amounts, and which, as they constitute, if allowed, deductible expense, there necessarily should be, according to our minds, put into any plan of tax revision a regulation on this very point, not leaving it entirely to the interpretation of the Bureau of Internal Revenue and causing them an immense amount of difficulty in actually arriving at the facts.

We have, therefore, done this: We have set an amount of 20 per cent as that percentage of total profit, plus the wage allowance, which should be allowed as wage allowance, and that 20 per cent alone of that amount should be allowed as deductible expense. I believe that the necessity for some definite proposition is there. Otherwise, just as is occurring at the present time, claims for enormous salaries become deductions of expense, and are not taxable to the business, although, of course, when they get to the individuals they are taxable at the individual rates.

If I may go on, the other eliminations, besides the transportation tax, which we propose are that on insurance, on alcoholic beverages, on admissions, dues, and all the excise taxes contained in Title IX. They are the excise taxes on sales by manufacturer, producer, importer, and sales of what I call the fine arts; the jewelry tax, the toilet and drug tax. We also believe the capital-stock tax and the special stamp taxes should be eliminated.

Senator SIMMONS. Have you considered and made calculations as to how much that would reduce the revenues?

Mr. CLARK. Yes, sir—that is, we have tried to do so to the best of our ability, and for the last year we understand there was a revenue



for something like \$900,000,000 in these special taxes. We, of course, believe in the repeal of excess profits.

Senator SIMMONS. It would take the whole of the sales tax to fill the hole made by the elimination of those taxes, would it not?

Mr. CLARK. Personally, I do not think so, Senator. I am inclined to believe that the sales tax would raise infinitely more than \$1,000,000,000.

The CHAIRMAN. "Infinitely more" is a pretty strong term.

Mr. CLARK. Yes, it is, Senator.

The CHAIRMAN. How much do you think the sales tax would bring to the Government?

Mr. CLARK. We have tried to investigate through the departments here, through reports of statisticians and experts along that line, and we are pretty nearly convinced that there is anywhere from \$500,000,000,000 to \$600,000,000,000 in the sales of goods, wares and merchandise in the United States to-day, and personally we believe that a tax of 1 per cent would easily raise \$2,000,000,000.

Senator SIMMONS. Have you investigated the experience of Canada for a period of about a year since that tax went into operation there? It is hardly yielding, according to my understanding, one-third of what it was expected to yield at the time the tax was levied.

Mr. CLARK. I may be wrong in my recollection. I have seen only one figure as to the actual yield of the manufacturers' tax in Canada. As I recall it, it was some \$30,000,000 in eight months.

Senator SMOOT. I think I have the figures here, if you want to put them into the record.

Senator SIMMONS. It was \$38,000,000.

Mr. CLARK. \$38,000,000 in eight months.

Senator SMOOT. And that was all they anticipated raising under the original law, which they have amended.

Senator SIMMONS. I have seen somewhere in a magazine article, I think, that they had not collected from that tax anything like what they anticipated at the time it was adopted.

Mr. CLARK. I have not seen any of that, Senator, but it seems to me—

Senator SIMMONS (interposing). I do not know anything about it.

Senator SMOOT. The claim was made that the French tax had produced as much as was expected, and I can give the reason therefor.

Senator SIMMONS. The article I referred to covered the Canadian tax. I thought probably this witness, who is a very intelligent man and who has looked very deeply into this question, had investigated that matter and could give us some information.

Mr. CLARK. It is only indirectly I have had any opportunity to go into that, Senator Simmons, but even if it were only \$38,000,000, of course, we have got to consider that the consumption per capita in Canada is undoubtedly much less than in the United States, and that they have perhaps 9,000,000 people where we have at least 110,000,000. That would be one point I would want to figure into very carefully before I made any comparison.

Senator SIMMONS. Their tax is 1 per cent upon some things and 2 per cent upon others?

Mr. CLARK. Yes, sir. That is another point in the consideration of the suggestion of any turnover tax on all sales of all goods, wares,

and merchandise as contrasted with this Canadian tax on the manufacturer.

I have said we proposed to repeal that excess-profits tax. We also, as I have already outlined, proposed a downward revision of the surtaxes. That brings up the question as to the comparability of the proceeds in the profit dollar resulting from investments in tax-exempt securities with that from taxable securities, and I think that before we arrive at a plan of tax revision which is going to produce the results which must be produced—that is, the necessary revenue—that there must be a close parity between the net proceeds that an investor gets from investments in business and investments in tax-exempt securities.

If I may illustrate my point, I understand at the present time from the Treasury Department that there is approximately an amount equal to 31 per cent of business profits paid to the Government. I think you will agree that it is very rarely that a business investment yields more than 10 per cent. If it is true that there is being taken from that 10 per cent of business investment 31 per cent, there would be left only a net proceeds of 6.9 per cent. I understand there are tax-exempt securities on the market at the present time, or at least in existence, that pay almost 6 per cent, and I believe when you take into consideration that in the case which I illustrate, which I believe fairly typical of actual conditions, there is a difference of only 0.9 of 1 per cent in the amount which any investor will get, there is no particular incentive to him to make the investment in business which is so badly needed at the present time. An increase of 0.9 of 1 per cent, with all the contingent possibilities of impairment of his invested capital and tax-exempt securities, which are the "Rock of Gibraltar" investment, they stand no chance, or a very rare chance.

The business investment is an entirely different thing. I believe, therefore, there must be between the net proceeds to the investor the thing that I prefaced as close parity between the proceeds of the profit dollar, and in this particular case you have got to provide for a buffer between the amount of money that the man will get from tax-exempt securities and taxable securities of anywhere from 3 to 5 per cent. That, I believe, is a principle which could be demonstrated without question.

I would like to point out another thing: We are too prone—I think the entire country is too prone to regard any principle of tax revision which is advanced in comparison with the 1918 act, which was enacted to produce an abnormal revenue—absolutely necessary to be produced—and enacted in an abnormal time. I believe that instead of considering the immense decrease which some plans have proposed from that act, and from its rates, we ought to go back, if possible, to a normal period which will closely approximate the normal period either in which we are now or in which we expect to proceed as quickly as possible. And if you do that, and if you will take, after I have completed, the plan which we have proposed, you will see and get, I think, the proper ground for comparison and realize the immense increase in rates which is proposed by our plan and has been proposed by other plans. In other words, the thing I am trying to emphasize is to forget comparisons with the 1918 act and to think of what it was in the normal period, say, of 1913.

As a substitution for these eliminations, the repeals we have suggested, I am going to advance one rather unique idea. I will not lay particular stress on it, although we believe entirely in its principle. From the figures of the Treasury Department we have studied, the Bureau of Internal Revenue reports, particularly in 1918, we believe that in the smaller incomes, where there should have been millions of returns—the incomes of \$1,000 to \$2,000, there was only, as I recall it, something like 1,672,000, and it came into our minds that there should be a provision in any tax plan not for determination by the taxpayer as to whether he had taxable income in his own opinion, but an actual determination of it; and, in looking around, studying the entire proposition, we reached this conclusion, that if it were possible for everybody—all residents of the United States, citizens or alien—to pay a small tax, a small income tax, it would produce sufficient revenue to more than pay the entire expense of the Bureau of Internal Revenue, and it would also have a policing effect, in that it would require a return of everyone 21 years of age who possessed taxable income, which would bring in all of this income which is not now being reported.

So we have in this plan proposed that the person who, by reason of the fact that he does not possess an income above exemption, pays no tax under the present law should pay an income tax of \$5.

The CHAIRMAN. Do I understand you have made a printed report?

Mr. CLARK. We have a tax plan which was submitted, Mr. Chairman, to our association.

The CHAIRMAN. Has that been sent to the members of the committee?

Mr. CLARK. I am not certain of it, Mr. Chairman.

The CHAIRMAN. If it has not been done, I suggest that you have copies of it sent, if it is in print.

Mr. CLARK. It is in print. May I ask how many copies are desired?

The CHAIRMAN. You may send a couple of hundred copies to the committee for distribution to the Members of the Senate and the committee.

Mr. CLARK. The principle that we had in mind was that there should be removed from any plan of tax revision the right of self-determination as to taxable incomes, and we are not particularly stressing this particular tax of \$5, if that effect could be brought about in some other way.

Senator SIMMONS. Do I understand that under your proposition every person should pay a tax of \$5?

Mr. CLARK. Every person 21 years of age who possesses an independent income; not if they have no independent income.

Senator SIMMONS. Could you not define what you mean by "independent income"?

Mr. CLARK. I mean by that income which is not given them by somebody else—that they are not dependents on somebody else; they actually go out and earn it, or they have investments from which they receive it.

It seems rather beyond our understanding that a single man to-day receives an exemption of \$1,000. If he gets an income of \$999, he enjoys all the privileges, all the opportunities, all the protection of this Government; he pays no tax. A man who gets \$1,100 enjoys

no greater protection, no better opportunity, and receives no greater benefit, but he pays the tax, and it is on the principle that the determination of obligation should not rest entirely upon an arbitrary exemption of income.

Of course, the greater amount of our substitution of income to the Government rests with our proposal that there shall be levied a tax on all sales on all goods, wares, and merchandise. We do not believe that it should be laid on any special class or dealer, either manufacturer or retailer, because, although we are absolutely committed to the principle that all taxes are ultimately paid by the consumer, yet there are difficulties of administration and of collection which no one can forecast. In other words, to go into the levying of a sales tax in this country is to go into no man's land, with difficulties which can not always be anticipated.

We believe the rate should be at 1 per cent, with a possible power given to the commissioner not to increase it beyond the 1 per cent rate, but that, if it raised an amount in excess of the needs of the Government in addition to the other taxes which we leave in, that he have the authority to lower it.

We can not believe in all the objections which have been raised because of what are called "self-integrated concerns" what I think of as consecutive operations. Those concerns are to-day in business, and their small competitors are in business. They are both bearing a tax burden which is greatly in excess, we believe, of the tax burden which would be imposed under our plan. They are both prospering. Analysis as to why they prosper and have continued to prosper would establish that the small business in some way gives a service which the big business never can give. I know that in our own city we are a large store; but we have small competitors and they prosper; they do business; they always will; and I believe that if under all the systems of taxation in existence these smaller concerns, in competition with these larger concerns, have continued in business, the small element of the 1 per cent tax applied to them both can not differentiate against the small one.

We believe that the tax should be assessed absolutely on the seller, with no obligation at all to collect from the consumer. It should be collected upon the amount of sales, either at the end of one month and turned in during the following month, or the return might be made quarterly.

In our plan we have not proposed any exemption to business, although we can recognize, and agree, with the principle that because of difficulties of administration the smaller business should be exempted to a certain amount—perhaps, as has been proposed, up to an amount of \$6,000 a year.

Senator SIMMONS. You said awhile ago that we ought to remit the 1918 taxes and the principle upon which it was levied, and proceed upon the theory of normal conditions. That tax was levied under very abnormal conditions, but with respect to the taxation, I look upon the present situation as more abnormal than the situation that existed then, because then the whole country was, as in normal times, on the same price basis. In normal times low prices obtained, but they obtained all along the line. In 1919 a high price basis obtained, but it obtained all along the line. Now, we have got another style of abnormality, if I may use that word.

We have the condition of a large part of the people of this country—a large part of the business of this country—upon a basis of prices almost below the cost of production, while a large part of the business of the country is upon a basis of prices almost as high as those which obtained during the war.

With that condition existing, have we not got to consider abnormal conditions in levying the tax now just as we had then? These abnormal conditions are just as potential in determining what is just and equitable in taxation as the abnormal conditions existing during the war.

Mr. CLARK. Senator, I believe that the present plan of taxation is helping to continue that condition. I believe that to continue to base taxation on the abnormal period that we have just passed through would be to delay the coming of the normal period.

Senator SIMMONS. But can you levy your tax equitably without considering those conditions, especially if the proposed substitute is going to bear more heavily upon the class that is getting low prices than on the class that is getting high prices?

Mr. CLARK. That must, of course, be considered, but it would first have to be admitted that were true. Personally, I can not believe it is quite true.

I would like now to briefly sum up that our total plan results, if thought of as a whole, would produce from income taxes and customs receipts one-half of the revenue necessary; from the turnover or sales tax it would produce the other half; and that under the plan of paying into the Treasury each month or each quarter the turnover or sales tax there would result a steady flow of revenue which is badly needed, and which would remove at least in part the necessity of issuing short-term certificates of indebtedness.

Senator GERRY. How much revenue do you consider will be needed?

Mr. CLARK. I think I have been working on the general policy that there would be needed \$4,000,000,000, although, personally, I think it may be—in fact, I am quite certain it will be more.

Senator SIMMONS. You calculated that the removal of these unnecessary taxes you speak of would amount to \$900,000,000?

Mr. CLARK. Yes, sir.

Senator SIMMONS. How much have you estimated would be lost by the repeal of the excess profits tax, and by the elimination of surtaxes to the extent which your plan proposes?

Mr. CLARK. Senator, in conference and long-continued consultations with such authorities as we could get at in the Treasury Department and the Bureau of Internal Revenue, I would say this, that keeping the income tax as we have planned, with a small surtax on unearned income, with customs receipts of at least \$330,000,000, and also keeping in, of course, the tobacco and drug regulatory taxes, there would be produced a revenue from such sources of about \$2,200,000,000, making it necessary to raise \$1,800,000,000 by a turnover tax, or about half and half.

Senator SIMMONS. In other words, you think there would be left only about \$2,000,000,000?

Mr. CLARK. Yes, sir.

Senator SIMMONS. And then the other two billion you propose to get, as you say?

Mr. CLARK. Practically that. The equity contained in our plan as a whole seems to be quite apparent. We believe that, contrary to the generally accepted theory, it will not result—

Senator SIMMONS (interposing). Just before you leave that: It is admitted that the sales tax is a consumption tax?

Mr. CLARK. Yes, sir.

Senator SIMMONS. What per cent of these retained taxes, of which you say you would get the other \$2,000,000,000, would be consumption tax?

Mr. CLARK. You want my personal opinion?

Senator SIMMONS. Yes.

Mr. CLARK. Well, I think it is nearly all consumption tax. I think all taxes in the long run are consumption taxes.

Senator SIMMONS. Do you think income taxes are consumption taxes?

Mr. CLARK. Yes, sir; that is my personal opinion, and I think the opinion of the association which I represent here this morning. The tax, we believe, is not shifted; we believe it is lifted. We believe that in the tax content of the sales dollar to-day there are elements of overhead expense which would be materially reduced by the absolute certainty of the plan, and that the overhead is very largely brought about because of the uncertainty which business finds itself in fixing its budget and basing its prices upon those budgets.

I would like to point out that we tax all business alike. You have not got to determine whether a business is corporate, individual, or partnership in form; that we propose that all the benefits that apply to one form of business shall be consolidated and applied to all forms of business; that we remove the complexity of searching out the distribution of business income and tax it on the source of that income.

I would point out that there is a parity in the amount from wages and salaries, and that on any kind of income the parity is not seriously disturbed by the imposition of a small surtax.

We point out, too, what we absolutely believe, that without increasing exemptions such as we propose there would be an injustice done to the people of small incomes. We are absolutely convinced of that, because when you consider that a man of small income spends a larger ratio of what he earns for the necessities of life, he will necessarily pay indirectly or bear a tax burden which would be much greater in proportion than that of a man of a higher rate of income.

I would like to point out, also, that just as States taxing buildings, real estate, all property, on the valuation, and do not increase the rate if a building is worth \$5,000,000 contrasted with one that is worth \$200,000, that in our plan we have attempted that same equity. We believe that the man who gets \$50,000 should pay ten times to the Government to support it as the man who gets \$5,000, but we do not believe that he should pay fifteen or twenty times as much.

I would like to draw attention—and I am almost through—to the simplicity of the plan. The taxpayer will not need any tax experts. It is a 10 per cent tax if you are in business, and anybody can figure that. All of the complexity attaching to the excess-profits tax would be removed. The taxpayer will not have to wait for years to find out whether he has discharged his taxes to the Government, and there would not be, as there is at the present time, according to my

understanding, possibly a billion dollars of uncollected revenue which must be brought in at a very great expense.

The Internal Revenue Bureau to-day, as I understand it, has some twenty and odd departments. The people in those departments are trained to do special work, and the work attaches to their own particular division. They are an inflexible body of employees; they can not be transferred very readily to do the complicated work of another division. Our plan would remove the necessity of having high priced or comparatively high-priced experts in the Treasury Department, and the Treasury Department would cease to be the greatest university in the world with the greatest number of graduates.

Senator JONES. What objections would you have to using stamps on all of those sales?

Mr. CLARK. Senator, if I might say it bluntly, it will be absolutely impossible. For instance, we have close to 10,000,000 transactions a year, and to attach to each one of those 10,000,000 transactions a stamp would result in this, to give you a practical illustration: It would result in compelling us to employ a great many more people to handle our output. That would be deductible expense. It would decrease, according to its amount, the revenue accruing to the Government.

But another effect would be that it would slow up, not only in our store but every store and retail establishment in the country, the process and the volume of business would fall off.

I wish to speak briefly of the certainty which would attach to our plan to the Government. To-day there is no certainty in how much tax will accrue to the Government from the present plan. From such a plan as ours there would be practical certainty. From the standpoint of the taxpayer there would be absolute certainty in contrast with the uncertainty at the present time. He can not figure with any degree of accuracy; he does not know whether a percentage of tax at the end of the year is going to be 10 or 30 or even higher, and must load in for his protection an overhead item which increases, I believe, at least 8 per cent the tax content in the sales dollar.

Our plan would not interfere with business in any way. All business will be on the same basis. The elimination of the excise taxes would, of course, remove a source of income, but we believe that no business should bear a tax burden superimposed upon the tax load of business in common, unless that special business bearing a special tax receives a special benefit.

Senator JONES. About that tax business, I do not understand what business you are engaged in.

Mr. CLARK. I am with J. L. Hudson & Co., Senator, in Detroit, and it is a department store.

Senator JONES. For all of those sales in that department store do you not make out a ticket of the sale and send it to the cashier?

Mr. CLARK. We either make out such a ticket, Senator, or the sale is recorded without ticket on the cash register. Certainly, there is a separate transaction for each sale; yes, sir.

Senator JONES. What would be the extreme burden of simply putting a stamp on that equal to 1 per cent of the sale?

Mr. CLARK. In the first place, the amount would have to be fixed; we would have to leave it to thousands of clerks to put on the right denomination; in the second place, we can not indiscriminately hand

out such an enormous number of stamps to our people, and the actual manual labor in doing it, not in one sale, but when you have multiplied by the sales necessary to be made, would result, as I have tried to explain, in a very great burden.

**Senator JONES.** Your cashier handles the cash, does he not, and you trust him with the cash; could you not trust him with the 1 per cent stamps?

**Mr. CLARK.** Senator, I would like really if you could make a visit to the cash tube room of a busy department store. You would then realize that your suggestion, if I may say so, would be difficult, to say the least. It would slow up the business very, very materially.

**Senator JONES.** I can understand it would in some degree, but I can not understand that it would be an effort which is prohibitive or which puts it beyond the pale of consideration.

**Mr. CLARK.** I am quite convinced that it would.

Another thing, is, all people are perfectly willing to pay taxes; they realize they must pay them. But they do not like to pay them every day; they do not like to pay taxes on every small transaction they make, and it would be impossible, Senator, in small sales—the thousands and thousands of these sold at 10 or 15 cents and even less than that to provide stamps. I am quite convinced it could not be done.

The simplicity of the other proposition of bulking all the sales of the establishment, whether for \$100 or whether 10 cents, and simply at the end of any business period which might be selected, figuring 1 per cent, and turning it in, is apparent.

**Senator JONES.** By the use of the stamp method, you would eliminate any administration charge on the sale of stamps, and would you not come nearer getting the whole of the tax in that way than any collective system?

**Mr. CLARK.** I think not, Senator. I am quite convinced that the administration would be simply impossible; I am equally convinced from my own experience as controller of the J. L. Hudson Co.

**Senator SIMMONS.** You could get stamps of denominations to fit every sale?

**Mr. CLARK.** I do not see how it could be done, Senator Simmons.

**Senator SMOOT.** There is no intention of doing it in any bill I have seen drawn.

**Senator McLEAN.** It has been stated several times to the committee, and I presume you may have read the statement, that the excess profits tax had added something like 20 or more per cent to the retail price of goods to the consumer. Have you had your attention called to the reasons why?

**Mr. CLARK.** Yes, Senator; I have. If I might take the time to make the answer in reply to that, Mr. Chairman, I would say that I happened to be, in the fall of 1919, one of the committee of 17 called by the Department of Justice for the consideration of problems in the administration of the Lever Act, and in our talk with Mr. Howard Figg, who, as you know, was the special assistant to the Attorney General in direct charge of the administration of the act, he made the statement to us that there was in a sales dollar at that time a tax content of 23.2 cents. We have used that in our plan. We did not accept it without consideration.

**Senator McLEAN.** You are going into that now?



Mr. CLARK. Yes.

Senator McLEAN. Upon what did he base that conclusion?

Mr. CLARK. Mr. Figg told us, I am quite certain, that he obtained the figures from the Treasury Department. I would like to show that it is a reasonable figure.

Senator WALSH. The Senator wants to know upon what basis they reached that percentage, that this profits tax increased 20 per cent.

Mr. CLARK. Not excess-profits tax, but the entire tax.

Senator McLEAN. I referred particularly to the effect of the excess-profits tax and the surincome taxes.

Senator WALSH. Your first question only included excess profits?

Senator McLEAN. Yes; but I am willing to include surtaxes on incomes, if you please, which we propose to lower, and it is proposed that we eliminate entirely the excess-profits tax.

I understand that it is your view that that tax will not be shifted?

Mr. CLARK. Yes, sir.

Senator McLEAN. In a way that will raise prices to the consumer?

Mr. CLARK. I believe it will reduce prices to the consumer.

Senator McLEAN. And you gave a few reasons, I think, to the Senator. But it seems to me that is the crux of this question. It is a very important one to me. You can not charge the excess-profits tax to prices, because if it is a monopoly, of course the person that controls that monopoly will sell his product for what the trade will bear, and where there is competition that regulates the price—that is, the competitors must subject their prices to the man who produces for the lowest price.

Senator SMOOT. Where there is competition everybody is compelled to pay the tax; then it becomes a part of the cost of the goods.

Senator WALSH. I do not see how an excess-profits tax does.

Senator McLEAN. But it can not be legitimately charged back to the prices, because they will charge what the trade will bear, and they are not thinking about taxes when they fix prices.

Mr. CLARK. Senator, I believe the taxes, irrespective of overhead, which any dealer must consider in making up his budget of expenses, goes to boosting his sales price.

Senator McLEAN. Your attitude is that when it is a seller's market, when there is a heavy tax facing the dealers, all the competitors automatically raise their prices whether they can do it legitimately or not?

Mr. CLARK. I think they would soon go out of business unless they did.

Senator SMOOT. Decidedly so.

Senator WALSH. Do you think the excess-profits tax raises prices?

Mr. CLARK. I do, most decidedly.

Senator WALSH. And if we eliminate that tax, prices will go down?

Mr. CLARK. I think, without any question at all, that if a plan such as ours could be adopted—

Senator WALSH. Excuse me, but will you answer the straight question? Do you think the elimination of the excess-profits tax will result in the reduction of prices?

Mr. CLARK. Yes.

Senator McLEAN. Why?

Mr. CLARK. Senator, I would like to go back and explain this reference to the 23.2 per cent if I could. I must confess I can not

separate the tax into its elements of normal, excess-profits, and surtaxes. Mr. Figg's statement was based on the total tax; was not confined to the influence of excess profits or surtaxes. We satisfied ourselves in this way, if you can take the estimates of the Treasury that there were taken from business in the period to which Mr. Figg was referring from 30 to 40 per cent of profits, and that profits were about 15 per cent of sales, a simple calculation would show that the actual tax on all sales to consumers was a little less than 6 per cent. This is a tax on all processes from raw material down to the consumer, which must be, I believe, pyramided to the same degree as a sales tax will be pyramided by successive turnovers.

Mr. Figg's statement was based on the total tax, not confined to excess profits or the influence of the surtaxes. We satisfied ourselves in this way. We believe that if you can take the estimates of the Treasury that there is taken from business as a whole somewhere around 31 per cent of its profit; profits in the period to which Mr. Figg was referring were about 15 per cent of sales. A simple calculation, the effect of 31 per cent tax on 15 per cent of sales, would give us a figure a little less than 6 per cent of actual tax on all sales. That is the tax on all of the processes from the raw material down to the consumer, and it must be, I believe, pyramided, just as a sales tax will be necessarily pyramided, by the successive turnovers.

I think it is generally accepted that the effect on the ultimate consumer of a 1 per cent tax on all the processes of a limited turnover is  $3\frac{1}{2}$  per cent, or three and a half times the rate of the tax. Therefore it would be proper, having arrived at a tax rate of 6 per cent on sales by the calculation to which I have referred, to multiply that tax rate by  $3\frac{1}{2}$ , which would give 21 per cent, or 21 cents as a tax content.

I mention that as a process, right or wrong, to which we applied ourselves in verifying Mr. Figg's figures.

Senator McLEAN. That is largely theoretical. Let me ask you a practical question. You are running a department store?

Mr. CLARK. Yes, sir.

Senator McLEAN. I suppose you are making money; you paid the excess-profits tax?

Mr. CLARK. We have; yes, sir.

Senator McLEAN. You have paid the excess-profits tax. But suppose we eliminated the excess-profits tax; how will it affect your prices if this turnover tax is substituted?

Mr. CLARK. Is it proper for me to ask what would be substituted?

Senator McLEAN. The turnover tax.

Mr. CLARK. Just the turnover tax?

Senator McLEAN. Yes.

Mr. CLARK. I believe it would immediately eliminate all uncertainty in our figures as to what our prices would be, and it would reduce an element in overhead which we regard and, I believe, all business regards at the present time as the first item of overhead. At any time that an establishment, unless they have a monopoly, as you suggest, finds that they can reduce their overhead, they will necessarily reduce the prices to their consumers.

Senator, I would like to point out that we have this situation, and everybody in the country has this situation—the absolute necessity of keeping up our volume. Our expense is not going down. It is

remaining constant. Its percentage to our business is increasing because our business in dollars and cents is a great deal less in most cases.

Senator SMOOT. Mr. Clark, in arriving at the price at which you sell your goods you take into consideration, do you not, the city, county, and State taxes?

Mr. CLARK. Absolutely.

Senator SMOOT. If you did not you would not know what profits you were making?

Mr. CLARK. Senator, if we did not we could not make any money. We could not exist.

Senator SMOOT. You also, at the same time, take into consideration the taxes imposed by the Government, or what you think they will be?

Mr. CLARK. Absolutely; yes, sir.

Senator SMOOT. And the same result would follow if you did not?

Mr. CLARK. Absolutely.

Senator SMOOT. Is it possible for you to see how a tax imposed by the Government or by the State or by a county or a city does not affect the retail price of goods?

Mr. CLARK. No, sir. Such a situation would be absolutely beyond my comprehension.

Senator SMOOT. Is it possible for any business man to say that those taxes do not affect the price of goods?

Senator WALSH. We are all agreed about that, except as to the excess-profits tax. I can not see how that can be an element to be taken into consideration in establishing prices.

Senator SMOOT. If a business has been making an overhead charge of a certain amount, a certain percentage upon their line of goods to be charged as a part of the cost of the goods, when an excess-profits tax is put on, they are not only going to figure what they expect it to be but they are going to be absolutely sure to put enough on. That is what they have done and that is what all business men will do.

Senator WALSH. You paid the excess-profits tax a few years ago?

Mr. CLARK. Yes, sir.

Senator WALSH. How much less would you have sold your goods for if there had not been an excess-profits tax?

Mr. CLARK. Senator, I would rather not speak in detail as to our excess-profit tax last year, but it was so much less than the amount which we set up in our budget at the beginning of the year that our expense figure, the foundation on which we based our volume and our prices, was really greater than necessary from the beginning of the year up to the time that the break in the market came late in the fall. Our actual tax was hardly more than a third of what we estimated it would be because of the losses which we had to take in the last three months of our business.

In other words, Senator, our tax was a little bit more than one-third of what we had estimated.

Senator WALSH. Were your profits more than you estimated?

Mr. CLARK. We made no operating profit, although we made some profit contingent upon the operation of our sales department.

Senator McLEAN. You have competition in your business?

Mr. CLARK. Yes, sir.

Senator McLEAN. Fierce competition?

Mr. CLARK. Yes, sir.

Senator McLEAN. Does not that regulate your prices?

Mr. CLARK. It does regulate our prices, certainly, sir; but that is one of the very reasons, Senator, if I may be allowed to say so, why we are trying to cut down our expense. The minute we can cut down our expense we can cut our prices under our competitors, who may not be able to cut down.

Senator McLEAN. Very true; but if you have a competitor who can sell for a price lower than yours, you have to come to his price or go out of the market?

Mr. CLARK. Yes, sir; unless we can offer something in addition to mere merchandise--some service.

Senator McLEAN. Some other incentive. But competition controls your prices?

Mr. CLARK. Almost altogether, I think.

Senator McLEAN. That is what I supposed, no matter what the taxes are.

I wish that some man engaged in business where there is competition would give to the committee a statement of what he proposes to do in the event that we remove this excess-profits tax.

Senator WALSH. Exactly, Senator. That is very important.

Senator McLEAN. That is the point that is important to me.

Senator SMOOT. It is just the same as any other tax.

Mr. CLARK. May I continue, Senator, in the discussion of your question and give simply my own personal idea?

I spoke of the volume we had a year ago, which was based on prices at least 33½ per cent above the present. That means that in order to maintain that volume to-day we have got to sell a great deal more----

Senator McLEAN. I know; but here is a man who does not make over 5 per cent. He does not have any excess-profits tax to pay at all. You are in competition with him. You have got to meet his price, have you not?

Mr. CLARK. Yes: to a certain degree.

Senator SMOOT. But is there a man doing the same class of business that he is doing who is not going to take into consideration the same tax?

Senator McLEAN. He does not have to, because he does not pay it. He has no excess-profits tax to pay.

Senator SMOOT. He does not know whether he will or not. He could not tell whether he would or not when he begins with the 1st day of January of the taxable year. If he does not have it the other man will not have it.

Mr. CLARK. The point I wanted to make was that in our endeavor to get volume this year we have got to materially increase the volume considered as units. You may rest assured concerning the fierce competition of which you speak that in our own case, and I believe in all stores in all large cities, and I believe, too, that it will apply to the smaller stores, because they are in competition with the mail-order houses so fiercely, that every bit of expense we can cut out will be cut out and the consumer will immediately get the benefit of it.

The CHAIRMAN. Is that all, Mr. Clark?

Mr. CLARK. Thank you, Mr. Chairman. I appreciate your courtesy.

Senator JONES. I would like to follow up the line of examination that the Senator from Connecticut was engaged in.

Is there not a very marked difference in fixing the price of your goods with respect to a definite, fixed cost charge and a contingent charge based upon the profits? I can see how your State and county taxes would be figured in and how a sales tax would be figured in as a definite part of your cost, but is not that decidedly different from a tax which is only contingent upon the amount of profit which you are making?

Mr. CLARK. Yes, Senator, it is contingent in this way, that because it is contingent and because it is uncertain it will be figured in at a rate which may be greatly in excess of the amount that the Government will get.

Senator JONES. Just a moment. Take the case of a monopoly article. Do you figure in your contingent tax on fixing the price of the monopoly article?

Mr. CLARK. You mean a monopoly article which we handle?

Senator JONES. Yes.

Mr. CLARK. I would like if I could—I am taking a great deal of time—to show, Senator, that the first consideration in the planning of business is its expense. Into that must go all the elements that can be thought of and anticipated, but there is no particular effort made in a retail business such as ours to so fix individual prices that there is a profit on each one of them. The effort is made to bring about a profit on the total of a department's sales. Of course, profit must cover expense, including the tax payable to the Government, but it is rarely figured out on the individual sale or the sale of individual items.

Senator JONES. But you have to fix a price on each individual sale to bring about the ultimate result of the whole business, it seems to me. So what are the factors entering into the fixing of a price on a monopoly article?

Mr. CLARK. This overhead expense in general is applied to the business in total and not applied to the individual sale because it may be the sale of an article which is a very small part of the merchandise sold in any particular department. There are lots of those cases, Senator, where we sell at an absolute loss.

Senator JONES. What fixes the price of the article that you sell at a loss?

Mr. CLARK. Generally the monopoly tells us what we must sell it at, or they will not supply it to us any further.

Senator JONES. If the monopoly tells you the price that you have got to sell it at, how would an excess-profits tax figure in the fixing of that price?

Mr. CLARK. Not at all in regard to the sale by us of that particular article.

Senator SMOOT. But it would in the whole business?

Mr. CLARK. On the whole business, Senator.

Senator JONES. Are there not a great many articles where the monopoly fixes the price and where you sell at a profit?

Mr. CLARK. Yes, sir. There are some manufacturers who recognize that we have an expense in doing business and that we are entitled to a certain profit.

Senator JONES. And the excess-profits tax in that case would not be figured in as a factor in the fixing of the price at which you sell?

Mr. CLARK. We have no control of that, Senator.

Senator SMOOT. You know what those articles are and you know what profits you are going to make at the beginning of the year when you make up your budget?

Mr. CLARK. Yes, sir.

Senator SMOOT. And if you did not you would not know where you were going to land?

Mr. CLARK. We may carry a good substitute for that and get our profits from the substitute.

Senator JONES. Is not the same thing true with reference to all other monopoly articles?

Mr. CLARK. Where the price is fixed by the monopoly; yes, sir.

Senator JONES. Where the price is fixed by the monopoly. Suppose you have an absolute monopoly on the sale of an article. What factors would enter into the fixing of that price?

Mr. CLARK. The price of similar articles made by other concerns would almost necessarily determine it.

Senator JONES. Assuming you were the monopolist yourself and selling the article, what factors would enter into the fixing of the price of that article?

Mr. CLARK. We might have a monopoly on some particular brand of some particular thing, like some kind of toilet water; but there are so many others that we would have to make our price in conformity with the prices of all the others.

Senator JONES. Then that would be upon the theory that there is competition even in monopoly articles, would it not?

Mr. CLARK. I think there is an element of competition even in monopoly articles; yes, sir.

Senator JONES. That competition arises from this fact, does it not, that there is a point at which they would cease to use the monopoly article if you charge more; and is not that the factor which you take into consideration in fixing the price of the monopoly article, rather than any excess profits tax on it?

Mr. CLARK. There is certainly the fact that if you charge too much for a monopoly article the people will not buy it if they can get something else.

Senator JONES. Or, in other words, as the Senator from Connecticut expressed it, you charge all that the traffic will bear?

Senator McLEAN. All that the trade will bear.

Senator SIMMONS. I think the witness has been talking all the time since you have been examining him with reference to the second sale of a monopoly article, while you were trying to direct his attention to the first trade.

Senator JONES. It is quite true that what I was getting at was the first sale of a monopoly article.

Senator SIMMONS. Take the United States Steel Corporation, an absolute trust—

Mr. CLARK. And produces something that nobody else ever did produce? Of course I do not know exactly how they would look at that.

Senator McLEAN. Suppose you made an article which was the only one of its kind in the world and no one else was permitted to make it. You would charge all that the trade would bear, would you not?

Mr. CLARK. That does not exist.

Senator McLEAN. You say you have potential competition which regulates the price—

Mr. CLARK. Questions like these, theoretical, academic questions, may arise, but when it comes down to the practical administration of a business such as our own—

Senator McLEAN. I would like to know how the Treasury expert estimated the increase in price caused by the excess-profits tax.

Mr. CLARK. He made no such estimate as that, Senator. He simply dealt with the whole tax content. He did not attribute it to the excess-profits tax. He attributed it to the entire tax.

Senator McLEAN. I thought I had seen it stated in the papers that the excess-profits tax caused an increase in price of something like 20 per cent.

Mr. CLARK. There is a statement on this subject, Mr. Chairman, in our plan.

Senator McLEAN. I think this enters into the fixing of prices. When taxes are high and you have a seller's market, every retailer automatically, if I may use that word, is tempted to boost his prices, and when the "going is good," they do it. It may be possible that that element raises the prices much higher than they would be under a turnover tax; and that is the point that I would like to have discussed.

Mr. CLARK. If that could be demonstrated offhand, Senator, it would be very interesting.

Senator McLEAN. You would lower your prices?

Mr. CLARK. The economic pressure would force us to, even if we did not want to.

Senator McLEAN. I wish you would tell us just how much you think you could afford to lower your prices in the event you were relieved of the excess-profits tax.

Mr. CLARK. I believe that this plan would change that 23.2 per cent to not much more than 16 per cent, and that there would be a resulting universal reduction of overhead expense which, by the very pressure of competition and the very necessity of increasing at the present time our volume of unit turnover, would compel us and compel everyone else to reduce prices.

Senator SMOOR. Senator McLean, I think the statement as to the 23 per cent is as follows—that 23 per cent now added to the cost of goods can be greatly reduced by the sales tax through the elimination of not only the excess-profits tax but the taxes that can be repealed if a general sales tax is put in operation.

Senator JONES. Mr. Witness, suppose you have a patented article. We will take a patent safety razor, for instance. Assume that you are the manufacturer of that patented safety razor. What factors would enter into the fixing of the price?

Mr. CLARK. The cost of its production, the cost of its distribution, and the profit which I thought I was entitled to in my investment, the price of other safety razors; and if I were introducing it undoubtedly I would be content to make profit a minor consideration for a certain part of the period of introduction.

Senator JONES. Then the uncertain factor there would be the amount of profit which you thought you were entitled to make, would it not?

Mr. CLARK. I think that would be governed entirely or in large part by my own personal feeling and my own personal need of profit, and the certainty with which I calculated my expenses.

I would like to point out, Senator, that the objection in the present tax, to my mind, at least, is its element of uncertainty. You can not anticipate it.

Senator JONES. There is no element of uncertainty about it, is there?

Mr. CLARK. Let me illustrate. I will say this—

Senator JONES. There is an element of uncertainty as to amount but not as to percentage.

Mr. CLARK. Oh, yes; because the more money you make the more you pay.

Senator JONES. The percentage is fixed, is it not?

Mr. CLARK. Yes; the rates are fixed, but the percentage to profit is variable. You may figure in advance on making a certain amount of money, and it increases and your rate is increased, and it increases not only on that amount but on what you had already been figuring on.

Senator JONES. But if you only make your fixed amount of profit, the amount which your conscience or business judgment would prompt you to make—I do not say that in an offensive sense at all—you know what your tax will be, do you not?

Mr. CLARK. Senator, we were in business last year to make money.

Senator JONES. All business men are.

Mr. CLARK. We did not make money through the operation of our sales departments.

Senator JONES. You did not pay any excess profits tax, then?

Mr. CLARK. In our anticipation of expense there was an element of profits tax which we expected to pay which did not materialize to the extent we had expected. That is the point I am continually trying to make—that there is such an uncertainty in the present taxes; that there is a holding of overhead not only by the retailer but right back to the very production, every process, turnover, and operation down to the distributor and the consumer, which increases prices even though the consumer pays no direct tax. This uncertain element of overhead, which I believe is 8 to 10 per cent, increases his cost.

Senator JONES. You are continually bearing in mind your total business. I am trying to get at the factors that enter into the fixing of the price of a monopoly article such as a safety razor. You say that you take into consideration how much profit you think you ought to make. That profit which you think you ought to make would be dependent upon the further condition as to how much you could charge for it and bring it into general use, would it not?

Mr. CLARK. Yes; beyond question.

Senator JONES. Is not that the thing—how much you can charge for it and still bring it into general use? Or, in other words, is not that back to the same proposition advanced by the Senator from Connecticut, that as to such articles you fix your price by charging what the trade will bear?

Mr. CLARK. That undoubtedly enters into it, Senator; but a business man who is a business man and who does things in a business-like way really conducts his business somewhat along the line I have



spoken of. He bases it upon his expense and he builds his profit from the expense.

Senator JONES. The excess profits tax is not a fixed expense, is it?

Mr. CLARK. That is the trouble with it, Senator; it is not a fixed expense because it is so uncertain in its rate.

Senator JONES. Take a commodity where there is competition. Do you not think that in your competitive price, taking into consideration what people charge for that article, whether they pay an excess profits tax or not, you have to compete with the fellow who does not pay the excess profits tax?

Mr. CLARK. We do in certain lines and for limited periods, but we would not continue in a nonprofit campaign extending over any particular length of time. We would get out of that particular line of business.

Senator JONES. There is a profit, even if there is no excess profit, is there not?

Mr. CLARK. No, sir.

Senator JONES. There may be an exemption.

Mr. CLARK. Certainly we sell sometimes articles that we make no profit on; but of course we can not and it would not be economically possible for us to continue indefinitely to make no profit at all.

Senator JONES. But you can carry on a business in this country under the present law and make a profit without paying any excess-profits tax, can you not?

Mr. CLARK. Yes; but the consumer will pay more for what he buys from us than we believe he should.

Senator JONES. I must confess that I can not understand that proposition.

Senator McLEAN. Do you think the surtax on incomes has any effect on prices?

Mr. CLARK. I think it would be admitted that, where an individual is in business the individual surtax would. I think there is no question that it has an influence on rents, and I think that influence is very largely the same with reference to an excess-profits tax.

Senator McLEAN. I am inclined to agree with you, but I would like some of the witnesses who pretend to be experts in this matter to enlighten the committee as to what the effect is going to be if the surtax and excess profits tax are removed or reduced.

Mr. CLARK. As I have stated above, I am not a tax expert, but I would say that if I did not believe—and I think I can speak for my two associations and those others whom I represent—that our plan of tax revision would bring about a lowering of prices to the consumer I would not advocate it.

Senator McLEAN. I do not question that in the least. Possibly you are quite right; but we are faced here with the assertion positively made that the elimination of the excess-profits tax will shift the burden from the rich to the poor, and I would like all the light I can get on that question because it is a very important one so far as I am concerned personally.

Senator SMOOT. Every business man goes into business to make a profit. I think we will all concede that?

Mr. CLARK. Unquestionably.

Senator SMOOT. And I think every business man, when he starts in the year, thinks he is going to sell his goods at a profit, and

he figures out his expenses, what they will be, and yet out of every hundred men that go into business there are ninety-two of them fail.

Mr. CLARK. Yes, sir.

Senator WALSH. Suppose the Government should pass a law compelling the payment of all incomes or profits in excess of a certain amount to be given to the Government for taxation purposes: would that have a tendency to increase the prices of goods so that the Government could get all the money it needed in the way of taxes?

Mr. CLARK. No, sir. It certainly would drive a lot of men out of business. It would result in no particular revenue to the Government.

Senator WALSH. Does it not depend on what the rate would be, what would be called excess profits? Suppose the excess was all over 20 per cent.

Mr. CLARK. The idea is that the normal tax should take everything above 20 per cent figured on capitalization?

Senator WALSH. Yes.

Mr. CLARK. That is an academic question.

Senator WALSH. I am trying to confine it to how a man in fixing the price of goods is influenced by excess profits. He is not influenced at all, is he?

Mr. CLARK. What I tried to explain—I am sorry that I seem to have failed—is that he is influenced in the beginning of his year and continually through that year by his anticipation of the amount that he will have to pay. If your proposition should result in an increase in the present tax, it would result in higher prices to the consumer without any question.

Senator WALSH. Do you know that the experience of the State governments that have required public service corporations to give up all profits over a certain percentage has been that it resulted in practically no money being given to the government, that they have proceeded to cut their profits down to the maximum amount allowed by law? Would not that be the same in this case?

Senator SMOOT. Rates have been fixed by public utilities commissions in cases like that. And, Senator, I want to say this, and say it frankly, that if there were a 20 per cent profit fixed there are certain businesses in this country that would not be developed at all. I would not go to work and spend money in a mining district to develop gold, silver, and lead, knowing that I could not receive, if I was successful, over 20 per cent; and yet there is more money spent to-day in prospecting for precious metals than there is money extracted out of the earth in dollars and cents.

Senator WALSH. You would not go into a business that would give you 20 per cent profit if there were included in that profit an item of depreciation for the value of the article extracted?

Senator SMOOT. Certainly I would not in the mining business. And there are others. As I say, there is more money expended in development than there is ever taken out of discovered properties, and the man who goes into it goes into it with nine hundred and ninety-nine chances out of a thousand against him. Nobody is going to take those chances at a 20 per cent profit.

Senator JONES. Mr. Witness, let me call your attention to a situation suggested by a remark of the Senator from Utah a while ago. He said that 92 per cent of business men made failures. Did any of them ever fail by reason of paying an excess-profits tax?

Mr. CLARK. I do not know. I should not say so.

Senator JONES. Can there be such a thing as a failure because a man is paying an excess-profits tax?

(No response).

Senator JONES. Can you figure out how a man would fail through the payment of an excess-profits tax?

Mr. CLARK. Yes, I can.

Senator JONES. How?

Mr. CLARK. I can imagine that a man back in 1917 or 1918 who did a tremendously profitable business then and who did not understand the present law finds now that he is assessed \$150,000 and he has not the money.

Senator JONES. That is not a reply to my question, it seems to me. That is because of some fault in making up the tax returns, or something of that kind, rather than the law. But if a man is doing business at a loss and he has to pay a tax on his business, would not that contribute to his failure?

Mr. CLARK. If he had to pay a tax which was competitive in any way; yes. But if he had to pay a tax—

Senator JONES. Would not this 1 per cent sales tax as applied to concerns which are doing business at a loss contribute to their bankruptcy?

Mr. CLARK. I think not, Senator.

Senator JONES. Why not?

Mr. CLARK. Because I can not conceive that this man is anything but a custodian of that money for the Government; that he knows just exactly what he has to do, and he treats it exactly as an element of expense, like his rent or any other expense. He would simply go ahead and do business just exactly as if he had to pay an increase in the cost of merchandise or in his expense which all of his competitors also had to bear; that is, a noncompetitive increase.

Senator JONES. Take a man who is selling a herd of cattle or a flock of sheep. He gets all that the market will pay him regardless of the tax he has to pay, does he not?

Mr. CLARK. I assume he does.

Senator JONES. Suppose he has produced those cattle and sheep at a loss. Is not the tax just an additional burden contributing to his disaster?

Mr. CLARK. It might be if the men in competition with whom he has to sell his product did not have to pay it; but they do.

Senator SMOOT. Everyone has to pay it.

Mr. CLARK. It is that very fact that everyone has to pay it—

Senator JONES. I assume, generally speaking, you have had to mark down your prices and sell practically your whole stock at somewhat of a loss, have you not, during the last year?

Mr. CLARK. I would say we had, Senator.

Senator SMOOT. Not all of it.

Senator JONES. If you had to pay that 1 per cent on all of your sales would not that be a contribution to your loss?

Mr. CLARK. No, I do not think so; because we would have included it in our prices.

Senator JONES. Have you not sold those goods for all you thought you could get for them?

Mr. CLARK. Possibly; but if everybody in the whole market had a burden of one-half of 1 per cent, if we went into the market and found that they had to pay it—

Senator JONES. When you are selling goods for less than cost, do you not get every penny for those goods that you think you can get for them?

Mr. CLARK. When we sell them at a loss?

Senator JONES. Yes.

Mr. CLARK. We certainly do.

Senator JONES. And you do it whether you are making a payment of tax on your transaction or not, do you not?

Senator SMOOT. There would not be any business in the United States very long if it were run that way.

Mr. CLARK. No; if it were all done on that basis, Senator, we would be out of business.

Senator JONES. I understand; but here we are considering a situation where people are operating at a loss, now, to a vast extent in this country. There are millions of dollars' worth of produce being sold for less than cost, and they are certainly selling for all they can get for it and trying to make their loss as small as possible. To put this sale tax on would simply be an increase of the loss, would it not?

Mr. CLARK. But all the sellers that lost would have an equal privilege of adding this tax to their price?

Senator JONES. Yes, but that is poor consolation, is it not?—simply because other people have to bear an additional loss that you should bear it too?

Senator SMOOT. Everyone selling the same class of goods would get the 1 per cent, because they charge it and collect it under the law.

Senator JONES. But everyone in such a case would be bearing an additional 1 per cent of loss because they are getting all for their goods that they can get, anyhow.

Mr. CLARK. In a specific case there would be an increase put on, but that would not be as large an increase as it is at the present time.

**STATEMENT OF MEYER D. ROTHSCHILD, NEW YORK, N. Y., REPRESENTING JEWELRY INTERESTS OF THE UNITED STATES.**

Mr. ROTHSCHILD. My name is Meyer D. Rothschild, No. 6 West Forty-eighth Street, New York. I am retired from business recently. I was in the precious stone business. I represent the entire jewelry industry of the United States. I should like, Mr. Chairman, to make a very brief statement, which will practically give the basis of the matters which we want to bring to your attention this morning.

The CHAIRMAN. We will be glad to hear the statement.

Mr. ROTHSCHILD. The revenue act of 1917 provided, in section 600, for a tax of 3 per cent "upon any article commonly or commercially known as jewelry, whether real or imitation, sold by manufacturer, producer, or importer thereof."

When the Treasury Department attempted to frame regulations for the administration of this section, it was discovered that some of the most important articles sold by jewelers could not be taxed under section 600 as framed, because they were not "jewelry" under the legal definitions given to articles "commonly or commercially known as jewelry."

This applied to all unset diamonds and other precious stones, so-called "semiprecious" stones, all unset or unstrung pearls, and applied also to all imitations of precious stones and pearls as long as they were not set or set in a ring. Settings or mountings made of precious metals or imitations thereof, which required the addition of material, stones, or other parts to become complete articles of jewelry, were likewise excluded from operation of the tax.

This state of facts threatened to deprive the Government of a large part of the revenue which section 600 was expected to yield. The jewelers, however, actuated by patriotism and keenly alive to the Government's urgent need of funds to prosecute the war, held meetings of representative dealers in pearls and precious stones and unanimously authorized their war revenue tax committee to say to the Commissioner of Internal Revenue that they were ready and willing to accept a Treasury ruling which would make the sale of unset precious stones, pearls, and jewelry settings without gems subject to the 3 per cent tax when sold to a customer for personal use.

Such a Treasury decision (No. 2573) was issued under date of November 1, 1917. While this ruling was clearly against the law and therefore could not have been enforced against any protest, and although the more important retail jewelers were fully aware that they were voluntarily paying hundreds of thousands of dollars to the Treasury, it is to the credit of American jewelers that this Treasury decision was never questioned or opposed through legal proceedings.

When the revenue act of 1918 was being framed the jewelers cooperated with the Committee on Ways and Means of the House of Representatives to secure a maximum tax from their industry. The suggestions made by the jewelers' committee were so thoroughgoing as to cover in section 905 practically everything a jeweler sells.

During the World War the jewelers paid these discriminatory taxes without whining and without evasion because they knew—in fact, they were assured—that the discrimination would cease with the return of peace, when these unequal taxes would be speedily repealed. This assurance was confirmed by the message of the President to Congress on May 20, 1919, in which he said:

Many of the minor taxes provided for in the revenue legislation of 1917 and 1918, though no doubt made necessary by the pressing necessities of the war time, can hardly find sufficient justification under the easier circumstances of peace. Among these, I hope you will agree, are the excises upon various manufacturers and the taxes upon retail sales.

Now that the war is over, the need for revenue, while pressing, can be and should be provided for along lines which conform to the essentials of true Americanism. In time of peace there should be equal taxation. In the present revision of the revenue laws one of the most important points for Congress to consider is that of equality of taxation. In time of peace all industries are essential to the prosperity of the country, are entitled to equal opportunity, and should therefore be equally taxed.

A score of industries were selected, haphazard, for special heavy taxation during the war. The reason given was that these industries produced luxuries or articles which were not essential to the prosecution of the war. With the advent of peace, however, the situation was instantly reversed; the industries which had been essential to the prosecution of the war immediately became nonessen-

tial, and the industries which had been nonessential to the prosecution of the war immediately became vitally essential to the prosperity of the country. They absorbed the labor which was dismissed from munitions factories and shipyards and they offered employment to released soldiers. They manufactured the goods which our people felt free to buy with the return of peace.

Any attempt to fasten these special war excises upon a few industries during peace times is bound to be the source of deep resentment on the part of the hundreds of thousands of dealers, employing millions of wage earners, who are unwilling to be compelled to pay special excises in addition to all the taxes which other business men are called upon to pay.

This objection rests upon a foundation as solid as that of the American colonists when they rebelled against taxation without representation. The jewelers and others who demand the repeal of special war excises in peace time have the righteous American plea of "Equal taxation for all business."

We hope and trust that the Congress will promptly repeal all these unequal taxes, as we shall never feel that we are justly treated or that American traditions of equality of opportunity are being upheld until this is done.

It seems to be a foregone conclusion that the excess-profits taxes will be repealed and that the higher surtaxes on personal incomes will be reduced. These changes in the law, with the repeal of the war excises, may make it necessary to seek a new source of revenue, and, if this is the case, we recommend for your careful consideration a small general sales or turnover tax, not to exceed 1 per cent. We believe this to be the fairest, most equitable, widely spread, and easily administered tax which can be levied upon business. We believe also that it should be the sole tax on business.

This form of tax has been carefully investigated by our industry and unanimously indorsed. We believe it will produce enough revenue to fully replace that lost through repeal of the excess-profits taxes, the higher surtaxes on personal incomes, all the war excises, and all profits taxes. We are sure that it will greatly lighten the load under which the consumer is now staggering. We believe that it should be the only tax which business should be asked to pay, and, as we have already intimated, it will be American in principle, bearing equally on all business alike, eliminating Government interference with business, and putting more business in Government. Graduated personal income taxes, a general turnover tax, inheritance taxes, and duties on imports should serve to furnish enough revenue for the needs of our Government, even in this period of huge expenditures.

The statement I have just made is subscribed to by the chairman of the jewelers' war revenue tax committee; Mr. A. L. Brown, treasurer jewelers' vigilance committee; Mr. Walter J. Buffington, jewelers' war revenue tax committee; Mr. August A. Follmer, Retail Jewelers' Association of Greater New York; Mr. Edward H. Hufnagel, vice president American National Retail Jewelers' Association; Mr. Jonal Koch, National Wholesale Jewelers' Association; Mr. Harry C. Larter, chairman Jewelers' Vigilance Committee; Mr. Arthur Lorsch, president National Jewelers' Board of Trade; Mr. Lee Reichman, treasurer jewelers' war-revenue tax committee and president Jew-

elers' 24 Karat Club of New York; and Mr. Frederick P. D. Jennings, president New York State Retail Jewelers' Association.

I therefore can say, gentlemen, that I have the honor to represent the entire jewelry industry of the United States. We have about 25,000 people who deal in jewelry in this country, and we have estimated this morning—a group of men who are fairly well posted with conditions—that about 1,000,000 people are interested in this industry. We turned in something over \$25,000,000 to the Government under the 5 per cent sales tax, which would predicate about a \$500,000,000 turnover for the year ending June 20, 1920. I am quite prepared, if you gentlemen wish, to go into the question of the sales tax and to give you, if you will bear with me, the tentative figures upon which we base our estimates that a 1 per cent turnover tax on all turnovers will yield the amount of money which we think will be required to replace the money lost through the repeal of these taxes.

I have been working at this tax matter for about a year, practically giving all my time to it, and it has been rather difficult to establish with any degree of certainty how much income would be brought in from a 1 per cent general turnover tax. The figures have varied all the way from \$1,700,000,000, which we understand was furnished by Mr. McCoy, the Treasury expert, to something over \$6,000,000,000, the figure arrived at by the tax committee of the National Association of Manufacturers. Mr. Babson and several other gentlemen have come to the conclusion that \$5,000,000,000 would be the amount. We from our study believe that \$3,000,000,000 would be a conservative figure. We do not believe that any such amount will be needed.

Senator SMOOT. That is, however, aside from any exemptions?

Mr. ROTHSCHILD. That is without any exemptions whatever.

I have taken my figures—I have not had the chance really to verify the exact conditions, because I worked out this yesterday afternoon—from a Government report, the statistics of income from the returns for the year 1917, those published, I think, in 1919 by the Treasury Department. Nineteen hundred and seventeen was not one of the heavy years; it was just on the rising peak, and we believe that that, therefore, is a very good time to make a comparison on, or rather form a judgment of, the possible yield of such a tax. If we were in normal times to-day, I believe that the turnover of the country would be greater in dollars than it was in 1917; but we will assume it is the same.

Senator McCUMBER. Do you not regard 1917 as rather abnormal?

Mr. ROTHSCHILD. Not compared with the years that followed, sir. We believe that 1917 was just the beginning of high prices.

Senator CURTIS. The war broke out in April, and there were a great many millions of dollars expended for war materials in 1917.

Mr. ROTHSCHILD. A great many, but there were a great many businesses which really suffered in 1917 because of the war. They lost workmen, and did not make goods immediately essential for war purposes, and, of course, this is more or less of a guess, but in speaking to eight or nine merchants, members of our committee this morning, we came to the conclusion that 1917 would be probably a smaller year, than, let us say, 1922, if we get back to normal conditions. I think it is a reasonable proposition to say that 1917 is a fair year to take as to turnover of the country—the whole year.

The war material which was produced was not produced, of course, before the war. It took a number of months to get into that stride, and possibly the net result would be less than that of a normal year coming after the present.

According to this statement, which is the only Treasury statement I have seen in these various annual reports, which gives the turnover of the country—I am only giving you the headlines and hundreds of millions—we have a report of 351,424 corporations, with a gross income or turnover of \$84,693,000,000 and then we have the report of 612,529 partnerships and sole traders reporting on the same kind of businesses, amounting to \$12,489,000,000, or a total of \$97,182,000,000. That is one turnover.

Of course, some of those turnovers were duplicated. It is conceivable that a corporation in a certain line of business was a manufacturing corporation; that another corporation might be a wholesale corporation, handing those goods along, and a third corporation, a retail distributing concern. We have taken that into consideration. I have analyzed those figures. They give further details, and I find that of the corporations reporting on the agricultural and related industries there were \$776,745,000 of turnover. As the agricultural turnover is less, as the movements of agriculture will be less than manufacture, we believe we were quite conservative in estimating two turnovers from the farmer or the producer of these materials until it reaches the consumer. We think that is conservative. There are probably more than two, and we figure, therefore, 2 per cent on that turnover.

The figures for mining and quarrying are \$3,914,000,000, upon which we have also figured only two turnovers. Manufacturing, by far the largest of all the reports, \$42,200,000,000. We figure full 3 per cent from the origin of the material to the consumer.

On construction, of \$1,525,000,000, we were a bit puzzled, because we do not know, of course, exactly what that includes, but we are assuming there was only one turnover—construction for the consumer—and we only figured one turnover, or 1 per cent.

Transportation and public utilities, \$8,525,000,000, we figured one turnover.

Trade, \$21,265,000,000, which we assume to be the retail and wholesale trade of the country, we figured two turnovers.

Personal service corporations \$1,234,000,000; one turnover.

Finance, \$5,201,000,000, one turnover; and inactive concerns and small concerns of \$50,000,000, one turnover. That is for corporations.

We found that as to the sales of the partnerships and sole traders the amount was 14½ per cent of the corporations, treating all those details in the same manner, we have a total turnover tax, at 1 per cent, at \$2,233,000,000.

That leaves out of consideration the enormous number of our people who sell more than \$6,000 of merchandise a year, who do not report for one reason or another.

You will notice that agriculture, which I believe in 1919 or 1920, I am not positive, came to \$26,000,000,000 in value—of course, at inflated prices—are only reporting less than \$1,000,000,000, corporations and partnerships and sole traders. So we feel it is quite safe from these figures, which are Government figures, although the



estimates of the turnover are ours, we feel quite safe in estimating \$3,000,000,000 at a 1 per cent turnover.

We know that Canada has been experimenting with a kind of sales tax. They had a very vicious tax, something like our special excise taxes, only more so. Those taxes have all been repealed; those taxes were not placed upon commerce in Canada primarily to get revenue, but they were enacted to injure or practically ruin the sale of goods, and pretty well succeeded in doing that.

With your permission I will read a few lines from the speech of the minister of finance, which he made May 10 on that point:

Extravagant buying was slowly but surely checked, and in November declines in commodity prices, both manufacturers' and wholesale, were well marked. The buying public, which had previously been so well accustomed to rising markets and then bought freely in the fear that prices would be higher, were convinced that the prices of commodities were on the downward trend, and instead of buying in advance of their needs stopped purchasing as much as possible in the expectation that prices would continue to fall.

But not only were the taxes designed to check wild spending on the part of the public, they were also calculated to check unnecessary purchases by the trader, so that his inventories might be all the smaller when the inevitable drop in commodities came and so that the lower level might be reached in more easy stages and with little goods on hand.

Having served these main purposes, the so-called luxury taxes were, with but trifling exceptions, abolished on the 18th day of December, 1920.

Senator McCUMBER. That was to prevent consumption of what they regarded as luxuries?

Mr. ROTHSCHILD. Yes; and to break down the prices. They felt there was a lot of profiteering during the war, and their idea of breaking up the profiteering was to practically kill the sale of the goods, and they seemed to have succeeded beyond their fondest expectations.

Senator SIMMONS. Were you talking about the sales tax?

Mr. ROTHSCHILD. I was talking about the so-called luxury taxes of Canada. They had two kinds of taxes: A luxury tax, which was all the way from 10 to 20 per cent, part of which was on excess prices.

Senator SIMMONS. I understand you now. I did not understand you at first.

Mr. ROTHSCHILD. I would like to say that the minister of finance recently stated in his speech on financial conditions that the intent was to break down these prices, and that they succeeded far beyond their hopes; not only the retailer, but the wholesaler and the manufacturer complained to the Government that their business was being actually ruined. They started repealing most of those taxes last December, and they have recently repealed every one of them.

They have a sales tax now, or have had, as you gentlemen know, of 2 per cent practically, that is, 1 per cent when the manufacturer sells to the wholesaler and another per cent when the wholesaler sells to the retailer, or if a manufacturer sells directly to the retailer 2 per cent, which amounts to 2 per cent each time; and that has amounted, for the 10½ months ending March 31, to \$38,000,000, which was on a basis of \$34,000,000.

Senator McCUMBER. There is no tax on the retail sales?

Mr. ROTHSCHILD. No tax on the retail sales; they have all been abolished.

Senator SIMMONS. \$44,000,000 is the amount—

Mr. ROTHSCHILD (interposing). \$44,000,000 a year.

Senator SIMMONS (continuing). Is the amount they really realized during the first year of the operation of that sales tax?

Mr. ROTHSCHILD. Yes, sir.

Senator SIMMONS. Do you know how much they estimated, just like you have estimated, it would yield? My impression is they estimated in that yield pretty nearly enough revenue for the Dominion, which required about \$600,000,000; and the actual results show they only got \$43,000,000.

What reason have you to suppose that the Government is going to realize from these sales taxes anything like \$3,000,000,000? There is a very vast difference between estimating the amount that a tax of this kind will yield on paper and the amount it actually yields when you collect the tax, as the Canadian experience on that has very clearly demonstrated. I would like to hear you on that.

Mr. ROTHSCHILD. I would like to answer that, then, because I have it from the very best authority, and that is from the assistant deputy minister of inland revenue, in response to an inquiry dated December 6, 1920—that is, when that tax had been in operation, I should say, about seven months—from Hon. Joseph W. Fordney, chairman of the Committee on Ways and Means of the House of Representatives. This is from Hon. George W. Taylor, assistant deputy minister of inland revenue, dated December 9, in part. [Reading:]

From indications based on returns of collections to date, it appears that, unless there is a very great reduction in the volume of domestic trade during the balance of the present fiscal year, the total amount of collections, through the medium of this tax, will meet the expectations held by the Government at the imposition of the tax.

It has been found that the levying of the sales tax has caused no appreciable disturbance of markets or market prices; no undue enhancement of costs, as reflected in index figures, is discernible.

Judging from the paucity of complaint and the number of commendations expressed, the principle of the sales tax, being virtually a tax at the origin, appears to be universally acceptable to the Canadian people. As a matter of fact, observations of the department indicate that the sales tax is a popular innovation in the production of revenue.

The initiation of so new a form of taxation was, as might be expected, attended at the outset by considerable difficulty, which, however, has now been almost entirely eliminated, owing to the close cooperation of the public with the department.

I have information—I have been in Canada lately, and I had the pleasure of being asked to speak before the Canadian Club and the Montreal Board of Trade some time ago, where I came in close touch with the business men in Montreal, and I found there was a very strong hope that the finance minister in his new budget would adopt the general turnover tax. But it seems the experience of the retailer under the gruelling of that cruel tax, which was placed on the retailer for the purpose of ruining his business, is so fresh in the mind of the retailer that there was considerable objection.

My own impression is—and I will give it to you for whatever it is worth—that Canada is on the road to a turnover tax. They expect to get \$70,000,000 this year from the new tax, which is 50 per cent higher than the old tax.

Senator SIMMONS. Can you give the committee any information as to official estimates of what this tax would yield in Canada at the time it was imposed?

Mr. ROTHSCHILD. No; excepting the statement of the assistant finance commissioner, who said it had yielded all they estimated.

Senator SIMMONS. That was during the first seven months?

Mr. ROTHSCHILD. I can not give you any further official statements.

Senator SIMMONS. But that is not what I am asking you at all; I am asking you if you can give the committee the official estimate of the Canadian Government at the time this tax was imposed as to what it would yield?

Mr. ROTHSCHILD. I do not believe there is a record of the original estimate.

Senator SIMMONS. In this country we never impose a tax unless it is the result of some estimate made by the department as to what that tax would yield, and I was concluding that the same thing would be done in Canada; in fact, I have seen some statements in the press or some magazine to the effect that they did make an estimate, and that the actual returns from the tax were far below that estimate, and I am simply asking for information. I wanted to know, as a matter of fact, if they did make an estimate and whether the tax realized during the year has amounted to anything like the amount estimated. I thought possibly you had some information on that.

Mr. ROTHSCHILD. I have some, which I will read. I made the same inquiry, Senator, of the secretary of the Montreal Board of Trade. I received two wires from him in Washington, one last night, to the effect that he had wired to Ottawa, the seat of government, for information, and this is the answer:

Revenue from sales tax May 20 to March 21, 1921, \$38,000,000; estimated revenue current fiscal year \$70,000,000. No record original estimate for last year.

So that is an instance, probably, where the Government did not make an estimate, but from the statement of the assistant minister of finance they must have been satisfied when he wrote Mr. Fordney last December.

Senator SMOOT. Is it fair to think that if the collections for the first 7½ months were equal to what they anticipated from the sales tax that the other 4½ months would be about the same?

Senator SIMMONS. As a matter of fact, Senator, I think that during the last few months the collections have fallen off enormously and are hardly one-half.

Senator SMOOT. I suppose business there is the same as in this country?

Mr. ROTHSCHILD. I could not tell you except as I have it here in the speech of the minister.

Senator McLEAN. I would like to know what proportion?

Mr. ROTHSCHILD. Roughly, I should say about a half billion—very roughly.

Senator DILLINGHAM. In the reply made to Mr. Fordney which you read, I thought I understood that there was a statement that the tax had realized what they expected from it. Am I mistaken?

Mr. ROTHSCHILD. The letter I read indicates that was a reply sent to Mr. Fordney by the Hon. George W. Taylor, assistant deputy minister of internal revenue. Chairman Fordney evidently made an inquiry regarding the tax.

Senator DILLINGHAM. Did not that statement as you read it contain a sentence indicating that the tax had produced what had been anticipated for it?

**Mr. ROTHSCHILD.** It says the total amount of collections through the medium of this tax will meet the expectations held by the Government to be the result of the tax.

**Senator McCUMBER.** What is the date of that?

**Mr. ROTHSCHILD.** The date of the letter was December 9, 1920.

**Senator SIMMONS.** But I understood you, a little while ago, to say that the first seven and a half months yielded \$38,000,000?

**Mr. ROTHSCHILD.** Yes, sir.

**Senator SIMMONS.** And estimated for the balance of the fiscal year it would yield enough to bring it up to \$44,000,000?

**Mr. ROTHSCHILD.** That is my estimate.

**Senator SIMMONS.** Did not what you read there a little while ago indicate that the original estimate was \$70,000,000?

**Mr. ROTHSCHILD.** No, sir; the estimate for the new tax, which is 50 per cent higher than the old, for this coming fiscal year, is \$70,000,000.

**Senator SIMMONS.** Let me just ask you this question: You estimate that if the Government gets this tax, this turnover, you have estimated on the various lines of business, it would get about \$3,000,000,000?

**Mr. ROTHSCHILD.** No, sir.

**Senator SIMMONS.** Do you not think it would be fair to make a quick, sharp cut of that part of that tax which the Government will never get?

**Mr. ROTHSCHILD.** I believe the Government will get a larger percentage of that kind of tax than of any kind of tax which they can levy or will levy.

**Senator SIMMONS.** There is a large part of the excess-profits tax they have not got yet. The department is examining these returns, hoping they will be able to check them up, and at one time it was indicated they might possibly be able to find between one-half and a billion dollars that the Government had not gotten. Now, if that happened in that, could it not happen in this?

**Mr. ROTHSCHILD.** No, sir; that is one of the vices of the excess-profits tax; that is the vice of any profits tax.

**Senator SIMMONS.** We will assume it can not happen to the same extent, but do you not think it would happen to a considerable extent?

**Mr. ROTHSCHILD.** No, sir.

**Senator SIMMONS.** Do you think the Government is going to get every cent of this turnover tax?

**Mr. ROTHSCHILD.** That is going too far to say "every cent." Approximately, we believe, when you get the "old horses" out of the way, when you get these disposed of, running back to 1917, as to whether a man has made a profit, whether he has a right to deduct certain things or not; if you could get away from the profits-tax idea and come right down to a turnover tax, you do not have a question of profit. A man can not say "I did not sell any goods," whether he be a wholesaler, retailer, jobber, or middleman, and it is rather simple—

**Senator SIMMONS (interposing).** Can not he say "I have not sold so many goods"?

**Mr. ROTHSCHILD.** I think there is a way of testing that; for instance, in the Philippines I understand they have pretty bright men, although I do not think they are any brighter than men in this

country. They have that whole country charted, showing that in certain districts they do a certain amount of business and ought to turn in a certain amount of tax. Every once in awhile a district, town, or city falls down on taxes, and they go to find out why, and they ascertained that it was because of fever or some other trouble in that particular district. I really believe—I am not fanatical on the subject—I have come to the conclusion that if a turnover tax could be levied in place of the profits tax nine-tenths of our troubles about collection and as to the amount a man owes the Government would disappear. There would be a certain tax, and men doing a business of \$30,000 or \$40,000 a year who to-day may not turn in any return at all because they feel they have a right to charge in certain salaries and certain losses, and to handle things in a certain manner, and these men would not hesitate to turn in \$300 to \$400 taxes. They would pay the penalty for not turning in those taxes, and the chances of being caught are very much greater than with the profits tax, because there is a question, a difference of opinion, as to whether a man makes a profit, but there is no difference of opinion as to whether he has made a sale; and a little investigation and a few jail sentences, and then this whole country would come pretty near getting 100 per cent of the tax.

Senator SIMMONS. I think if they would get three-fourths of it they would do mighty well.

Mr. ROTHSCHILD. If they only get three-fourths of the sales tax, I do not believe the Government is getting half of the profits tax.

Senator SIMMONS. I do not know that it is getting much more than that.

Mr. ROTHSCHILD. I do not know whether the committee cares particularly to hear me any further on the sales tax.

Senator McCUMBER. You think the sales tax is working very successfully in Canada, do you?

Mr. ROTHSCHILD. I do; I believe it is working so successfully in Canada that the Canadian Government is headed for a general turnover tax. The Montreal Board of Trade in a referendum held some time ago, I think, voted 90 per cent for a general turnover tax.

The Canadian Government, by the way, had just repealed their excess profits taxes. They have disappeared.

Senator McCUMBER. If we had a turnover sales tax, certainly the Government would know just what the wholesaler has sold in a year?

Mr. ROTHSCHILD. And the wholesaler will know what his tax is.

Senator McCUMBER. And the Government can easily ascertain to whom he has sold; that is, to what dealers. Therefore it is quite easy to ascertain, when the retailer makes his return, whether he sold those goods which he bought of the wholesaler or whether he has them in stock, and it seems to me it would be very difficult for him to escape making a full and honest return of his sales.

Mr. ROTHSCHILD. He would have to be guilty, sir, of fraud. He is collecting taxes for the Government; each man is.

Senator McCUMBER. Worse than that; he would have to be guilty of fraud in which he could very easily be caught.

Mr. ROTHSCHILD. My impression is, sir, that a few field agents could do more in checking up turnover tax returns than 500 could in checking up the returns of large corporations on profits.

Senator McLEAN. I would like to ask the witness a question.

You are probably familiar with the stock argument that is advanced against the sales tax, that if we eliminate the excess-profits tax and reduce the surtaxes to the maximum, say, of 30 per cent, it will shift the burden of taxation from the rich to the backs and the bellies of the poor?

Mr. ROTHSCHILD. I am very familiar with that argument, sir.

Senator McLEAN. Have you any statement to make to the committee as to your views with regard to the validity of that argument?

Mr. ROTHSCHILD. As a business man of 50 years' experience, I believe that business men do and are forced to shift all important business expenses in increasing the prices of their merchandise. That would be true of substantial taxes as it is true of rent or operating expenses of any kind whatever.

I honestly believe that if Congress would "go the whole hog" and substitute a turnover tax for all profit taxes on business, the burden on the consumer would be more than cut in half.

I am not advocating, now, the 23 per cent which is supposed to have been found by the Department of Justice in its operation of the Lever law in its investigations. We might cut that in half, if you please. It is the consensus of opinion among business men—and they, after all, ought to know what they are doing—that the substantial taxes have been passed along in most instances, and they rest on the consumer.

Senator SIMMONS. What portion of the three billions of taxes that you are talking about will business pay, then?

Mr. ROTHSCHILD. Business will not pay any of it if it can help it. It must pay some of it, for reasons which it has no control over.

As you know, as a business man, you do not make your prices. You are governed very much by what your neighbor or competitor does. Where everybody in the same industry is obliged to pay the same tax, and that industry is one which is conducted on a very small profit and a very large turnover, it is absolutely imperative that every penny of that tax be shifted.

Where, on the other hand, it happens to be an industry where the turnover is small and the profits large, that 1 per cent tax—

Senator SIMMONS. What I am trying to get at is this: In this enormous trade out of which we realize this turnover tax of three billions of dollars, as I understand you to say, business will pay no part of that or practically no part of that?

Mr. ROTHSCHILD. It would only pay that which it would be obliged to pay.

Senator SIMMONS. And it would be obliged to pay but a small percentage, probably. If we get three billions from that, that leaves only a billion to be raised in other ways. What part of this other billion would the profits of business pay?

Mr. ROTHSCHILD. The three billions, sir, if we are right in our calculation.

Senator SIMMONS. I am talking about that business out of which these three billions of sales tax come and of which business does not pay anything.

Mr. ROTHSCHILD. I am trying to address myself to that.

Senator SIMMONS. What part of the balance of the taxes collected would be profits on this identical kind of business?

Mr. ROTHSCHILD. I will address myself to that. In the first place, if you do not require three billions I do not think the tax should be assessed at such a point as to raise three billions. It should only be assessed at a point to raise the amount which is necessary to fill out the amount which the Government needs for revenue after laying a personal income tax to such a point as Congress decides can be properly collected, taking into consideration the amounts which would come in from duties and inheritance taxes, if you please, and then the balance, whether that be 1 per cent or one-half per cent or one-third per cent, should be realized from the turnover tax.

If a man makes \$50,000 profits and withdraws \$40,000 or \$30,000 from his business as his personal income, he will pay on that personal income a graduated tax; and that is all you get to-day.

Senator SIMMONS. Have you made a very careful estimate as to what you are going to get from the sales tax? Have you, in your general program—I suppose it does not confine itself to the sales tax—estimated how much we would get from the income tax if it is fixed according to your idea of the tax that ought to be levied?

Mr. ROTHSCHILD. We have not attempted to do everything. We have not attempted to figure or to fix the limits of an income tax. The only point we raise as to a personal income tax is that the operation of our present law has created a class of nontaxpayers, a class which ought to pay taxes, among all people. They are to a great extent exempt, these people of very, very large incomes whose capital is fluid and who have been enabled to put their money into nontaxable securities, mostly municipal bonds.

We assume that Congress does not want to exempt any class from the burden of taxation, especially our wealthy class. There are other reasons, of course, why they are going to put their money in nontaxables.

Senator SIMMONS. Yes; I see that. We ought to catch the wealthy class just as you say we ought to catch the consumer. But what I am getting at is, have you studied out to what extent, if your program is carried out, we are going to tax the profits of business? Are we going to let that go; or, if we are not, how much do you calculate to take from them?

Mr. ROTHSCHILD. The question is: Why do you want the profit of business? You have got to have income. Your income ought to be raised in such a manner from business as to put the lightest burden on the consumer.

Senator SIMMONS. Why do you think that I, as a consumer, ought to pay a tax on what I consume, while you, as a business man selling me these things, ought not to pay any tax?

Mr. ROTHSCHILD. I am a consumer also; and you are paying a bigger tax under our present system.

Senator SIMMONS. If I have an income I will have to pay tax on that income.

Mr. ROTHSCHILD. So will I.

Senator SIMMONS. I want to know how much tax you and I have got to pay on our incomes under your plan.

Mr. ROTHSCHILD. According to our incomes. We are paying more on the things that we consume to-day than we would be under our plan.

Senator SIMMONS. But if we catch the consumer to the extent of three billions, and if we catch these millionaires who are investing their money in nontaxable securities, it looks to me as if we had to raise four billions. There will be a mighty small amount left for the profits and incomes of the country to pay, especially if you are going to retain your tobacco tax and taxes of that character.

Mr. ROTHSCHILD. We do not ask that the old excises be repealed, the tobacco and liquor taxes. We do not ask that they be repealed. Those are not the war excise taxes.

Senator SIMMONS. If you retain those taxes along with the transportation tax, as the Secretary of the Treasury advises that we should, we have to raise nearly a billion additional from that source; and you will cut your incomes down to a minimum. I take it that you gentlemen who have worked out this scheme must have considered its effect upon the income tax, and I want to see what your idea is of the amount we ought to collect from incomes.

Mr. ROTHSCHILD. As much as you can. After you have collected all you can, then place your turnover tax on. We do not want to collect three billions if we only require two billions. If you only require two billions or eighteen hundred millions, fix your rate of turnover to bring in that amount of money. Get all you can on your graduated income tax. We are for that. We believe that is a tax which is properly levied as to ability to pay. The taxing of business or of corporations simply to tax profits is nothing but an indirect way of taxing the consumer.

Senator SIMMONS. What do you say about the surtaxes?

Mr. ROTHSCHILD. My personal view is that a surtax should stop at a point where a man is practically forced to put his money into nontaxable securities.

Senator SIMMONS. What point would you fix?

Mr. ROTHSCHILD. That is a question of interest. That is a question very largely of calculation. If you estimate that prime municipal bonds will pay you 5 per cent, or other prime investments will pay you 7 per cent today, that is simply the relation between 5 and 7. There are people to-day who can get as much money out of a 5 per cent nontaxable security as they could get out of a 17 per cent taxable security.

That is a situation which everybody, of course, can not take advantage of. Every man's money is not so fluid that he can put his money into nontaxable securities. If it were there would not be enough nontaxables, although they are grinding them out by the millions all the time. I think there is something like fifteen billions now.

Senator SMOOT. Your position is this, that you desire to collect every dollar you can out of the income tax?

Mr. ROTHSCHILD. Yes, sir.

Senator SMOOT. And collect all that you can out of ports of entry?

Mr. ROTHSCHILD. Yes, sir.

Senator SMOOT. And collect inheritance taxes?

Mr. ROTHSCHILD. Yes, sir.

Senator SMOOT. And collect tobacco taxes?

Mr. ROTHSCHILD. Yes, sir.

Senator SMOOT. And for whatever you lack of making up four billions, or whatever you want to raise, impose a sales tax; and if



one-third of 1 per cent will raise the desired amount, put it at one-third of 1 per cent. If one-half of 1 per cent will raise the desired amount, make it one-half of 1 per cent?

Mr. ROTHSCHILD. Yes, sir.

Senator SIMMONS. Senator Smoot, as I have understood the witness—I may have misunderstood him—you have turned his proposition around completely.

Senator SMOOT. I do not think so.

Senator SIMMONS. I understood that the witness was suggesting that we raise \$3,000,000,000 from the sales tax.

Mr. ROTHSCHILD. You are mistaken, Senator.

Senator SIMMONS. Now I understand that I am mistaken about that, that you did not suggest that we raise anything by the sales tax if we can get all we need from these other sources.

Mr. ROTHSCHILD. Absolutely. As appearing for business men here, people who are paying special excise taxes, our main reason for coming here to-day is to ask to be relieved from war taxation during peace times.

Senator SIMMONS. What tax, then, are you advocating upon sales—2 per cent or 1 per cent turnover?

Mr. ROTHSCHILD. Not exceeding 1 per cent. If one-third is sufficient, only one-third per cent. We only place a limit of 1 per cent because we believe that is more than sufficient for any necessities of the Government; and if you place it too high it will lose some of its qualities.

Senator SIMMONS. Then, if I understand your argument, it is that if we make it 1 per cent it would raise \$3,000,000,000, and that we do not need to raise that much, and therefore we can make it less than that?

Mr. ROTHSCHILD. Yes, sir; that is the reason.

Senator SMOOT. That is the position he has taken in all of his articles that I have seen.

Senator SIMMONS. I was not here when he began his testimony.

Mr. ROTHSCHILD. The estimate we made was that it would be two billions two hundred and some odd millions, based simply on figures given by the department. Of course, those are very largely matters of personal estimate, and I think we were conservative all the way through, and I was astonished when I saw that estimate yesterday afternoon in going over this report of 1919 on the 1917 returns. Possibly you are getting very close information from the Treasury Department, and the Treasury Department, I believe, is vastly better able to estimate a possible turnover for the next year than they are to estimate profits for the next year. When you get such an estimate honestly and carefully worked out you may find that one-third of 1 per cent is more than you will need in the way of a turnover tax.

Senator SIMMONS. One-third of 1 per cent?

Mr. ROTHSCHILD. Yes, sir. The turnover in this country is enormous.

I would like to ask permission—I know that I am asking a great deal of the committee. I have been at this work for one year. I am going away in a month. I have retired from business and I have got to go away for recreation. I am going away for a year—I would like to ask permission to put in this tax primer which some of you

gentlemen may have seen. In that primer I have tried to put as many arguments as I could find against the sales tax as well as those in favor of the sales tax, and have tried to meet them with more or less success, I am told. I believe that this primer is practically the meat of the sales tax idea, and I should like permission to have the primer go into the record.

The CHAIRMAN. How many pages is it?

Mr. ROTHSCHILD. It is quite a big book. It contains 50 pages, but I think it is possibly of more real value than some of the things—I do not want to make any invidious distinctions, but a statement made here yesterday was called to my attention by some National Grange man, in which he stated that I have been financing the Business Men's National Tax Committee. I should have been very glad to finance it if it were necessary, but it was not. I have not financed them or any other set of business men; but those are the things that have gone into the record, and I believe this statement will be helpful.

Senator SIMMONS. You are giving the arguments on both sides?

Mr. ROTHSCHILD. As near as I could.

Senator SIMMONS. You have been advocating the sales tax yourself?

Mr. ROTHSCHILD. Yes, sir, absolutely. But I have given the other arguments. In fact, I have asked people who were well posted to write some of the answers where we disagreed from the point of view of workability.

Senator SMOOT. I see no objection to having it go into the record, Mr. Chairman.

The CHAIRMAN. At the request of Senator Smoot the primer, so called, will be printed as a part of the witness's remarks.

**PRIMER—GROSS SALES OR TURNOVER TAX NOT EXCEEDING 1 PER CENT AND NO OTHER TAX ON BUSINESS.**

To the American people upon whose shoulders all business taxes finally rest, this primer is respectfully dedicated.

Business Men's National Tax Committee, 6 West Forty-eighth Street, New York City: Chairman, Meyer D. Rothschild. Vice chairmen, Darwin R. James, jr., president American Chicle Co.; H. Boardman Spalding, vice president and treasurer A. G. Spalding & Bros. Treasurer, M. L. Morgenthau, president Mirror Candy Co. Secretary, M. L. Heminway, general manager Motor & Accessory Manufacturers' Association.

**FOREWORD.**

For the past two years the question of relief from the burden of heavy taxation imposed to pay the costs of the World War has been uppermost in the minds of our people.

Excess-profits taxes, the higher surtaxes on personal incomes, and the special excises on manufactures and sales were either grossly inequitable for peace-time taxation, or were rapidly becoming unproductive. The necessity, however, for the continued collection of huge revenues to meet the estimated expenditures of the Government for some years to come has prevented the prompt repeal of all these discredited taxes and will prevent such repeal until some form of taxation can be found which will replace as much of this revenue as may be necessary for the needs of the Government.

Many tax plans and suggestions have been offered by Treasury experts, economists, committees of business organizations, and others, but none of them has appealed so strongly to the business men of the country as the gross sales or turnover tax.

Discussion of the sales tax has been country wide. The referenda of the Chamber of Commerce of the United States, the National Association of Manufacturers, and numerous boards of trade and chambers of commerce have served to educate business men, until now there seems to be an almost unanimous demand for this tax, not as an additional tax, but as a substitute tax for the excess-profits taxes, higher surtaxes on

personal incomes, special commodities taxes, taxes on transportation, and many other of the special taxes and surtaxes which are an unpleasant legacy of the World War.

There has been much light shed on the sales tax, as well as much confusion created on the subject, through conferences, discussions, speeches, and literature, especially during the past year.

In order to state as convincingly as possible the arguments for the general gross sales or turnover tax favored by the Business Men's National Tax Committee, and to meet the weightiest arguments offered against such a sales tax, this primer was partly compiled and submitted to over 200 friends and opponents of the sales tax "principle" for criticism and constructive suggestions. Many helpful criticisms and suggestions have been received and are incorporated in the primer and I wish to take this opportunity of expressing my thanks for this valuable assistance.

Prompt and thorough-going tax revision is a business and social necessity. The progress, comfort, and happiness of our people depend largely upon the fruits of collective labor, which we term business.

The farmer and the wage earner are as much a part of the business of our country as the merchant, the manufacturer, and the banker. Business taxes are a common burden which must be borne by all in proportion to actual consumption.

We believe that this burden will be greatly reduced for every consumer if Congress will enact a general sales or turnover tax as a substitute for all other business taxes.

MEYER D. ROTHSCHILD,

*Chairman, Business Men's National Tax Committee.*

NEW YORK CITY, April 11, 1921.

1. Question. What is a general gross sales or turnover tax?

Answer. A general gross sales or turnover tax is a tax upon the sales or turnover of all business.

(a) This includes a tax on all sales or leases of goods, wares, and commodities.

(b) A tax on the gross receipts of all professional men and those rendering business service.

(c) A tax on the gross receipts of land and water transportation, of all public and private service utilities, such as water, gas, and electricity.

(d) A tax on the sale of real property and on the rents and royalties collected for the use of property.

(e) A tax on the sale of all capital assets, excluding stocks, bonds, and other choses in action.

2. Question. How would the banker, broker, commission man, architect, lawyer, physician, and others rendering business or professional services, be taxed on sales of such services?

Answer. The interest received by bankers, the commissions of brokers and commission merchants, the fees of architects, engineers, lawyers, and physicians, would be taxed at the same rate as the turnover of the business man.

3. Question. Are salaries or wages to be subject to the imposition of the 1 per cent turnover tax?

Answer. Professional men and others rendering business services to the general public, would be taxed on their gross receipts. Salaries and wages, however, are not to be subject to the turnover tax, but will be taxed as personal income.

4. Question. Would the banker, broker, commission merchant, architect, engineer, lawyer, physician and others rendering business or professional services be obliged to pay a graduated income tax on their net personal incomes in addition to the turnover tax on their business or professional fees?

Answer. They would.

5. Question. Can gross receipts for services be separated from net personal income?

Answer. When dividends are declared, or profits distributed, by a corporation, partnership or individual person selling personal services, such dividend or profit becomes personal income and must be accounted for in the personal income tax return filed by the person who receives the dividend, draws the money, or to whose personal account such dividend or profit is credited.

6. Question. What about personal service corporations, partnerships and sole traders that have no need of capital and therefore have no capital account to which undistributed earnings can be credited?

Answer. In such cases the entire net income will undoubtedly accrue to the shareholders, partners, or sole traders, and the entire amount will be taxable in their net personal income.

7. Question. Will it be just to oblige such persons and corporations to pay a turnover tax in addition to the personal income tax when they can not avail themselves of the privilege of leaving some of their net business receipts in the business?

Answer. It will not be just. In such cases there should be no turnover tax, but only the graduated personal income tax.

8. Question. Why collect a turnover tax on rents and royalties received for the use of property and on the sale of capital assets?

Answer. There is now a turnover tax of one-tenth of 1 per cent on the sale of real property, in addition to which there is a substantial net income profits tax on such sales and on the sales of capital assets, which in some instances is almost confiscatory.

Real estate, or capital assets of other kinds, held since March 1, 1913, and now sold at an advance of 25 per cent, may involve a payment to the Government in profits taxes of over 70 per cent of that advance, notwithstanding the fact that the average profit for each year in the eight since 1913 has been but 3 per cent.

Timberlands, oil lands, and speculative capital assets of other kinds may be practically unmarketable for a number of years and involve large carrying charges. A demand for lumber, the discovery of ore or oil, may suddenly advance the value of these assets to substantial figures, and the owner is then faced with the alternative of selling and paying the Government a huge share of the amount offered, or of declining to sell in the hope that more equitable tax laws will make such a sale profitable at some future time.

The recommendation to include the sale of real property, rents, and the sale of other capital assets in the general gross sales or turnover tax, and to exclude the proceeds of such sales and rents from the operation of profits taxes is made as a matter of justice to owners of real property and other capital assets.

9. Question. Why should the 1 per cent sales tax not apply to sales of securities or of contracts on produce exchanges?

Answer. Briefly and practically because the rate would prevent the transaction and not produce the revenue. Every tax has a maximum revenue point beyond which an increase in the rate tends to diminish the revenue, and it also has a potential maximum where it is actually destructive of the object of the tax. The purpose of taxation, generally speaking, is to produce revenue with the least possible injury to the business or transaction taxed. Sales of stock are now taxed one-fiftieth of 1 per cent, and a Treasury expert recently testified that an increase in the rate to one-fifth of 1 per cent might pass the collection point. This statement might indicate that an increase to one-fifth of 1 per cent would reduce transactions in securities to one-tenth of their present volume. This is undoubtedly an exaggeration, but the point is that the rate should be adjusted to the transaction and that even a one-fifth of 1 per cent tax on sales of securities would seriously curtail normal transactions. As this tax in our present declining markets would have to be borne by the seller, its immediate effect would probably be a serious decline in security values. While a 1 per cent tax on a commodity passing from the producer to the consumer is negligible in its effect on the demand, any such tax would be practically destructive of security transactions.

10. Question. How will the general gross sales or turnover tax be collected?

Answer. The tax is paid to the Government on total sales of commodities or business service.

11. Question. When is the tax payable?

Answer. Either monthly, or quarterly, as the law may provide—preferably monthly.

12. Question. How will the Government be benefited by monthly tax returns under the proposed turnover tax?

Answer. The Government would receive hundreds of millions of dollars each month. It would, therefore, no longer be under the necessity of issuing short-term Treasury certificates at high interest rates, in anticipation of taxes to be collected in the future.

13. Question. In what manner will a vendor report his tax?

Answer. (a) He will use a simple form, similar to the one now in use in the revenue department and known as 728A, on which he will enter his sales for the taxable period; (b) taking credit for any returns of merchandise and send this return with a check for the tax due to his local collector of internal revenue.

14. Question. What about farmers, small dealers, and others who sell only a nominal amount of goods, wares, and commodities, or services?

Answer. Exemption of sales amounting to \$500 a month or \$6,000 a year will exclude the farmers and smaller dealers and greatly simplify the administration of the proposed tax.

15. Question. Is there any way in which the returns of all who are subject to the turnover tax can be readily checked and controlled?

Answer. The Philippine law, which provides that, "each merchant and manufacturer shall, on the 1st day of January, 1905, or on the date thereafter on which such merchant or manufacturer engages in any mercantile or manufacturing pursuits, either on his own account or on commission, pay a tax of 2 pesos," can be substantially followed, thus obliging everyone subject to the turnover tax to take out a license to do business, for the nominal fee of \$1.

This license can be issued by local collectors of internal revenue, who will thus have knowledge of every individual who is legally authorized to do business within his district.

16. Question. What are the other varieties of sales tax?

Answer. (a) A limited general sales or turnover tax, generally called the commodities sales tax: A tax to be paid on the sales of all goods, wares, and commodities.

(b) A wholesale sales tax: A tax to be paid by the manufacturer, producer, or importer.

(c) A retail sales tax: A tax to be paid by the retail distributor of goods, wares, and merchandise.

(d) The excise taxes now levied on certain specified commodities are also, of course, special sales taxes.

17. Question. How do these differ from the general gross sales or turnover tax?

Answer. (a) A tax on gross sales of goods, wares, and merchandise would not, of course, apply to "sales" of services, real property, capital assets, etc.

(b) The wholesale sales tax is confined to sales made by manufacturers, producers, and importers.

(c) The retail sales tax is confined solely to sales made at retail.

18. Question. Is there any difference between sales tax and a turnover tax?

Answer. A sales tax can be applied to each sale or business transaction, while a turnover tax is what its name implies; a tax on the aggregate business for a month or any other specified period.

19. Question. What are the objections to a retail sales tax?

Answer. The managing director of a great national association of retailers states the following objections:

"1. It would be discriminatory, placing upon the shoulders of retailers the unequal burden of responsibility for a large share of Government revenues and exempting other forms of business from a like responsibility.

"2. The tax, if a retail tax, would have to be substantially larger than a tax on all operations. Such a larger tax would be embarrassing to retailers by increasing the spread between wholesale and retail prices.

"3. The tax could not be wholly passed on because of competition. There are many articles in retail stocks which sell for fractional parts of a dollar, the sales prices being pretty well established. It would be impossible to distribute the tax evenly over all merchandise and because no two retailers would distribute it alike over the same merchandise and because retailers' prices in the long run are determined by competition there would be part of the tax that could not be passed on. This would be true of any form of sales tax except, of course, a specific tax collected from the customer at the time of sale which is not desirable because of the large amount of work involved. If the sales tax is applied to all operations from producer to consumer the retailer is willing to be responsible for that part of the tax on his operation which could not be passed on, but he objects to being made the goat.

"4. The difficulty of determining the incidence of the tax if it is placed on sales for final consumption alone."

20. Question. What is the position of some advocates of the gross sales tax on goods, wares, and merchandise?

Answer. They believe:

(a) That with the anticipated changes in the excises, profits and income taxes, approximately \$2,000,000,000 must be raised from other sources;

(b) That a sales tax confined to goods, wares, and merchandise will yield approximately \$1,500,000,000, and that it is now necessary to raise this amount from a general sales tax;

(c) That goods, wares, and merchandise represent the natural scope of the sales tax;

(d) That this is essentially the Philippine sales tax and substantially the Canadian tax, but is not the French tax;

(e) That the conception of a low-rate sales tax on successive turnovers as generally understood and discussed, is that of a sales tax following the raw material through to the finished article sold to the consumer, upon whom the tax is normally "shifted";

(f) That such a conception does not apply to capital assets which are continually sold and resold between individuals and for which there is no shifting, nor to "sales" miscalled of purely personal service, e. g., professional or business, which really constitute gross income of the recipient.

21. Question. Are there any serious objections to a tax on every sale?

Answer. A tax on every sale will result in greatly increased work and expense for the taxpayer in keeping account of his indebtedness to the Government. It will also result in loss of revenue to the Government because of the volume of sales that are made at less than \$1 and sales made in dollars and cents.

22. Question. Is it not practicable to consider all sales of from 50 cents to \$1 as dollar sales, and regard sales under 50 cents as nontaxable?

Answer. Such a provision, if the tax was on each sale, would exempt the entire sales of the 5 and 10 cent stores, and many of the chain stores, of street cars, jitneys, motion-picture houses, etc., and would open the door to fraud because it would be difficult to establish what percentage of a taxpayer's business was in nontaxable fractions of a dollar. On the other hand, under a turnover tax on the entire sales of the month, every sale, large and small, would bear its percentage of tax.

23. Question. What is the Philippine sales tax?

Answer. According to the Hon. Lebbeus L. Wilfloy, who was attorney general in the Philippine Islands under Gov. Taft, a limited sales tax was enacted in 1905, and was strongly opposed by a large element of the Philippine people at that time. The arguments advanced against it were identical with the arguments raised against it here. This tax was originally one-third of 1 per cent and is now 1 per cent. Alcohol and tobacco products are taxed at comparatively high rates; all other commodities are taxed 1 per cent on each turnover.

The following are exempt from the sales tax:

- (a) Importers, on foreign goods imported by them;
- (b) Agriculturists, on produce actually raised by them; consumed by them, or sold to local dealers or exporters;
- (c) Exporters, on all goods exported;
- (d) Merchants whose annual sales do not exceed in value \$250. (See also Q. 90.)

24. Question. What is the Canadian sales tax?

Answer. This tax is applicable to sales by manufacturers, wholesalers or jobbers, and is payable on all goods or articles which are not specifically exempted. The sales tax is cumulative in effect, the rate of tax being 1 per cent on sales and deliveries by manufacturers; wholesalers or jobbers; but, in respect to sales by manufacturers direct to retailers, or to consumers, and on importations by a retailer or consumer, the rate is 2 per cent. Exports are exempted from the sales tax.

25. Question. Is the Canadian sales tax meeting the expectation of the Canadian Government and is it acceptable to the Canadian people?

Answer. In response to an inquiry dated December 6, 1920, from the Hon. Joseph W. Fordney, Chairman of the Committee on Ways and Means of the House of Representatives, Hon. George W. Taylor, assistant deputy minister inland revenue, wrote on December 9, in part:

"From indications based on returns of collections to date, it appears that, unless there is a very great reduction in the volume of domestic trade during the balance of the present fiscal year, the total amount of collections, through the medium of this tax, will meet the expectations held by the Government at the imposition of the tax.

"It has been found that the levying of the sales tax has caused no appreciable disturbance of markets or market prices; no undue enhancement of costs, as reflected in index figures, is discernible.

"Judging from the paucity of complaint and the number of commendations expressed, the principle of the sales tax, being virtually a tax at the origin, appears to be universally acceptable to the Canadian people. As a matter of fact, observations of the department indicate that the sales tax is a popular innovation in the production of revenue.

"The initiation of so new a form of taxation was, as might be expected, attended at the outset by considerable difficulty, which, however, has now been almost entirely eliminated, owing to the close cooperation of the public with the department."

26. Question. Have the Canadians any other form of sales tax?

Answer. On December 18, 1920, Canada practically abolished the so-called "luxury taxes," retaining, however, the tax on liquors, perfumes, playing cards, and some kinds of confectionery.

27. Question. What are the existing sales taxes in the United States?

Answer. On sales by the manufacturer, producer, or importer of: Automobiles, motor cycles, accessories, and equipments; automobile trucks, and automobile wagons, tires parts, and accessories; tires, inner tubes, parts or accessories; musical instruments sporting goods, chewing gum, cameras, candy, firearms, knives, electric fans, thermos bottles and thermostatic containers, pipes, vending machines, liveries, hunting garments; fur articles; pleasure boats; photographic films and plates; toilet soaps; playing cards; distilled spirits; fermented liquors, wines, soft beverages; humidors and smoking stands, cigars, cigarettes, tobacco; snuff; narcotics; oleo-margarine; adulterated butter; renovated butter; filled cheese; mixed flour; white phosphorus matches.

2. On sales for consumption or use by anyone, on the amount in excess of certain specified prices of the following goods. This is the so-called luxury tax: Boots,

shoes, pumps, and slippers; men's and boys' caps and hats; carpets and rugs; picture frames; trunks, valises, traveling bags, etc.; purses, pocket-books, hand bags; lamps and portable lighting fixtures; umbrellas, parasols, and sunshades; fans; house coats and lounging robes; waistcoats; hats, bonnets, and hoods (women's and misses') neckties and neckwear; silk stockings; shirts; underwear, pajamas and nightgowns; kimono's, waists, and petticoats.

3. On sales for consumption or use by anyone of: Jewelry, watches, clocks, silverware, plated ware, optical goods, etc.; patent medicines; ice cream and soda water; toilet articles.

4. On sales by anyone to anyone of: Statuary, sculpture, and paintings, art porcelains, and bronzes; real estate.

5. On sales of the use of property by the lessor of: Automobiles; pleasure boats; motion-picture films; duces; pullman accommodations.

6. On admissions to places of amusement.

7. On sales of choses in action by the issuer of: Stock; corporate securities; indemnity bonds; time drafts; promissory notes; marine insurance; fire insurance; life insurance; casualty insurance; future deliveries of produce; future deliveries of cotton.

8. On sale of stocks.

9. On sales of services of: Ocean passage; parcel post; transportation by freight; transportation by express; passenger transportation; transportation by pipe line, telegraph and telephone service.

28. Question. What are the various rates of existing sales taxes in the United States?

Answer. On manufacturers of:

Automobile trucks and wagons.....	per cent..	3
Other automobiles and motor cycles and accessories.....	do.....	5
On automobile tires, tubes, and accessories sold to anyone but a manufacturer.....	per cent..	5
On manufacture of:		
Pianos, organs, phonographs, records, etc.....	do.....	5
Sporting goods.....	do.....	10
Chewing gum or substitutes.....	do.....	3
Cameras.....	do.....	10
Films and plates, exclusive of motion-picture film.....	do.....	5
Candy.....	do.....	5
Firearms, shells, etc.....	do.....	10
Hunting knives and bowie knives.....	do.....	10
Dirks, daggers, sword canes, stilettos, brass knuckles.....	do.....	100
Portable electric fans.....	do.....	5
Thermos bottles and other thermostatic containers.....	do.....	5
Cigar or cigarette holders composed wholly or in part of meerschaum or amber, humidors, smoking stands, etc.....	per cent..	10
Automatic slot vending machines.....	do.....	5
Liveries, livery boots and hats.....	do.....	10
Hunting and shooting garments and riding habits.....	do.....	10
Yachts, motorboats, pleasure boats, and pleasure canoes over \$15.....	do.....	10
Toilet soaps and toilet powders.....	do.....	3
Articles made of fur or chiefly fur.....	do.....	10
On works of art when sold by anybody (sales by the artist to anyone and sales to educational institution or public museum are exempt).....	per cent..	10
The so-called luxury taxes, referred to in subdivision 2 of question 27.....	do.....	10
Jewelry, precious or semiprecious stones, imitations thereof; watches, clocks, opera glasses, lorgnettes, marine glasses, field glasses, binoculars; articles made of or ornamented, mounted or fitted with precious metals or imitations thereof or ivory (not including surgical instruments, but including spectacle and eyeglasses), when sold for consumption or use.....	per cent..	5
Toilet preparations sold at retail.....	1 cent on each 25 cents or fraction thereof.	
Medicinal preparations (excluding physicians' prescriptions) sold at retail, per cent.....		3
Express.....	per cent..	5+
Freight.....	do.....	3
Leased wires.....	do.....	10
Passenger fares.....	do.....	8
Pipe lines.....	do.....	8
Seats, berths, or staterooms in sleeping or parlor cars or on vessels.....	do.....	8
Telegraph, telephone, cable, or radio dispatches.....	do.....	10-20
Life, health, and accident insurance.....	do.....	1-14
Marine, inland, and fire insurance.....	do.....	1

Casualty insurance.....	per cent..	1
Soft drinks.....	do.....	10+
Fermented liquors, less the one-half per cent.....	do.....	15
Unfermented grape juice.....	do.....	10
Mineral waters, up to.....	do.....	20
Theater admissions.....	do.....	10
Amusement tickets sold by proprietors, employees, or by scalpers in excess of regular prices; tax on such excess.....	per cent..	50
Cabarets, on price paid for refreshments.....	do.....	15
Boxes or seats at opera—on regular performance price.....	do.....	10
Membership dues—initiation fees.....	do.....	10

## LICENSE AND SPECIAL TAXES PAYABLE ANNUALLY.

Passenger automobiles for hire:		
Up to 7 passengers.....		\$10
Over 7 passengers.....		\$20
Bowling alleys and billiard rooms:		
Each alley or table.....		\$10
Brokers:		
Customhouse.....		\$50
Pawn.....		\$100
Ship.....		\$50
Stock and produce.....		\$50
Members of stock, produce exchanges, etc.....	\$100 to	\$150
Capital stock tax.....	\$1 per	\$1,000
Cigars, cigarettes and tobacco.....	\$4 to	\$24
Over 400,000 cigars.....	10 cents additional	per 1,000
Cigarettes.....	6 cents per	10,000
Tobacco.....	\$6 to	\$24
Tobacco over 200,000 pounds.....	16 cents additional for each	1,000 pounds
Circus.....		\$100
Opium derivatives.....	\$3 to	\$24
Opium derivatives additional.....	1 cent an	ounce
Public exhibitions.....		\$15
Riding academies.....		\$100
Shooting galleries.....		\$20
Theaters, museums, concert halls:		
Capacity not over 250.....		\$50
Over 250 and not over 500.....		\$100
Over 500 and not over 800.....		\$150
Over 800.....		\$200
Yachts, motor boats, etc.:		
Length not over 50 feet.....	per foot..	\$1
Over 50 feet and not over 100 feet.....	do.....	\$2
Over 100 feet.....	do.....	\$4
Motor boats not over 5 net tons with fixed engines.....		\$10

## STAMP TAXES.

Bonds, debentures or certificates of indebtedness.....	per cent..	1/20
Bonds, indemnity and surety, guaranty and fidelity insurance, 50 cents each plus 1 per cent of premium.....		
Capital stock, original issue, par or actual value where there is no par..	per cent..	1/20
Capital stock and rights; sales or transfers.....	do.....	1/50
Conveyances of real estate.....	do.....	1/10
Drafts or checks not payable at sight.....	do.....	1/50
Entry of merchandise at customhouse.....	do. 1/5 to	1/4
Entry for withdrawal of merchandise at customhouse bonded warehouse.....		\$0.50
Parcel post packages.....	per cent..	4+
Passage ticket; vessels to destination not in United States, Canada or Mexico, per cent.....		3 1/2 to 8
Playing cards, per pack.....		\$0.08
Fire, lightning, tornado, and other like insurance.....	3 per cent of premium	
Power of attorney.....		\$0.25
Promissory notes and each renewal.....	per cent..	1/50
Sales of produce on exchange for future delivery.....	do.....	1/50
Proxies.....	each..	\$0.10



29. Question. How much revenue is derived from existing sales taxes in the United States?

Answer. For the year ending June 30, 1920, from:

Documentary stamps.....	\$24,437,893
Bonds, capital stock issues, conveyances, etc.....	35,277,437
Capital stock transfers.....	13,372,163
Sales of produce (future deliveries).....	8,171,870
Playing cards.....	3,088,462
Transportation of freight.....	130,785,810
Transportation of express.....	17,597,637
Transportation of persons.....	98,786,635
Seats, berths, staterooms.....	6,074,556
Oil by pipe lines.....	8,426,405
Telegraph, telephone, and radio messages.....	26,631,837
Leased wires or talking circuits.....	1,045,203
Insurance—life, marine, inland, and casualty.....	18,421,754

#### MANUFACTURERS' EXCISE TAX.

Automobile trucks and automobile wagons.....	14,471,464
Other automobiles and motor cycles.....	76,315,814
Tires, parts, or accessories for automobiles, etc.....	53,135,513
Pianos, organs, etc.....	13,624,121
Tennis rackets, sporting goods, etc.....	2,944,912
Chewing gum.....	1,124,943
Cameras.....	876,212
Photographic films.....	716,903
Candy.....	23,142,033
Fire arms, shells, etc.....	4,644,793
Hunting and bowie knives.....	15,835
Dirk knives, daggers, etc.....	4,144
Portable electric fans.....	174,084
Thermos bottles.....	218,304
Cigar holders, pipes, etc.....	142,373
Automatic slot device machines.....	88,875
Liveries, livery boots, etc.....	136,020
Hunting garments, etc.....	224,756
Articles made of fur.....	15,311,214
Yachts, motor boats, etc.....	212,684
Toilet soap and toilet-soap powders.....	1,919,398
Motion-picture films leased.....	4,381,276
Miscellaneous revenue.....	2,318,688

#### CONSUMERS' OR DEALERS' EXCISE TAX.

Sculpture, paintings, statuary, etc.....	1,543,133
Carpets, rugs, picture frames, trunks, wearing apparel, etc.....	17,903,610
Jewelry, watches, clocks, opera glasses, etc.....	25,863,607
Perfumes, cosmetics, and medicinal articles.....	6,427,881
Beverages, nonalcoholic, including soft drinks, mineral water, etc.....	57,460,956
Brokers, etc. (occupational).....	2,121,312
Theaters, museums, circuses, etc.....	2,048,806
Bowling alleys, billiard and pool tables.....	2,782,156
Shooting galleries.....	35,165
Riding academies.....	23,359
Passenger automobiles for hire.....	2,040,243
Yachts, pleasure boats, power boats, etc.....	862,236
Admissions to theaters, concerts, cabarets, etc.....	76,720,555
Dues of clubs (athletic, social, and sporting).....	5,198,001

<sup>1</sup> 806,311,041

<sup>1</sup> The figures in answers 29 and 30 have been taken from the Annual Report of the Commissioner of Internal Revenue for the fiscal year ended June 30, 1920.

30. Question. What other internal revenue was collected by the Government for the year ended June 30, 1920?

(a) Income and profits: Individuals, partnerships, and corporations.....	\$3, 956, 936, 003
(b) Estates: Transfer of estates of decedents.....	102, 635, 563
(c) Distilled spirits: Distilled spirits, wines, cordials, etc.....	97, 905, 275
(d) Fermented liquors: Barrel tax and special taxes.....	41, 965, 874
(e) Tobacco: Tobacco and cigarettes.....	295, 809, 355
(f) Capital-stock tax on corporations.....	93, 020, 420
(g) Miscellaneous taxes, opium, adulterated butter, oleomargarine, child labor, etc.....	7, 500, 775
	<hr/>
	4, 596, 773, 265

Total internal-revenue receipts..... 5, 403, 084, 306

31. Question. What is the principle under which these special excise taxes were included in the revenue acts of 1917 and 1918?

Answer. The revenue acts of 1917 and 1918 were framed while we were engaged in the Great War. Huge revenues were required without loss of time and it was therefore considered proper in such an emergency to select a limited number of industries for special taxation. The object in taxing these industries heavily was twofold; one was to get revenue, and the other was to discourage the production and use of goods which, during war times, were deemed to be nonessential or luxuries.

32. Question. Is there any "principle" under which a few commodities can properly be selected for special taxation in peace times?

Answer. The tax committee of the national industrial conference board in its special report on the Federal tax problem rejects the test of luxury or nonessentiality of commodities and proposes a test which is stated to be the real criterion of this form of taxation.

33. Question. What is this "new principle" under which this committee has suggested that a few selected commodities be taxed at high rates?

Answer. The committee says:

"The principle of this form of taxation has been misunderstood by many. The test is not whether the commodity is a luxury or nonessential, but on the contrary, the real criterion is a very different one. The preliminary test of the availability of a commodity for such a tax is whether its use is so widespread and general, and its distribution so well established that neither will be substantially curtailed by the imposition of the tax, and the tax will normally be passed on to the consumer. The other condition, of but slightly less importance, is that the commodity be one which can be readily kept under supervision, and preferably through those which at some one point narrow down to a comparatively small number."

The test points, therefore, are six:

1. Use: Widespread and general.
2. Distribution: Well established.
3. Neither use nor distribution will be materially curtailed by the imposition of the tax.
4. The tax will normally be passed on to the consumer.
5. Distribution through channels which can readily be kept under supervision.
6. Preferably through channels which at some point narrow down to a comparatively small number.

34. Question. What do we find after applying these six tests first to candy, articles made of fur, watches and jewelry, and sporting goods, all of which are now specially taxed on sales, and then to typewriters, sewing machines, saws, and agricultural implements, none of which now pays special excise taxes under the revenue law of 1918?

Answer. Test No. 1. This applies as fully to the untaxed group as to the taxed group; the same can truthfully be said of tests Nos. 2, 3, and 4.

Test No. 5. This applies more fully to the untaxed group as the goods in that group are produced by much larger organizations, which are also limited as to number.

Test No. 6. This shows the following interesting results:

Assuming that the "narrow point" at which all these commodities are to be taxed to be sales by manufacturer, producer, or importer, we find that in the case of the taxed group there are great numbers of actual or potential manufacturers or producers.

<sup>1</sup> The figures in answers 29 and 30 have been taken from the Annual Report of the Commissioner of Internal Revenue for the fiscal year ended June 30, 1920.

For instance, nearly every candy merchant manufactures some of the candy which he sells. Thousands of dealers in fur articles do custom work or make up some of their goods. Every jeweler of the thirty-odd thousand dealers in such wares, when he follows the custom of the trade and buys a watch movement from one dealer and a watchcase from another, becomes the producer of a taxable article when he places the movement in the case. The same thing happens when he buys his diamonds of a dealer and either manufactures the setting or buys a partially finished setting and completes the jewel.

The golf professional who buys his handles and heads and produces a finished club is as much a manufacturer to-day under the Treasury regulations as a manufacturer who turns out completed golf clubs by the thousand.

Now, apply the important administrative test No. 6 to the untaxed typewriters, sewing machines, saws, and agricultural implements. We do not find many small manufacturers or producers of these goods; hence, under this test, the untaxed group should promptly be substituted for the taxed group.

Such comparisons are capable of being indefinitely extended. In fact, with the exception of a small percentage of articles of commerce, some of them now in the taxed group, all commodities would answer as readily and fully to this so-called "principle" of taxation as the commodities which are now specially and unjustly taxed.

Any attempt by Congress to fairly apply this so-called "principle" of taxation would result in a tax on virtually all commodities; in other words, in a general sales or turnover tax.

35. Question. Is there any justification in peace times for continuing to tax this list of selected commodities?

Answer. If Congress should decide that it is equitable and necessary to continue to place heavy taxes on some industries and exempt most other industries from such special taxation, it will be necessary for Congress to find some just principle for the selection of the industries so taxed.

36. Question. If such a principle could be found, what would be the result?

Answer. Some of the commodities now taxed under the act of 1918 would be promptly removed from the special taxable list and many commodities not now subject to special excise taxes would undoubtedly have to be included in such a special taxable list.

37. Question. If Congress decides that revenue requirements demand the continuation of excise taxes, what is the logical and proper course to pursue in times of peace?

Answer. To tax all sales of all business equally.

38. Question. Why should taxes which produce such large amounts of revenue be repealed?

Answer. Because war taxes should be discontinued when the emergency is past. These taxes were enacted at a time when, in the midst of war, the country needed enormous sums of money and had to have funds without delay. These twenty-odd industries were selected for the reason that they produced goods which, for the time being, were looked upon as comparatively nonessential.

However, they are all just as essential to the general prosperity and happiness of the country as any other industries. They have billions of dollars of capital invested and employ millions of men and women. If they are discriminated against by the continuance of this special taxation, while other business is not so hampered, they are at a serious disadvantage at a time when the best interests of the country demand that all business be kept going at full capacity.

The industries thus taxed believed that these special tax burdens would be removed when the war ended, and the President confirmed this understanding by twice recommending to Congress that these special excise taxes be promptly repealed.

In his message to Congress on May 20, 1919, the President said:

"Many of the minor taxes provided for in the revenue legislation of 1917 and 1918, though no doubt made necessary by the pressing necessities of the war time, can hardly find sufficient justification under the easier circumstances of peace. Among these, I hope you will agree, are the excises upon various manufacturers and the taxes upon retail sales."

The principle of "equal taxation" should appeal as strongly to the American people to-day as the principle of "no taxation without representation" appealed to the colonists nearly 150 years ago.

39. Question. What is the ethical principle of equal taxation?

Answer. Prof. E. R. A. Seligman, in an address to the second national industrial tax conference said: "Finally, we must, I think, all be agreed as to the importance of the ethical implications of a system of taxation. We should, as has been several times stated to-day, demand equality, and we must demand equality from two points of view; we must demand that kind of equality which is inherent in the

uniformity among the different members of the same class who pay the tax. If it is imposed on the business man, it must be uniform among all business men; if it is levied upon the consumer, it ought to be uniform among all consumers, and so forth. The other aspect of this ethical principle of taxation is that the equality must be predicated also as among the different classes in the community."

40. Question. What are profits taxes?

Answer. Profits taxes are taxes levied on profits. In the case of corporations they are levied, so-called, on normal profits, and on profits exceeding those normal profits. In the latter case they are called "excess-profits taxes."

In the case of partnerships and sole traders, they are levied on income derived from the profits of business and from all other sources, and consist of normal income taxes and surtaxes.

41. Question. Who pays these profits taxes?

Answer. They are paid ultimately by the consumer because they are included, whenever and wherever possible, in the cost of production and distribution of raw material and finished goods. As the goods pass from hand to hand these tax costs are included in the price all along the line, until they reach the consumer when sold at retail over the counter.

42. Question. Why should profits taxes be shifted to the consumer?

Answer. The purpose of all business is profit. Producers of raw material, manufacturers, wholesalers, and retailers are all in business to make a profit. This profit can be realized only when raw material or finished goods are sold at a price which will return to the seller some margin above his cost.

Cost includes every item of expense; raw material, labor, freight, rent, traveling expenses, office expenses, interest, selling expenses, losses, etc. It also includes all taxes.

Failure to include any substantial expense item in a dealer's cost may result in the disappearance of profit. To get a desired profit, therefore, all taxes as well as other expense items must be taken into the account in marketing goods. This results in the "shifting" of taxes, as well as the shifting of every other cost item.

43. Question. Will not the general sales or turnover tax be also shifted to the consumer?

Answer. Substantial profits taxes are, and must be, shifted in most instances, while a very small turnover tax, not exceeding 1 per cent, must be shifted only where the margin of profit is small. This small tax may be absorbed in part or wholly by the seller where the margin of profit is large.

The absorption of a very small turnover tax will depend very largely upon the nature of the business and upon competitive conditions. Although shifted, this small turnover tax is not as apt to be loaded as the heavy profits taxes usually are.

44. Question. Are there any conditions under which a small turnover tax will not be shifted?

Answer. Business depression, overproduction, or other conditions which bring about a "buyer's" market reduce selling prices materially and losses are then made which may be so substantial that the small item of the turnover tax will be negligible.

45. Question. Is it probable that a small turnover tax can not be shifted by business men in normal times?

Answer. Business is conducted for profit and therefore all substantial items entering into the cost of commodities or into operating expenses must be provided for in the mark up. Where the profits of an industry are large, the 1 per cent turnover tax is not a substantial item and may, under strong competitive conditions, be wholly or partially absorbed by dealers. Where profits are small, however, every bit of the smallest tax must and will be shifted to the buyer.

46. Question. Does the experienced business man fear that any definite tax can not be shifted if it is to his interest to shift it?

Answer. He does not. He has been shifting taxes, rent, salaries, and other operating expenses in the past, and the adoption of a small turnover tax in place of all other taxes on business will simply mean that he will shift the small definite tax instead of a large and indefinite tax.

47. How would the consumer benefit by the adoption of the general gross sales or turnover tax in place of the profits taxes?

Answer. Under our present system of profits taxes, and under any system of taxation which imposes substantial profits taxes, these pyramided taxes grow as each turnover is made from raw material to the sale of the finished goods to the consumer.

The Department of Justice, in making investigations under the Lever Act, came to the conclusion that the pyramided profits taxes added 23.2 per cent to the price to the consumer. The taxation committee of the National Retail Dry Goods Asso-

ciation, composed of treasurers and controllers of some of the largest department stores in the country, has published the statement that every dollar spent by the consumer pays for 75 cents of merchandise and 25 cents worth of pyramided profits taxes.

The general gross sales or turnover tax not exceeding 1 per cent, which is offered as a substitute for the present system of complicated profits taxes, will not take over  $3\frac{1}{2}$  cents of the consumer's dollar for taxes.

This statement is substantiated by the following examples worked out by dealers in goods of universal use:

## ON GRANULATED SUGAR.

[Furnished by Seeman Bros. of New York.]

	Tax.
1. Raw sugar, if bought by refiner from importer, <sup>1</sup> 110 pounds, at 16 cents, \$17.60.....	\$0.176
2. Refined granulated sugar from refiner to wholesaler (based on 10 pounds loss in refining), 100 pounds, at 21 cents, \$21.....	.210
3. Wholesaler to retailer, based on \$1 per 100 for gross profit and 50 cents per 100 for average freight from refinery, 100 pounds, at 22½ cents, \$22.50....	.225
4. Retailer to consumer, based on \$2.25 per 100 for gross profit and 25 cents per 100 for average freight from wholesaler, 100 pounds, at 25 cents, \$25.....	.250

Total tax on 100-pound price for consumption..... .861

Tax on 1 pound selling at 25 cents, \$0.00861, or 3.44 per cent of the price to consumer.

## ON BREAD.

[Compiled by Mr. William C. Cornwell, editor of the Bache Review, from information obtained from various wholesale and retail dealers in New York City. Printed in the Bache Review, April, 1920, special edition.]

In estimating the effect on the price of a loaf of bread, the tax would be levied first when the wheat leaves the producer; second, when it leaves the miller; and, third, when it leaves the retail grocer or the baker. Prices and taxes would be as follows:

	Tax.
When it leaves the farm: One bushel of wheat would be sold for, say, \$2.....	\$0.02
When it leaves the miller: 4½ bushels of wheat to the barrel, with flour averaging \$12 per barrel, would make 1 bushel of wheat in flour, worth \$2.67.....	.0267
When it leaves the baker: A barrel of flour makes from 260 to 270 loaves of bread. One bushel of wheat is two-ninths of a barrel of flour. This would make 60 loaves to a bushel of wheat. Figuring these 60 loaves at an average of 8 cents to 9 cents per loaf, price would be \$5.10.....	.0510
This would make the total tax on all sales of a bushel of wheat, from wheat to flour to bread.....	.0977

This tax is 2 per cent of the price paid by the consumer.

This tax thus far—approximately 10 cents—is the total price to be added to the 60 loaves of bread on account of the 1 per cent tax on sales progressively from the farm to the consumer.

This total tax if passed along is so small, amounting to less than one-sixth of a cent per loaf, that it could not be added to the price per loaf to the consumer. It would probably be passed on by the miller and be paid by the baker, but would be such a infinitesimal reduction from his profits that he would be almost totally unaffected.

These calculations are based on only three sales, from farmer to consumer; but if one or two more sales of the wheat take place it would still leave the tax at a small fraction of a cent to the loaf.

Further than this, it is stated that bakers do not bake half the bread used. Many domestic users buy flour from grocers and make their own bread. This further reduces the individual tax.

<sup>1</sup> If the raw sugar is imported direct by the refiner, as it usually is, the total tax would be reduced to \$0.685 on 100 pounds granulated, or 2.74 per cent of selling price to consumer.

## ON BEEF.

[Printed in the Bache Review for April, 1921, special edition, founded upon figures furnished by Armour & Co.]

In the same way the tax result on beef may be estimated, as follows:

*Result on steer killed July 17, 1919, lot 301.*

**COST OF LIVE ANIMAL AND EXPENSE IN KILLING AND DISPOSING OF RESULTING PRODUCTS.**

Live weight 1,202 pounds, at \$16.34 per hundredweight.....	\$196.41
Expense and labor, buying, killing, driving, yarding, feeding, refrigeration, etc.....	8.85
Cost of selling (branch house expense) 86 cents per 100 pounds.....	6.10
Freight to branch house 710 pounds, at 69 cents.....	4.90
<b>Total cost.....</b>	<b>214.26</b>

**AMOUNTS RECEIVED FOR PRODUCTS SOLD.**

Fats, 85.8 pounds, at \$18.81 per 100 pounds.....	\$16.14
Hide, 78 pounds, at \$32.71 per 100 pounds.....	25.51
Offal, edible and inedible, at 41 cents per hundredweight, live weight.....	4.93
Dressed beef, 720 pounds less shrink 10 pounds, net 710, at \$23.99 per hundred-weight.....	170.33
<b>Total selling price.....</b>	<b>216.91</b>

**HOW THE TAX WOULD AFFECT THE CONSUMER.**

If we analyze these figures, we find that the cost to the packer of 1 steer would be \$196.41; the tax of 1 per cent, to be paid by the farmer or the seller, would accordingly be.....	\$1.96
Following up the 720 pounds (net 710 pounds) of dressed beef, the selling price of this would be \$170.33; on which the tax paid by the packer would be....	1.70

The total tax which might be added to the beef, first by the farmer and then by the packer, would thus be, when the beef reached the retailing butcher.....	3.66
---	------

Dividing this tax up among the net 710 pounds of dressed beef, we find that the tax on each pound would be.....	.005
If the butcher sold the beef at, say, an average, all cuts, of 40 cents per pound, his tax would be four-tenths of a cent per pound, or two-fifths of a cent.....	.004

The total tax thus far, if added to the price to be paid by the consumer, would thus amount to.....	.009
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which is a little less than 1 cent a pound on beef. This includes all taxes from the farm to the packer, to the butcher, and to the consumer, and comes to  $2\frac{1}{4}$  per cent of the price paid by the consumer.

**ON PORK.**

[Printed in the Bache Review for April, 1920, special edition, founded upon figures furnished by Armour & Co.]

We have obtained also from official sources figures on the cost of hogs and hog products, and have estimated the tax which, under this plan, would be levied from the time the animal was sold by the farmer until the various products reached the consumer.

*Result on hog, Oct. 17, 1919.*

Live weight, 306 pounds, at 14.3 cents.....	\$43.76
Expense and labor, buying, yarding, driving, killing, feeding, refrigeration, etc.....	4.59
<b>Total cost.....</b>	<b>48.35</b>

*Value of products resulting from hog.*

Hams, 14 per cent of live weight, 42.84 pounds, at 20½ cents.....	\$8. 78
Bacon and fat backs, 31 per cent of live weight, 94.86 pounds, at 21½ cents...	20. 16
Shoulders, 12½ per cent of live weight, 38.25 pounds, at 22½ cents.....	8. 61
Lard, 8 per cent of live weight, 24.48 pounds, at 29 cents.....	7. 10
Leaf lard, 3 per cent of live weight, 9.18 pounds, at 29½ cents.....	2. 71
Other products, 4.02 per cent of live weight.....	1. 44
<b>Total.....</b>	<b>48. 80</b>

72.52 is the per cent of marketable products to live weight.

## HOW THE TAX ON SALES WOULD AFFECT THE CONSUMER.

	Tax.
If we analyze these figures, we find the cost to the packer of one hog would be \$43.76; the tax of 1 per cent to be paid by the farmer or the seller, would accordingly be.....	\$0. 44
Following up the approximate 217 pounds of consumable products of one hog, the selling price of this would be \$48.80, on which the tax paid by the packer in selling this would be.....	. 488
<b>The total tax which might be added thus far, first by the farmer and then by the packer, would be, when the hog reached the retailing butcher.....</b>	<b>. 928</b>
<b>Dividing this tax through the 217 pounds of consumable products we find a tax on each pound of.....</b>	<b>. 0043</b>
<b>The tax thus far on the 217 pounds of consumable products, is, as we have seen, about 93 cents, or at the rate of less than one-half of 1 cent on each pound. If the butcher sold the pork products at retail prices, he would receive about \$107, on which his tax would be about one-half of 1 cent per pound, namely.....</b>	<b>. 0049</b>
<b>The total tax, if added to the price to be paid by the consumer, would in all, amount per pound to.....</b>	<b>. 0092</b>
<b>which is a little less than 1 cent a pound on pork and pork products, or 1.87 per cent of the price paid by the consumer.</b>	

## ON A SUIT OF MEN'S CLOTHING RETAILING AT \$40.

(Furnished by Mr. William Goldman, of New York, and revised as of May 1, 1921.)

	Tax.
1. Raw wool in the grease, value about \$2.45.....	\$0. 0245
2. The wool dealer has the wool scoured and sells it to the spinner, at say \$2.80.....	. 0280
3. The spinner converts it into yarn and sells it to the cloth manufacturer, for say \$3.50.....	1. 0350
4. The cloth manufacturer weaves it into cloth which he sells for about \$2.82½ a yard, 3½ yards.....	. 0875
5. Trimmings, linings, etc., have a value of about 50 per cent of the value of the cloth and have gone through the same processes of conversion as the wool has to the finished cloth. The tax on these would, therefore, be 50 per cent of the sum total of the foregoing taxes, or.....	. 0875
6. These materials are converted into a suit of clothes by the manufacturer, who sells it for \$27.50.....	. 2750
7. The suit is sold at retail for \$40.....	. 4000
<b>Total tax on price for consumption.....</b>	<b>. 9375</b>
<b>Or 2.34 per cent of the price to the consumer.<sup>2</sup></b>	

<sup>1</sup> More than 50 per cent of all cloth does not go through the process of spinning (the third step in the foregoing table). The majority of cloth used is known as "wool goods," which is carded at the mill, which conducts all the processes from raw wool to finished cloth.

<sup>2</sup> The percentage has been reduced from that shown in the original estimate made a year ago. This is due to the fact that raw materials are now abnormally low.

## ON A SUIT OF OVERALLS AND JACKET RETAILING AT \$8—STANDARD 2.20 INDIGO DENIM.

[Furnished by Sweet-Orr &amp; Co. (Inc.)]

	Tax.
1. Cotton in the bale, 4½ pounds, at 40 cents; overall, \$0.90; jacket, \$0.90..	\$0.0180
2. Spinners and weavers: Denim, 7½ yards, at 44 cents; overalls, \$1.65; jacket, \$1.65.....	.0330
3. Dealers in trimmings: Pocket drill, overall, \$0.1100; thread, overall, \$0.0500; jacket, \$0.0425; buttons, overall, \$0.0250; jacket, \$0.0350; buckles, overall, \$0.0103; totals, overall, \$0.1953; jacket, \$0.0775; grand total.....	.2728
The imposed tax on these items added from the source will probably total 2½ per cent, or.....	.00682
4. The overall manufacturer sells the garments to the retailer at, overall, \$3; jacket, \$3.....	.06000
5. The retailer sells the garments to the consumer for, overall, \$4; jacket, \$4.....	.08000
<b>Total tax on price for consumption.....</b>	<b>.19782</b>
Or 2.47 per cent of the price to consumer.	
August 10, 1920.	

## ON A PAIR OF MEN'S SHOES RETAILING AT \$7.

[Furnished by Mr. R. P. Hazard, of Gardiner, Me., Jan. 11, 1921.]

	Tax.
1. Rawhide, raw material, etc., \$1.56.....	\$0.0156
2. Tanner sells leather for \$2.82.....	.0282
3. Leather and findings are sold, \$3.13.....	.0313
4. Manufacturer sells pair of shoes to jobber, \$3.88.....	.0388
5. Jobber sells to the retailer, \$4.67.....	.0467
6. Retailer sells to consumer \$7.....	.0700
<b>Total tax.....</b>	<b>.2306</b>
Or 3.3 per cent of the retail price to the consumer.	

## ON A PAIR OF HEAVY SERVICE GLOVES RETAILING AT \$2.25 PER PAIR.

[Furnished by a prominent manufacturer of gloves, Aug. 20, 1920.]

	Tax.
1. Raw horsehide value as sold to tanner by rendering company, or hide dealer about \$0.32.....	\$0.0032
2. Tanning materials sold to tanner, \$0.10.....	.0010
3. The tanner converts the hide into leather and sells to the manufacturer, \$0.70.....	.0070
4. Supplies sold to the manufacturer: Thread, \$0.015; canvas, \$0.025; binding, \$0.010, \$0.05.....	.0005
5. 1 pair gloves sold by manufacturer to jobber, \$1.25.....	.0125
6. 1 pair gloves sold by jobber to retailer, \$1.65.....	.0165
7. 1 pair gloves sold by retailer to consumer, \$2.25.....	.0225
<b>Total tax on price for consumption.....</b>	<b>.0632</b>
Or 2.8 per cent of price to consumer.	
August 20, 1920.	

## ON A YARD OF TAFFETA SILK RETAILING AT \$2.25.

[Furnished by a prominent silk manufacturer, Aug. 19, 1920.]

	Tax.
1. Raw silk thrown, value about \$0.6564.....	\$0.0066
2. Cost of dyeing, \$0.1652.....	.0017
3. The silk manufacturer winds warps and weaves the dyed silk which he sells for about \$1.45 per yard.....	.0145
4. The retailer sells this material for \$2.25 per yard.....	.0225
<b>Total tax on price for consumption.....</b>	<b>.0453</b>
Or 2 per cent of the price to the consumer.	
August 19, 1920.	

<sup>1</sup> If the goods were sold by the manufacturer to the jobber before reaching the retailer there would be an added step entailing an additional tax of \$0.05, making the total tax to the consumer \$0.2478, or a shade over 3 per cent of the entire selling price.

<sup>2</sup> In some instances the manufacturer sells direct to the consumer; this eliminates the 1 per cent on 5 and 6.

<sup>3</sup> In other cases the manufacturer sells to the retail trade; this eliminates the 1 per cent on 5.



## ON A RUBBER TIRE, 30 BY 3½ CORD TIRE, RETAILING AT \$35.10.

[Furnished by Mr. Horace DeLisser, president of the Ajax Rubber Co., Aug. 18, 1920.]

	Tax.
1. Crude rubber used at importation cost, \$5.35.....	\$0. 0535
2. Raw cotton used as imported, \$3.....	.0300
3. Raw cotton used, domestic growth, 40 cents.....	.0040
4. Imported cotton into yarn, \$4.20.....	.0420
5. Domestic cotton into yarn, 80 cents.....	.0080
6. Yarn into fabric, \$5.50.....	.0550
7. Yarn into fabric, \$1.....	.0100
8. Miscellaneous pigments, 70 cents.....	.0070
9. The above materials converted into tires by the manufacturer, who sells them to the franchise dealer, \$28.45.....	.2845
10. Franchise dealer sells them to the dealer, \$29.90.....	.2990
11. Dealer sells them to consumer, \$35.10.....	.3510
<b>Total tax on price for consumption.....</b>	<b>1. 1440</b>

Or 3.259 per cent of the price to the consumer.  
August 18, 1920.

## ON 32-INCH COTTON TISSUE RETAILING AT 45 CENTS.

[Taken from Galey &amp; Lord's pamphlet entitled "Federal Taxes and the Farmer."]

	Tax.
1. Cotton, 1½-inch (1½ pounds), sale by grower to factor at 31 cents, \$0.51..	\$0. 0051
2. Cotton, 1½-inch (1½ pounds), sale by factor to spinner at 33 cents, \$0.55..	.0055
3. Yarn (1 pound), sale by spinner to weaver at 95 cents, \$0.95.....	.0095
4. Dyes and supplies other than yarn, \$0.20.....	.0020
5. Cloth (10 yards), sale by weaver to jobber at 26 cents, \$2.60.....	.0260
6. Cloth (10 yards), sale by jobber to retailer at 31 cents, \$3.10.....	.0310
7. Cloth (10 yards), sale by retailer to consumer at 45 cents, \$4.50.....	.0450
	<b>. 1241</b>

From this table we learn that although the cotton passed through seven hands in the course of its manufacture into cloth and distribution, and paid a sales tax each time, yet the total tax represented but 12.4 cents on \$4.50 worth of cotton cloth, or, as stated, less than 3 per cent. The question is, Can we bear to know that such a tax is included in the price we pay for what we buy, or would we prefer to continue to have something like 23 per cent taken from us in a disguised form?

## FARMING IMPLEMENTS AND MACHINERY.

One of the largest manufacturers of farming implements and machinery has given us the following information:

"Owing to the variety of materials entering into the manufacture of the bulk of our products, it is not possible to furnish you with a detailed statement similar to that submitted to you in the case of a suit of clothes.

"We have, however, carefully analyzed some of our principal machines and, taking all the various factors into consideration, we assume that the total turnover tax in our complicated industry will be equivalent to about 3 to 3½ per cent of the retail price of our machines to the consumer."

48. Question. If the profits taxes are shifted by the dealer in raw materials, the manufacturer, the wholesaler, and the retailer, why do these dealers object to them?

Answer. There are several sound reasons for this objection:

Profits taxes are uncertain, because they can not be determined until the profits are computed at the end of the year.

They are payable in the year following that in which the profit was realized.

They must be paid in cash, although the profits are often paper profits included in inventories and outstanding accounts.

Thoughtful business men do not regard as sound a system of taxation which compels them to shift a heavy burden of taxation to the consumer, because this lessens the buying power of the consumer and so lessens the sales of business men.

The problem now facing us is how to increase the purchasing power of the consumer, in order that facilities for increasing production and distribution inaugurated during the war may be maintained and continued. The lower the prices the more the consumer can afford to buy. One of the simplest ways to reduce prices is to repeal the profits taxes and substitute the gross sales or turnover tax at 1 per cent, thus greatly reducing the tax content of the consumer's dollar.

49. Question. Can taxes be shifted in a period of falling prices—in a buyer's market?

Answer. Business taxes form part of merchandise costs. In a period of falling prices dealers are often obliged to sell at smaller margins of profit and may be obliged at times to sell at less than cost. Under these conditions taxes, as such, do not affect the selling price of goods any more than rent, salaries, or any other overhead expense affects it. Sales are then often made without any definite relation to cost.

50. Question. Are prices materially affected by taxes in a period of rising prices—a seller's market?

Answer. In a moderate seller's market, substantial business taxes must be considered as part of the cost of goods.

In a wild seller's market, where the supply of goods is limited and the demand unlimited, neither taxes nor any other cost items operate in a normal way. Increased profits are then often taken without any definite relation to cost.

51. Question. What is the effect of violent price fluctuations on Government revenue derived from profits taxation?

Answer. "Boom" years, with rising prices, will greatly increase the revenue from profits taxes.

Normal years, following "boom" years, will show greatly decreased revenue from profits taxes.

A period of business depression, such as we are now passing through, may cut down the revenue from profits taxes to such an extent as to make it difficult for our Government to meet its obligations, because anticipated revenues from profits can not be realized.

52. Question. How are dealers affected by substantial profits taxes?

Answer. Substantial business taxes must be included in cost of goods and must therefore be provided for in the selling "mark up." As the amount of these taxes will depend entirely upon the profits realized during the year, and as there is no way of determining until the end of the year what those taxable profits will be, dealers are obliged to provide in their selling prices for the anticipated maximum share of their profits to which the Government may be entitled.

53. Question. If normal and excess profits taxes on corporations and normal income and surtaxes on partnerships and sole traders are abolished, in what manner will the Government be able to tax profits made by corporations, partnerships, and sole traders?

Answer. Corporation profits will be taxed as personal income when the profits reach the stockholders in the shape of dividends; and the profits of partnerships and sole traders will be taxed as personal income when they are withdrawn from the business.

54. Question. Can not the payment of personal income taxes on the profits of a corporation be evaded by the simple expedient of not declaring dividends and will not this be a method by which corporations owned or controlled by a few wealthy persons can accumulate large profits upon which neither profits taxes nor personal income taxes are paid?

Answer. This will be possible; but the benefit to business and to the consumer arising from a most desirable accumulation of new capital, which generally will be used in commercial enterprises, will greatly outweigh the disadvantages of tax which may make such practices possible.

55. Question. Can such accumulation of profits by corporations be prevented or discouraged by placing a special tax on the undistributed profits?

Answer. This could probably be done, but the cure would be worse than the disease. There is no equitable basis upon which a law could be framed which would be just to more than a small minority of all the corporations. One corporation, might without injury, distribute all its profits in one year, half of its profits another year, and find itself the third year in a position where any distribution of even very large profits would be detrimental to the business, and therefore detrimental to its stockholders. To penalize such a corporation in order to force distribution of its profits when it is bad business to make such distribution, is to injure the corporation, its stockholders, and the public.

56. Question. How would the public be injured if corporations were forced, by means of punitive taxation, to distribute all their profits?

Answer. Corporations and all other forms of business should, as far as that is possible, provide for necessary increases in working capital by retaining in business part of their annual profits. This is the normal, intelligent, and business-like way of building up business. Any law which discourages or prevents this accumulation of additional capital necessarily forces increased borrowing for legitimate business expansion and to that extent contracts the amount of investment capital which is always in demand by the public or new business enterprises.

57. Question. How will partnerships and sole traders separate their business profits from other income in order to make tax returns of their personal income?

Answer. Partnerships and sole traders should be treated in the same way as corporations. They should not be taxed on the profits of a business which pays the turnover tax until such profits are drawn from the business.

58. Question. Will it be practicable to frame a tax law which will enable the Government to collect the graduated personal income tax from the members of a partnership or from a sole trader?

Answer. Personal income taxes are now taxes on gross income. The new revenue law can be framed to provide for the keeping of accurate books of account by every person who wishes to avail himself of the right to separate gross personal income from any profits which are actually retained in business. The tentative plans worked out by the Treasury experts in connection with the suggestion of ex-Secretary Houston to differentiate taxation in favor of saved income reinvested in taxable investments, can probably be applied to a condition where the business profits of partnerships and sole traders will be placed in the same category as those of corporations and are therefore taxable as personal income only if and when they are reduced to possession as personal income.

59. Question. How would the gross sales or turnover tax operate under the same conditions?

Answer. The sales tax would be paid to the Government by the dealer each month on his turnover for the month, regardless of any profit or loss which he was making on his business. On a 25 per cent decline in sales the revenue from sales tax would decrease 25 per cent; on a 25 per cent decline in profits, most of the profits taxes would disappear.

60. Question. Are profits taxes, when included in selling prices, always paid to the Government?

Answer. Every dealer expects to make money, and although he shifts his anticipated business taxes to the purchaser of his goods, he may, by reason of an unusual number of bad debts, reduced sales, or other business misfortunes, end his business year without a profit.

In such a case the consumer has paid the anticipated profits tax which the Government has not received and can not claim.

61. Question. How is the consumer's dollar affected by the taxes now in force?

Answer. The excess profits taxes and profits taxes now in force are generally included in the selling prices of raw material and manufactured goods, and where the goods are handled by wholesalers and retailers, their profits taxes are also added to the selling price, until the entire pyramided load is taken out of the consumer's dollar.

62. Question. Assuming that the normal and excess profits taxes on corporations will be replaced by a profits tax of about 15 per cent, and that the higher surtaxes on personal incomes will be reduced to a flat percentage not exceeding 30 per cent, how will these changes affect the tax content of the consumer's dollar?

Answer. While the reduction of the higher surtaxes on business incomes of partnerships and sole traders will benefit the consumer somewhat, a flat tax of 15 per cent or 16 per cent on corporations in place of normal and excess profits taxes will increase the tax burden of many corporations which, because of their large capitalization, have not been obliged to pay taxes amounting to 15 per cent of their profits. This additional tax, therefore, will be shifted to the consumer and will naturally increase rather than decrease his burden. The tax content in the consumer's dollar will then be greater than the 3 per cent which it would average under a general sales or turnover tax levied as the sole tax on business, and in addition to that it would in many instances be greater than it is under our present normal and excess profits taxes.

63. Question. If a sales or turnover tax is substituted for profits taxes on business, ought the exemptions on personal incomes be increased?

Answer. Farmers, wage earners, salaried persons, and other persons of limited income, though now paying very much more in indirect consumption taxes than they would pay under a small turnover tax, are nevertheless entitled, as a matter of social justice, to increased specific exemptions on their personal incomes.

64. Question. If their tax burdens will be materially decreased by the substitution of a turnover tax for the present profits taxes on business, why give them further relief?

Answer. The revenue law of 1913 exempted incomes of \$4,000 and \$3,000 of married and single persons respectively. At that time we were not at war, and it is therefore reasonable to suppose that the figures then fixed were, after mature deliberation, considered the proper limit for tax-free incomes. We are again at peace and have passed the emergency for immediate and huge war revenues. The war expenses must be paid, of course, but we can now afford to take more time about it. The cost of living is still high and will probably continue so for some time to come. It is therefore fair

to apply the rule of "ability to pay" to persons of small income, because under a turnover tax the man of limited income will continue to pay his full share of taxes in his daily expenditures, which will generally consume most of his income.

65. Question. What are the increased specific exemptions on personal income which are now suggested to replace the present exemptions of \$2,000 and \$1,000.

Answer. \$5,000 for married persons and \$2,500 for unmarried persons.

66. Question. Did not the increased prices which the farmer received for his crops and the increased wages and salaries paid to wage earners and salaried persons justify this decrease in specific personal exemptions?

Answer. The advantage which the farmer may have had by reason of good prices for crops has disappeared. Values are in process of reduction, and the salaried man and woman did not enjoy any substantial increase in revenue during war times.

67. Question. Were not salaries advanced during the period of the war?

Answer. The cost of rent, clothing, food, and all the necessities and comforts of life advanced by leaps and bounds. Salaries were practically stationary and no class of our people has been forced to make such substantial sacrifices as the so-called "white collar brigade." This includes Federal Government employees, professional men and women, stenographers, bookkeepers, clerks, and business assistants of all kinds.

68. Question. What is the objection then to coupling the small turnover tax with increased exemptions on personal incomes?

Answer. None. It will decrease the number of persons subject to personal income tax; but as these persons must spend most of their limited incomes for food, clothing, and rent, and as personal income taxes should be levied on the principle of "ability to pay," it would seem fair and in the interest of social justice that Congress should increase the present specific exemptions.

69. Question. Will not this relieve a great many persons from the payment of their just share of the national tax burden?

Answer. Under the proposed turnover tax the small taxpayer must spend most of his earnings and will therefore pay about 3 per cent in indirect taxes on practically his entire income. While this is much less than he is now paying in indirect taxes on consumption, the best interests of the country demand that workers, whether with brain or brawn, be not overburdened with taxes.

70. Question. Do the farmers and wage earners know that their indirect consumption taxes have been very large because of the economic fact that substantial business taxes must be shifted from dealer to dealer until they rest on the final consumer?

Answer. Farmers and wage earners are rapidly awakening to the actual facts of taxation and it is becoming increasingly difficult to continue the pleasing fiction that business taxes are borne entirely by corporations, partnerships, and sole traders.

71. Question. As it is clearly shown in the answers to question 47 that the burden on the consumer of the turnover tax will be much lighter than under the present profits taxes, why do friends of the farmer and the wage earner oppose the levy of a small turnover tax in place of all other taxes on business?

Answer. Profits taxes are favored by some legislators because they are indirect taxes and are therefore unnoticed by their constituents. Sales taxes are opposed by them because they are afraid their constituents will object to them.

72. Question. Do these legislators admit that their constituents are being indirectly taxed at a very heavy rate?

Answer. In the April number of The Nation's Business, Congressman James W. Good, chairman of the House Committee on Appropriations, said:

"I am opposed to a sales tax. In the event that there is unemployment, and there will be at an increasing rate, such a levy would cause great unrest. How would the laboring man feel, if asked, while out of employment with a small or scarcely no income, to pay a tax on everything that he eats and on everything that he wears, not realizing that the excess profits tax has been passed on to the consumer and that in the past he has been compelled indirectly to pay it? He will become bitter in his resentment at a Congress that repealed a tax required out of excess earnings, only to substitute a direct consumption tax which he must pay."

73. Question. As it is conceded that, together with all other consumers, the farmer and the laboring man have in the past been compelled indirectly to pay heavy pyramided excess profits taxes and other taxes and Congress recognizes this fact, is it good politics to continue these heavy indirect burdens when the very much lighter burden of the turnover tax can be substituted?

Answer. The farmers and the wage earners are beginning to study taxation as it affects them, and, when they are in possession of the facts, they will insist that tax revision shall be honest revision downward in the interest of the consumer. To paraphrase a saying of Abraham Lincoln: You can't fool all the farmers and wage earners all of the time.

74. Question. What, then, is the point at issue between the friends of the farmer, the wage earner, and the consumer generally, who favor a turnover tax and those other friends who oppose a turnover tax?

Answer. The point at issue is really a question of "fact" which Congress can definitely establish. Intelligent men in and out of Congress know that the tax burden on the consumer caused by the normal and excess profits taxes on corporations and normal income and surtaxes on partnerships and sole traders is very heavy. On the other hand, we have demonstrated that the tax burden under the turnover tax at 1 per cent is very light.

The opponents of the turnover tax assert that it has many failings, but they do not squarely meet the issue which interests the farmer and the wage earner. That issue is the size of the large pyramided profits tax as compared to the size of the small pyramided turnover tax.

We may pertinently quote from the Galey & Lord pamphlet on federal Taxation and the Farmer:

"The question is, Can we bear to know that such a tax is included in the price we pay for what we buy, or would we prefer to continue to have something like 23 per cent taken from us in disguised form?"

We give the farmer and the wage earner credit for average intelligence and feel certain that when they know the facts they will all clamor for the proposed small turnover tax as the sole tax on business.

75. Question. What advantage has the "integrated" or "self-contained" business, under the present act, over its competitor who performs fewer operations?

Answer. Under our present system of profits taxes, a great self-contained business, performing all operations from the production of raw materials to the sale of the finished product to the retail distributor, or to the consumer, need load its selling prices with its own estimated taxes only.

The smaller, or lesser-contained business, must buy its raw materials, and sometimes even manufactured parts, from producers and manufacturers. It is therefore at a disadvantage as compared to the self-contained industry, because the prices paid for these purchases generally include the profits taxes of the sellers. The lesser-contained industry is therefore obliged to include in its selling prices these shifted taxes, as well as its own estimated profits taxes.

76. Question. Will this disadvantage be increased or diminished by the substitution of a small general gross sales or turnover tax in place of the present profits taxes?

Answer. The advantage of the great "self-contained" business will naturally be greatly diminished if a small turnover tax is substituted for substantial business profits taxes.

77. Question. Will a general gross sales or turnover tax give the great "self-contained" business any added advantage over its smaller competitor?

Answer. Smaller dealers have often decided advantages and sometimes certain disadvantages, quite apart from taxes. They nevertheless perform important economic functions and have no apparent difficulty in remaining in business and prospering often much better than the "self-contained" competitor.

A small turnover tax will not in any material manner increase the advantage of the larger dealer. On the contrary, it will often materially decrease that advantage.

78. Question. Are there any other reasons for believing that a turnover tax not exceeding 1 per cent will not discriminate against the concern which is not self-contained?

Answer. A very prominent economist who has carefully studied the question, says:

"The objection that the sales tax discriminates against the concern which is not self-contained is not serious because:

"1. Frequently the self-contained concern has its disadvantages compared with concerns that are not self-contained (e. g., the successful assembling plant compared with the manufacturer of all the parts). The concern which, in order to be self-contained, expands its business by taking over subsidiary lines, frequently goes into things it could not do as well as concerns which have specialized in making such things, and presently finds that the products cost more.

"2. Where this is not so, the difference between the self-contained and the other concern is usually comparatively small and is insignificant compared with the discriminations between concerns in the same line of trade which are made by the excess profits tax which it is proposed to repeal. If the excess profits tax can be repealed and the sales tax substituted therefor, the net result will be to give us a tax law which is much more equal than the present law in its operation upon different classes of producers.

"3. It is not true that any difference which the sales tax may give to integrated concerns will lead during the next few years to any significant changes in methods

of doing business. The condition of the money market is such that they are not going to branch out into new lines of trade.

"4. Even if money could be obtained, there would be little or no likelihood of concerns reorganizing their business if the sales tax were imposed for a period of three years, as the measure is designed to help the Government in a temporary emergency and with the understanding that the continuing or discontinuing of the tax at the end of the three years' period would depend upon the satisfactory operation of the measure. Business is not going to readjust itself to any material degree for a tax that is limited in operation to three years.

"5. Even if the above considerations have less weight than is here contended, there is no reason why Congress should not proceed to enact a sales tax, because, if Congress believes that such a tax would otherwise give self-contained concerns a material advantage, it could perfectly well provide for imposing a tax upon all the raw material and other things entering into the finished product which the self-contained concerns manufacture, thus putting such concerns upon a parity with competitors who are not self-contained."

79. Question. Apart from the fact that, under our present system of profits taxes, the self-contained business has a greater advantage over its small competitor than it would have under a small turnover tax—what will that advantage amount to under a 1 per cent turnover tax?

A. Analyzing the figures furnished by Sweet-Orr & Co. (Inc.), set forth in this primer in question 47, we find that this self-contained textile plant makes and sells a suit of overalls and jacket direct to the retailer for \$6.

The plant has loaded into its cost price 1 per cent on \$1.80 worth of cotton purchased, or.....	sales tax..	\$0.018
Its operations pay no further tax on sales until the suit is sold to the retailer at \$6, of which 1 per cent is.....	sales tax..	.060
		<hr/>
Making a total sales tax of.....		.078
Which it passes along to the consumer, making the retail cost price.....		0.078
		<hr/> <hr/>

On the other hand, we have the small competing wholesaler who must buy his overalls and jackets from a manufacturer. This wholesaler has the burden of the combined taxes on steps 1, 2, and 3, or.....		.05782
Plus the sales tax of the manufacturer.....		.05
		<hr/>

He then sells to the retailer, adding his own tax.....		.10782
		<hr/>

Making the tax to the retailer.....		.16782
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The difference, therefore, between the sales taxes of the self-contained textile plant and the wholesaler is the difference between \$0.16782 and \$0.078, or \$0.08982, or about 9 cents on his sale price to the retailer. This is less than 1½ per cent on the selling price of the suit of overalls and jacket to the retailer.

80. Question. Is it conceivable that a great self-contained textile, shoe, steel, or other plant would assume the risk and trouble of performing all the operations from production of raw material to distribution to the retail dealer with a minimum advantage of only 1½ per cent over the smaller fellow?

Answer. The advantage of the self-contained plant over a lesser contained competitor under a 1 per cent turnover tax will rarely be more than one-third or one-half of 1 per cent; but in the extreme case illustrated in the foregoing answer, where the advantage is 1½ per cent over the wholesaler, the wholesaler in cotton goods who could compete with a great self-contained manufacturer by simply reducing his gross selling profit from 20 per cent to 18 per cent would soon have that self-contained producer on the run.

81. Question. What other factors are of greater importance in business than a slight advantage which a general turnover tax might give the self-contained concern over its lesser contained competitor?

Answer. It is a matter of common knowledge among practical business men that production costs vary considerably and plants which are at a disadvantage because of higher production costs sometimes overcome it through lower operating expenses.

82. Question. Do operating expenses in the same line of business show any considerable variation?

Answer. The Harvard Bureau of Business Research has published surveys of sales made in 1919 by wholesale grocers, retail grocers, retail shoe stores, and retail hard-

ware stores. The computations were made from 139 to 197 stores in each group, in from 35 to 40 States and Canada. The operating expenses in each group showed very wide variations.

83. Question. What were the lowest, highest, and common or average operating expenses on the net sales in each of these four lines?

Answer:

	Lowest.	Highest.	Common.
	<i>Per cent.</i>	<i>Per cent.</i>	<i>Per cent.</i>
Wholesale grocery stores.....	4.35	14.71	9.10
Retail grocery stores.....	6.57	25.35	14.06
Retail shoe stores.....	13.62	35.63	24.00
Retail hardware stores.....	11.42	36.03	21.00

84. Question. Did the Harvard Bureau of Business Research find any adjustment between expense and profit?

Answer. The bureau states:

"The wholesale grocer who showed the lowest gross profit in 1919 also had the lowest total expense in percentage of net sales; the company with the highest gross profit had the highest total expense. Although such adjustment does not appear in every case, nevertheless the tendency clearly is for the wholesale grocers to adjust their mark-ups and their gross profits in accordance with the expenses that they incur."

85. Question. What bearing have these surveys on the turnover tax?

Answer. They clearly indicate that even very wide differences in operating expenses, greatly in excess of 1 per cent, are not sufficient to give to the most economically conducted business a dominating advantage over a competitor which is not so efficiently conducted.

86. Question. What conclusion may be drawn from these illustrations?

Answer. It is evident that, apart from the demonstrable fact that profits taxes give the self-contained industry greater advantage over its lesser contained competitor than a 1 per cent turnover tax would give, other factors in competitive business are of far greater influence than small tax differences in determining the advantage of the big over the little business in the same line.

87. Question. What are some of the objections to excess profits and other profits taxes?

1. Inequitable taxation, because of difference in form of corporation, or because business is conducted by partnership or sole trader.

2. Amount of tax uncertain until end of year.

3. The Government must have its share in cash within year after ascertainment of tax, although profits of business are not usually in that form, but are generally tied up in book accounts, raw materials, machinery, and merchandise.

4. The Government sometimes collects large tax payments on book profits which have turned into a loss.

5. In prosperous years inventories can not be taken conservatively in anticipation of the poor years which recur from time to time.

6. There is great temptation for wasteful expenditure in advertising, exploitation of doubtful markets, risky investments, and other forms of business waste, because the Government is paying a large part of such wasteful expenses.

7. Dependence by Government upon excess profits and other business profits for large sums, which can not possibly be realized during a period of business depression, strikes the business man as extremely hazardous.

8. The American business man is concerned with larger and more durable business aspects than profiteering; he looks with disfavor upon a peace-time tax system which forces him to greatly increase his profits to an extent which seriously hampers the power of his customer to buy his goods. Reduced prices to the consumer is the surest way to hold and extend consumption.

9. Successful business must be conducted for profit, therefore all substantial business taxes must form part of the seller's cost. Every sale carries the burden of this tax to be paid by the seller, thus forming a part of the price to the purchaser, who in turn adds his own business tax when he sells.

The result is that on an average of five or six turnovers it is possible that the pyramided normal tax, excess profits tax, capital stock tax, and, in some cases, special excise tax, may amount to an increase of 25 per cent or more in the price to the consumer. The Government may get only two-thirds of this increase.

10. While our excessive and complicated business taxes are not the sole cause of the high cost of living, they are indisputably one of its greatest contributing factors.

88. Question. Can a general gross sales or turnover tax be administered without increasing the burden on the Internal Revenue Department?

Answer. The adoption of a turnover tax in place of profits taxes would greatly simplify the work, and therefore greatly decrease the burden of the Department of Internal Revenue.

Checking the books of corporations, partnerships and sole traders, to determine whether or not tax returns have been made in strict accord with the law and with Treasury rulings, has proven an almost impossible task under the present tax system. Where it now requires days of continuous work to check the "profits tax" return of a large corporation, a tax return by the same corporation based on a turnover tax, could be checked in a few minutes.

Dr. Thomas S. Adams, formerly chairman of the tax advisory board of the United States Government, in an article published in the New York Evening Post on August 4, 1920, said:

"Existing tax laws must be simplified; it would be worse than folly to add new complexities. This has a most important bearing on the sales tax proposal. In the long run a general sales tax in place of the income and profits taxes would greatly simplify the work of the Bureau of Internal Revenue."

89. Question. Would a turnover tax at a rate not exceeding 1 per cent tend to bring about undesirable changes in business practice by avoidance of technical sales for the purpose of getting around the tax?

Answer. The delivery of goods on memorandum or consignment to selling agents instead of to wholesale distributors, and contracts for future sales, leases and rentals, will not avoid the turnover tax, because all such sales become taxable sales as soon as title passes to the purchaser.

Under the present revenue law taxes ranging in rate from 3 per cent to 10 per cent are being collected on such transactions. Even these high rates have not caused any undesirable change in business practices and it would therefore seem safe to assume that a rate not exceeding 1 per cent would have no such result. The only way in which payment of the turnover tax can be avoided is by absolute fraud.

90. Question. Will the work of the Bureau of Internal Revenue be simplified if all profits taxes are repealed and our only taxes are a graduated income tax and a turnover tax?

Answer. It would undoubtedly relieve the bureau of a great strain and, when it had caught up in its audit of the last four years' business tax returns, it will undoubtedly be possible to dispense with the services of a substantial part of the army of accountants who are now employed.

91. Question. What has been the experience in the Philippine Islands regarding administration of the sales tax?

Answer. In reply to an official inquiry made by Secretary Houston some time ago, the Philippine Government stated that: "The sales tax is the most satisfactory, accurate, economical, productive, and equitable tax in our system."

As this tax has been in force in the Philippines since 1905, and is a proven success, this opinion is significant.

92. Question. What has been the experience in Canada regarding the administration of the sales tax?

Answer. See answer to question 25 on page 13.

93. Question. Can a general gross sales or turnover tax not exceeding 1 per cent on each turnover be relied upon to produce the revenue required to replace the revenue lost through repeal of the profits taxes and the special excise taxes?

Answer. The Treasury Department can make more reliable estimates of the probable income procurable from a general turnover tax than it can possibly do to-day from profits taxes.

94. Question. What are the estimates of the probable revenue yield from a general gross sales or turnover tax at 1 per cent?

Answer. The following estimates have been made:

Tax committee, National Association of Manufacturers.....	\$6,720,000,000
Roger Babson, statistician.....	5,000,000,000
Bache Review, April, 1920.....	5,000,000,000
Business Men's National Tax Committee.....	3,000,000,000
Dr. Thomas S. Adams, former chairman Advisory Tax Board, United States Government.....	2,000,000,000
Joseph S. McCoy, Treasury Department, United States Government..	1,700,000,000

It seems safe to assume, therefore, that \$3,000,000,000 is a conservative estimate.



95. Question. If the turnover tax is shifted in every instance, does it not become a tax on consumption?

Answer. All substantial business taxes become taxes on consumption. The turnover tax will, however, be a much lighter tax on consumption than the present profits taxes are.

96. Question. Is it not an innovation in our tax system to levy consumption taxes which may produce a large percentage of the Federal income?

Answer. Consumption taxes were the mainstay of our Federal revenue previous to the Great War. In 1913, 95 per cent of the entire Federal revenue came from consumption taxes, viz, duties in imports and excises on alcoholic beverages and tobacco.

97. Question. Why designate these taxes "consumption" taxes?

Answer. Duties on imports immediately become part of the cost of the merchandise imported, and are shifted, plus the gross profit of the importer, to other dealers. The duties are then further shifted to the consumer, plus the gross profit of the final distributor.

This applies also to taxes on tobacco and alcoholic beverages.

98. Question. If it is true that 95 per cent of the entire Federal revenue in 1913 was derived from consumption taxes, was there at that time any objection to or protest against that form of taxation?

Answer. The public has long been accustomed to duties on imports and excises on alcohol and tobacco, and does not object to that form of taxation.

99. Question. Would a gross sales or turnover tax levied as an excise tax on all sales be constitutional?

Answer. The special committee on taxation of the chamber of commerce of the United States, in its report on tax referendum No. 34, unfortunately questioned the legality of such a tax. This doubt was nullified, however, by the recommendation that excise taxes should be levied on a few selected commodities, made by this same committee in the same report. The committee evidently did not believe that this objection was valid as there is no doubt that Congress has the right to levy an excise-sales tax in the shape of a general turnover tax.

100. Question. Would the American farmer who sells his grain for export at prices established in Liverpool, and the American exporter who competes with foreign exporters from countries which have no sales tax, be injured by the 1 per cent turnover tax?

Answer. The turnover tax could not be applied to exports of any kind because of the provision contained in Article I, section 9, of the Constitution of the United States, which provides that no tax or duty shall be laid on articles exported from any State in the Union.

101. Question. Is it possible under our present tax law to make returns which are correct both from the standpoint of the Government and of the taxpayer?

Answer. Judging from the experience of the past two years, it is almost impossible to do so. Corporations, partnerships, and individuals have hired attorneys and expert accountants to make up their tax returns, and in spite of this the Government has collected hundreds of millions of dollars due to incorrect tax returns, which it has stated are not fraudulent but merely mistaken. It has announced that it expects to collect many hundreds of millions more when back returns have been checked up.

102. Question. Why should the Government collect such huge amounts of arrears of taxes as it is now collecting under the revenue acts of 1917 and 1918?

Answer. The revenue act is so difficult to understand that even the advice of highly paid experts has not protected the taxpayer against errors in making his returns.

103. Question. Who would be benefited by the substitution of a 1 per cent turnover tax in place of all other taxes on business?

Answer. 1. The consumer would be benefited, because the tax content of his dollar would be greatly reduced. He would therefore be able to save this difference or to buy more goods with the same amount of money.

2. The business man would be benefited, because the consumer could buy more goods and so increase the sales of the merchant. He would be further benefited because he would no longer have to pay for expert advice in making his tax returns. He would simply pay 1 per cent on his monthly sales, which could be computed by his own bookkeeper.

3. The Government would be benefited, because this tax would be much simpler and therefore much less costly to collect than the taxes now levied on the profits of business.

4. Public service corporations and other business enterprises would be benefited, because persons of great wealth would not feel compelled to invest in tax-exempt securities, and investment capital would flow into constructive channels, the income from which would be taxable as personal income.

104. Question. Who would be injured by the substitution of a 1 per cent turnover tax in place of all other taxes on business?

Answer. Mr. Daniel C. Roper, former Commissioner of Internal Revenue, publicly stated that, while the Government is spending \$25,000,000 annually to collect the tax, the taxpayers of the country are spending \$100,000,000 annually in preparing their tax returns.

It is safe to assume that most of this \$100,000,000 represents fees paid by taxpayers to attorneys and expert accountants, many of whom now specialize in tax work, for necessary assistance in interpreting a tax law which is unintelligible to the average citizen and upon which these experts are themselves often in disagreement.

The turnover tax at 1 per cent would be so simple that every taxpayer would be able to compute his own taxes without this high-priced assistance.

105. Question. What other sources of revenue would the Federal Government possess in addition to a general gross sales or turnover tax if levied in place of all other business taxes?

Answer. Taxes on personal incomes, duties on imports, inheritance taxes, stamp taxes now in force on sales of stocks, and such other stamp taxes as may be retained by Congress.

106. Question. Does the time and the energy required for a business man to comply with our present complicated profits-tax law subtract from his business initiative and constructive capacity and tend to retard business?

Answer. Under date of March 22, 1921, Roger W. Babson makes the following statement under the heading "Tax returns curtail March business":

"One very important factor in the recent slowing up of business was the tax returns. People little realize how serious a loss in time the filing of returns under the present system involves. Bank clearings, building permits, and other figures now coming out for the two weeks preceding March 15 (when the Federal statements were due) indicate that the time which our 5,000,000 people have given simply to preparing these reports resulted in a loss of about \$1,000,000,000 in sales, \$550,000,000 in manufacturing, and \$500,000,000 in other lines. If we add to these figures the time of bookkeepers, accountants, Government tax officials, collectors, and inspectors, whose work is unproductive from the economist's point of view, we have far greater loss."

107. Question. Do business men favor the retention of our present system of profits taxes?

Answer. Business men, large and small, would welcome the repeal of our present system of profits taxes and the substitution therefor of a small gross-sales or turnover tax.

#### STATEMENT OF C. P. LANDRETH, PHILADELPHIA, PA.

Mr. LANDRETH. My name is Clarence P. Landreth, 41 North Tenth Street and Fifteenth and Lehigh Avenue, Philadelphia, Pa.

The CHAIRMAN. What is your business?

Mr. LANDRETH. I am engaged in the development and application of electrochemical processes for the treatment of water for cities, etc., and in the manufacture and application of apparatus with which to carry them out. The nature of my business is therefore immaterial, and my views are not affected thereby.

The CHAIRMAN. Only as bearing on your general qualifications.

Mr. LANDRETH. I speak for various people, by the way.

The CHAIRMAN. Your business has to do with municipal filtration?

Mr. LANDRETH. Municipal works of various kinds. It therefore affects the issuing of municipal bonds.

The CHAIRMAN. Do you represent any association, Mr. Landreth, or just yourself?

Mr. LANDRETH. I represent no special interest, but I am authorized to speak for the members of the Business Science Club of Philadel-

phia, and I speak for myself and other American citizens having an interest in the opening of the factories of this country.

Mr. LANDRETH (reading):

It does not seem clear as to the distinction between "income" and profits.

As will be shown, all transactions, within its broad meaning, for money or its equivalent, starting at 50 cents, resulting in the transfer of ownership or benefits, which include many transactions other than purchase or sales, excepting those involving personal services or labor and gifts, may be advantageously considered as a basis for taxation purposes. The transaction is the only common basis.

Questions:

- (1) Will it produce the needed revenue? Yes.
- (2) Would it tax the "poor man's breakfast table"? No (not unless he so wishes); because of the 50 cents exemption.
- (3) Will it be popular? Yes; it will take the tax off the "movies," ice-cream cones, soft drinks, etc.
- (4) Would it tax labor? No; not of any kind.
- (5) Would it reduce prices? Yes; by reducing profit taxes, now estimated to add an average of 23 per cent.
- (6) Would it reduce business profit taxes? Yes; to an estimated average maximum of 5 per cent.
- (7) Would it reduce income taxes? Yes.
- (8) Can any avoid it who should pay? No.
- (9) Does it tax the small sale? No.
- (10) Will it tax the rich who now invest in tax-free bonds? Yes.
- (11) Will it tax borrowed money? No.
- (12) Will it tax bank deposits? No; except upon the interest withdrawn and utilized.
- (13) Will it tax land or other real estate now owned? No; it is not the "Henry George" single tax, but embodies its merits without its demerits.
- (14) Will it tax classes, as often thought regarding income-tax law? No.
- (15) Does it tax benefits when and as derived only, and in financial proportion thereto? Yes.
- (16) Will it tax the "rich" more in proportion than others? Yes (because of the nature of some of their investments), and when not engaged in professions, manufacturing, or trade. (Tax personal money leaving this country.)
- (17) Will it induce investments in business enterprises, and yet yield the same net return after taxes are paid? Yes, if the enterprises prove profitable.
- (18) Would it lower stock market values? No.
- (19) Will it stimulate business? Yes.
- (20) Will it in any way upset present business methods? No; except that it will tend to cut out the "middle men" and to bring producer and consumer together more quickly.
- (21) Will the revenue be difficult to collect or the tax hard to assess? No.
- (22) Will it abolish any present law? Yes; a very unpopular one.
- (23) Will it make foreigners while in this country pay their share of the taxes? Yes.
- (24) Will it transfer the tax from the rich and place it upon the poor? No. It will have the tendency to reduce the taxation of the poor, thus automatically transferring the burden to the "rich."

The so-called "rich" now collect from the so-called "poor," always did, and always will.

Since the "rich" had the brains to earn (and properly invest their wealth), to get back any increased tax is a simple matter. If the tax is raised, it is "passed on" with "their compliments" and something added for their trouble.

It was a short-sighted policy to try to thus tax the rich. It transferred (in a few years) the burden to those who could least afford it.

I am trying to present a means of benefiting the poorer and middle classes (the rich can take care of themselves) and yet raise the needed revenue by a more equal distribution of taxation.

It is also better to have work and a small tax than no work and no tax.

There is quite a difference between a sale and a purchase when it comes to taxation, and unless the law is definite, controversies will arise in large and small transactions. It should be clarified by using the words "such tax to be borne by the purchaser, collected and remitted by the vendor, or lessor."

## AVERAGING SALES.

Small transactions difficulties as regards taxation disappear by not taking those under 50 cents and starting the tax at 50 cents, it being 1 cent up to \$1 and considering only the average of the purchases. The average as between \$1 and \$2 may be taken as \$1.50, and as we do not have a 1½ cent coin the tax would be 2 cents, 1 per cent of the next higher dollar. This would work out equitably to both buyer and seller alike, as will be found by adding up a long column of sales, taken at random from the records of any department store or business.

The purchases not taxed below 50 cents are nearly averaged by those over 50 cents up to \$1, for which the seller collects 1 cent on a 50-cent sale or over. This being 2 per cent of a 50-cent sale and he having to remit but 1 per cent, he will strike an average and would not have to keep account of these small sales individually.

Where the great bulk of sales are under 50 cents, the profits are usually sufficient for the seller to absorb the tax, in case there were small differences in the course of a month.

Thus it is immaterial for revenue purposes whether the seller collects the tax or not, because he is to be held responsible to the Government for 1 per cent of his sales. They can adjust it between themselves.

The amount of the transaction tax could be added to the invoice and remitted for with a payment, in the case of credit transactions. It would therefore not be necessary to keep records of any kind except the total of the transactions. Sellers should be registered and keep records, under regulation. This could easily include bankers, merchants, factories, and all others of responsibility. Where they are not registered, as in the case of small dealers who otherwise might collect the tax and often keep it, farmers and such, who do not keep books, the regulations should provide that stamps be provided and canceled for the tax paid. Thus the purchaser would know that his payment reached the Government.

Should the seller fail to supply himself with stamps, which would not amount to 10 cents a day on a business of \$6,000 per year or \$20 per day, because more than half of his sales would be under 50 cents, evasion could be easily detected by a revenue officer making a purchase. Reporting the evasion to the seller and warning him would have a salutary effect. Postage stamps might be utilized for tax payment.

Ten cents per day, however, on the basis of but 1,000,000 farmers and small stores, would amount to \$3,000,000 per year; sufficient to pay all revenue collection expenses.

Where transactions are in the form of brokerage or the borrowing or loaning of stocks as securities, or transactions where the actual ownership is not changed, these are not to be considered complete transactions until actual delivery is made to the bona fide purchaser.

I brought this basis of taxation to the attention of a large banking and brokerage house and am advised that the details could be worked out much more simply and more to their satisfaction than the workings of the present income and profits tax law.

Emphasizing by law that any transaction from \$10 up on which tax has not been paid shall have no standing in court in the event of dispute will deter either the buyer or seller from evading the tax through collusion.

Where the individuals are neither registered nor have fixed places of business, it may be best to levy as a stamp tax. With further study of the method of collecting the tax it may be deemed best that securities, mortgages, leases, deeds, etc., should have stamps attached to make them legal.

We can not well tax under a direct tax both the income as now and that for which the income is later spent without possible violation of the Constitution.

The great difficulties and complications incident in determining invested capital which include inventories with varying values, property depreciation, etc., now so essential in determining income or profits under the law, should be done away with and this great tax upon business removed. (Regulation T. D. 3109.)

The basis suggested will provide a flexible tax basis also, for the rate might be easily changed without affecting business.

## WOULD NOT MULTIPLY THE TAX.

The transaction tax proposed would not usually multiply to the final consumer, as has been contended with reference to the sales or turnover tax, for in the absence of a specific tax on profits or income this small 1 per cent tax on raw materials, etc., would be classed by most business organizations having a fair margin of profit with other overhead expenses and be lost sight of. Only where the margins were small would it be considered. The labor costs and profits added to raw materials or finished product are not included in the basis to be taxed against the manufacturer.

These suggestions will, I believe, clarify the application of the principles of this character of taxation and remove serious objection.

#### PROPER TAXATION.

A sound basis for taxation is one common to all, both to the corporation and the individual, permitting a direct levy without hardship for either, and proportionate to the individual benefit derived from the basis (a corporation is a group of individuals), levied when and as derived and avoidable by no one.

The transaction basis fulfills these requirements.

Probably through some oversight, the present act provides no allowance for an individual's capital investment as regards taxation, such as is permitted to corporations, and added capital from profits invested is construed and taxed as "income."

This is an unbearable hardship and throttles individual enterprise and is contrary, as I see it, to the decision of the United States Supreme Court.

The Supreme Court decision of May 16, 1921, includes these words:

"As to one and all, Congress adjusted this tax, generally speaking, on the basis of excluding from its operation income to the extent of a specified percentage, 7 to 9 per cent of the capital employed, but upon the condition that such capital be valued according to what actually was embarked at the outset or added thereafter, disregarding any appreciation in values."

This should be immediately rectified and allowance should be made retroactive.

The income tax return form shows the only allowances permitted. No capital nor salary (as an executive) allowance provision is included as permitted a corporation. (See copy of return).

#### REVENUE DERIVABLE.

By taking the business and other transactions of the country, and considering average sales when small, instead of the individual purchase, as will be explained, and considering this as a basis for taxation, we can progress in the problem.

The larger transactions incident to general business rather than the smaller only, should be the chief consideration in a matter of this magnitude.

A transaction tax all pay in some degree now, but are particularly interested in having prices lowered, and the factories opened up. The more simple the basis for taxation the more readily it will be accepted by the public and the more popular it will become as a basis for taxation.

#### TRANSACTION TAX BASIS.

The basis for taxation I wish to present was discussed with hundreds of individuals representing the different classes of people, and the views of executives of business organizations in various lines and groups under which business is conducted was sought in order to obtain any objection to its general application. Included among these were chartered public accountants and experts, manufacturers, department and smaller stores, bankers and brokers, bank cashiers, lawyers, doctors, general insurance agents, farmers, laborers, clerks, etc., and also housewives. I was urged by many that I interviewed to appear before you.

Last year a 1 per cent basis would have resulted in revenues of over \$4,000,000,000. Also, the maximum tax on individual incomes could not have exceeded 1 per cent. Business profits tax would have averaged about 5 per cent. All would have paid their share of the revenue required, instead of a few paying too much, and passing it and "a little bit more" on to the "all."

Bank clearings are representative of the general business (only) transactions of the country when taken over an extended period of time. For the year 1920 the bank clearings were something like \$450,000,000,000. Billions of intermediate transactions over 50 cents are not thus shown. This is a stupendous amount of money and but 1 per cent of this is \$4,500,000,000.

Should we view the transactions (not sales or purchases only) as a basis common to all businesses, professions, and individuals, we shall have something common to all, and it would be a basis, when it is properly applied, for taxation directly proportional to the value of the transaction as set by the purchaser and to the income of profit derived and utilized. It makes no difference to the Government who pays it. It is revenue.

The wearer receives the most benefit from a suit of clothes, the value of which is set by his willingness to purchase. If the income and profits tax were abolished, the workingman would find that when he bought a suit of clothes, instead of the price

being \$25 it would be \$20 in a short time, with only a 20-cent tax. He wants work and lower prices, and would pay his share of taxes gladly. I know for I asked him, and believe his answer. He is intelligent.

A manufacturer or other business organization buying new machinery, raw material, or such, or finished products, in the absence of a specific profits or income tax, would pay 1 cent on the dollar. They would then know that the revenue tax was paid in full. Business could then go ahead on a definite basis. The tax on profits or incomes would only be due when the profits or income were spent—bank deposits taxed when utilized.

#### EXPORTS.

The people of these United States desire to sell that which they can produce, and to export merchandise, (the best business obtainable for the people as a whole), but should an individual or an organization wish to create an export business, by spending, say, \$100,000 this year in advertising and expenses, they dare not do it.

Should they have no profitable business this year and lose the \$100,000 their capital would be reduced that amount. If next year they gained a profit of \$100,000, their capital would be restored, but there would be no real profit.

However, because of the income tax law as it now is it would be ruled that there was \$100,000 profit during the year in which it was derived, and be taxed accordingly, to a large amount, approximating \$30,000 or \$40,000. The proportions illustrated may vary, but without affecting the principle. The tax law relates to the specific year in which the profit is derived.

Thus, an organization would lose in money as capital, paid as tax, for having enterprise, and for providing (on a 10 per cent profit basis to others) \$1,000,000 worth of business for laboring men and others.

They retain their capital as cash and invest in tax free, and Government bonds.

This same law applies to every business, including farming. Many businesses require years of losses before a profit above capital invested is realized. Is it any wonder, therefore, with such taxation, business enterprise and buying is at a standstill, and that our factories are closed down?

While this is now a "buyer's" market, he can not buy because he can not sell, and thus the factory can not operate. If the present law is to stand (as it certainly should not) then provision should be made for averaging profits and losses over a period of years, and equal allowances to the individual as to the corporations.

#### TAXATION.

It is fully realized that revenue for Federal purposes must be obtained, and that it is necessary to procure such revenue from sources that will work no further injury to the business and the agricultural interests of the country. Reduction of revenue from one source demands a substitute source. Incomes from business are the most uncertain of all sources.

#### THE "VICIOUS CIRCLE."

The endeavor to tax goods, securities or effects, profits, and income as such has led to injustice, discontent, hardship, and business depression in nearly every instance.

The Constitution says that the Congress may (not shall) levy upon incomes. When proposed and later adopted, it was thought by many to have meant incomes in reality and as received used for personal or family purposes.

A law was passed, and then came the difficulty to define or determine incomes or profits. A like law pertained to corporations. Then came the war, requiring increased revenue, and then as a final result of this tax basis, higher prices, higher than necessary.

The difficulties resulting from this basis of taxation produced business and investment uncertainty, then business depression, with labor thrown out of work. Then more uncertainty and depression, less consumption and less work, and less money. Capital became overcautious, invested in tax-exempt and Government bonds, and "sure things" only. Thus the "vicious circle" was completed.

The "root" of the trouble is the profits and income taxation basis. If we dig it out (it is worm eaten and rotten, and should be forgotten) and throw it away, capital and business will then know where it stands. Reducing percentages only cuts 1 inch at a time off of the dog's tail, prolonging the suffering. The complete tail might finally be cut off, but why the additional suffering? Revenue can be produced otherwise than from profit and incomes, as such.

**LETTER OF DR. JAK. A. SCHWARZMANN, NEW YORK, N. Y.,  
MEMBER OF THE BOARD OF THE NATIONAL INDUSTRIAL CON-  
FERENCE, IN REPLY TO J. C. PEACOCK.**

MAY 19, 1921.

Hon. REED SMOOT,  
*United States Senator, Washington, D. C.*

DEAR SENATOR SMOOT: Going over the records of the hearings of the Senate Finance Committee I find amongst those testifying before that committee Mr. J. C. Peacock, representing Mr. Fayette R. Plumb, of Philadelphia. Mr. Peacock seems to base his argument on Mr. Plumb's ideas and Mr. Plumb in turn bases his argument on the report of the tax committee of the national industrial conference board. I myself was a member of this tax conference and attended all its meetings, and being familiar with all proceedings of and before this body, I wish to draw your attention to the fact that Mr. Peacock seems to have successfully created an entirely wrong impression of the attitude towards the sales tax taken by the national tax conference board, the enlarged tax committee of the national industrial conference board. I therefore wish to correct this impression if you have not already been correctly informed.

The enlarged national tax conference board elected a committee in Chicago consisting of about 15 members. This committee reported to the enlarged board its attitude in the matter of tax reform, especially the sales tax, during last winter at a meeting held in New York. This report ostensibly was also sent to you and the other members of the Senate Finance Committee. So far Mr. Peacock is correct, but he fails to say that this report was never accepted by the enlarged national tax conference board, but sent back by nearly a unanimous vote to the reporting committee for reconsideration along the attitude revealed in the discussion of the report. This attitude was immensely strong in favor of the sales tax, and only the courtesy of those in favor of the sales tax prevented a resolution condemning the report. However, no new report came out and nothing further was submitted to the members of either the national industrial conference board or the enlarged national tax conference board. It is obvious that the committee simply wanted to prevent a vote in favor of the sales tax and also prevent a vote against those fighting this tax, namely, the committee.

I also wish to call your attention to another incident as to how the work against the sales tax is conducted. I represented as national councilman the Silk Association of America at the annual meeting of the United States Chamber of Commerce at Atlantic City, where the sales tax was also discussed. At this annual meeting an overwhelming majority of those present was in favor of a sales tax, but a vote in its favor was prevented by the argument that the question had already been passed upon by a referendum, and that it therefore could not be submitted to the members again, but the same convention passed a resolution against public ownership of the railroads, although this question had also already been submitted for a vote by referendum No. 28. This shows the inconsistency of the argument.

I hope that this information will be of value to you, and if you wish me to do so I am willing to appear before the committee to testify in this matter as well as argue for the sales tax.

**STATEMENT OF ROGER W. BABSON, WELLESLEY HILLS, MASS.,  
PRESIDENT OF THE BABSON STATISTICAL ORGANIZATION.**

In behalf of my clients I appeal to the committee not only to eliminate the excess-profits tax and reduce surtaxes in the interests of the Nation as a whole, but also to simplify the entire system. I have in mind not simply the time and energy spent by thousands of accountants and bookkeepers, but rather the psychological effect of the system on the enterprise of the country.

The growth of every community and hence the Nation as a whole is due not to our natural resources or available labor (there is more of each of these in China than in America), but rather to the faith, courage, and thrift of a very few men; often one man in a town. Statistics clearly indicate that 90 per cent of all the construction work and production of the United States, including railroads, steamships, factories, and homes, is planned and commenced by less than 2 per cent of the people—largely by those who pay excess profits and surtaxes. I make no appeal for these people as individuals, but do call your attention to this fact: These present irritating taxes probably reduce construction and production in the United States about \$2,000,000,000 a year. As the collection of the taxes adds nothing to the wealth of the country, the present

system results in an annual loss of \$2,000,000,000. I believe that this loss would be greatly reduced by the adoption of a simple sales tax as proposed by the bill you are considering.

One thing more: There has been much discussion of the 23 per cent figure of the Department of Justice. Of course, this can be only an estimate when determined by anyone; but I wish to go on record as making a similar estimate. Moreover, by using the very same method that the opponents of the sales tax use, a greater figure than 23 per cent is obtained. They claim that a sales tax of 1 per cent would multiply three or four times in reaching the ultimate consumer. If so, the present business taxes must likewise multiply three or four fold. When one does this, 23 per cent seems a conservative estimate. All of this means that the sales tax would be a much more equitable as well as a more feasible method of taxation.

#### A WORD ON THE SALES TAX.

[Issued as a supplement to the Investment Bulletin, No. B-223, of Babson's reports on fundamental conditions.]

The plan for a tax revision that will take the shackles off business is losing ground at Washington. Secretary Mellon's letter to Chairman Fordney leaves no doubt. Political expediency may doom the sales tax, which up to the present has been gaining favor in Congress and with business men. The same reason answers for proposed legislation with corporation taxes and surtaxes.

The excess-profits tax, counted on for \$400,000,000 this year, is to be repealed, according to promise, but the same amount is to be derived by a flat tax on corporations; that is, corporations that do not make the current interest return on capital may be taxed and even the \$2,000 exemption removed. Surtaxes are to be reduced so that no individual will pay more than 40 per cent this year and 33 per cent in 1922, normal tax and surtax combined, as against a possible 73 per cent now. This because the higher rates are uncollectible, merely driving capital into tax-exempt forms. But the loss of revenue is to be made up by readjustment in the lower schedules.

Business and the investor alike have much at stake in the present situation. World-wide liquidation, enforcing the trend to lower money rates, doubtless will dominate national influences. But ill-advised legislation now can delay and handicap America against her competitors.

There is no uncertainty as to the present major influence on the minds at Washington. The Farmers' Union and other interests have joined in pronouncement against a "consumption tax." They ignore the economic fact that the present income tax is in effect a consumption tax. It is estimated that allowance for Federal taxes carried into business costs is the basis for about 23 per cent of average retail prices, whereas a turnover tax could reduce this to not over 3½ per cent of retail value. Nor should the point be missed that the latter figure is all that the Government now really recovers. The rest is dissipated in business extravagances, waste, and expense attendant upon computation and collection.

That the Western farmer will oppose anything that will reduce retail prices is understandable because, so far, this reduction has put the heaviest losses on them. They are misguided in not being informed that the sales tax is a step to reduce overhead between producer and consumer, to the benefit of both.

That the sales tax, to quote Chairman Fordney, "is the sanest, the most economical and most effective means of collecting Government revenue" a majority in Congress is convinced. Senator McCormick, the leading opponent, claims to have 20 only out of the 59 Republican Senators pledged against it. Could the sales tax be brought to a vote, it is hardly to be doubted that sufficient Democratic support would be forthcoming to pass it, if for no other reason than to make capital for 1922 out of the majority party dilemma.

Congress has lost its heart, and is in danger of losing its head, to the farmers. Their plea is vocal, every day, through two highly paid agents at the Capitol. The present Congress was elected on a promise to cut the red tape of Government regulation and illogical taxation which is strangling business. Election over, the business man tendered a vote of confidence to the incoming administration and is waiting patiently. It now appears that Congress is tempted to violate that confidence—to play politics—to put over a "stuffed elephant" tax reform in place of the real and necessary relief.

Business men generally, as individuals, are paying too little attention to what is being done—or not being done—to further sane taxation. Taxation will come up as soon as tariff legislation is settled. If you are in favor of a revision which will lessen costs, lower prices, and aid in reviving business, write, telephone, telegraph, or go, personally, to your Congressman and Senators and let them know your attitude.



**STATEMENT OF ROBERT R. REED, REPRESENTING THE NEW YORK BOARD OF TRADE AND TRANSPORTATION OF NEW YORK CITY.**

Senator McCUMBER. Mr. Reed, will you kindly state your full name, your residence, and whom you represent?

Mr. REED. Robert R. Reed, attorney, 15 William Street, New York, appearing for the New York Board of Trade and Transportation of New York City. I might say that I am appearing specially for the board in this matter by request and am not counsel for the board. The board is one of our three large business organizations there, and its character, standing, and membership are generally very well known.

In reference to the action of Mr. Plumb's committee, to which Senator Smoot has referred this morning, I want to supplement in one respect Dr. Schwarzmann's letter which he introduced. I was not present at the first tax conference in Chicago. I have talked with gentlemen who were there, and I am subject to correction. I believe it a fact that the so-called enlarged tax committee, whose report is referred to in Mr. Peacock's testimony, was appointed at that first tax conference through the medium of a nominating committee named by Mr. Plumb. The discussion that ensued does not appear in the printed proceedings, but, subject to correction, I understand that it is a fact that there was opposition to the selection of a committee in that way; and to meet that opposition it was stated that any committee that was appointed would necessarily have to refer back to the conference before its report would have any effect. The resolution that appears from the proceedings to have been adopted states that "the enlarged tax committee shall thereafter, upon reasonable notice, reassemble this tax conference for consideration and appropriate action on the recommendations made."

As a result of that discussion that committee was appointed. I do not want to appear overcritical. Mr. Peacock stated that Mr. Plumb was originally an ardent supporter of the sales tax. I do not know of any one of the so-called sales-tax advocates that ever knew or heard of that tax; and what I particularly want to emphasize is that if he was an ardent advocate of the sales tax he was extremely fair in selecting that committee. At that time and still business sentiment runs at least 80 per cent in favor of a sales tax. He bent very far backward in selecting his committee, and eventually bent so far backward that he fell in with the majority of that committee, which, for one reason or another, was opposed to the sales tax.

The sales tax conference was reassembled twice. It was never possible to secure their acceptance and approval of that report. It was stated on the floor of the third tax conference by a member of the committee that they knew what the conference thought of their report. Every effort was made to put a sales tax resolution before that conference and the board opposed it and straddled the situation by referring their report for reconsideration, as was stated here yesterday, and that report, I understand, has been reissued and distributed to the constituent associations and no further effort has been made to call a tax conference.

Mr. Chairman, at a meeting on October 13, 1920, the New York Board of Trade and Transportation unanimously adopted a so-called tax platform. That platform is somewhat long; it contains a num-

ber of preambles and three specific propositions. The first proposition is as follows:

*Resolved*, That we urge the prompt repeal of the excess-profits tax and the substantial elimination of the equivalent so-called surtaxes resting against the income derived from effort or risk.

That proposition was later embodied in a referendum of the National Association of Manufacturers, on which over 8,000 members voted; 96 per cent yes, 2 per cent no, 2 per cent not voting. The second resolution was:

*Resolved*, That as a substitute for these taxes we recommend that there be levied upon each and every business involving the sale of any commodities or merchandise produced, manufactured, or purchased by the vendor for sale a tax equal to 1 per cent of the gross sales of such business, and that such tax be collectible monthly from the vendor, who should be compelled under penalty to keep a true record of sales.

That proposition was also specifically embodied in a referendum of the National Association of Manufacturers. There was a vote of over 8,000 members; 82 per cent voted yes, 12 per cent no, and 6 per cent not voting—practically 7 to 1 for the commodities sales tax.

The third resolution was:

*Resolved*, That any further experimentation with what at present seems to be the very dangerous fallacy of discriminatory profit taxation should be abandoned at this time.

That proposition was also submitted in a referendum of the National Association of Manufacturers and received a vote of 89 per cent yes, 6 per cent no, and 5 per cent not voting, practically 15 to 1 against further experimentation with discriminatory profits taxation.

Senator McCUMBER. If you will allow me, Mr. Reed, I would like to say that what the committee really wants to get at, and what is more important to them than what the particular sentiment of any section or any class of people may be, are the real merits and demerits of the proposition. I understand that the farmers, for instance, are going to vote upon this matter in the near future, and I assume from remarks you have made that you would not have us decide simply on what the farmer vote should be, but you would have us go right back to the merits of the case and decide what ought to be done and what is for the best interests of the public, which includes the farmer and the consumer.

Mr. REED. Yes; that is absolutely true.

Senator McCUMBER. It is not so much of a question whether this element or that element supports it or is against it, but whether it is meritorious or otherwise. The committee likes to get right down to the meat of this proposition.

Mr. REED. I am simply attempting to meet the effort that has been made to misrepresent the real sentiment of business on this subject. I do not say that business sentiment should govern, but I do say that there is no question whatever as to what it is. The commodities sales tax proposal embodied in this tax platform represents what is known as the Galey & Lord proposal, which was originally proposed to the New York Board of Trade by Mr. Charles E. Lord, who has already appeared before your committee.

I want to say also, Mr. Chairman, that this advocacy of a sales tax comes from the general business interests of the country, from active competitive business of a representative character. It is

in no sense a move of rich men to saddle their taxes on the consumer, but of business men to obtain an honest, dependable, and productive revenue system that will not hamper and in the end destroy the freedom of enterprise and of competitive production.

We recognize, however, the very definite, powerful, and able minority business sentiment opposed to the sales tax. We recognize clearly the fact that there are several large interests that are favored by the present system of taxation; and we recognize the fact that large fortunes invested in capital are favored by it. We recognize a certain amount of opposition from representatives of labor and agriculture, and we believe that they have been honestly misled into opposing the least burdensome form of consumption tax in the belief, which members of this committee know is unfounded, that the present taxes rest on the very rich. This first impression of the tax situation is very rapidly being corrected, a fact evidenced by press comments and correspondence from all parts of the country. I think we all started—I know I myself did several years ago—with a prejudice against the sales tax. Most of us, I believe, if we study it through, and have no interest opposed to it, will come to recognize its practical necessity at this time.

What this committee is going to do is to sit down at a table and decide how the Government is to raise the money which it needs to meet its appropriations. We start with approximately \$2,500,000,000, which we all agree can be raised by a revision and continuance of present taxes before we need to consider the sales tax. We have a variety of alternatives to produce the additional \$1,500,000,000 which must be raised before we even approach the point where we can consider extra expenditures, reduction of war debt, etc. A sales tax is not available for these extra expenditures.

We have Mr. Mellon's letter to Mr. Fordney before us. We learn that income and excess-profits taxes have fallen off \$850,000,000 from our estimate of 1920, that the surtaxes are producing only \$500,000,000, and that the surtaxes above 32 per cent are producing only \$100,000,000.

One of the members of the committee asked a witness here yesterday whether in reducing these surtaxes to 30 per cent you were going to take the taxes off the rich men and put them on the poor man. There is the official answer, that you are getting only \$100,000,000 above the 32 per cent.

We see deflation relieving consumption and reducing to the vanishing point the vast revenue that by inflation was taken out of consumption. And yet you must find the revenue to support a Government which can not suspend, to meet appropriations that have to be made, and some which, perhaps, ought not to be made. You must find \$4,000,000,000 and you may need another half billion to avoid a deficit. You want to see business revive and labor reemployed. You want to see farm products move with a minimum of tax hindrance to the consumer.

We all want to see a contented people and also a contented electorate next year.

The practical question is simply that of getting at least \$1,500,000,000 to avoid a threatened deficit in the Federal revenue. If those who talk of retaining the present excess-profits tax and

higher surtaxes and of getting the Federal revenue out of the rich men will discover some way to put their purpose into legislative form and practical operation, if they can make these taxes rest on the rich man and the so-called monopolies, who are now as a class relatively immune from them, and if they can raise the revenue in this way, we may concede, at least for argument, that the proposal of the sales tax would be futile. If those who talk of raising additional money out of special taxes on articles of general use will tell us in detail just what articles they are going to tax and how they are going to tax them, what the rates are to be, and if their proposal when presented appeals to the committee and to Congress and to the farmer and the working man, as preferable to the general sales tax, and if it will raise the revenue, we may again concede for argument that the proposed sales tax will not prevail. If you can reduce the appropriations to \$3,000,000,000, we probably would not be here urging a sales tax. If none of these things can be done, and so far no one has shown us how they can be done, the question of a sales tax becomes urgent and its enactment in some form apparently inevitable.

The present situation is remarkable. Our diminishing revenues are derived from active business, and the taxes are keeping and driving capital out of business, drying the stream of production and enterprise. The "swollen fortunes" which are the intended victims of these taxes are peculiarly safe from them.

Senator CALDER. Right there; it has always seemed to me that the present system is a tax on the worker and the doer.

Mr. REED. That is exactly what it is.

Senator CALDER. And it permits the idle rich to escape?

Mr. REED. Yes.

Senator CALDER. They take their money out of business and put it into tax-exempt securities and do not pay any tax, while the worker and the doer contribute to the part that they should pay.

Mr. REED. That is exactly the situation. There is another factor that is only beginning to be realized. I was talking yesterday with Mr. Harris, the chairman of the taxation committee of the investment bankers, who appeared before you yesterday, and he verified an impression that I had received in New York, which is this: He says that in Detroit there are a great number of active business men in middle life who are quitting business, retiring. He says out in California there are a number of relatively young men from the East and Middle West who have quit business, because, taking it all in all, it is evident that a man is better off financially if he can withdraw his money from business and invest it in absolutely tax-free or relatively tax-free investment and enjoy himself.

Senator CALDER. Then he does not have to take the risk of losing in business?

Mr. REED. No.

Senator SMOOT. There is hardly a day passes but what I find in my mail letters offering State bonds for sale exempt from all Federal, State, county, and city tax. In this morning's mail I have one offering a million dollars of bonds of the State of Georgia. The price at which they will sell yields 6½ per cent interest, tax exempt in all forms. Another here is offering from the city of Yonkers, N. Y., \$700,000 exempt from Federal, State, city, and all other taxes.

Mr. REED. The State of North Carolina has recently been offering bonds on a 6 per cent basis.

Senator SMOOT. And in the face of that you talk about men going into business and risking their money. They are not going to do it.

Senator McCUMBER. I have heard a great deal of argument along the line of these rather large sums of money being diverted from business and going into these tax-free securities, but I have never found anyone yet who could give me any figures to show to what extent they have been withdrawn from business and to what extent that same money has gone into the purchase of tax-free securities. Have you any data on that subject?

Mr. REED. I do not believe it would be possible to give actual figures. It is not possible to even determine the total amount of tax-exempt securities outstanding. Various estimates are made from 12 to 14 billions. If you cut the surtaxes down to, say, 20 or 25 per cent, I think it could be figured out that the actual maximum loss in revenue to the Government would be not over \$150,000,000 a year.

Senator McCUMBER. It is easy to make a computation that when the surtaxes reach a certain amount it is better to invest in tax-free securities than in the average business. That we all admit. Therefore there is a reason for buying the tax-free securities, but I have no information as to what extent that condition has been forced.

Mr. REED. I can tell you one thing which I know from my professional connections. My firm specializes to some extent in the approval of municipal bonds. There are only a relatively few law firms that do it, so we are in touch with that limited situation. It is true that since these taxes have been operating, and particularly since the war spirit has declined somewhat, a very large part of the business of the investment banker dealing in municipal bonds has been taking municipal bonds out of the savings banks and selling them to rich investors. That is a recognized market fact. Millions, I suppose billions, have come out of savings banks in all parts of the country, have come out of every place where they ought to be, where the savings of the poor man, so-called, rest, taking the great liquid capital of the country which should go into active enterprise, while the money in the savings banks has had to go into various forms of railroad and other securities, mortgages, etc.

Senator CALDER. You have in mind, of course, the mutual savings banks, such as we have in the East, where the profits are not subject to taxation?

Mr. REED. No, Senator.

Senator CALDER. In New York State our deposits total something like \$5,000,000,000 in the mutual savings banks. We have been large holders of State securities. I know those securities are leaving the savings banks and we are taking the railroad securities, the profits of which are also exempt from taxation when in a savings bank, and the rich men of the country who are trying to escape taxation are buying out of savings banks those municipal bonds.

Mr. REED. I think it is a normal thing for men to invest their money according to investment principles.

Senator CALDER. That is natural.

Mr. REED. I think during the war some men, as a matter of principle, refused to buy municipal bonds that were exempt from taxation.

Senator CALDER. But we have passed laws for the benefit of the idle rich.

**Mr. REED.** We have and for the destruction of business of the country if it continues. But I intended to include, and I think I did, in my statement, all large institutions, not only savings banks but the great insurance companies. The invested capital features have had something to do with that, because a bank subject to the excess-profits tax is penalized on the holdings of its municipals.

There is one further fact that I want to state without comment. I referred a moment ago to the investment of capital in tax-free or relatively tax-free securities. The fact that I want to state is this. A corporation earning on a secure investment basis, say, \$8,000,000 a year on a capital of \$100,000,000, owned possibly by one stockholder or a family, escapes with a total tax of 10 per cent, and you do not get any more out of it. The surtaxes do not touch it and can only touch it apparently by a scheme of graduated undistributed profits taxation, which would play havoc with active corporate business and send more capital into tax-free investment.

**Senator CALDER.** Still, in connection with this concern you have cited, the individual stockholders must pay a return.

**Mr. REED.** If they receive it.

**Senator CALDER.** How do they avoid that?

**Mr. REED.** They do not have to receive it. If one man owns that large corporation he can keep it forever. It passes by death free of tax. In a great many instances that is being done without any attempt to violate the law. There are families who have had their money invested in corporate form for a generation or two and it is still there. They have never distributed it. The stock represents the ownership.

Again, the great increase of wealth lying in land and natural resources is untouched, and the development and use of these resources is prevented by these taxes. It is not a question of substituting or changing anything. You are not getting revenue. You can not get it. I am emphasizing this simply on the question of the possibility of getting the revenue by increasing these taxes. I am not even urging the elimination of them. We are urging a sales tax here to get the revenue because these things are not getting them.

We can not even continue these taxes at confiscatory rates as a quasi-capital tax when we are unable to make them productive or to apply them equally to all income and have them rest where they fall. That they are not productive, that they do not apply to all real income, that they do not apply equally to secure periodic or unearned income on the one hand and to insecure, varying, or earned income on the other, and that they do not rest where they fall are demonstrable propositions. These considerations, briefly stated, place a limit on the productivity of these taxes and make it useless and dangerous to maintain them above the point of maximum productivity. I think probably the maximum is around \$2,000,000,000 in normal times, and if you want to put them where they really rest and not be shifted, I should say that the maximum is probably \$1,500,000,000. Practically all you are getting, the great majority of it, you are getting from the business and from the occasional transactions in a given year. A lot of these estimates of the incomes of certain estates, etc., as appears by the income-tax returns, are simply the case of one man who made a killing in one

year. He is not half as rich as thousands of other men who have had it for many years. Relatively little of it comes from secure income or from the so-called swollen fortunes. It comes out of business.

How is more money to be raised from these sources? The incidence of these taxes on business has many effects, including at the present time suspension and unemployment. Business can not pay both high taxes and high wages when there is very little buying of their goods. Five million men, we are told, are out of employment. We do not pretend to represent these men, but we do represent the businesses which give them employment, many of which have had to suspend or reduce operations, and which under improved conditions will be able to give these men employment. I do not say that the taxes are the sole cause of these conditions. I say that they are one cause and can be a much greater cause in relieving these conditions. In a very real sense, despite inequalities of fortune, the prosperity of business means the prosperity of all, of our whole United States. I might put it graphically. If you starve the capital out of business you starve the people. The present taxes because of their unavoidable arbitrary effects have shut off the stream of capital into production and have taken from active business, not from idle wealth, the profits which should go into production. The effect is more serious on the working man and small farmer simply because he has less reserve with which to meet it.

Congress can not fill the stomachs of men, women, and children and strengthen the home market for our farm products by telling them that it has imposed the tax burden on the rich. It can not allay popular unrest by confessing that the rich man is so unconscionable that after all he hasn't paid the tax and won't put his capital into production because of the taxes. To restore normality and business freedom we must have normalcy in taxation. We have got to fit our scheme of taxation to the powers of government and the principles of economics, if we find that these powers and principles do not fit the scheme of graduated profits taxation.

The time to do this is now. I venture to predict that if it is done now, if the income tax is adjusted to produce its maximum without shifting and supplement it by a commodities sales tax running straight to the consumer, the country a year from now will voice the general approval which in the Philippines and Canada has followed the sales tax experiment. We all hear that there is a political and possibly partisan aspect to the matter. Personally, I believe that members of both parties will be found on each side of the question. Although I can realize that the party now in power will wish to face a contented electorate in 1922, and also to avoid a deficit, yet I do not believe that members of the other party will wish by their voice or votes to imperil the welfare of the country or the fiscal operations of the Government.

What are some of the proposals before the committee? To raise \$330,000,000 by a transportation tax, superimposed on railroad rates that block the arteries of trade. Here is one item that both penalizes production, trade and wages and rests on consumption at a pyramided cost far beyond its revenue yield.

It has been proposed by various opponents of the sales tax—I do not know to what extent it is under consideration to-day in the Treasury—to raise several hundred millions by tax on sugar, tea,

and coffee, a pound tax, a tax on consumption by the pound, and not on expenditure in dollars. It has also been proposed to continue and extend the various excise taxes on the living wage; and I say on the living wage because I am sure that none of you gentlemen want to face your constituents to-day with the proposition that the workingman and his children should go without the articles of wide use but not of first necessity, which pay these taxes, articles such as musical instruments, proprietary medicines, sporting goods, toilet articles, motion pictures, small jewelry, and other similar articles as yet untaxed. Are you going to tell the consumer that those are not necessities? We can not in a period of reduced incomes consider real luxury taxes a source of revenue. We all sympathize with the man who is down and out. We can not levy our taxes on him. We must consider the average workingman and the average farmer. He uses all these things and he pays those taxes, and the total of those taxes is as large as the total of the proposed general sales tax. More than that, many of those taxes are imposed at the base. There has been some discussion of the pyramiding of the general sales tax, and I shall come to that later. Again, many of these taxes are deductible from the gross income of men who pay, or are supposed to pay, 60 or 70 per cent. They reduce the yield in other directions. I do not believe that there is any question but what as a consumption burden this tax far exceeds the burden of the general sales tax on commodities. Unfortunately, although we can still talk about taxing luxuries, we can not consider them in our estimates of revenue in a period of depression.

We must seek articles of general use, and if we are going to have these special taxes, we must get them more or less specifically, according to the use of these different articles, and not generally, according to the expenditures of the individual. The real extravagance is the gross expenditure, and, leaving out the man who is absolutely down and out, with the normal individual, so-called rich, or so-called poor, his own test of his ability lies in his expenditures. We are not urging the sales tax, of course, as a substitute for the existing taxes, but as a base tax. Your first test of ability is that of expenditures. These special taxes are the kind of taxes that some farm and labor leaders are committing themselves to in their hasty denunciation of a general sales tax as an effort to shift the burden.

Senator McCUMBER. This test of the expenditure is a very poor test, especially on purchases, because the poor man has to wear about as much clothes as the rich man, he has to eat about the same, and he has to pay about the same for his flour, etc. Therefore, he is sharing nearly equally with those who can afford to pay a very much heavier tax.

Mr. REED. That very much heavier tax must come from the income tax.

Senator McCUMBER. That is true to a certain extent.

Mr. REED. We believe that the exemptions from the income tax should be raised, if the sales tax is adopted, to a point above normal expenditure; so that the sales tax will tax the normal expenditure, and the income tax will begin beyond that and will be graduated, as far as it can safely be, to produce the revenue.

Senator CALDER. What figure would you place on the exemptions of incomes if you have a sales tax?



Mr. REED. It has been suggested at the beginning at \$2,000 or \$3,000 and possibly doubled in the case of a married man and at least \$500 for each child. We are considering now the average expenditure, and those figures seem fairer than the present figures.

There is one other alternative that is very often mentioned in private conversation—I do not know that any gentleman has gotten to the point of mentioning it publicly on the floor of Congress—and that is as your revenue under the existing system declines you raise the rates to maintain the yield. Logically that is what you have to have if you are going to continue on an exclusive income-tax basis; as the yield from the higher rates declines you have to raise the rates on the moderate income. That means to raise it on salaries, on reduced corporate and business incomes, on small invested incomes, so as to produce, if we survive, a greater revenue. We can refuse to believe the demonstrated fact of shifting, and get a higher rate out of the lowered profits. We can go on a while longer that way. I do not think that Congress is going to accept this alternative, because it is too plain a confession of the fact that the higher surtaxes do not pay.

This proposal to get this needed new revenue out of higher rates on moderate incomes presents the fundamental issue between income and expenditure as a source of an additional tax. This is not an issue between the rich and the poor. It is the direct issue between income and expenditure, with a discrimination in favor of saved income, or of thrift.

What is in fact proposed on both sides? On the one side is the continuance of the present low exemptions, with several million tax returns and higher taxes paid out of incomes which are practically spent before they are paid; all the difficulties, monstrosities and actual burdens of collection and payment, for the tax collector and taxpayer, with which we are familiar, with hundreds of thousands of tax dodgers, and increasing costs of collection, increasing delinquencies and voidances, probably an ultimate breakdown in the whole endeavor.

On the other hand, with an increase in the normal exemptions as proposed, we have this same class bearing the same burden through its expenditures, enjoying immunity from income tax returns but not from taxes; we have partial exemptions to the frugal but none to the dishonest.

In the last analysis the so-called shifting involved in increased taxes on expenditure is not really from the very rich to the very poor but from the average more prudent and more thrifty citizen to the average less prudent and less thrifty or more extravagant citizen.

Finally, we come to the sales-tax plan itself, which is simply a business conception of a general sales tax covering the turnover of commodities in their transmission from the producer to the consumer. It involves all commodities and nothing more as we propose it, and I think that is a conception of it now that is practically universal.

Mr. Rothschild, who appeared here yesterday and who has done a great deal of very good work and really agrees with us in principle, does talk about an inclusive-sales tax, but we feel that the principle of the sales tax is concerned with those things that move from the producer to the consumer. It can not apply at all to things in the nature of capital assets or gross income, as in the case of services and

things of that kind, but to the gross sales of things that move from the producer to meet the demand of the consumer. When it rests on that it rests on consumption. If it passes down the line under competitive conditions, and we have to assume those conditions, it is going to pass in principle, I think, without any loading and in practice with an almost negligible amount of loading.

I spoke a moment ago of those other taxes which rest at the base and are necessarily loaded. Assuming that a 1 per cent sales tax at the base of an article means that amount in addition to the cost of the raw material. That 1 per cent does not involve any outlay of capital or other expense, and competition will tend to pass it down the line without loading. But assuming that it is loaded. Its amount, relative to the final cost of the article, is so small, that the loading is almost negligible.

The bulk of the tax is raised on the last two transactions.

This tax has been in force in the Philippines for some years, and I think you are fully familiar with its success there. I have never heard anything approaching a representative statement questioning its success in the Philippines from the point of view of administration and from the point of view of the consumer.

Senator McCUMBER. I would suggest to you, Mr. Reed, that on account of the fact that there are other witnesses still to be heard it would be well for you to boil down your statement as much as you can.

Senator SMOOT. If there is anything that you desire to put in the record you may do so.

Mr. REED. I shall do that, Senator. I, of course, wanted to meet some of the questions that have been raised. I think they have been largely met, but not wholly.

The New York Times not long ago referred to the "interested opposition" to a sales tax. The Times said editorially last Saturday, "When the interested opposition is separated from the rest, how small and theoretical is the remnant." It is this interested opposition that it has been hardest to understand. Disinterested opposition expresses itself honestly. It does not say, as was said in the report of Mr. Plumb's committee, that the sales tax is designed to shift two billions of taxes from business and personal incomes upon consumption, while admitting in the same report that the business income taxes are largely shifted and represent special taxes which rest on the same consumption.

Disinterested opposition does not tell the business man that there is doubt as to the constitutionality of a sales tax, as was done in the referendum submitted by the United States Chamber of Commerce, and it does not construct a referendum so as to have successful votes on two absolute alternatives, one for a sales tax in substitution and one for a sales tax in addition to other taxes, and then count the negative vote on each as hostile to the sales tax. That is not disinterested opposition, in my opinion.

This kind of opposition has overreached itself and been exposed, except in one important respect. Its source and actual interest has not been exposed, nor do we know the extent to which this source and interest has accelerated other opposition. You have noted the unfounded attack by a Member of the lower House on some of the proponents of the sales tax. This attack has itself reacted, and if

there is one matter now established it is that there is no large financial interest or so-called Wall Street organization back of the sales tax proposal. In fact, there is neither organization nor effective cooperation between the various advocates of a sales tax, which to date represents the effort of individual business men and separate associations, the clearly competitive type of business men, to express the desire and interest of active enterprise to have the Government levy a practicable and dependable tax on business. It is generally said that the sales tax is proposed as a substitute for the excess profits tax and the higher surtaxes on business profits. In a sense this is true. It is an honest consumption tax, producing a minimum of burden, in lieu of a disguised and loaded consumption tax producing a maximum burden. But as the matter stands to-day, it is no longer the fact that the sales tax is a substitute for the excess profits tax or higher surtaxes. The Treasury substitute for the excess-profits tax is the increased corporation tax and recognizes the fact that the higher surtaxes have been eliminated as a source of any great revenue.

The fact is that the sales tax is an additional tax necessary to produce the required revenue and to avoid the deficit now threatened by the excess of appropriations over revenues in sight from either the existing or proposed income taxes. It is a substitute, if such a word may be used, for the transportation tax, the more objectionable special sales taxes, the proposed sugar tax, and for other suggested alternatives designed to raise about \$1,500,000,000 that is wanted to prevent a deficit in the revenue. Approximately \$2,500,000,000 to \$3,000,000,000 represents the maximum revenue in sight from other taxes. The bulk of it is derived from normal and corporation income tax, less than \$1,000,000,000 from the graduated taxes, including excess-profits tax or surtaxes.

It is in this aspect, as a distinct proposal to raise revenue and avoid a deficit, that the sales tax must be considered and the arguments of the opposition, interested or disinterested, must be weighed.

A part of this opposition rests on the assumption that the sales tax will or may not be shifted. Every recognized authority refutes this assumption. Profs. Bullock, Seligman, and Fairchild, I believe, agree fully on this. Prof. Adams concedes it, perhaps grudgingly, as he lends his name, I believe, to the sales tax ghosts that see a sales tax as a possible 20 per cent to 50 per cent tax on the net profits of business. He does not, I take it, question the economic principle that the sales tax will shift. One point, however, I wish to emphasize as to the nature of the shifting.

I believe it was Mr. Plumb's report that used the statement that even rent may not be shifted in some cases, with the intended inference that when rent can not be shifted, a sales tax must be absorbed. Rent is an overhead, and it must be clear to you as intelligent men that even when rent and other overhead and relatively high costs can not be shifted, even when goods are sold at a loss, it is still true that a cost incident to the sale itself, a cost running with the goods and which must be paid by all competitors selling similar goods, will be shifted. If we will assume first a single purchaser standing in the market place and swearing that he will not pay over \$19 for a certain commodity, and second a single vendor who is finally willing to

sell at that price at a loss to himself, and then you impose a 1 per cent sales tax on that sale, one of two things is true, either the purchaser will raise his price to \$19.19 or the seller, without the sales tax, is really willing to sell at \$18.81. When every competitor is bound to pay the same tax on the goods and the goods are objects of consumption, which sellers must sell and purchasers normally must and will have for their use, the buyers and users of that commodity will pay enough to bring it to them, and the one thing that they must pay is a selling cost which can not be avoided by any seller. The head of a farm organization opposing the sales tax recently said that if it was adopted, the farmers would stop growing cattle. He answered himself—long before the first farmer stopped raising cattle, long before the tendency to do so manifested itself, in fact as soon as the tax is imposed, the burden of the tax will shift and be paid by the buyer who will pass it on, if he sells competitively, to the ultimate consumer.

There is only one conceivable class who may not be able to shift the tax. That class, to use a popular term, is the monopolist, whether the monopoly be due to patent rights or to control of markets, selling at a fixed price, fixed by itself at all the traffic will bear, and particularly where it is in part affected by the use of intermediate controlled sales agencies. I do not allege the existence of any particular monopoly or its opposition to the sales tax. The heads of some very large organizations, popularly classed as trusts, are said not to oppose it, while others do seem to oppose it.

One important case in which it is claimed that the tax could not be shifted is that of the single process manufacturer or middleman competing with the integrated industry or mail-order distributor or chain-store manufacturer. We can not but admit the principle back of this claim. Certainly the tax gives an advantage which may amount to 5 to 10 cents on a pair of shoes.

My own reaction to this argument may be a little bit colored from the fact that I first got it from my good friend, Prof. Adams, and it seemed to me very funny that gentlemen who had been or were apologists for the excess-profits tax that spells relative confiscation and immunity throughout the business world, taxes one competitor to confiscation and another not at all, should be worried over a possible 1 per cent selling advantage in a relatively few instances.

I had also read something of sales tax proposals and their defects in other countries and did not recall ever hearing of this as a practical objection to a sales tax in operation. It is not, I believe, suggested in France, Canada, or the Philippines to-day. And I thought of the large trust organization with its multiple intercompany sales, and I wondered whether the objection was sincere, whether the so-called trust was not really hostile to the sales tax rather than an object of its intended favor. I knew that Mr. Lord, who had consulted me in the matter, was a single-process manufacturer, and he told me that he could give any multiple-process competitor a 1 per cent tax advantage without any fear. The whole thing seemed exaggerated and played upon by men not really interested in it except as a means of defeating the sales-tax proposal.

Senator SIMMONS. Mr. Reed, I came in rather late and did not hear all your statement. Is it your contention that ordinarily the sales tax will not be added to the price of the goods sold?

Mr. REED. My contention is just the opposite, Senator, that it will necessarily enter into the price without any commission or loading. Monopolies which without the tax get the maximum out of the consumer may doubt their ability to shift the sales tax. Competition will carry it down to the consumer, where the largest part of our present taxes are borne, in so far as they rest on the graduated scale on business profits.

On this question of the shifting of the present taxes and their relative burden on secure and insecure income, it is a demonstrable fact that if you have this same graduated tax resting on business profits rising and falling, and averaging the same as a secure income over a period of years, the tax on the business income, on varying profit, is apt to run pretty nearly twice what it is on the secure income. You take an income of \$400,000 the first year, \$600,000 the second year, \$100,000 the third year, and a loss of \$400,000 the fourth year, which is an income of less than \$200,000 a year, the tax on that is about 80 per cent of the income, and a tax on the periodic income of \$200,000 a year is about 45 per cent. Competitive industry is destroyed by such a tax. Only a monopoly controlling its market can survive it.

#### STATEMENT OF FREDERICK E. KIP, MONTCLAIR, N. J.

The CHAIRMAN. Mr. F. E. Kip, of Montclair, N. J., a prominent manufacturer and tax authority who has thought and written on the subject, desires to be heard for a few moments.

Mr. KIP. In my opinion the present tax law is one of the most disastrous of any of our laws since the formation of the Government. By its high surtaxes and excess profits features, not millions but billions of dollars have been diverted from productive industry—that is, industry employing millions of workers—and it has forced vast sums into unproductive pursuit, through investment in State and city tax-exempt securities.

I would like to have my brochure included at the end of my statement, a copy of which I hand the stenographer.

The CHAIRMAN. It will be printed as a part of your remarks, sir.

Mr. KIP. In this brochure is shown the rate of investments required in agriculture and industry to net 6 per cent in tax-exempt securities. They run from 8 per cent to 21 per cent.

The withdrawal of these huge funds from productive industry has detrimentally affected every farmer, every worker, and every industry and business.

I would like to include here two advertisements, one of the National City Co., issuing three classes of bonds, and one of William R. Compton Co. The National City Co.'s advertisement says:

"Solvay & Cie. 7-year 8 per cent secured gold bonds. The largest manufacturer in the world of soda ash and its derivatives," etc.

"Pacific Gas & Electric Co. 20-year 7 per cent gold bonds," netting 7.10 per cent.

"Kingdom of Denmark 25-year 8 per cent sinking fund external gold bonds," 8½ per cent.

Then, stuck over in the corner, half of it not exposed, appears "City and County of San Francisco 4½ per cent gold bonds," tax-

exempt bonds. In other words, they can much more easily sell a 4½ per cent federally nontaxable security than a gilt-edge 8 per cent industrial taxable security.

The advertisement of William R. Compton Co. states that—

The William R. Compton Co. offers a list of improvement district bonds, representing a careful selection of issues, at prices yielding from 6 to 7 per cent, exempt from all Federal income taxes.

The desirability of these bonds, from the point of view of the investor whose income is subject to taxation, is emphasized by a comparative table showing—

Return from taxable securities which is necessary to equal a tax-exempt return of 6½ per cent:	Per cent.
\$8,000 to \$10,000 income.....	7.30
\$11,000 to \$16,000 income.....	7.56
\$18,000 to \$20,000 income.....	7.74
\$21,000 to \$26,000 income.....	8.02
\$28,000 to \$30,000 income.....	8.23
\$48,000 to \$50,000 income.....	9.42
\$78,000 to \$80,000 income.....	12.04
\$98,000 to \$100,000 income.....	14.77
\$100,000 to \$150,000 income.....	16.25

Owing to recent losses in productive industry, the same is badly needing funds which are impossible to obtain even at very high interest rates, owing to the fact that such huge amounts of individual incomes are invested in tax-exempt securities. Therefore productive industry is to-day compelled to run on orders and on a hand-to-mouth basis; and if orders are not obtainable, to run on short time, resulting in throwing out of employment millions of workers.

In January the Government placed the unemployed at 3,470,000. To-day the labor unions place the number at over 5,000,000. Probably, however, the correct figure is somewhere near 6,000,000.

Unfortunately certain labor leaders seem to have a misapprehension of the facts, and state that a sales tax will add a greater burden on the laborer and the farmer. This is, however, contrary to the facts.

The Department of Justice makes the statement that 23 per cent has been added to the average cost of living through the operation of the present tax laws. That tax has to be added to the cost of business and the uncertainty of the tax compels adding it in a pyramid form.

The CHAIRMAN. The basis of the cost of living is the price of food, and that is hardly taxed at all. The products of the farm are practically untaxed.

Mr. KIP. Yes; that is true.

The CHAIRMAN. Then on what ground do you say that the tax system at present in vogue adds 20 per cent to the cost of living?

Mr. KIP. Only the Department of Justice makes that statement, and I am stating that fact from their statement.

The CHAIRMAN. They make the statement, but can you sustain or defend that statement?

Mr. KIP. Yes; I can, in the sense that the pyramiding of these values by uncertainty has raised prices abnormally. The consumer would not otherwise pay that much for the articles that he purchases.

The CHAIRMAN. How has it affected the prices of farm products?

Mr. KIP. I do not suppose it makes as much difference with farm products as it does with everything else; but they are not the whole thing.

The CHAIRMAN. When you talk about the cost of living, you mean chiefly what you put into your stomach.

Mr. KIP. Partly.

The CHAIRMAN. That is not taxed.

Mr. KIP. No.

The CHAIRMAN. So where does your statement maintain itself?

Mr. KIP. In that sense I am only quoting them. Let us say that is not so. Suppose it raises the amount half of that—11 per cent. A turnover tax will add 3 per cent, or certainly not over 3½ per cent. The statement has been made here to-day that theoretically it would not be added because the man making small profits would not have to pay such tax. This theoretical statement is contrary to the experience of practical business men, however, because the uncertainty compels a certain pyramiding. A small business man's capital is very much less, and therefore his allowance on the 8 per cent basis is less.

In my brochure I have suggested a complete plan for taxation, including the 1 per cent turnover sales tax; 1 per cent on transportation, warehouse, amusements, professional vocations; 1 per cent on cash involved in sales of real estate; one-sixteenth of 1 per cent on sales of stocks and bonds; 12½ per cent on net profits of firms and individuals and corporations in business, and individual income and surtaxes in the percentages specified on page 256.

I believe the adoption of this plan would release large sums of money for productive industry and result in a great revival of business and in the reduction of the great army of unemployed, so that in six months from its adoption the unemployed would not be more than 500,000 against five to six million unemployed at the present time.

The two greatest curses in the world to-day are socialism (and the tendency toward socialism) and war. The tendency and point of view of socialism are to create class antagonism and to divide the community into conflicting classes. The phrase was current in the beginning of the present tax laws that "the rich will pay for the war." The psychology is to create class division. The point of view of a sales tax is that every one should bear his share of the burden of the expenses of the Government, be they small or large; and it certainly would make for better citizenship.

As to war, President Harding stated a few days ago:

I would wish a nation so powerful that none will dare to provoke its wrath.

I heartily agree with this point of view, but I believe that power, in the final analysis, rests on financial strength, finance being to-day the sinew of war.

With my tax proposal, which includes the turnover sales tax, I believe we could pay off our entire war debt in six years' time. Our war debt, approximately, was \$40,000,000,000. The war expenses of Great Britain were approximately also \$40,000,000,000; those of France \$38,000,000,000. Our present debt is approximately

\$23,000,000,000; that of Great Britain \$32,000,000,000, and of France \$22,000,000,000.

It is admitted that it will take approximately eighty to a hundred years for Great Britain, formerly the greatest financial power in the world, to pay off her war debt, and that a similar period is required for France. If we demonstrate to the world our ability to free ourselves of our great war debt within six years, I believe that such a demonstration of power will be the greatest possible safeguard against future wars.

What nation would dare, or have the financial power, to wage an unjustifiable war in the face of our determined opposition?

In conclusion, I feel safe in saying that the proposal for a turnover sales tax meets with the almost unanimous approval of the business interests of the country, and that the opposition to it is based upon a false theory that it would add a great burden upon the consumer.

(The brochure referred to is as follows:)

#### THE PARAMOUNT DUTY OF OUR LEGISLATORS TO OUR FARMERS AND THE WORKERS OF OUR COUNTRY.

There are only two sources of productive wealth, viz, the wealth produced from the ground (farms, mines, etc.) and from industry.

Therefore, those laws that tend to the fullest employment of our workers, in industry and agriculture, are the best for all our people, and those laws that produce the greatest unemployment are the worst for all our people.

The paramount duty of our legislators, therefore, is to pass such laws as will best insure maximum employment in agriculture and industry.

How have our legislators performed this greatest of all their duties in the past eight years? Our Government in 1913 passed a freer tariff. The theory and claims were that it would reduce industrial profits and would benefit operatives and workers by enabling them to buy all their requirements cheaper. The facts, however, were that in the winter of 1913 the labor union heads estimated that over 5,000,000 workers were out of employment in the United States. Soup kitchens were opened in all large cities and for the first time in history the morgue in New York City was opened to help lodge the unemployed and freezing workmen, and for every industrial concern whose "toes were pinched" 5,000 workers were detrimentally affected.

The workers' experience was that no matter how cheap they could buy, they had no wages with which to purchase. They would rather pay a little more for their requirements and have steadier employment and wages.

Again to-day, as in 1913, the startling condition of great nonemployment confronts our workers, and again, in the main, due to our Government's ill-advised theoretical law, this time a tax law instead of a tariff law.

This destructive industry-sapping and labor-destroying tax law was passed with the express purpose of taxing the rich. The phrase was current in Washington, "The rich will pay for the war." Yet for every rich man who has been pinched, 4,000 to 5,000 operatives and workmen have been detrimented, and our unemployed workers are increasing in number, by leaps and bounds, every week. How is it possible for our present tax laws not to result in unemployment when by it our Government has commandeered and diverted into other channels practically all funds that formerly flowed into and helped sustain industry for the benefit of the workers and owners alike?

Our Government has commandeered and diverted into other channels, by the present ill-advised and destructive tax law, practically all funds that formerly flowed into industry:

First. By high surtaxes driving people with large incomes to invest in tax-exempt securities instead of furnishing capital—as they have done in the last 50 years—to new business and industry.

NOTE.—There are \$16,000,000,000 of State, city, and Federal tax-exempt securities. Without a constitutional amendment no Federal tax can be levied on same. No constitutional amendment can be passed, because it is impossible to get three-fourths of the States to vote for same.

Second. By the Government appropriating extra profits instead of allowing same to be used to strengthen business concerns and provide against losses in lean periods.



Table showing that it is impossible for those having large incomes to keep their funds in industrial and agricultural pursuits; showing also why billions of dollars have been withdrawn from industry and agriculture.

Column A.—Income per annum at 6 per cent tax free.	Column B.—In order to secure (under present tax laws) in industry and agriculture a net income of 6 per cent, one must obtain an investment paying the following annual returns—	Column C.—If the principal producing incomes under column "A" were invested in Federal, State, and city securities (which are federally nontaxable) their net income in dollars would be as column A, viz, as follows—	Column D.—If the principal producing incomes as shown under column A were invested in 6 per cent industrial or agricultural pursuits (which are federally taxable) their net income in dollars would be—	Column E.—Loss in dollars by investing the principal producing incomes as shown in column A in industrial or agricultural pursuits instead of tax-exempt securities—
	Per cent.			
\$50,000.....	7.72	\$50,000	\$40,650	\$9,350
75,000.....	9.28	75,000	58,210	18,790
100,000.....	10.89	100,000	68,650	31,350
150,000.....	13.56	150,000	88,650	61,350
200,000.....	15.36	200,000	108,650	93,350
250,000.....	16.57	250,000	122,650	127,350
300,000.....	17.38	300,000	138,650	161,350
350,000.....	17.99	350,000	153,150	196,850
400,000.....	18.52	400,000	167,650	232,350
450,000.....	18.93	450,000	182,150	267,850
500,000.....	19.28	500,000	196,650	303,350
600,000.....	19.75	600,000	221,650	378,350
700,000.....	20.10	700,000	262,650	447,350
800,000.....	20.37	800,000	280,650	519,350
900,000.....	20.57	900,000	308,650	591,350
1,000,000.....	20.74	1,000,000	330,650	663,350
1,250,000.....	21.03	1,250,000	404,150	845,850
1,500,000.....	21.23	1,500,000	471,650	1,028,350
1,750,000.....	21.37	1,750,000	539,150	1,210,850
2,000,000.....	21.48	2,000,000	606,650	1,393,350

The above table shows that on annual incomes ranging from \$100,000 to \$1,000,000 should the recipient invest his principal in industrial and agricultural pursuits (which are taxable) he would have to invest the principal so that same would make him a yearly return of from 11 to 21 per cent in order to equal the return he would have if his principal were invested in State or city (Federal tax-exempt) securities. It goes without saying that it is utterly impossible for persons having capital to invest to obtain such a return from industrial or agricultural investments, and therefore they are absolutely compelled to invest all portions possible of their principal in Federal, State and city tax-exempt securities, with the result that billions of dollars have been diverted from industry and agriculture, thereby limiting the purchasing power thereof and resulting in the present great depression and unemployment.

Would especially call the attention of our Federal legislators to the above table and its inevitable results.

Therefore the Government has diverted into other channels practically all the funds that for 50 years have flowed into and made great our industries. If the Government can divert all funds that were formerly used in industry and expect that industry will run on just the same as previously and that labor will be as fully employed, they can perform the great miracle of making something out of nothing, which has been impossible of accomplishment since creation. The answer is they can not do it and industry—for the want of funds so diverted—is halted and crippled with the inevitable result of unemployment, and for every rich man pinched by our present ill-advised tax law, 4,000 to 5,000 workers are detrimented, which is evidenced by the fact that to-day there are about 4,000,000 workers out of employment in the United States (see the Government's report on unemployment in the United States, following pages).

Values to-day are approximately 50 per cent higher than normal prewar values. They can not be lower with wages approximately 75 per cent over prewar figures and net any profit. These values are such that industry should rebound, but instead, in every line, we have industrial halting and depression, simply because all funds which formerly flowed into and were used for industry and our workers have been diverted elsewhere.

Our workers now, as in the winter of 1913, would far rather contribute their share to our Federal expenses through a turnover tax (releasing funds to flow back into industry) and thereby obtain steadier employment and wages.

If a worker is out of employment one week it will cost him at least twice what he would pay for a whole year through any 1 per cent turnover tax.

Before the Great War, and from the beginning of our Federal Government, 90 to 95 per cent of our Federal tax receipts were derived from indirect taxation, and thereunder the growth and prosperity of our country has been the envy of the world. Since the war this has been changed almost entirely to direct taxes, and within three years from this change all industry, farmers, and our workers are groaning under their intolerable burdens, and the great unemployment of our workers is becoming a real menace to our Nation.

Experience in three years has fully proven that the academic theory of practically complete direct taxation is a dismal failure and must be discarded in favor of partly direct and partly indirect taxes.

The following law proposes to raise our taxes partly from direct and partly from indirect sources as follows: First, a tax on business turnover; second, a moderate tax on profits of corporations and firms; third, a liberal income tax and surtax on individuals—given in detail in the following proposed law: .

#### PROPOSED NEW FEDERAL TAX LAW (KIP PROPOSAL).

(a) On and after January 1, 1921, a turnover tax of 1 per cent, to be paid by the seller, on the excess over \$500 in any one month—of all net sales (gross sales less cash or trade discounts) of merchandise and commodities; said tax to be payable monthly on the 15th of the following month.

The tax on such amount of sales from January 1, 1921, to and including the last day of the month in which this bill shall become a law, shall be payable on the 15th of the succeeding month following the passage of the bill. Thereafter the said tax for each month shall be payable on or before the 15th of the following month.

(b) On and after January 1, 1921, a tax of 1 per cent, to be paid by seller, on charges for transportation, by any means whatsoever, including telephones and telegrams, via land, air, and/or water. Tax payable as (a).

(c) On and after January 1, 1921, a tax of 1 per cent, to be paid by seller, on receipts of warehouses, theaters, moving-picture houses, places of amusement, and on receipts representing admission charges for any occasion. Tax payable as (a).

(d) On and after January 1, 1921, a tax of 1 per cent, to be paid by the seller, on all charges of lawyers, physicians, dentists, architects, those engaged in professional vocations, or those engaged in vocations of selling service. Tax payable as (a).

(e) On and after January 1, 1921, a tax of 1 per cent, to be paid by the seller, on all sales of real estate, based on the actual cash amount of money involved in the transaction. Tax payable as (a).

(f) On and after January 1, 1921, a tax of one-sixteenth of 1 per cent on value as sold, payable by the seller, on all sales of stocks and bonds, whether private or through exchanges. Tax payable as (a).

(g) For the year 1920 and yearly thereafter, 12½ per cent on net profits of any bank, trust company, corporation, firm, or individual in business; "net profits" shall be the profits made, less interest actually paid out on moneys borrowed and fixed interest actually paid out on bonds. Payable quarterly during the year following taxable year, viz:

March 15, one quarter thereof; June 15, one quarter thereof; September 15, one quarter thereof; December 15, one quarter thereof.

#### INCOME AND SURTAXES.

(h) Following taxes on incomes of individuals for the year 1920 and yearly thereafter :

Exempt up to \$10,000. <sup>1</sup>	Per cent.
Above \$10,000 and up to \$20,000.....	2
Above \$20,000 and up to \$40,000.....	4
Above \$40,000 and up to \$60,000.....	6
Above \$60,000 and up to \$80,000.....	8
Above \$80,000 and up to \$100,000.....	10
Above \$100,000 and up to \$150,000.....	12
Above \$150,000 and up to \$200,000.....	14
Above \$200,000 and up to \$250,000.....	16
Above \$250,000 and up to \$300,000.....	18
Above \$300,000 and up to \$500,000.....	21
Above \$500,000 and up to \$1,000,000.....	25
Above \$1,000,000 and up to \$1,500,000.....	29
Above \$1,500,000 and up to \$2,000,000.....	33
Over \$2,000,000.....	35

<sup>1</sup> This exemption can be made \$6,000 to \$8,000 if thought necessary.

Payable quarterly during the year following taxable year, one-fourth March 15, one-fourth June 15, one-fourth September 15, one-fourth December 15.

The above taxes collectively will collect, even under the reduced values of merchandise, from \$4,000,000,000 to \$5,000,000,000 per annum, and plus our other income will be ample for the wants of our Government.

#### POLITICAL AND ACTUAL BENEFITS OF THE PROPOSED LAW.

All workers, clerks, and those having incomes under \$10,000 (or \$6,000 to \$8,000 if the exemption is lowered) would be entirely free from income taxes, knowing, however, that indirectly they would be paying their share of the 1 per cent turnover tax. This they would gladly be willing to do, and therefore hundreds of thousands would be enthusiastically in favor of the new law.

Banks, trust companies, business corporations, firms, and individuals in business by paying 12½ per cent on net profits would have a fixed and known tax and would figure their cost accordingly. They would therefore be enthusiastically in favor of same.

The lessened income taxes on individuals should prevent men of wealth taking refuge in Federal tax-exempt securities; and will certainly release funds, which is now so desperately needed, to flow back to industry and agriculture, so the mer of greater wealth will be in favor of the new law.

Now will some one tell us who, of all our people, would not be benefited by such a new law? Yet only a few days ago one of our Congressmen on the floor of the House coined the phrase that "No party would be so foolish as to put a sales tax on the backs and bellies of the American people."

Phrase making does not interpret facts, as was evidenced, in time, by "too proud to fight," "he kept us out of war," "pitiless publicity," etc.

The facts are that, by the present destructive, labor-destroying tax law, our workers have neither that which to put on their backs nor in their bellies. There are 4,000,000 or more people out of employment in the United States to-day. In the city of Detroit there is only 18 per cent of the automobile industry operating; there are 160,000 workers out of employment in Detroit out of a total population of 993,000. Not over 50 per cent of the population are workers, so that in the city of Detroit you have the startling condition to-day of 32 per cent of all workers unemployed, due mainly to the present destructive, industry-sapping and labor-destroying tax law. If there were 50 per cent of the entire workers of America out of employment there would be a revolution in America, independent of whatever Government we had. A thought for the profound consideration of our statesmen and legislators.

#### BENEFIT TO OUR FARMERS.

Nearly all our farmers are to-day in dire need of cash funds to help them over the present disastrous period. It is simply impossible for them to obtain such funds at the present time, and it will continue to be impossible to obtain cash funds until our present theoretical and disastrous tax law is changed, releasing again at least a portion of the funds that formerly flowed and were used to sustain and further agriculture and industry. Therefore our farmers are also vitally interested and should be enthusiastically in favor of the present proposed law.

#### FALSE CONCEPTION OF ADVERSE POLITICAL EFFECT OF A TURNOVER SALES TAX.

Some of our Congressmen and Senators claim a turnover tax can not be put through because politically the party passing same could be charged with taking off taxes from the rich and putting same onto the poor. Such claims can also be made regarding the tariff but they are absolutely untrue both as to tariff and as to turnover tax.

Government experts are quoted as estimating that by reason of the existing tax methods there is added to prices nearly 25 per cent (23.2 per cent). It is estimated that the 1 per cent turnover tax on all commodities and merchandise will add 2½ per cent to 3 per cent. In no case, however, can it add more than 3½ per cent. Difference, approximately 20 per cent.

In other words, the present taxes are six times as great a burden on all consumers as the proposed turnover tax.

Our Congressmen and Senators also claim a turnover tax would favor large combinations which control products from the raw material to the finished article. Such concerns already have advantages far outweighing any that would accrue by a 1 per cent turnover tax—for instance, the mines, lands and forests owned by the steel corporation and other advantages of large combinations. Besides many of the com-

binations are composed of a number of separate corporate units, as, for instance, the Standard Oil group: The Standard Oil Co. of New York, New Jersey, Pennsylvania, Indiana, Kansas, California, etc., and many other allied concerns, such as the Pure Oil Co., Ohio Cities Gas Co., Vacuum Oil Co., Chesebrough Manufacturing Co., etc., and each one of these separate corporate units would have to pay their 1 per cent turnover tax.

Therefore, such arguments should not weigh against the great benefits to all of our people of a turnover sales tax.

Ill-advised tax laws and resultant unemployment have been the cause of every revolution in the history of the world.

But why haggle on the small points when the great burning issue is, that civilization all over the world is rocking and tottering in the balance brought about mainly by unemployment.

It is a fact that ill-advised tax laws, and their resultant unemployment, have been the cause of every revolution in the history of the world. When unemployment became over 50 per cent universal in Russia, the "Red" revolution developed there.

When the industries of Russia were ruined, all Russia collapsed and if the industries of England and America should be ruined, all England and America will collapse.

These were Alexander Hamilton's words in 1800: "Not only the wealth but the independence and security of a country appear to be materially connected with the prosperity of manufacturers."

Daniel Webster's words were: "That is the truest American policy which shall most usefully employ American capital and American labor and best sustain the whole population. Agriculture, commerce, and manufactures will prosper together or languish together."

You simply can not detriment industry and agriculture by diverting elsewhere practically all their funds without detrimentally affecting our entire population.

GREAT BRITAIN'S SIMILAR FAULTY TAX LAW.

Our present ill-advised law was copied after the war tax law of Great Britain. How has her similar law affected her?

*Great unemployment in England.*—It is estimated (see New York Herald article of Jan. 10, 1921) that in England to-day there are directly and indirectly affected by unemployment 3,000,000 to 4,000,000 people, and that same is increasing weekly. The Herald's article was headed: "Idle British cry for soviet rule—'We want revolution!' workers shout—Howling down labor speaker—In an effort to meet the situation the British Government has adopted the scheme of giving the destitute cash and supplies amounting to \$2.25 a day to each adult. Rent also is paid."

I predict that unless Great Britain changes, before long, her ill-advised, labor-destroying tax law, she will, within two years, be in revolution.

So we see that Great Britain's tax law, placing nearly all the tax burdens on direct taxes, is no more successful with her than our similar experiment is with us.

THE PRESENT GREAT ARMY OF UNEMPLOYED IN THE UNITED STATES.

The United States Government report of January 25, 1921, estimates that there are 3,473,466 idle in industry. Some officials of the Government, however, believe the army of unemployed is much larger.

The Government's employment service figures represent a reduction of 36.9 per cent in the number of workers employed in industry as compared with January, 1920.

The following percentages of reduction in industry were given for each State, viz:

	Per cent.		Per cent.
Michigan.....	82	Massachusetts.....	38
Ohio and Indiana.....	50	Wisconsin.....	32
Illinois.....	44	New York.....	28
Connecticut.....	43	New Jersey.....	22

Reduction by specific industries:

Automobile and accessories.....	69	Leather and its products.....	35
Building trades.....	52	Lumber and house furniture.....	32
Textile and allied products.....	35.5		

Total number unemployed in our largest cities:

New York City.....	234, 243	Cincinnati.....	24, 000
Chicago.....	86, 000	Milwaukee.....	24, 330
Philadelphia.....	70, 000	Baltimore.....	39, 000
Detroit.....	160, 000	Kansas City.....	20, 640
Cleveland.....	81, 000	Pittsburgh.....	12, 500
St. Louis.....	49, 350	San Francisco.....	13, 000
Newark.....	41, 000	Portland (Oreg.).....	10, 000
Boston.....	25, 000		

NOTE.—The population of Detroit is 993,000; probably one-half, or 496,000, there are workers. So to-day we have the startling condition of 32 per cent of Detroit's workers out of employment.

The Government gives the numerical reduction in employment by districts as follows:

New England, including Boston, 250,156, principal cities being:

New Bedford.....	30, 000	Lynn.....	12, 000
Fall River.....	25, 000	Lowell.....	11, 000
Manchester, N. H.....	21, 000	Worcester.....	10, 000
Bridgeport, Conn.....	20, 000	New Haven.....	10, 000
Providence.....	14, 500	Haverhill.....	7, 800
Lawrence.....	14, 500	Springfield.....	7, 200

Middle Atlantic States, including New York, 577,743, principal cities being:

Buffalo.....	35, 000	Reading.....	7, 000
Paterson.....	20, 000	Troy.....	8, 000
Rochester.....	18, 000	Utica.....	8, 000
Scranton.....	18, 000	Schenectady.....	7, 000
Jersey City.....	15, 000	Trenton.....	6, 500
Passaic.....	12, 000	Camden.....	5, 000
Syracuse.....	10, 000		

North central district, 594,393 (Ohio, Illinois, Indiana, Michigan, and Wisconsin), principal cities being:

Toledo.....	28, 625	East St. Louis.....	6, 000
East Chicago.....	26, 000	Youngstown.....	8, 916
Indianapolis.....	21, 500	Flint.....	9, 000
Akron.....	20, 000	Battle Creek.....	6, 500
Dayton.....	13, 750	Lansing.....	5, 500
Columbus.....	13, 333	Lorain.....	6, 154
Canton.....	10, 335	Evansville.....	5, 200
Kalamazoo.....	9, 000	South Bend.....	5, 500
Racine.....	7, 000		

West central district, 100,000 (Minnesota, Iowa, Missouri, Nebraska, and Kansas), principal cities being:

Minneapolis.....	18, 662	Kansas City.....	8, 800
Omaha.....	16, 145	Des Moines.....	6, 100
St. Paul.....	11, 000	Topeka.....	900

Southern States, 100,000.

The above is most serious, and if unemployment should increase by an additional 25 per cent, same would be a distinct peril to our Nation.

#### WISE TAX POLICY OF THE FRENCH NATION.

Notwithstanding pressure from Great Britain during and after the war, France has steadfastly refused to tax prosperity out of her country by imposing these heavy direct taxes. Also on June 25, 1920, France adopted a turnover sales tax of  $1\frac{1}{2}$  per cent.

Estimates of French statisticians indicated that same would obtain in revenue 5,400,000,000 francs. Unofficial reports of the first month's (July) collections show that the resultant receipts were far in excess of the estimate.

Writer, who has mills at Lyons, France, understands that the turnover tax is the "silver lining to the black cloud" overhanging France, and that same is working to the great satisfaction of all business men, workers, and farmers, also that the French Government is highly pleased with the revenue derived therefrom.

Canada and several smaller countries have also adopted a turnover tax. Great Britain, owing to the terrific industrial depression and great number of unemployed, is also now considering a turnover tax.

**PROOF THAT OUR PRESENT TAX LAW IS THE MAIN CAUSE OF OUR GREAT INDUSTRIAL AND AGRICULTURAL DEPRESSION.**

Overextension, finally resulting in reduction of purchasing power, is the cause of depressions. For instance, in the depressions of 1871 and 1893 in New York City (including Brooklyn) there were whole blocks of empty houses and no buyers or tenants for same. In other large cities the same condition existed. Consequently no demand for lumber or building materials.

To-day conditions are exactly opposite. In every large city in the United States there is a shortage of from 1,000 to 50,000 houses and apartments, and people are clamoring for accommodations they can not find.

Yet, notwithstanding this terrific shortage of living accommodations, you can not sell to-day, at any price, lumber or building materials.

Neither can you sell to-day at any price any of our other fundamental raw materials.

Writer spent February and March of this year at Chandler, Ariz., in the heart of the Great Salt River irrigated valley (500,000 acres irrigated by the Roosevelt Dam), without doubt one of the most fertile sections agriculturally in the United States.

The hilly sections and mountain ranges in other parts of the State give great feeding grounds for cattle and sheep. They also contain large and successful mines, among which are the wonderful Clarkdale mines (owned by former Senator Clark, and undoubtedly the richest mines in the world). Now, how do we find conditions here relative to our fundamental raw materials, viz, our agricultural products, cotton, wool, cattle, sheep, hogs, and minerals. For the past 10 years this section has sold by November-December all its cotton crop (their quality of cotton is equal to or superior to the best Egyptian grade of cotton) at from 50 cents to \$1.10 per pound. Not 10 per cent of the 1920 crop has been sold at 30 cents to 35 cents, and the balance can not be marketed at any price. Both here and in all the western States they have practically all of last year's (1920) wool on hand, and wool also can not be sold at any price.

Neither can sheep, cattle, hogs, or minerals (copper, etc.) be sold at any price.

In the great Arizona mining districts of Clarkdale, Jerome, Prescott, etc., not one-quarter of the normal operatives are now employed, and additional smelting concerns are constantly being closed down. There are 57 distinct mining concerns in and around Butte, Mont., every single one of which is to-day (April, 1921) closed down indefinitely, to the great detriment of the thousands of miners and their families. The above reflects exactly the condition of the entire United States.

Cotton of the South, as well as that of the Salt River Valley, can not be sold at any price. In Kansas and other western corn-growing States they used their corn instead of coal for fuel, as they could not sell same at any price. Wheat and wool can not be sold at any price. Sheep, cattle, and minerals, and in fact all of our fundamental raw materials can not be sold at any price.

Now, there has not been a time in 40 years (except for a few weeks during acute panic) when the fundamental raw materials of this great country, the very life blood of our industries, could not be sold at or near market prices, but to-day at 15 per cent to 20 per cent below accepted market prices our production of cotton, wool, corn, wheat, sheep, hogs, cattle, and minerals can not be sold. In fact same can not be sold at any price.

**REASON WHY OUR FUNDAMENTAL RAW MATERIALS CAN NOT, FOR THE FIRST TIME IN 50 YEARS, BE MARKETED.**

The reason why for the first time in 40 or 50 years that our fundamental raw materials can not be sold at any price is simply that the Government, by the present destructive tax law, has compelled the diversion of billions of dollars away from industry and agriculture, and as they therefore have not the funds they formerly had they must buy (as to-day they are buying) their wants for 1 to 2 months ahead only, instead of 12 to 16 months ahead, as formerly.

So the original producer, the farmer, the herder, and the miner, must carry the stocks until the industries can, in piecemeal, use same up. If you haven't money you can not buy. The present tax law takes huge sums of money away which were formerly used in industry to sustain and further same. Therefore, industry must now get along in the only way she can (under her reduced capital), viz, buy her wants from hand to mouth.

If a new tax law is passed, similar to the "Kip proposal" herein given, including a 1 per cent turnover sales tax, it will allow at least a portion of the funds formerly used in industry and agriculture to return thereto, and in six months our crops of cotton, wool, corn, wheat, minerals, etc., will all be marketed, and next fall, this year's production of these raw materials will all be sold by November and December, as has been the case for many years past, and prosperity will return again to the farmers, our workers, and our industries.

This is as plain as "two and two make four." Yet some of our Congressmen and Senators can not see it, and seem only concerned about the political effect, that they might not be returned because they might be accused (if so, it would be falsely) of taking taxes off the rich and putting same onto the poor.

The farmers' interests are identical with those of the business man and of industry. If industry languishes, the farmer has depression. If the miller can not buy wheat to make flour, the price of wheat declines and the farmer has to hold the stock until the miller can use it, etc.

Daniel Webster's words are as true now as when spoken, viz:

"Agriculture, commerce, and manufactures will prosper together or languish together."

The business interests of the United States are practically unanimous in their request for quick revision of our present faulty tax law and are demanding for the benefit of our workers, and also our industries (for they both go hand in hand), that same be revised along the lines of common business sense instead of the academic theories of the present law.

#### SCHOLASTIC THEORIES VERSUS ACTUAL FACTS.

The scholastic theories of the department experts of our Government (professors of Yale, Harvard, and John Hopkins) on our tax and tariff laws are one thing. The facts relative thereto, however, are quite another. The facts are that there were out of employment in the winter of 1913 over 5,000,000 workers; the facts are that in January, 1921, there were out of employment between 3,000,000 and 4,000,000 workers, or only 25 per cent less than the unemployment of 1913, when our workers were being lodged in New York in the churches and the morgue. The facts are that our farmers and our workers are beginning to realize that our present ill-advised tax law is responsible for their depression and nonemployment, and they will hold any political party responsible that fails in its duty to alter the present theoretical law to a practical business tax law that will restore again to them prosperity and employment. The facts are that if the proposed tax law (Kip proposal) is passed, including the turnover tax, industry will commence to revive and within six months will be normal with a normal number of unemployed.

#### NECESSITY OF YOUR ACQUAINTING CONGRESS OF THE BUSINESS MEN'S AND WORKERS' REQUIREMENTS.

All patriotic workmen, farmers, and business men should wire and write to their Congressmen and Senators acquainting them with the fact that the business community, our farmers, and our workers are unanimous in their opinion that the present destructive tax law should be revised by substituting, for a part of the present direct taxes, indirect taxes in the form of a turnover tax, so that funds formerly used in industry and agriculture may be returned thereto, for the benefit of our industries and workers and to the cure of the present great unemployment.

Millions of our workers to-day are out of employment and on short time. They believe the present ill-advised tax law is one of the main causes of this condition. They are entirely willing and anxious to bear their part of any such tax change as will give them steadier employment. They want and are entitled to steady employment at the current United States wage, and it is the duty of our Federal legislators to cooperate fully to this end.

Millions of our farmers are to-day facing bankruptcy simply because they can not sell their products at any price.

You, our Federal legislator, can cure this, by enacting a tax law similar to that herein proposed, including a turnover sales tax.

Each Federal legislator should, therefore, go right down into his own heart and ask himself the following question:

Which will better assist industry and agriculture and cause our workers to be more steadily employed, a new law taking off part of the present direct taxes and putting same on indirect taxes, in the form of a turnover tax or retaining our present, or nearly our present direct taxes, which have already acted so disastrously?

Consider this vital question most profoundly, because on your vote (the vote of Congress) depends the "bread and butter" of millions of our farmers and our workers.

**STATEMENT OF ALFRED S. LOWELL, DEALER IN WOMEN'S WEAR,  
WORCESTER, MASS.**

The CHAIRMAN. Where do you reside?

Mr. LOWELL. Worcester, Mass.

The CHAIRMAN. What is your occupation?

Mr. LOWELL. Dealer in women's wear.

The CHAIRMAN. What phase of the tax revision do you desire to address yourself to?

Mr. LOWELL. The sales tax.

These views are mine, and are different from most of the views that have been propounded here, and to a certain extent answer some of the questions that have been asked.

The CHAIRMAN. You favor a universal sales tax?

Mr. LOWELL. I favor the universal sales tax, but not the commodity tax.

The CHAIRMAN. What do you mean by "commodity tax"?

Mr. LOWELL. It might be considered consumption tax.

I want to protect the New England industries, and that is why I am opposed to the sales tax. I come largely from what I call patriotic motives on behalf of my locality as well as on behalf of the country.

One position I want to take is that my proposition answers the demand for the substitute for the excess profits or the surtaxes and luxury taxes, and that is why I favor the universal sales tax, which will answer the purpose and act as a substitute and also answer several questions that have been asked this morning.

I have been interested in the subject of taxation for some time, and last June published in the Worcester Evening Gazette an article on "Taxation," in which I referred to the income tax, the tariff, land tax, sales tax, etc. In said article I favored a turnover sales tax. Last winter I listened to an address by J. S. Bache, Esq., before the Economic Club of Worcester, on his proposed sales tax, with every reason to believe in advance that I would favor his views, but as he proceeded I became more and more convinced of the injustice of his position, and the result is the view that I take as outlined in the following remarks. These remarks will necessarily be a repetition of what I have published and answers to some of my critics.

The sales tax, I believe, if enacted according to my suggestion, will prove a great source of revenue. Said tax should cover all transactions of every kind or description of a sale nature, wholesale or retail, direct or indirect.

First, sales of tangibles, such as products of earth, water, and air, machinery and products thereof, etc.

Second, sales of intangibles, such as bonds, stocks, rights, privileges, patents, mortgages, loans (which constitute a sale of the use of money), options, fares, freight, express, transportation, insurance, fees, advertising, light, power, gas, rents, all kinds of amusements, etc.

On first consideration the consumption tax appears attractive because the tax is widespread, every consumer will pay his proportion, and the tax is apparently easy of collection. The rich being the largest purchasers per capita will feel it least, but those in moderate circumstances and the poorer, constituting the majority of purchasers, will feel it most, as this tax will be transferred to the consumer.



I consider the proposed sales tax a menace specifically to New England industries, and to its wholesale and retail establishments, and in general to the other sections of the country that are not near the source of raw material.

A corporation or a partnership may produce or mine the raw materials, establish a factory, manufacture its own wares, and through a chain of stores throughout the country sell direct to the consumer, thereby paying but one sales tax, or 1 per cent. These chain stores are being rapidly established throughout the country, and even now are considered a menace to retailers.

It is natural that these factories will be established near the sources of supply. Take the shoe industry as an example. It will follow that this manufacture will be established in the West. St. Louis is now a large shoe manufacturing center, and it will grow at the expense of the East if the 1 per cent tax be enacted. The same would apply to the woolen, cotton, and other industries now so firmly established in New England. The result would be that stores selling such articles could not compete with the chain stores, specialty stores would be killed, the sales of department stores would be signally reduced, and wholesalers in these articles would be unable to continue in business. There would be a large reduction in the number of workers in New England, and closing of many factories and stores, and necessarily a reduction of employees. Such people being consumers will have their buying ability reduced, and the consumption tax will be reduced in proportion. The tendency would be to create trusts or monopolies which would not only have control of the materials, manufacture, and trade, but would also control to a certain degree the wages of labor, as competition would be materially reduced.

It will be difficult for the retailer to compete with the above-referred to chain of stores and manufacturers, as the retailer will pay 1 per cent for each turnover; there being three and one-half turnovers on the average before reaching the retailer, who will pay 3½ per cent and the consumer 4½ per cent in addition to the original cost, while the manufacturer who sells direct to the consumer will have saved at least 3 per cent and can therefore undersell his competitors. But one might say, "Why is this not to the advantage of the consumer to be able to buy cheaper?" It would be if it did not result in widespread ruin as above stated, and also reduce the number of workers, and likewise reduce the consuming power of the workers. Many stores will be vacated, and after these monopolies have established themselves by the ruin of the retailers, wholesalers, etc., they will be in a position to raise their prices, as there will be but little competition.

It is stated that there are 7 operations from the farm to the loaf of bread, 7 from the raw wool to the suit of clothes, 7 from the raw skins to the pair of gloves, 11 from the crude rubber to the rubber tire when purchased. It can thus be readily seen that the producer of raw material and the manufacturer of the finished product can sell direct to the consumer at a very great saving over his competitor not so fortunately situated.

It has been suggested that such operations be taxed 2 or 3 per cent, but this will not prove sufficient for protection. This suggestion appears easy to apply in theory, but practically there will be much

difficulty. This would penalize certain business ability and would prove an injustice.

At the present time shoe manufacturers in large numbers are entering the retail trade and are seriously and adversely affecting the business of the regular retailer. If it is the desire to oust the middleman, the 1 per cent tax will accomplish this result, but consider what this means and what hardships will result.

One objection which I have made to the sales tax, and it has been unanswered, is in regard to credit items. The question arises in my mind, Will credit sales be taxed, both wholesale and retail? Will the seller pay the 1 per cent on credit items that may never be paid? Let us assume that a manufacturer has sold a wholesaler \$100,000 worth of merchandise, the purchaser fails and pays 30 cents on the dollar. The seller will not only have lost \$70,000, but he will also have paid a \$1,000 sales tax, which is practically a total loss.

Referring to my statement that the less competent business man is affected adversely, I will illustrate by a concrete example: A merchant making sales of \$100,000 makes \$6,000 net; he pays a 1 per cent tax of \$1,000 on his sales, leaving \$5,000 clear. Another merchant makes sales of \$100,000 making, we will say, \$1,000 or \$2,000 net, also pays \$1,000 tax on his sales, leaving him a net gain of \$1,000, or no gain whatsoever. Dealers who make large profits on their sales can afford to pay the 1 per cent sales tax, but can the corner grocery afford to do so? Can the 10-cent stores, which are such a boon to the public, afford to pay the 1 per cent sales tax?

In regard to the French sales tax, I herewith quote from Commerce and Finance, March 16, page 398, the following:

Tax receipts are falling off, the 921,437,000 francs raised in February being 223,588,000 francs below estimates. The tax on business turnover yielded but 151,571,000 francs instead of the expected 413,000,000 francs. The French business world is said to have become most expert in evading this tax.

It goes without saying La Belle France has not a monopoly on tax evasion. France is not a producer of raw materials, whereas the United States is; in France there must be a number of operations or turnovers before an article reaches the consumer, and the tax is therefore multiplied.

The Canadian sales tax does not tax the retailer. Furthermore, it is proposed to amend the sales tax, and in addition many of the necessities of life are exempt.

Reference was made to the several or more movements in the manufacture of an article from the crude to the finished product, and it is proposed to tax each operation. It would be a difficult proposition to figure where one operation begins and another ends. It would keep the Federal courts busy determining such cases to the exclusion of other legal questions, and instead of it being a "simplicity" tax, it will prove to be a most intricate one.

You will note that I favor a sales tax, but not solely a commodity tax. I advocate a sales tax on all sales of whatever name or nature. Should such a tax be enacted, then the commodity sales tax could be reduced so much below the 1 per cent as to be practically negligible in its effect on prices, the income from such a universal sales tax as I propose will be far in excess of the proposed commodity tax. It is my opinion that if the proposition were made to tax the sales of capital assets, such as stocks, bonds, loans, wash sales, etc., as is proposed to

tax the sales of commodities, that such a howl would go up from the capitalistic world that the proposition of the sales tax would be dropped like a hot poker. The influences against such a tax would probably be too strong to overcome; financiers, bankers, brokers, etc., would oppose it bitterly. The stamp and registration taxes result in but a small income as compared with such a sales tax. Why should consumption sales alone be taxed to the detriment of the consuming public?

I favor a graded sales tax, a tax on every transaction that can be construed as a sale. Of course it is well-nigh impossible to designate the many businesses and to differentiate them. It will require diligent study to make the language and meaning clear in such an enactment.

Starting with capital assets such as the sales of bonds, stocks, rights, privileges, loans, etc., I favor a one-eighth of 1 per cent tax. On fares, freight, transportation, patents, insurance, storage, fees, advertising, light, power, gas, rents, real estate, hotels, restaurants, public utilities, and other products of water, earth, air, machinery, labor, etc., one-half of 1 per cent. Amusements of all kinds, meaning admission fees, 1 per cent. Luxuries (clearly defined), wash sales, futures, puts, calls, every sale that savors of gambling, etc., 2 per cent.

I note that certain communities are agitating the sales tax. If enacted, and if every community in the country follows this example, and the United States enacts the proposed sales tax, it will make it still more difficult for the middleman to succeed.

Advocates of the sales tax, couple with it a deduction or abrogation of other taxes, such as income tax, surtax, excess-profits tax, luxury tax, etc. It is evident that these advocates believe that the reduction made by these taxes will offset the sales tax, or even reduce their taxes. Indeed, many believe that the income tax will be abrogated or reduced. No one voluntarily taxes himself. I note the Wall Street News favors the sales tax. Why?

They state that the excess-profits tax, etc., have increased prices 23 per cent; this may be true when applied to the peak of high prices, but since then prices have been reduced more than 23 per cent, thus making this argument valueless. They state that 3½ per cent will cover the increase by the 1 per cent sales tax from the crude to the consumer. If this is true, and also true that the consumer will pay the tax, then he is not taxed 1 per cent, but 3½ per cent, or \$3.50 on every \$100 purchased.

Dealers in jewelry and other merchandise who pay the luxury tax are doubtless satisfied that the sales tax will be less costly than the present luxury tax.

One of the great faults connected with our present system of taxation is the exemptions. I am not in favor of exemptions, only in favor of certain deductions. I believe that every person should pay his share of the expenses of the Government which protects his life and liberty and aids him in the pursuit of happiness.

Many who have their money invested in tax-exempt securities do not even pay their share of the taxes in aid of the Government which protects these securities. As I have repeatedly stated, a law should be passed whereby no more tax-exempt securities shall be issued, except Government securities, and if local tax-exempt securities are

issued these should be subject to a tax of the United States Government. I am inclined to the plan as suggested by one Congressman, that a tax be assessed against a person's net worth; from this net worth, however, I would favor the deduction of the value of Government bonds and taxable securities and from the tax a deduction of the tax paid on taxable securities, etc., thus indirectly the present tax-exempt securities will be taxed.

A man's ability to pay taxes depends upon what he earns, and one who must spend all he can earn to feed and clothe his family is less able to pay 3½ per cent of his expenses in taxes than the man who can live comfortably upon his income. The sales tax will fall directly upon the consumer, and prices will be raised universally at least 3½ per cent as above stated.

In 1919 local advertising.....	\$500,000,000
In 1919 national advertising newspapers.....	150,000,000
Magazines.....	100,000,000
Outdoor.....	20,000,000
Street car.....	15,000,000
	785,000,000

Exports for 1920, \$8,000,000,000; New York Stock Exchange sold in 1920, 223,000,000 shares of stocks; sold \$4,000,000,000 worth of bonds. This is exclusive of the consolidated exchange and the curb. It would be very difficult to compute what the total sales in stocks and bonds is throughout the country. Taken in connection with the grain, produce, and other exchanges, the total is simply tremendous. Mr. B. M. Anderson, of the Chase National Bank of Commerce, New York City, estimates the total domestic trade of the country in 1918 to be \$68,000,000,000, 1 per cent of which would be \$680,000,000. The estimate of Mr. McCoy, the Treasury expert, is \$48,000,000,000, 1 per cent of which is \$480,000,000.

I think \$68,000,000,000 is too low an estimate, if advertising sales are nearly \$800,000,000. The total value of life insurance during the year was \$10,000,000,000; if you add to this the total of fire and all other forms of insurance it will be a huge total, and, if the tax of one-half of 1 per cent on the premiums, as I propose to tax other sales, is placed, the income from my sales tax will be as great if not greater than the result from the proposed sales tax. What are the sales of real estate, automobiles, rents, public utilities, builders, hotels, transportation, freight and express, admissions, all the professions, etc.? If all these pay a sales tax, together with all other sales hereinbefore mentioned, the sales of these, with exports, commodities, cash assets, etc., will make an enormous aggregate for the imposition of a graded sales tax. The New York Times bewails the fact that the opponents of the sales tax have presented no alternative. The alternative of the proposed sales tax is here presented.

William H. Johnston, president of the International Association of Machinists, in a statement just issued says:

For a family with an income of \$2,000 the average tax payment under the sales tax would be 4.5 per cent of the total family income; for a family with an income of \$1,500, it would be 5.7 per cent, and for a family with an income of \$1,000, assuming approximately the same purchase of necessities, it would be 8 per cent.

Because of the pyramiding of such a tax, however, since the payer adds a profit, the real cost of a sales tax to an average family with an income of about \$2,000 would

<sup>1</sup> Too small.

be about 8.6 per cent of the family income; for a family with an income of \$1,500, 11.4 per cent; for a family with an income of \$1,000, over 17 per cent.

These figures are approximate, the statement says.

Mr. Walter A. Staub, of the firm Lybrand, Ross Bros. & Montgomery, says:

To raise a revenue of \$2,000,000,000 by the sales tax would be equivalent to a \$20 tax on every man, woman, and child in the country, and its incidence would be such, he thinks, that even the monstrosity of a poll tax of that amount should be preferred.

A correspondent of the New York Evening Post, after poking fun at the economics of the sales tax, asserts that while persons with incomes over \$5,000 paid 41 per cent of the tax of 1918 and those between \$5,000 and the exemption limit paid 59 per cent under the sales tax the first class would pay but 12 per cent and the second 21 per cent, and those below the limit 67 per cent.

Mr. B. M. Anderson, of the Chase National Bank, said:

The general tax would fall most heavily upon small businesses because they perform only one step in a series of productive steps in their competition with consolidated businesses where several steps in a series are performed without intermediate sales under one general control.

He added further that—

The general sales tax hits at gross rather than at net operations, and expressed doubt whether business men would be enthusiastic about it if they realized the difficulty of shifting taxes in a period of falling prices.

Chas. J. Nasmyth says:

Let the individual who is lamenting his present lot cease his lamentations long enough to figure out how much worse off he will be than he already is if Congress substitutes the threatened "sales tax" for the much abused and infinitely more logical and just income tax, which would mean that big business is to pay nothing and the individual is to pay everything.

In point of volume there is little difference between a tax upon gross sales and a tax upon gross earnings, but to the wage earner and individual of moderate means there is a difference as wide as the ocean between the two methods, seeing that in the former case the design is to pyramid and pass the tax along to the ultimate consumer to pay; whereas a tax upon gross earnings can not be passed along in the same manner or measure, but must be borne by the business community.

Points stressed by Forstall:

To the extent that a sales tax is not shifted it becomes a tax on gross income which is entirely inequitable as between various classes of business.

A sales tax would tend to bring about undesirable changes in business practices.

The administrative difficulties presented by a turnover tax are much greater than is generally realized.

The experience of other countries with a general sales tax and the history of the movement for such a tax in this country after the Civil War, point inevitably to the conclusion that such a tax is a last resort, to be availed of only after other resources have failed.

It would be economically unsound as well as socially unjust to shift two billions of taxation from business and personal income taxes to the consumption taxes.

#### STATEMENT OF B. S. ORCUTT, NEW YORK, N. Y.

*Editor the Wall Street Journal:*

I was much pleased to receive the copy of your journal of Tuesday, April 5, and address by Mr. B. S. Orcutt at meeting of New York Society of Certified Public Accountants, April 11. It was most refreshing to read such a clear and logical presentation of the merits of the turnover sales tax in contrast to the vagueness and discrepancies that are so common in most discussions of this subject. Of course, I do not agree with Mr. Orcutt's reasoning or his conclusions, but this does not prevent my admiration for the clear and definite way in which he has presented his point of view. Perhaps I have greater opportunities to test the practical application of his theories.

As I understand Mr. Orcutt's proposal, he would limit the amount of the sales tax that would be passed on as a tax by any business to the 1 per cent of their own sales which they paid directly to the Government and would make it a provision of the law that this 1 per cent should be added to each invoice. He would consider each business a consumer to whom all the cumulated turnover taxes on their purchases are to be passed along. He says: "Are not the words 'sales tax' a convenient misnomer? In effect with a compulsory invoicing the tax is really a purchase tax," and further with "the compulsory invoicing of the tax all the labored arguments as to percentage charged against net income fall to the ground and all carefully worked out tables to prove an imaginary point become a joke."

I have tried to apply this theory to various forms of business with which I am familiar and it seems to me to even emphasize the unfairness of a tax at a uniform rate upon all sales of all commodities as between different forms of business and as between commodities of different relative salability. If each business is to pass on and collect from the next purchaser only the 1 per cent on their own sales and absorb in their cost as a consumer the taxes on their purchases, wouldn't this work out even more unjustly than to not pass the tax on at all? As an illustration, we are tool manufacturers. As a normal proposition our annual sales are not as large as the net investment in our business. In other words, under prewar conditions it takes fairly prosperous business for us to turn our capital once a year. If, therefore, we wish to secure a return of 10 per cent net on our investment we need to secure a net profit of 10 per cent on our sales. The tax on our sales would be, therefore, 10 per cent of our net profit.

Our customers are wholesale hardware dealers. They turn their capital in a normal year four times and make an average profit under prosperous conditions of 24 per cent on each sale. The 1 per cent tax which we would collect from them would be 40 per cent of their average net profit. This tax, we understand from Mr. Orcutt's article, they should absorb. They in turn would add to their invoices 1 per cent on their sales to their customers, the hardware retailers. The hardware retailer, of course, could not add a specific 1 per cent to the sale of each individual article and presumably, as Mr. Lord suggests, would add it to his cost of doing business and get it back if he could by advancing his prices on such articles as he could sell at an advanced price. Is there any reason to suppose that under such conditions the retailer would advance his various prices just exactly the amount required to repay him for the 1 per cent tax collected from him by the wholesaler?

We wonder what our customers, the wholesalers, would say under present conditions if we should add 1 per cent to our invoices as a tax to come out of their pockets. We rather imagine they would tell us that they could not afford to pay such a heavy tax for us and that if we were going to add it to our invoices we would have to increase our cash discount by 1 per cent or make some other concession to offset it, because they could not either stand it themselves or pass it along to the retailer under present conditions. You can see, therefore, that, so far as the tax which we would have to pay to the Government is concerned, it would be very much less in comparison to our net profits than it would in the case of the wholesaler.

Why should not we pay this tax just as we pay the corporation income tax and include it as an item of our own cost to be passed on as part of our price when we could, and taken out of our profits when it had to be? What would be gained in business generally by each one paying a 1 per cent tax on his purchases and passing along a 1 per cent tax on his sales? What is true with us as a manufacturer compared to our wholesale customers is also true of us as a manufacturer with a large capital investment and a slow turnover compared to a manufacturer in a line of business where the turnover is more rapid.

Mr. Orcutt quotes from an article by Mr. Charles E. Lord, a prominent cotton commission merchant. I see by referring to Mr. Lord's table that a cotton yarn spinner buys cotton for 55 cents and sells the yarn for 95 cents. His raw material, therefore, is nearly 60 per cent of the selling price of his finished product. This is because a cotton spinner makes a comparatively simple, quick, and inexpensive change in his raw material before selling it as yarn. Our raw material does not amount to 25 per cent of our selling price. This is because we perform a great many consecutive manufacturing operations on a piece of steel before turning out a finished tool. It takes months to complete these processes and a great variety of expensive machinery. The tax on our purchases of raw material which we are supposed to absorb would be less than half, perhaps even less than one-third, the tax which the cotton spinner would be expected to absorb, Mr. Orcutt says:

"Unless the sales tax is definitely passed on to the consumer it becomes a tax on gross income and is open to the criticism that it is unequal as applied to net income."

With this every thinking man must agree, but it does not help the situation for each business to pass on the 1 per cent tax on its own sales and play the part assigned

to the consumer by absorbing the tax on its purchases. Such a solution does not decrease the inequality at all.

Isn't it true also that the tax would fall most heavily in proportion to net profits, generally speaking, on the sales of necessities and with less weight on the sales of luxuries? Is it not generally a fact that businesses engaged in the production and distribution of necessities rely upon larger sales and quicker turnovers, with a smaller margin of profit than do businesses engaged in the production or sale of luxuries? Sugar sold by a retail grocer is a well-known example of an article sold with very small, if any, net profit. Is it fair to tax the sale of sugar at every turnover no matter whether each branch of the business adds to its invoice or not at the same rate as sales of jewelry, for instance? I should think that the Fifth Avenue jeweler would be better able to pay a tax of 5 per cent on the sale of a diamond or a watch than the corner grocer would a tax of 1 per cent on the sale of sugar. According to Mr. Orcutt's proposal, even if the grocer collected the 1 per cent tax from the consumer he would be expected to pay the 1 per cent tax which the wholesaler added to his invoices.

This leads us to the other side of the question. Is it fair to the poorer class of our population to take off the present luxury and excise taxes such as the 5 per cent tax on the sale of jewelry and substitute a tax of 1 per cent on every sale of everything, aimed to produce a revenue of about \$2,000,000,000, and at the same time to remove the excess-profits tax from business and reduce the surtaxes on large incomes? Of course, the excess-profits tax must go and the large surtaxes must be reduced, but there are other ways which appear to me to be more fair to raise the revenue than to spread it over the sale of everything, which means that the great bulk of it would come from the sale of necessities.

The income received by over 80 per cent of our population is less than the present exemptions from the personal income tax, namely, one thousand for unmarried men and two thousand for married men. These people have to spend their entire income for the necessities and slight comforts of life. They are the great bulk of the consumers to whom a general turnover sales tax would be passed along. Raising the exemptions from the income tax would not help them any, but only the somewhat more fortunate ones who now receive incomes between the limit of the present exemptions and the new proposed exemptions. This would be a move in the wrong direction. It would reduce the number of people who consciously are paying taxes toward the support of the Government. Payment of a general sales tax reflected in increased prices to the consumer would not be recognized by them as their contribution toward the support of the Government, but would rather be regarded as tribute to profiteers who were advancing prices contrary to the need for reduction in the cost of living. We must remember also that the tax on those who had to spend their entire income for their current expenses would be equivalent to a tax against their entire income, whereas the tax paid by us more fortunate individuals would be against such part of our income as we spent. We constitute the class who could reduce the tax by following Mr. Bache's advice to "stop consuming."

Isn't it somewhat hypocritical to claim to business that the inequality of the tax in relation to net profits would make no difference to business because it would be passed on, and then to claim to consumers that such a tax would reduce the cost of living? How can both things be true? Widespread publicity has been given to the statement alleged to have been made by some unknown official of the Department of Justice that profits taxes increased the cost of living 23.2 per cent. Whoever was able to figure such a percentage so accurately must have been omniscient, but regardless of the reliability of any such figure, it has no bearing on the present case because the excess profits tax which was the greatest breeder of high prices is to be abolished and the ability to pass on a tax on either sales or profits is much less than during the days this percentage refers to. As a matter of fact, a sales tax at 1 per cent would not be passed along in its cumulative form from turnover after turnover to the final consumer in the form of a definite tax payment.

Mr. Orcutt suggests that each business should absorb the tax on its purchase and pass on only the 1 per cent on its sales. Even this 1 per cent could not be passed on to the individual consumer in most cases as a definite tax but would have to be distributed over selling prices as they would vary. Is there any reason to assume under such circumstances that the sales tax would be passed along or loaded any more or less than other forms of taxes? Is there some peculiar virtue in a 1 per cent tax on bread that would enable it to be passed along in the exact amount any more readily than a 5 per cent tax paid by the jewelry merchant on his sales? Is there any more reason to suppose that it could be passed along any more or less readily than a 10 or 15 per cent corporation income tax on net profits? It seems to me that in either case when prosperity exceeds business, concerns will sell their goods at prices that will bring them a net profit after the payment of taxes in whatever form, and

that when consumers will not pay a price sufficient to make a fair profit, taxes will have to be absorbed. The important difference from the standpoint of the business man is, however, that a sales tax has to be paid whether the business makes a profit or not and in years of adversity might cause the additional loss that would bring insolvency, whereas the tax as a percentage of net profits does not have to be paid when there is no profit from which to pay it.

I am just wondering if a sense of fairness will impel the Wall Street Journal to publish these comments, in view of the extended space hitherto devoted to arguments in favor of the turnover tax.

FAYETTE R. PLUMB,

*Chairman Tax Committee, National Industrial Conference Board.*

PHILADELPHIA, April 12, 1921.

It must be conceded, we think, that if before the war anyone chose to sell an ice-cream soda for 10 cents, it was either because he made a profit on the sale or he hoped to attract customers to his establishment who might buy something else at a profit. There was no tax to draw on his mental process in setting the price.

After the war he was compelled to collect a tax of 1 cent from the purchaser of each 10 cents or fraction thereof of his concoction. If he sold the ice-cream soda for 10 cents, he collected 1 cent, equal to 10 per cent. If he sold for 11 cents, he collected 2 cents, equal to a little over 18 per cent. If he sold for 19 cents, he collected 2 cents, equal to a little over 10 per cent. If he sold for 20 cents, he collected exactly 10 per cent.

Was there ever a more amazingly unjust tax ever collected from anybody? Mr. Plumb asks if it is fair to tax the poorer classes of our population. We think not; but yet he would perpetuate that tax of from 10 per cent to 18 per cent in preference to establishing a uniform tax of 1 per cent, although he must know that probably a vast majority of the consumers of ice-cream soda are the salary earners.

But that is not the important point. The fact is that after the tax on ice-cream soda was levied, it (the tax) had nothing to do with the price set or the profit derived. Whatever the price, it was arrived at before the tax was considered, for the tax does not come out of the seller or his profits, but out of the buyer.

Another point is that while the seller never fails to collect the tax from the buyer, there is no known machinery of the Government by which the Government can know how many ice-cream sodas have been sold or how much tax has been collected—an evil that could not be under a general tax.

This is merely by way of illustration that present sales taxes do not control or affect price, that the consumer always pays, and that the Government does not necessarily get—in fact, it often does not. The case is no better with the jewelry tax cited by Mr. Plumb. Jewelry, in the law, means not only gold and diamonds and platinum sold on Fifth Avenue, but also all "articles to be worn on the person or apparel for purposes of adornment regardless of the substance of which made and regardless of their utilitarian value." Therefore, the \$15 a week filing clerk who pays 1 cent or 20 per cent tax on a 5-cent ice-cream cone has to stand also for the 5 per cent tax on her 50-cent side comb ornamented with imitation pearls and on her \$1 imitation diamond brooch or shoe buckles. This in addition to the 4 per cent tax she pays on her tooth paste and her face powder. Social justice! Sure! With an added burden on the vendor to keep track of all these taxes!

To come to the larger (in dollars) issues involved in Mr Plumb's exposition. What difference does it make in arriving at a selling price whether the article is a 5-cent ice-cream cone on which a tax of 20 per cent is added or a carpenter's chisel, to the price of which a 1 per cent tax is added? The filing clerk is the consumer of the ice-cream cone. Mr. Plumb is the consumer of high-grade steel from which he makes his chisel. He consumes wood from which to make the handles. He consumes machinery with which to turn out his special product. He consumes coal and electric power and light and office furniture and paint and labels, etc. All these things he purchases at a set price, to which a 1 per cent tax is to be added. He can't buy any of these things from anyone without paying that 1 per cent tax, so the price must necessarily be made irrespective of that tax.

When Mr. Plumb comes to sell, he has added labor and overhead costs to the cost of materials, so that his selling price is necessarily larger (whether he sells at a profit or not) than his material cost on which he paid 1 per cent. Hence, when he collects 1 per cent on this sale price, and every other competitor has to collect 1 per cent on sale price, the situation is exactly the same, so far as profit or loss is concerned, as if the tax stopped with the initial step in the chain and the only consumers were the tool manufacturers.

It is an axiom in mathematics that if equals are added to equals the results are equal. If the only consumption tax in the world were a tax of 1 per cent on the



materials purchased by a tool manufacturer, the result to all tool manufacturers would be equal, just as the tax of 1 cent on a 10-cent ice cream soda is equal to all purchasers thereof.

It is also true that if equals are added to unequals, the inequalities remain the same. If you spread a thin coat of paint over an unequal surface, the inequalities of the surface are not affected. If the cost of Mr. Plumb's materials is less than the cost of the same materials to his competitors, the addition of a 1 per cent tax in both cases does not change Mr. Plumb's relative advantage. If Mr. Plumb's labor and administration are more efficient than his competitor's, his advantage is increased, but it is not the 1 per cent tax that enables him to undersell that competitor. They are on exact equality with respect to the tax. They are also on equality in being compelled to add 1 per cent to the bill when the articles are sold.

If the customers insist on an increase in the cash discount, that discount comes out of the price agreed on before the tax is collected, and has nothing to do with the tax.

Another axiom in mathematics is that if equals are multiplied by equals, the results are equal. No matter how many steps are involved in the tax levy, they are merely multiplication of the single step already described, and can not produce inequality on an equal number of steps.

It does not follow, however, as many opponents of the tax seem to think, that if there are 10 steps, and 1 per cent tax is levied at each step, the result will be a 10 per cent tax on consumers' price. In the initial stages cost of raw material is comparatively small, and the 1 per cent is small. As labor and transportation and overhead costs are added, the basis of the tax grows, and the tax grows in proportion. The net result is an average of about 3 per cent final tax on the retail price to the eventual consumer.

To illustrate the practical working of this process, let us take wheat and bread. A bushel of wheat will make 60 average loaves, selling, we will say, for 17 cents a loaf. If the farmer gets \$2 for the wheat and the retailer gets \$10.20 for that same bushel of wheat in the form of 60 loaves of bread, there has been an accretion somewhere along the line of \$8.20 a bushel. How much of this \$8.20 is a 1 per cent overturn tax? Actually, less than 20 cents.

When the farmer sells the wheat to the elevator company at an agreed price of, say, \$2 a bushel, he collects from the elevator company \$2.02 a bushel, of which 2 cents is the tax. The elevator company sells to the miller at agreed price of \$2.40 a bushel, on which the tax is 2.4 cents, making the cost to the elevator company \$2.424. The tax collected has now reached \$0.044.

The miller produces from the bushel of wheat two-ninths of a barrel of flour, which at \$16 a barrel is \$3.55 for the bushel of wheat. Selling this bushel of wheat to the jobber at \$3.55, he adds 3.55 cents tax, making the total bill \$3.5855. The accumulated tax is now \$0.0795. The jobber, if he is not a commission man, gets, we will say, \$18 a barrel of flour equal to \$4 for the bushel of wheat, paid by the baker, who in addition pays a 1 per cent tax of 4 cents, making the accumulated tax \$0.1195 on each bushel of wheat as it reaches the baker in the form of flour in carload lots.

The baker, producing 60 loaves of bread from the bushel of wheat, sells to the retailer at 10 cents a loaf, which is \$6 for the bushel of wheat. The tax is 6 cents on the 60 loaves, which, added to the previous taxes, makes \$0.1795 on 1 bushel of wheat, or 60 loaves of bread.

If the retailer then sells to the consumer at 16 cents a loaf, and collects an approximate 1 per cent tax, the consumer pays 17 cents, and the total tax collected by the Government has been \$0.2755 on the bushel of wheat, which, selling in the form of 60 loaves of bread at 17 cents each, has brought \$10.20. Of this less than 2½ per cent is the tax on the expenditure of the consumer, or ½ of a cent on each loaf of bread—with a margin of graft to the retailer because he could not make a price of 16½ cents and had to charge 17 cents. Were there a minor coinage (less than 1 cent) in use the retailer could not get this gouge of ½ cent in making change.

This 17-cent price for a loaf of bread was established by war prices when wheat sold at \$2.20 a bushel and the elevator man and the miller and the baker all made big profits, paid excess profits taxes, and pyramided the tax to the consumer. With wheat selling now at \$1 a bushel instead of \$2.20, the price of the loaf of bread remains at 15 cents, or \$9 a bushel. An overturn sales tax on \$1 wheat should be, on the steps illustrated above, about 16 cents—instead of 28 cents on \$2 wheat—or about one-third of a cent a loaf. That is all it could be under a properly administered overturn tax. Somewhere along the line, obviously at the tail end, there is a vast amount of loading and profiteering still going on under the present tax system.

To return, however, to Mr. Plumb's thesis, there could be no inequality or injustice under a sales tax to the wholesaler who buys tools from him and sells them to the retailer. Mr. Plumb's customers, the wholesalers, do not pay any tax for Mr. Plumb.

"out of their pockets" or out of anything else, and they consequently can not tell him that they "stand it themselves" and can not afford to pay it. They pay a tax to the Government (which uses Mr. Plumb as a collector) for the privilege of doing business as wholesalers. Mr. Plumb paid his tax when he bought his raw materials.

Didn't they actually pay Mr. Plumb's excess profits tax for 1920 when they bought goods from him at a price that enabled him to make a profit on which to pay the tax? Most assuredly they did. But they don't know how much they paid or what the Government got. Under an invoiced sales tax they would know exactly what the Government would get. They still would not know what Mr. Plumb's profits were, or whether he made any profit, or how much tax he paid. They would know that every one of them paid exactly the same tax if they bought at the same price, and just exactly what it was. Is that inequality or injustice? We think not.

And neither does it follow that Mr. Plumb would not pay any tax on his profits. It merely follows that his customers would know just what tax he collected from them as a Government agent, and that he paid it all over to the Government. Therefore it did not affect his profits or his loss—having nothing to do with them. It is nowhere proposed to stop taxing Mr. Plumb on his profits or to penalize him if he sells at a loss. Having paid a 1 per cent tax on his purchases, as did every one of his competitors, his profit or loss depends entirely on his skill or luck in buying, manufacture, and sale, just as if there had been no 1 per cent tax when he bought his raw material and no obligation to act as a Government tax collector when he sold.

The question of income taxes, corporate or individual, would remain the same if no overturn tax existed. Adjustment of these taxes is a problem by itself. The druggist who handles scores of intricate special taxes at great expense and trouble to himself, has to pay an income tax after all the other work has been done. He would still have to pay an income tax were his work simplified by the institution of a simple general sales tax in place of complicated special sales taxes. This is really all there is to the sales tax controversy.

In the absence of a coinage smaller than 1 cent there are some minor difficulties for the retailer in adjusting prices exactly to the tax. But there is nothing in the world to prevent the retailer of Mr. Plumb's tools from passing on the tax. Mr. Plumb's tools are not sold in the 10-cent stores. They cost fairly large money. If the retail price of a carpenter's hammer is \$2.50, it is not impossible for the retailer to figure 1 per cent on that, even if he has to make the total tax 3 cents instead of 2½ cents. He might prefer to absorb the 2½ cents, but as he would not be dealing with lunatics he could not specifically charge 15 cents as a 1 per cent tax on \$2.50 and get away with it. Possibly he paid the wholesaler \$2 plus 2 cents tax. It is not of great importance whether he absorbs the final tax or charges a slight increment, but it is important for the business community and the Government to know that Mr. Plumb's raw material dealers from whom he bought, Mr. Plumb himself, and the wholesaler to whom Mr. Plumb sold, should act as collectors and not as absorbers or pyramiders. That is exactly the "peculiar virtue" that rests in an invoiced sales tax. It could neither be absorbed nor augmented and would become a constant known factor.

Mr. Plumb expresses wonderment as to what his customers, the wholesale hardware dealers, would say at a 1 per cent overturn tax. We have tried to demonstrate that they should and would say nothing.

Mr. Plumb also wonders how the Department of Justice found out that the excess-profits tax increased the cost of living exactly 23.2 per cent. So do we. But we do know that whether the load was 10 per cent or 30 per cent, it all came out of the consumer. If excess-profits tax was paid by Mr. Plumb he must first have made an excess profit out of the price he charged the wholesaler for whom he now weeps. The wholesaler, of course, has to pass the cost along in order that he might pay an excess-profits tax, and the retailer is not ordinarily so modest as to absorb the entire load of excess-profits taxes passed down to Mr. Plumb by his material men, by Mr. Plumb to the wholesaler, and by the wholesaler to the retailer. Our guess is that the Department of Justice was not far from right.

This not only emphasizes the "peculiar virtue" of an invoiced sales tax in the prevention of pyramiding, but suggests the wholesome idea that when Mr. Plumb no longer collects an augmented excess profit from the wholesaler, and therefore pays no excess-profits tax to the Government, the Government will not be left in the lurch for revenue, because Mr. Plumb will still be acting as a collector, though he has no direct financial interest in the amount collected, as is the case now.

What in the world has all this to do with the percentage of profit made by Mr. Plumb, whose material cost 25 per cent of his selling price, or with Mr. Lord, whose material cost 60 per cent of his selling price, or with the wholesaler whose materials have nothing added to them in manufacturing cost? What has it to do with the rapidity of overturn? Absolutely nothing, in all cases.

It is mathematically impossible to compare weight with distance or tainted eggs with the binomial theorem. If Mr. Ford sells a fivver f. o. b. Detroit for \$695, his profit is not increased or diminished whether the purchaser takes it away from the factory under its own power or pays \$20 freight to ship it to Alaska. The rate that may be established by a sales tax law can not have any relation to Mr. Plumb's decision whether or not he will sell a Sargeant hatchet at a 10 per cent profit or a 10 per cent loss; nor any relation to the profit or loss of his wholesale customer.

It is not true "that the tax would fall most heavily in proportion to net profits generally speaking on the sales of necessities, and with less weight on the sales of luxuries." The "proportion to net profits" has nothing to do with the case, any more than a thin coat of paint on a corrugated surface has to do with the relative measurements of elevation and depressions. Equally, the absorption by each business of the tax on its purchases and the "passing on" of the tax on its sales produces no inequality; nor, as Mr. Plumb inadvertently admits, does it "decrease the inequality." That is exactly its "peculiar virtue," that it leaves competition and price just as they would be without any tax. It is the preservation of the pretax status that would, to quote Mr. Plumb's objection, "be gained in business generally by each one paying a 1 per cent tax on his purchases and passing along a 1 per cent tax on his sales."

Again it is not true, as Mr. Plumb assumes, that "to spread it (the revenue) over the sale of everything" would mean "that the great bulk of it would come from the sale of necessities." As a matter of fact so long as there are incomes to tax, and the tax rate is kept down to the productivity point, no greater burden would be placed on consumption through a general uniform sales tax than now rests on it through the operation of the present special sales taxes. The practical difference would be that the burden would be evenly and equitably disturbed over the whole field, instead of sporadically and unevenly in particular places.

The present burden that is directly "passed on" to consumption is about \$1,800,000,000. This includes all the special taxes on selected industries and articles and the excess-profits tax which could not be collected in that form unless the excess taxed had first been collected from the consumer in augmented volume. Assuming that the total overturn of the country is \$200,000,000,000, a 1 per cent tax would produce \$2,000,000,000. If the overturn should prove to be \$400,000,000,000, the rate necessary to produce approximately the present consumption burden could be  $\frac{1}{2}$  per cent.

The principle being established, the rate could be adjusted to fit the exigency just as the income tax rate was adjusted to fit the exigency of war. There could not be any greater consumption tax burden than exists now, with present expenditures. There assuredly would be a relief with diminishing Government expenditures and a proper balance between income and excise taxation. Under the present system the burden rests unequally both in the income and excise fields.

Confining the immediate discussion entirely to the excise field, just as if the problem were to equalize excise taxation as the sole field, how would a general tax work out in comparison with the present hodgepodge of special taxes? That, we take it is really the point Mr. Plumb is driving at in his question:

"Isn't it somewhat hypocritical to claim to business that the inequality of the tax in relation to net profits would make no difference to business because it would be passed on, and then to claim to consumers that such a tax would reduce the cost of living? How can both things be true?"

The position is not hypocritical and both things can be true. We have already tried to show that the "passed on" tax has no relation to net profits, and it is equally clear that a definite "passing on" of the tax would under normal conditions automatically reduce the cost of living as compared with the pyramiding of an excess-profits tax.

Let us drop Mr. Plumb as an example for the minute and take up another member of Mr. Plumb's National Industrial Conference Board Tax Committee, H. P. Hazard, a shoe manufacturer of New England. Before the war there were old-established shoe concerns in New England that had been paying for years, say, 15 per cent on the par of their stock. When the excess-profits tax levy came along they said among themselves: "We don't want to gouge the public, but we do want to maintain our dividends. In order to make sure of our regular return on the stock we must advance the price of shoes  $x$  per cent."

They little dreamed that the war demand for leather—and the extravagant war earnings—were going to take prices out of their hands and result in profits that, after paying the excess-profits tax, were far beyond the mark they shot at to stabilize the net return on capital as expressed in the par of stock. Prices ran away. The tax for the moment had nothing to do with them. It was proper that the Government

got some of the uncontrolled excess profit back in the form of excess-profits tax, even though the machinery adopted to retrieve the excess was hurriedly and crudely put together. There was then a seller's market that nothing could stem.

Now the situation is different; and normally it is different. Normally the buyer has some say in the market; and that is the present situation. If the buyer can continue to control the market, there will be no general excess profits wherewith to collect the money from the consumer with which to pay a heavy excess-profits tax. This would relieve the consumer, but would also result in no definite revenue to the Government. Before the war—and therefore before the excess-profits tax—some manufacturers and dealers made larger profits than other manufacturers and dealers. This will continue to be the case for all time—tax or no tax. The consumer can never be relieved of all taxes unless the manufacturer and the dealer continue permanently to sell at a loss. So long as they sell at a profit they will pay a tax on the profit, and the wherewithal to pay it will come out of the consumer. There is no intention anywhere to abolish an income tax on profits. The idea of an overturn sales tax is to distribute the load of consumption taxes equally over everything that is consumed and not spottily and unequally on special articles.

Congressman Good wails that "a sales tax is a tax on the backs and bellies of the people." How many tons of steel rails, structural steel, bridge materials, locomotives, brick and mortar, copper, automobiles, silks, diamonds, mahogany furniture, canvas-back ducks, or Russian sable coats fall on "the backs and bellies" of the "peepul"? To say that an overturn tax on these articles is an outrage on 10,000,000 farmers is to admit that all taxes eventually fall in the same place. But the very object of an overturn sales tax is to distribute the tax burden in accordance with expenditure instead of confining that burden of sales taxes to articles of popular, direct usage like medicines, tooth paste, soaps, ice cream, movie tickets, and other necessities that are measured numerically and are subject to all kinds of arbitrary rates, bearing heaviest on the poorest.

Congressman Frear, in a speech in the House of Representatives, quotes R. P. Hazard, the shoe manufacturer already referred to, as saying: "Mr. Frear, it would be \$200,000 a year more interest to me to have the sales tax provision passed, and yet I have been opposing it at every place I could, speaking against it constantly." All of which indicates that neither Mr. Frear nor Mr. Hazard understands that the sales tax would not relieve Mr. Hazard of his income tax. It indicates that both of them do apparently think that the sales tax is designed as a substitute for the income tax—which it is not. There is no sales tax now on Mr. Hazard's products, and he would be relieved from nothing by its institution. The income tax on his profits will be maintained, in the eventual revision, at exactly the same point under a general sales tax as it will be under the added complications of special sales taxes if special sales taxes are decided on in multiplied numbers to raise the same amount that might be raised by a general sales tax. In other words, both of them are talking "through their hats."

So, too, William Jennings Bryan is indulging in his usual uninformed balderdash when he says:

"The consumption tax is of course an income tax. It is a graded income tax with the heaviest rates on the poorest people. The plan now is to take the tax off the profiteer and put it on his victim. The smaller the income the larger percentage of it would be taken under this tax."

Mr. Bryan once told the "peepul," in effect, that God created gold and silver in the ratio of 16 to 1, and that it was a crime for the Congress of the United States not to coin both metals freely and interchangeably at that ratio. God never did anything of the kind, and Bryan never got away with the fiction.

#### **STATEMENT OF TIM HEALY, REPRESENTING THE NATIONAL COUNCIL OF TRAVELING SALESMEN'S ASSOCIATIONS.**

The National Council of Traveling Salesmen's Associations is vitally interested in any proposed tax legislation which will reduce the selling price of merchandise to the consumer and at the same time yield a substantial revenue to the Government. It believes the sales tax will accomplish these purposes and further believes the sales tax to be just, simple, economical, and productive.

It is unnecessary to dwell upon the effect that the high cost of merchandise has had upon business generally, and the commercial traveler is keenly interested, if only from a selfish point of view, to reduce the cost of commodities in order to enhance the volume of business which must necessarily increase his own income and at the same time benefit the community as a whole.

The sales tax, as we see it, has the virtue of being a tax lightening the burden of the rich and poor alike by removing one of the chief causes of the high cost of living

created by the present tax system, the effect of which has been to increase the price of the necessities of life over 23 per cent. As against this the turnover tax of 1 per cent, even if pyramided through the maximum of 11 separate sales operations, will not exceed 3½ per cent. It is claimed that the average has been known to be 2½ per cent or about one-tenth the amount that every man, woman, and child is now being taxed in the price of everyday necessities.

One of the advantages of the proposed tax will be that every business man will know each month exactly what is due the Government, and the amount will be so small that it either will be absorbed in his overhead or passed on to the consumer in the moderate form of 1 per cent to 3½ per cent increase in the price of the commodity sold. It is further urged that this form of tax will be met in a straightforward, honest manner by practically 100 per cent of the community and will not be avoided because it will be so small that no person will desire to avoid it. It will obviate the necessity of the employment of accountants and lawyers and other experts and likewise place the merchant in a position of knowing exactly what his tax will be, and he will not find himself in the position of having his business affairs investigated in 1921 for returns that were filed in 1918.

The common-sense way to reduce wasteful taxation is through a tax that will fairly and equitably distribute the tax burden, lessening it not only through the improved system but also through its simplicity of enforcement and collection, so that it may not be a burden to anyone, and we believe that that is exactly what the sales tax will accomplish.

A great deal has been said on the subject of the sales tax to the effect that it is primarily intended to benefit the rich and burden the poor. We feel that this statement is without foundation in fact. The commercial traveler is situated similarly to the farmer and the laborer, and certainly, if the proposed taxation was intended to affect the poor and relieve the rich, the National Council of Traveling Salesmen's Associations would deem it its duty to oppose the sales tax. If the sales tax would place a greater burden upon the worker, whether he is farmer or laborer, it would automatically operate and militate against the commercial traveler in like manner, for he, too, is a worker.

We contend that what is needed is so to reorganize our business affairs that the rank and file of the workers of the country will find themselves employed, and we contend that there can be no such employment so long as the present system of taxation is enforced, because capital finds it more profitable to withdraw itself from commercial enterprises and to reinvest in tax-exempt securities.

If the greater percentage of the moneys now invested in tax-exempt securities were reinvested in business enterprises, the demand for the worker would become so enormous that the wheels of commerce would again commence to turn as they did in pre-war days, and would so stimulate production as to compel the reduction in the cost of commodities.

It is further contended that this tax is a burden upon the worker because it is a consumption tax. As a matter of fact, every tax is a consumption tax and an analysis of the present system of taxation will show that the cost of every commodity, passed on to the consumer, carries with it the very many forms of taxation which approximate between 20 and 25 per cent of the purchase price of that commodity to the consumer. This, we contend, is one of the strongest arguments for eliminating the present system of taxation and putting in its place a simple tax which, even though it may be passed on to the consumer as a consumption tax, which it must be, the amount will not be in excess of between 1 and 3½ per cent.

By reason of the foregoing, the National Council of Traveling Salesmen's Associations desires to go on record in supporting the sales tax as proposed by Senator Smoot.

#### STATEMENT OF FRANK R. WEAVER, WASHINGTON, D. C.

A uniform tax on sales is an equitable, simple, flexible method of obtaining funds for Government expenses with the least disturbance to business activities, and through its operation every individual will pay his exact proportion according to the amount of goods he consumes. A man spending \$1,000 a year would be paying one-tenth the amount of tax that a man spending \$10,000 a year would pay, one one-hundredth as much as the man spending \$100,000 a year, and each commodity would be bearing its exact proportion of tax in proportion to the amount of that commodity consumed.

The rule in business is to buy as cheap as you can and sell as high as you can, and for any deviation from this rule there will be found a business reason and not one of altruistic nature. Therefore, a uniform tax on sales, everybody paying the same rate, could not possibly have any effect on the selling price, other than the amount of the tax. The difference in the cost of doing business by several concerns distributing

the same class of commodities in the same locality, and to the casual observer, giving the same service, will be frequently above 7 per cent. So it can readily be seen that 1 per cent on an article that has passed through several hands in the process of manufacture and distribution, would not have even a perceptible increase in price to a public accustomed to the fluctuations we continually have. In the last analysis the people who work, those who produce with brain and brawn, pay all the tax and there is no escape from it.

Suppose each man was living by himself independently, merely existing, he would quickly realize that his neighbor produced more of some things than he could consume and they, were articles he would like to have but could not produce, and vice versa. Would they not exchange commodities with one another? And as many became exchanging with one another, and the distances from which they came became greater, they would select a common meeting place. As this meeting place developed it would be found they did not have their different commodities ready for exchange at the same time, and naturally they would elect one of their number to stay at this place (giving up his business of producing), he to act as collector and distributor of the things they all produced, and the only way he could live or they could pay him for his services, in fairness to all concerned, would be by allowing him a certain proportion of what they all brought him. Now, this is just exactly what the Government of the United States would be doing with a uniform sales tax in operation, taking a uniform per cent of everything produced in return for doing for all the people of the United States things that concern all the people, and which they themselves could not do individually.

This form of taxation in my mind is fundamental. It is a basic principle to which all other forms of taxation must be subordinate. I have analyzed every objection I have heard offered, and the deeper I go in the subject the more firmly I become convinced of the feasibility and practicability of the uniform sales tax, not only as a revenue producer, but also to put the power in the hands of the men we put in office to force our productive powers to work toward an equilibrium with our consuming or purchasing powers. In other words, in a period of unemployment like the present, or in any great emergency, by simply increasing the rate they would have the funds to do some public work, and through their employment of some of the idle men, and the Government purchasing power, give impetus to general business activities. I do not believe in Government ownership, but I do believe that work of some kind should be furnished every man willing to work.

I am a firm believer in the tariff for protection and in the inheritance tax, but the income tax is class legislation, and its only excuse for existing could be the revenue it produces. For example, if a man had an income of \$100,000 a year and he was in the habit of spending \$20,000 a year for living expenses, without the income tax in operation he would use the \$80,000 in some form of investment that furnished employment to men. Any part that is taken from him in the form of an income tax would create no incentive for him to decrease his living expenses; it would simply keep that much money out of business channels and, in addition to that, he would feel justified in taking advantages he would otherwise forego.

In normal times I do not believe in tax on luxuries, so-called nonessentials, on the theory that one man's business should have equal consideration with another's. Since the cessation of hostilities, the people of this country have been told through many publications, they were paying high prices for the necessaries of life because of the general shortage; that we needed to bend every effort to produce more. Two years have passed and we have over 5,000,000 people out of employment without there having been a material increase in efficiency, nor an abnormal production. The truth of the matter is that the conditions described prevailed in Europe, not over here, and the only obstacle that stood in our way to immediate prosperity was and is now our unscientific method of distribution. We are being told now by men who should know better, that this sudden deflation which has been so disastrous to the farmers of the United States, is caused by a buyers' strike for one thing, and another that it is just a period of readjustment and a natural consequence that must necessarily follow a great war, while the facts are, the purchasing power of the people has decreased, caused by the lowering of wages, and 5,000,000 out of employment. With this in mind, those who are working buy sparingly. The worker with a fixed wage has no confidence in the price of anything, and there are still some distributors who refuse to put their prices to a basis at which they could sell when they replenish their stock from the manufacturer.

In my opinion, a common understanding of the following rule for selling (used as a measuring rod) will do much toward solving our economic problems. Each individual, firm, or corporation quote their own prices, terms, and conditions, making them the same to all from whom patronage is solicited, irrespective of quantity, with the same ratio of profit on goods of similarity.

What a just price is and how to arrive at a just price is a simple mathematical calculation, coupled with a sprinkling of common sense, but it is not generally understood. We all need education along economic lines and the average American wants to learn. Once focus the American mind on a sound business proposition or an ideal and you can't stop him. It's in the blood.

### RESOLUTIONS OF THE BOARD OF DIRECTORS OF THE ASSOCIATED RETAILERS OF ST. LOUIS.

Whereas the excess-profits tax and the numerous excise, special, and stamp taxes, together with the present surtax rates, of the revenue act of 1918 are excessive, discriminatory, and ill-adapted to peace-time conditions, the said excise taxes in particular being contrary to and in violation of the principle of equal taxation guaranteed by the Constitution; and

Whereas these heavy and uncertain taxes, through the pyramiding of taxes as goods are passed from hand to hand, are an important factor in the increasing of prices to the consumer; and

Whereas the heavier surtaxes on incomes make it more profitable for persons with large incomes to invest money in nontaxable bonds rather than in industrial, railroad, public service, or other taxable securities, thus diverting huge amounts of investment capital to nontaxable bonds, and, to the extent of such nontaxable investments, exempting persons of great wealth from taxation; and

Whereas taxes on personal incomes should be simplified by dropping the surtaxes and levying a graduated income tax instead, stopping at the point where any further increase would drive the possessors of great income to place their wealth in wholly exempt securities; and

Whereas it has been estimated that a gross sales or turnover tax of 1 per cent on the sales of all kinds of goods, wares, and merchandise embracing raw materials, manufactured goods, and real property, and including the receipts of public and personal service corporations, amusements, clubs, and other like receipts, will yield an annual revenue of from four to six billion dollars: Now, therefore, be it

*Resolved*, That we urge upon Congress to promptly repeal the excess-profits tax, the surtax, and all excise, special, and stamp taxes of the revenue act of 1918, and to substitute for those war taxes a gross sales or turnover tax, to be absorbed and paid by the seller, and a graduated income tax or a proper reduction in the heavier surtaxes on personal incomes, with an increase of "specific exemptions" on personal incomes.

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### SALES TAX—OPPONENTS.

#### STATEMENT OF J. C. PEACOCK, REPRESENTING FAYETTE R. PLUMB (INC.), PHILADELPHIA, PA.

Mr. PEACOCK. My name is J. C. Peacock, Albee Building, Washington, D. C., representing Mr. Fayette R. Plumb, president of Fayette R. Plumb (Inc.), Philadelphia, Pa.

I might explain just why Mr. Plumb intended to appear here himself. He is unable to come to-day, and has asked me to take his place. Mr. Plumb, a prominent manufacturer of Philadelphia, is interested in this subject, not so much on his own account, but because he served as chairman of the tax committee of the National Industrial Conference Board, of which committee I happened to serve as secretary, and copies of the final report of which were sent some time ago to all Members of Congress, including, of course, members of this committee.

Of course, the board would be glad to supply any extra copies of those reports which may be desired.

Senator McCUMBER. The chairman has asked in respect of these others of like character for 100 to be sent, and if you can do so the committee will appreciate it.

**Mr. PEACOCK.** The committee grew out of a conference which was held in Chicago a year ago last month, which was attended by representatives of more than 100 of the leading associations of producers and manufacturers of this country, and as a result of that conference a tax committee was formed which represented not only the 30 or more associations of manufacturers and producers which were included in the National Industrial Conference Board, but also represented a number of large industries such as the American Mining Congress, American Petroleum Institute, and other industries of that sort which were not included in the board.

This report of the committee includes a list of the membership of that committee. It does not purport to bind or to represent the opinion of those associations. It was made for the information of those associations. And when the report was completed, as it was several months ago, the work of that committee was ended, and neither Mr. Plumb nor myself, nor any other member of that committee who may appear before you, appears officially as representative of the committee. Mr. Plumb during the course of the last year devoted a very great part of his time to the study of this general subject of taxation, and the committee itself held a number of meetings very well attended. I say "well attended," by that I mean that the average attendance of those meetings was 10 or 12 out of perhaps a membership of 15.

At the outset most of the members of that committee rather favored the sales tax, just as about a year ago most business men rather favored the sales tax, and a great many of them still do, and the committee rather looked on the task before it as making some recommendation as to the nature, the kind of a sales tax, and as to the details of the sales tax.

I can say from my own knowledge that Mr. Plumb was personally a very strong advocate of the sales tax, and for more than two months of the work of that committee remained such an advocate, but as that committee went into the subject more and more, just as your own committee is now going into it, and as it came face to face with the many objections that were raised, it realized that in making its report it could not properly make a report favoring the sales tax or any form of the sales tax unless it could satisfy itself in its own mind that the objections which were raised—which were raised on all sides—were not insuperable, and the more that committee tried to satisfy itself on that, the more it found itself unable to do so; and Mr. Plumb, personally, and most of the members of the committee, finally came to the conclusion that a sales tax was unwise and impracticable.

I make that explanation in order that you might realize that what I say and what I present for Mr. Plumb—who has sent me a statement which I am going to ask to introduce into the record, while I will touch on the high points—is from a man who started not from the position of an opponent of the sales tax, but from the position of a very ardent advocate of the sales tax, but one who, when conscientiously going into it, reached the conclusion that his first idea was wrong and that he had to change it.

**Senator SMOOR.** Have you got any of Mr. Plumb's arguments in favor of the sales tax?

**Mr. PEACOCK.** Yes, I have them here—in favor of or against?



Senator SMOOT. Oh, I wanted some in favor, and then I could judge what changed his mind. He was an awfully strong advocate of it for years, and he must during that time have written some very strong articles for it.

Mr. PEACOCK. Mr. Plumb was not so actively——

Senator SMOOT (interposing). Oh, he was not?

Mr. PEACOCK. I do not know.

Senator SMOOT. I do. I thought so. All I want for the committee to know that he was never a strong advocate of it.

Mr. PEACOCK. I think I have made the statement; and if I did not make it clear I will state that Mr. Plumb, like most business men, a year ago favored the sales tax. Now, I will make this further statement.

Senator SMOOT. What I wanted is to have some of Mr. Plumb's articles advocating the sales tax presented to the committee here, if he ever made them.

Mr. PEACOCK. No, he did not. I might go on from my own personal knowledge, and this can be confirmed by, I think, several members of the committee who are down on your calendar, and you can confirm this by asking them when they appear.

I might say of my own personal knowledge, for about two months, when I first became associated with the committee, Mr. Plumb was a very ardent advocate before that committee of the sales tax, and during that time I will also say that several meetings of the committee were devoted to conferences across the table with some of the leading advocates of the sales tax at that time. Mr. Rothschild and Mr. Lord attended the meetings of the committee, and not merely attended, but took active part in the discussions of the committee.

Senator SMOOT. Are they members now?

Mr. PEACOCK. No; they were never members of the committee. They were invited to attend the meetings and took active part in the conferences, and, as I say, of my own knowledge, I can tell you that during about the first two months—I may say up until about July of last year—Mr. Plumb as a member of that committee was very actively in favor of the sales tax.

Before coming to his statement, there is just one other matter I would like to bring up personally; as some of you may perhaps remember, about four or five years ago it was my privilege to assist this committee in the capacity of legislative draftsman, and also the House Committee on Ways and Means, and during that time I had the privilege of assisting in drafting both the revenue act of 1916 and 1917. When the revenue act of 1917 was passed Mr. Roper, then Commissioner of Internal Revenue, asked Mr. Walker and then myself to go down to the Treasury and help in getting started the administration of that tax; and in that capacity I was there for about one year and a half, as secretary, successively, of the three boards which were organized in the Treasury: First, the Excess Profits Advisors, then the Tax Reviewers, and then the Advisory Tax Board, which was created by the revenue act of 1918. I had a very active part in drafting Regulations No. 41, under the excess profits tax, and was assigned by the commissioner to draft the excess profits part and the personal service part of Regulations No. 45.

I remember when one of the members of the committee this morning referred to what the regulations under this act would be.

I remember, very, very well what happened and what inevitably happens in the drafting of any legislation, and how away back when the revenue act of 1916 and 1917 was being framed many, many points had to be left to the regulations.

But, in any event, it is not a matter which I would criticize; it is inevitable. Legislation can not, and, as a matter of fact, should not cover the details. It should be left more or less flexible. Those are left for the regulations.

I have seen that other side of it, too. I have been up against it, and I have seen just how hard it is to draft regulations governing all these matters, and it has come home to me that it is not simply the principle of a tax—it is not the principle of a tax that makes for its simplicity or not, it is the amount involved.

This proposed sales tax is intended, as I understand it, to raise substantially the same amount of revenue which the big taxes are raising to-day. In other words, it is advocated and intended to raise from one to several billion dollars of revenue. It is the amount of tax which is going to be raised that makes it simple or not simple. It is not the rate of tax—1 per cent—or 2 per cent. The rate of tax does not make any difference. If it is going to raise several billion of dollars it is going to be a serious tax, going to be complicated, because, just like income tax and profits tax, it is going to go down into every detail of business, and each little detail is going to become important.

As we go back from 1909 to 1916, corporations were subject to an income tax exactly as they have been since that time, but not merely the rate, but the amount to be raised was low, and as a result the tax was comparatively simple. From 1917 on, the rates have been high, but the amount to be levied has been high, and all those points which are comparatively unimportant from 1909 to 1916 became magnified in importance.

Senator SMOOR. You are not comparing the law of 1916 with 1917 as to its simplicity?

Mr. PEACOCK. I am comparing this—

Senator SMOOR (interposing). You know very well, if you have been in the departments, that the law of 1917 brought questions in that the manufacturer or the individual never had anything to do with under any law preceding that, do you not—capital stock?

Mr. PEACOCK. That is exactly what I am coming to.

Senator SMOOR. That has nothing to do with that—

Mr. PEACOCK. May I proceed?

Senator SMOOR (continuing). Nothing whatever.

Mr. PEACOCK. That is just exactly what I was coming to. The law of 1917 brought in the new question of invested capital, which is commonly thought of and blamed for many of the difficulties of the tax administration. I am not an apologist for the excess-profits tax; I am not asking this to be continued or anything of the sort. But here is a digest of the rulings of the Treasury Department. It is very significant that in that digest, covering 353 pages—this is the official digest, with which you are more or less familiar—only 44 pages relate to rulings under excess-profits tax; in other words, more than 300 out of those 353 pages relate to rulings relative to net income, which is almost exactly the same kind of net income which had to be computed under the acts of 1909, 1913, and 1916.

Senator SMOOT. The sales tax has nothing to do with the net income at all.

Mr. PEACOCK. I appreciate that.

Senator SMOOT. And, of course, all those 353 pages, about 275 of them, changed the law entirely. You know that?

Mr. PEACOCK. Relative to net income?

Senator SMOOT. I mean the law itself. Those regulations are not in conformity with the law, and you know it, too.

Mr. PEACOCK. I know there are many regulations which are not in conformity with the law. I absolutely agree with you on that.

Senator SMOOT. You do not have to do that in the sales tax. If a man sells something, no fellow down here in the department can change it by regulations.

Mr. PEACOCK. I simply want to bring out one point, that as long as the amount to be raised is low, it is simple, no matter what kind of a tax is levied, but when you get to large amounts it becomes difficult. There was net income, which was looked upon as comparatively simple for seven years. There were very few rulings, as we all know. But as soon as the rate on it became high and the amount to be raised became high, the various little difficulties of net income became important.

And right here [indicating] in these rulings about income there are 6 or 8 pages which relate to the subject of sales. What is a sale? There are various kinds of sales, and in Encyclopedia of Law and Procedure, with which most lawyers are familiar, it is rather interesting to know that there are 700 pages of that closely printed text, each one carrying any number of citations which relate to the subject of sales. Sales, like anything else, is a complicated subject as soon as the amount to be raised and the burden of tax is several billion dollars and becomes enough to make it complicated.

Senator SMOOT. Not for goods, wares, and merchandise. Everybody knows what that is.

Mr. PEACOCK. I merely want to turn to this statement of Mr. Plumb's and refer to some of the points he touches, and then leave the statement to be printed in the record.

The first point he takes up—and most of these are points which have become more or less familiar as a result of the discussion of the sales tax—is a number of schedules and computations which have appeared showing the net result of tax after a great many turnovers to be only 2 or 3 per cent. Mr. Plumb points out here—

Senator SMOOT (interposing). Before you go on with that I want to get your idea. Is it your idea that the sales tax provided for in Senate 202 is no simpler as to the calculation of the tax than the present existing law?

Mr. PEACOCK. My idea is practically that; yes.

Senator SMOOT. Then I know just how far you know what the bill concerns.

Mr. PEACOCK. That is my idea. I might say that I have had very real experience in not only the drafting of regulations under acts which have been passed by Congress just as important as this act, but also when I first went into the Treasury I was called upon, with Mr. Walker, to examine every ruling for the commissioner, every ruling that was made or proposed to be made under not only the excess-profits and the income tax, but under the many miscellaneous

taxes passed in the act of 1917, and I know something of the many unimaginable questions which came up, which were not foreseen by the Members of Congress here.

Senator SMOOT. Under that law; but this is an entirely different law. This is a simple sales tax. No other country has had any trouble with it.

Mr. PEACOCK. It is quite simple as it appears in the law, and it is quite simple where only a small amount of money is to be raised. But I certainly do want to testify from my own experience that no law of that sort is simple when one, two, or three billion dollars is to be raised from it.

Senator SMOOT. It takes just as long a time for a man to figure 1 per cent on a million dollars or to figure on \$100,000 or \$10, and it does not take any more than about three figures to make the difference in his return, and he has got to swear to it, and that is all there is to it.

Senator McCUMBER. Kindly present the objections.

Mr. PEACOCK. Yes. May I make one other reference? I would like to call the attention of this committee to the existing sales taxes and to some of the problems that arise under them. There are a number of existing sales taxes under which the Treasury Department has issued Regulations No. 47, 48, 51, 54, and 56. Just in thumbing over some of those regulations you will find articles relating to such subjects as this: Discounts and expenses, exchanges and returns of property and refunds. When does the sale take place? Colorable sales, sales for export. That latter one should perhaps not be included, because that is based on special provision of the act. Giving of premiums. Does the giving of a premium amount to a sale? Repairs which increase value of property where, for example, jewelry is repaired and some new jewels added—does that constitute a sale?

In the regulations under the very low taxes which now exist and the simple taxes which now exist, that gives just some idea of the points which had to be met, which had not been anticipated, and I can say from my own experience that for every point which is anticipated in the regulations that there are 10 points which are not anticipated and which have to be met by administrative rulings later.

Senator DILLINGHAM. Do I understand you to say you are opposing this measure because of the difficulty of its enforcement?

Mr. PEACOCK. That is one of many reasons. I am simply trying to place before this committee the results of my own experience in connection with the administration of taxes.

Senator DILLINGHAM. I know; but is it because of the difficulty of this law's enforcement that you are opposing it?

Mr. PEACOCK. Yes; for the purpose of showing that this or any other tax is not simple when one or more billions is to be raised.

This tax has been labeled by many of its advocates as "simplicity tax."

Senator DILLINGHAM. Is it your claim that this is more difficult of enforcement than the laws in existence?

Mr. PEACOCK. I would not say that it is more difficult. I say it is difficult, and it is not simple, as is claimed by many of its advocates. And, of course, in that connection there is still one other point. A tax such as this would mean in the first year in which it

is in effect that there would be two years' taxes collected, because, of course, the existing income and profits tax, or at least income tax, even though there may not be any profits tax for the preceding year, will be coming due during that same year when the first part of this tax will be due. That is a minor matter, perhaps.

My main point is that it is not a simple tax; it does not deserve to be called "simplicity tax," and in collecting one billion or more dollars it will for that very reason become a difficult tax, and because of the large amount that is to be raised that will make each of these points which seem to be simple, so simple now that you do not anticipate, will make them become difficult, just as exactly the same thing happened under the income tax, where for seven years it was comparatively simple because these points were not important enough to be raised. But as soon as the rates became high, innumerable points relating to net income became important.

Senator DILLINGHAM. Are you now connected with the Government?

Mr. PEACOCK. I am not.

Senator DILLINGHAM. What is your business?

Mr. PEACOCK. I resumed the practice of law, in which I was engaged before I went into the Government.

Senator DILLINGHAM. Are you specializing on any branch?

Mr. PEACOCK. Yes; my clients are very largely taxpayers. I am very glad you asked that question, because I would not want there to be any misunderstanding about that.

Mr. Plumb first takes up that question which has been raised with regard to these schedules and illustrations which have been very widely circulated, showing that the amount—you take a company which sells cotton cloth, a loaf of bread, a rubber tire, this, that, or the other article, going through the various stages, and the elements which enter into it, the total tax on the final sale accumulated through all these processes is only 1, 2, or 3 per cent. Mr. Plumb points out, with a number of illustrations, how no one of these schedules would by any means include all the elements that go into it; for example, my eye just falls upon an illustration relative to a loaf of bread. In none of those illustrations do you see anything, for example, about the tax on the coal which that baker has to buy and use in the production of that bread, and there are any number of similar illustrations which can be brought out.

You remember that that coal was sold and a tax was paid on that coal—would have to be paid on that coal just the same. But that coal, to take one instance, does not enter into the various illustrations which have been offered.

Senator DILLINGHAM. I do not think I catch your point on that. [Laughter.]

Mr. PEACOCK. You have probably seen or, if not, before the tax sales discussion is finished you probably will see presented to you certain illustrations showing that the barrel of flour sold in the first place for whatever the price may be, say \$10, and on that the tax would be 10 cents—1 per cent—and that that was sold to the baker; the next stage—well, maybe that barrel of flour was sold by another man, some intermediary, and the tax on that sale would be 12 cents, and so on down to the baker, and the baker perhaps sells \$48 worth of bread, or whatever it may be, out of that barrel of flour; and over

here you see 1 or 2 or 3 per cent of that is the total of these various taxes which have been paid as it comes along. As an illustration of the fact that the cumulative effect of the tax on everything that went into making that loaf of bread—

Senator DILLINGHAM (interposing). Is it your claim that the cumulative tax is too great?

Mr. PEACOCK. No. Our claim is that that cumulative tax is more than 1, 2, or 3 per cent, as the case may be, because it does not take into effect many other things which the baker and each one of the men further back in the line had to buy; for example, the baker pays just as much for coal as he does for flour. That coal is consumed in making that bread.

Senator DILLINGHAM. I suppose that under this bill the sale of the coal would pay a tax?

Mr. PEACOCK. Yes.

Senator DILLINGHAM. The sale of the sugar would pay a tax?

Mr. PEACOCK. Yes.

Senator DILLINGHAM. The sale of flour from another concern would pay the tax?

Mr. PEACOCK. Yes.

Senator DILLINGHAM. The sale of the yeast from another concern would pay a tax, and when the baker put out the finished product he pays a tax?

Mr. PEACOCK. Yes. For example, I recall the Sales Tax Primer, which has been published, which you may or may not have seen; if you have not, you probably will before this discussion ends.

Senator DILLINGHAM. Is it the contention that there are too many turnovers out of this?

Mr. PEACOCK. My immediate suggestion—this is merely in answer to an argument which has been advanced and is being advanced by the advocates of the sales tax and argument, which they support by schedules illustrating the total cumulative tax on a loaf of bread to be 1, 2, or 3 per cent, as the case may be, of the final selling price of that bread, whereas it is really much greater because—

Senator DILLINGHAM (interposing). And they claim it will be greater?

Mr. PEACOCK. They do not count in the coal, they do not count in in almost any of these illustrations a great many elements.

Senator McCUMBER. When the committee has scrutinized it their ideas—

Mr. WILFLEY. I see the point exactly which that primer refers to. There is a schedule which shows the accumulation of the tax on the creation of a pair of shoes. That table was furnished by a very earnest opponent of the sales tax, and if there is anything left out of it, anything that should have gone into it, I think he would have put it in. You will find it in the primer or in the brief.

Most of these are made up by men in the business who are asked to put in all the elements of cost, and this is the first time we have had it really challenged; it is generally accepted.

Mr. PEACOCK. For example, here is the particular one I referred to, on the loaf of bread. I am not saying by whom prepared, and I am not interested by whom prepared, but it refers to the loaf of bread. When the bushel of wheat leaves the farm the price will be \$2 and the tax 2 cents. When the flour leaves the miller, 4½ bushels

of wheat to the barrel, the price would be \$2.67 and the tax would be \$0.0267. A barrel of flour makes so many loaves of bread, which would be sold at \$5.10, and the tax would be \$0.0510, and the total taxes would be 9 cents on \$5.10 worth of bread, or 2 per cent.

Mr. WILFLEY. Is there any overhead charge?

Mr. PEACOCK. No reference is made to overhead. There certainly is no reference to coal, which is the baker's fuel, which makes the heat; or the sugar, or perhaps a lot of other things that enter in.

Senator SMOOT. It would be 1 per cent on the amount of coal that would go in to bake bread from a barrel of flour, and then 1 per cent on that 1 per cent, which would be so small that it would run out, and it would take ten thousand turnovers that you could never count to get it to one-half of 1 per cent on the loaf.

Mr. WILFLEY. Not only that, but included in the final price, and that constitutes overhead.

Mr. PEACOCK. These purport to report the total amount of tax. They are figured down to four decimal places. There is no reference in there or any place in those statements which take care of the tax which was paid, the one or more taxes back which may have been paid on the coal, for example, which is used by the baker, or on any other of the items which the baker pays. I am not a baker. I have never seen bakers' accounts. I do not know what they are like. But I would suggest that perhaps everything else taken together—pans, yeast, coal, and everything else of various kinds he has to buy, perhaps cost him almost as much as the flour; and if that is so it would seem that there would be about twice as much tax buried away in there as is apparent from any of these schedules.

We simply suggest that and ask you to have in it mind. If we are not right, you will discover that; if we are right, it is for your use we are making that suggestion. These various illustrations and schedules should be examined from that point of view.

Senator SMOOT. In other words, if they cost 10 per cent, which is about what they would cost, it would be one-tenth of \$10, which would be \$1, and the next percentage would be 1 per cent of \$1, that would be 1 cent, and then 1 per cent of 1 cent, and so on. That is what it would be even if we take in the overhead expenses.

Mr. WILFLEY. These ovens, pans, and utensils are used to bake bread a whole year or two years.

Mr. PEACOCK. If you will refer to my remarks you will notice I carefully refer to whatever a baker buys which is not useful for more than one year.

Mr. WILFLEY. Do you not think it is all included in the final price; that is, overhead?

Mr. PEACOCK. Certainly it is not included in the final price. Whoever prepared this shows that 1 bushel of wheat would be sold at \$2, tax 2 cents. Somewhere back along that line, just as that bushel of wheat is being sold, a ton of coal is being sold for \$3 or \$4 or \$5, tax 5 cents, but nowhere does it appear in those illustrations.

Senator McCUMBER. I think the committee understands that, Mr. Peacock.

Mr. PEACOCK. Taking up another point, Mr. Plumb refers to this question whether the tax will or will not be passed along. I think both the committee and myself feel very much that it will be passed along in some instances and that it will not be passed along in other

instances. But that, in any event, there are going to be cases—and I doubt if even the most ardent advocate of sales taxes will deny this—especially during the first year and in some cases permanent where for some reason or other the tax will not be passed along.

May I read just a paragraph on this point?

Now, just suppose that the beautiful scheme of passing the tax on to the consumer should fail and business should not be able to collect a considerable portion of the \$2,000,000,000 they are expected to pay. The serious and dangerous situation to business is that this tax would have to be paid whether a business made any money or not. If it lost money, the tax would be payable just the same. In a year of losses it might be the additional expense that would produce insolvency. Do not let us be fooled by any statement that there is some peculiar virtue in a tax on all sales that will make it more easy to pass on than a tax on profits. In either case the tax can be passed on when the demand is strong enough for business to make a profit after paying taxes. Either form of tax will come out of profits when consumers will not pay prices above costs including taxes. The important difference is that a tax on profits is levied only when a business makes money, while taxes on sales may be added to losses.

Mr. Plumb then points out that the most unfair thing about this tax, and the thing which makes it fundamentally unsound, is that it conforms neither to the principle of ability to pay or to the principle of benefits received. A business man, and especially a manufacturer, comes in contact and learns from experience that the number of turnovers in different kinds of business is very different.

Mr. Plumb gives some very interesting illustrations here, taken at random from published financial statements, showing, for example, the percentage of net profits on sales, ranging in the cutlery business from 21 per cent to only 2 per cent in some businesses, such as cotton weaving, and goes into that in some detail. I do not know that there is occasion to go into it now, as this will go into the record. [Reading:]

These differences are slight compared to the differences we find when we investigate other forms of business. It has been shown, for instance, that a 1 per cent sales tax would in a normal year be equivalent to 40 per cent of the net profits of the wholesale hardware dealer, and over 50 per cent of the net profits of the wholesale grocery dealer. Is it fair and equal treatment to impose a tax upon a tool manufacturer such as we are, which would be less than the present corporation income tax of 10 per cent and in the case of the wholesale grocer would be greater than the corporation income tax of 50 per cent?

Mr. Plumb is former president of the American Hardware Manufacturers' Association, and is in a position to speak with authority as to the hardware business. For example—

Senator SMOOR (interposing). If Mr. Plumb was in business, all you say would be true, and all Mr. Plumb says is true. But they do not do it. This is a consumers' tax, and it is passed on, and we want the people to understand that. I say it does not make a particle of difference whether the profit is 2 per cent or 40 per cent. This is a consumers' tax and it goes on, and they pay that tax, and Mr. Plumb does not pay it.

Mr. PEACOCK. Of course, that is simply a difference of opinion, but we present most earnestly to this committee the fact that all taxes can not be passed on all the time, and any committee or legislative body which goes in violation of that fact will find that trouble is coming somewhere.

We do not claim that this tax will never be passed along, but it will not be passed along all the time, and it is going to come mighty hard on the man sometimes who is not able to pass it all along.



Senator SMOOT. The man who does not want to pass it on does not have to. But under the law he has to pass it on, and I think they will all do it.

Mr. PEACOCK. I hope this committee is not laboring under the misapprehension that all taxpayers are going to be able to pass along all of their taxes. I know many who are not.

Senator SMOOT. Then the law ought to be amended.

Mr. PEACOCK. Then comes the question of self-contained businesses, the comparison between which is self-contained in the business of manufacture or all contained within the one concern as compared with the other group of concerns which perhaps independently, some six or seven of them, may carry on the same six or seven processes that are carried on by the one competitor. Touching on that point Mr. Plumb refers to one of the leading advocates of the sales taxes, and what he has to say about it. Mr. Bache comments in the following words:

If in the course of that tendency it has been found that the cost of distribution is reduced by business being more self-contained, viz, by corporations handling the various movements of the articles themselves, no sympathy for the middleman has prevented this movement. The ultimate tendency will be for all business to become more self-contained. If this tax should hasten the process, it will only prove that the tax is operating in the spirit of the times.

Mr. Plumb states [reading]:

I object most strenuously to such an attitude. I do not feel that the United States Government should levy a tax that would have a tendency to drive out of business distributors who have proved their service is worth what it costs by surviving the test of competition, or to drive into combinations manufacturers who have proven that they can conduct a single process business efficiently enough to meet the competition of greater combinations. Such businesses have obstacles enough to overcome without placing a discriminatory tax burden upon them.

Mr. Bache also makes that alternative suggestion, that the 1 per cent tax will apply to each movement of intercompany bookkeeping or operation. Is that simple or practical? I doubt it.

Senator SMOOT. That is Mr. Bache's idea, but that is not mine.

Mr. PEACOCK. I would not want to attribute it to you, but these points have been raised. We want to make our position on them clear and certain.

Mr. Plumb also refers to a matter which may have been brought to your attention; if not, you will probably want to look further into it. [Reading:]

It is interesting to know that not only American business men when they see both sides of this question see the unfairness of the sales tax, but also that the greatest organization of manufacturers in Great Britain—that is, the Federation of British Industries—came to the same conclusion. They report:

“The taxation committee of the federation gave long and serious consideration to the turnover tax during its study of the possible alternatives to the excess profits duty and came ‘reluctantly’ to the conclusion that the objections were too great. \* \* \*”

That is an experience almost identical with the experience of our own national industrial tax committee; and I can say this because I know from my own knowledge that they, not having seen a copy of this report, used that very same word “reluctant” in their report. They started out and wanted to report favorably to the sales tax, and they were forced in the report I have mentioned to use the word “reluctant”; they could not do it.

Very much has been heard about a certain 23.2 percentage, which has been attributed to the Department of Justice. I do not know how official or unofficial that was. I remember some time ago knowing something about the origin of that, and it was a conclusion that was reached by an investigator of the Department of Justice. I do not know and I can not say whether or not it was ever officially published by the department. But, in any event, here is rather an interesting reaction of that. Messrs. Bache, Rothschild, and others refer constantly to a statement that "the Department of Justice in making investigations under the Lever Act came to the conclusion that the pyramided profits tax added 23.2 per cent to the price to the consumer." I have never seen the authority for this statement. The man who made it must have been a wizard to figure the percentage so accurately. Perhaps it has as much sound basis as the following statement made by Mr. Rothschild, of the Business Men's National Tax Committee:

The taxation committee of the National Retail Dry Goods Association, composed of treasurers and comptrollers of some of the largest department stores in the country, has published the statement that every dollar spent by the consumer pays for 55 cents worth of merchandise and 25 cents worth of pyramided profits tax.

It is a lamentable fact that the tax committee of the National Retail Dry Goods Association in their report do say:

"It is generally admitted that the present taxes and their pyramiding have resulted in a tax content in the present sales dollar of approximately 25 per cent."

I wrote the managing director of the National Retail Dry Goods Association to find out if this statement was the result of any investigation on their part and received the reply in which he says:

"You will note that our taxation committee does not make this statement upon its own authority, nor as the result of its own study. The committee repeats the statement which was made by several of the governmental departments, notably the Department of Justice, and which I believe was later supported by a statement which came from one of the deputies of the Bureau of Internal Revenue."

Mr. Plumb then comments [reading]:

This is an illustration of the care taken to verify statements by the various advocates of the turnover tax before repeating them. As a matter of fact, it is evident that the National Retail Dry Goods Association made the report based on statements calculated by the Business Men's National Tax Committee, and then the Business Men's National Tax Committee referred to this report as authority for their own statement.

Senator SMOOT. Mr. Plumb takes the position that that statement is not true?

Mr. PEACOCK. He takes the position that it is not so sacred as it has been made out to be, nor so authoritative.

Senator SMOOT. Do you take the position that it is not true?

Mr. PEACOCK. I do not know whether it is true or not.

#### VIEWS OF F. R. PLUMB, OF FAYETTE B. PLUMB (INC.), PHILADELPHIA, PA.

Widespread publicity has been given to misstatements based upon superficial calculations of the cumulative effect of a turnover sales tax. It is amazing to see such statements accepted as correct when the slightest thought would show how incomplete they are. The Bache Review, for instance, quotes a table to show what a turnover tax at 1 per cent would amount to on a loaf of bread. The different taxes included in these calculations are the tax on the wheat when it leaves the farm, the tax on the flour when it leaves the miller, the tax on the loaf of bread when it leaves the baker. Perhaps the tax which the farmer would pay on his fertilizer and his farm equipment would not increase the price of the wheat. The cost of the miller's flour, however, would certainly be increased by the numerous taxes paid on everything else besides wheat which he buys—on the flour barrel, on his coal, and on all the other expenses for operating his mill as well as by the comparatively small tax

paid on the wheat itself. The cost of the baker who makes the flour into bread would be increased not only by the tax on the flour but certainly also by the tax on everything else, except water, he used in making the bread—on the coal for his bake ovens and on every other purchase he made. The cost of the flour is not over 60 per cent of the cost of the loaf. No allowance whatever is made for the cumulative tax on these other expenditures. The calculations also stop with the sale by the baker. Bread is not usually sold directly from the baker to the consumer, so there would be at least one more sale with its full 1 per cent.

The same criticism can be made of the illustration given by Mr. Charles E. Lord, showing the cumulative effect of a 1 per cent turnover tax on the sale of a yard of cotton cloth. He says, "From this table we learn that although the cotton passed through seven hands in the course of its manufacture into cloth and distribution and paid a sales tax each time, yet the total represented but 12.4 cents on \$4.50 worth of cotton cloth, or, as stated, less than 3 per cent." The taxes which Mr. Lord adds up to make his total are only the taxes on the cotton, the yarn, the dyes, and supplies and the cloth itself as they passed through the different hands. No allowance at all is made for the taxes which would be paid by the spinner or the weaver or the dyer on the other purchases made to operate their plants or the jobber and the retailer in the cost of conducting their business.

Another illustration referred to by Mr. Rothschild shows the cumulative effect of a turnover tax of 1 per cent on the sale of an automobile tire would be  $3\frac{1}{2}$  per cent. In reaching this total the same error is made of considering only the effect of the tax on the raw materials. The raw materials shown in the table total less than one-third the cost of the finished tire. No allowance has been made for any taxes on purchases that would be paid in connection with the manufacture of this raw material into the finished tire. And remember these would be cumulative taxes which had increased the cost of every step in every process in transforming crude rubber and raw cotton into a finished tire. The cost of conducting the business of the dealers and consequently the margin they would have to add would likewise be increased. Next time you see one of these tables that purport to show the cumulative effect of a 1 per cent turnover tax just analyze it for yourself.

The most conservative of the advocates of a sales tax propose to raise \$2,000,000,000 by it. This is twice as much as the excess-profits tax and the corporation income tax combined are expected to produce this year. All this money, whether it is passed on or not, has to be paid to the Government in the first place by business. It will come from the multitude of little taxes piling up—the little leaks that ruin business. All of these taxes will increase not only the cost of raw materials but all the costs of operating any business. Is this going to help you to reduce costs so that prices can be reduced to a point where the individual consumer will buy?

Now, just suppose that the beautiful scheme of passing the tax on to the consumer should fail and business should not be able to collect a considerable portion of the \$2,000,000,000 they are expected to pay. The serious and dangerous situation to business is that this tax would have to be paid whether a business made money or not. If it lost money the tax would be payable just the same. In a year of losses it might be the additional expense that would produce insolvency. Do not let us be fooled by any statement that there is some peculiar virtue in a tax on all sales that will make it more easy to pass on than a tax on profits. In either case the tax can be passed on when the demand is strong enough for business to make a profit after paying taxes. Either form of tax will come out of profits when consumers will not pay prices above cost including taxes. The important difference is that a tax on profits is levied only when a business makes money, while taxes on sales may be added to losses.

The whole basis of the turnover tax is unfair. It bears no relation whatever to the ability of any particular form of business to pay the tax. It sounds fair to say tax the sale of everything at the same rate, but it is most unfair to the business with a quick turnover. The only source from which a business can pay taxes without impairing its capital is from net profits, and one business may have very large sales with a small net profit on each sale, while another business will have small sales in comparison with the investment in the business and must therefore secure a large net profit on each sale. We do not secure equality by taxing alike things which are so unlike as the sales of different commodities and different forms of business. Even when we compare different kinds of manufacturing we find startling differences in the volume of sales compared to the investment and compared to the net profits. In other words, the turnover in some lines of manufacturing is much more rapid than in others. Anyone by looking over the financial statements of various manufacturing companies can verify this.

The following are some examples taken at random from published financial statements:

Manufacturer of—	Percentage of net profit on sales.	Percentage of profit which 1 per cent sales tax would equal.
Cutlery.....	21.15	4.73
Electrical machinery.....	16.75	5.95
Automobile bodies.....	15.6	6.55
Drop forgings.....	14.95	6.7
Silk knitting.....	7.47	13.4
Rubber tires.....	6.15	16.25
Shoes.....	2.87	35.1
Cotton weavers.....	2.84	35.2

Many examples could be shown of much greater variations in the manufacturing business, but these are enough to illustrate how much larger a proportion of the profits a 1 per cent sales tax would be when levied on the manufacturer with a small investment and large sales than on one with a large investment compared to sales. The companies cited above whose profits are the largest, turn their capital once in about one and a half to two years. Those whose profits on each sale are the smallest turn their capital three to five times a year. The man who turns his capital most often is not necessarily the one who makes the largest net profit on his investment. It is simply that his business is organized along different lines. The man with four turnovers a year would pay four taxes. The man with one turnover would pay only once.

These differences are slight compared to the differences we find when we investigate other forms of business. It has been shown, for instance, that a 1 per cent sales tax would in a normal year be equivalent to 40 per cent of the net profits of the wholesale hardware dealer and over 50 per cent of the net profits of the wholesale grocery dealer. Is it fair and equal treatment to impose a tax which on a tool manufacturer such as we are, would be less than the present corporation income tax of 10 per cent and in the case of the wholesale grocer would be greater than a corporation income tax of 50 per cent? Is it fair to treat alike things which are so totally unlike as the relation between turnover compared to net return in different forms of business? Is it fair to tax a retail grocer who sells sugar on a margin of net profit of not over 5 per cent at the same rate on each sale as the Fifth Avenue jeweler whose profits necessarily are many times as large on each sale? And remember, always, that these percentages represent only the tax which each business would pay to the Government direct. If this tax could be passed on there would still be the much larger taxes which would be passed on to each business on its purchases.

In addition to the fact that a tax on sales is unfair because it would fall most heavily on the business with a large turnover at a small margin of profit, and accordingly, generally speaking, on the sales of necessities as compared to luxuries, it is also unfair to a single-process business as compared to a business which combines several consecutive processes, either of manufacturing or distribution. A shoe manufacturer, for instance, who carried on every process from the raw hide to the sale of the shoe to the consumer, would pay one sales tax instead of six paid by his single-process competitors. He would save in taxes as much as the entire net profits of some of his competitors. Goods are sold by manufacturers to wholesalers, from them to retailers, by retailers to consumers, and also they are sold directly from manufacturers to retailers and in some cases by manufacturers direct to consumers. Some wholesalers also manufacture, and some large corporations manufacture and sell their products directly through their own chain of retail stores.

In the case of sales made by the manufacturer through the wholesaler, the sales tax would apply to the sale by the manufacturer, the sale by the wholesaler, the sale by the retailer. In the case of large corporations with chain stores, only one tax would be paid, namely, on the sale to the consumer. The tax paid by the manufacturer and the tax paid by the wholesaler would be eliminated. Would you consider it fair to relieve the big corporation from a tax on sales which in the case of a competing manufacturer may be from 10 to 40 per cent of his net profits, and in the case of the wholesaler, 30 to 50 per cent of his net profits? What would you think if Congress should pass a law that manufacturers would have to pay a corporation income tax, wholesalers a corporation income tax, but that any corporation engaged in the business of manufacturing articles which they sold through their own retail stores would have to pay a corporation tax only on the profits made from the retail end of their

business; and yet that is exactly what a 1 per cent sales tax in place of the corporation income tax would amount to, because they would pay no tax on sales as manufacturers or as wholesalers. Is that fair? Mr. Bache comments on this objection as follows:

"The tendency of modern business development has been toward reduction of the cost of distribution. If in the course of that tendency it has been found that the cost of distribution is reduced by business being more self-contained, viz, by corporations handling the various movements of the articles themselves, no sympathy for the middle man has prevented this movement. The ultimate tendency will be for all business to become more self-contained. If this tax should hasten the process it will only prove that the tax is operating in the spirit of the times."

I object most strenuously to such an attitude. I do not feel that the United States Government should levy a tax that would have a tendency to drive out of business distributors who have proved their service is worth what it costs by surviving the test of competition, or to drive into combinations manufacturers who have proven that they can conduct a single-process business efficiently enough to meet the competition of greater combinations. Such businesses have obstacles enough to overcome without placing a discriminatory tax burden upon them.

Mr. Bache has also an alternative suggestion for meeting this situation. He says:

"In most large self-contained corporations intercompany bookkeeping must prevail in order that the profits of each stage of the business may be carefully checked and accounted for. The 1 per cent tax will apply to each movement of intercompany bookkeeping or operation."

On what basis could a 1 per cent tax on intercompany sales be levied? How would the price be arrived at? Would it be the market price, charged by competitors? If so, who would establish what this price was for each particular bookkeeping transfer? Would each movement be taxed on the basis of cost? If so, how would the costs be determined? This suggestion of Mr. Bache's is not new. It is the very first thought that occurs to anyone in a way of overcoming this difficulty; but even a slight investigation shows that the problems presented are absolutely beyond the ability of tax collectors to solve. Mr. Bache also says:

"Any large corporate combination which does not keep intercompany books can be taxed as under the Canadian law, up to 2 per cent in the event of these combining three separate developments of the product and 3 per cent in a combination of five, only 1 per cent of which, however, in either case it can pass on to the consumer to whom it sells."

Is this the simplicity of a 1 per cent general turnover tax? The uncertainty and the need for investigation under the excess profits tax which are almost the strongest reasons for its repeal, would appear simple compared to any such determination of the proper rate of sales tax for each particular business by the Revenue Department. To vary the rate of the sales tax in accordance with the processes eliminated by any particular business would require a knowledge which the Revenue Department never could possess. Can any revenue officer determine that we buy our own standing timber and make the finished handles which we drive into our tools, whereas some of our competitors buy the timber from lumbermen and others buy the handles outright?

It is interesting to know that not only American business men when they see both sides of this question see the unfairness of the sales tax, but also that the greatest organization of manufacturers in Great Britain, that is, the Federation of British Industries, came to the same conclusion. They report:

"The taxation committee of the federation gave long and serious consideration to the turnover tax during its study of the possible alternatives to the excess profit duty and came 'reluctantly' to the conclusion that the objections were too great. \* \* \* In view of the facts it seemed to the committee that no flat percentage rate could be fair. The committee then considered the alternative plan of deciding by means of some appropriate tribunal the rate of tax for each separate industry. This plan presented two serious difficulties. In the first place it did not seem to touch cases of vertical combination of the kind found in the manufacture of steel products. In the second place, any scheme of differential tax would be upset in the cases of industrial firms which have complex works and manufacture commodities which fall within the fields occupied by other industries."

One of the reasons which led me to oppose a sales tax in spite of the fact that I am a manufacturer in an industry on which the tax would apparently fall the lightest, was that I saw the harmful effect it would have on business generally in causing changes in established business forms of organization and practices in order to evade the tax. We did not want our customers to ask us to appoint them our agents with a consigned stock, so that they would not have to pay a tax which chain stores would escape. We did not want to be driven into encouraging the growth of chain stores or of the large catalogue houses to save a tax on wholesale sales which would amount

to 40 per cent of the wholesaler's net profit. We did not want the large wholesale hardware houses to undertake the manufacture of tools in order to escape the tax.

A favorite way of meeting the objections I have cited to a sales tax is to say that the tax on each sale is so small that the disadvantage to which any particular business might be put is negligible as compared to the disadvantage which now exists. It does not seem to me, however, a small disadvantage for a business like the wholesale grocers to pay a tax of 50 per cent of their net profits and a tool manufacturer, like ourselves, to pay a tax of 10 per cent. This is an advantage which we do not want, because we know such inequality in taxation would hurt business generally, and the success of our business depends upon general prosperity. It might be that the 10 per cent that we would pay directly to the Government would be less than our share, but we are large purchasers as well as sellers, and we can see that the cumulated tax on our purchases would be far heavier than the tax on our sales. It is not a small thing for a wholesale hardware jobber to have to pay a tax equal to 40 per cent of his net profits which his competitor, the catalogue house, would not have to pay.

So far I have tried to show you how this tax would affect your business. I believe, however, the strongest argument against it, and the one which will appeal the most to you, is the effect it would have upon consumers among the poorer classes of our population. The claim that a turnover sales tax would reduce the cost of living is preposterous.

Messrs. Bache, Rothschild, and others refer constantly to a statement that "the Department of Justice in making investigations under the Lever Act came to the conclusion that the pyramided profits tax added 23.2 per cent to the price to the consumer." I have never seen the authority for this statement. The man who made it must have been a wizard to figure the percentage so accurately. Perhaps it has as much sound basis as the following statement, made by Mr. Rothschild, of the Business Men's National Tax Committee:

"The taxation committee of the National Retail Dry Goods Association, composed of treasurers and comptrollers of some of the largest department stores in the country, has published the statement that every dollar spent by the consumer pays for 75 cents worth of merchandise and 25 cents worth of pyramided profits tax."

It is a lamentable fact that the tax committee of the National Retail Dry Goods Association in their report do say:

"It is generally admitted that the present taxes and their pyramiding have resulted in a tax content in the present sales dollar of approximately 25 per cent."

I wrote the managing director of the National Retail Dry Goods Association to find out if this statement was the result of any investigation on their part and received a reply in which he says:

"You will note that our taxation committee does not make this statement upon its own authority, nor as the result of its own study. The committee repeats the statement which was made by several of the Government departments, notably the Department of Justice, and which I believe was later supported by a statement which came from one of the deputies in the Bureau of Internal Revenue."

This is an illustration of the care taken to verify statements by the various advocates of the turnover tax before repeating them. As a matter of fact, it is evident that the National Retail Dry Goods Association made their report based upon statements circulated by the Business Men's National Tax Committee, and then the Business Men's National Tax Committee referred to this report as authority for their own statement.

It does not matter how much nor how little the prices of commodities have been increased by the excess profits tax. We are all agreed that the excess profits tax is to be repealed, and the business conditions confronting us are very different from what they were a year ago. I think I have already shown you that illustrations used by those who advocate a turnover tax to show how little it would increase the cost of any commodity are entirely unreliable. There is no way in which a percentage could be figured to show how much the multitude of sales taxes would add to the cost of any particular article. It is entirely a question of the extent to which they can be passed on. If sales taxes are passed on to the consumer to a greater extent than a tax on net profits would be passed on, they will increase the cost of living that much more. Taxes which start with the raw material and carry through every process to the final consumer are certainly just as likely to be loaded as are taxes on profits. The advocates of the sales tax tell business men that the tax will be passed on and tell the consumers that they will reduce the cost of living. Such statements are contradictory and hypocritical on their face. The truth probably is that whether the taxes which business pays are levied on sales or net profits, they will be passed on when business is good and come out of profits when business is poor. The unfairness of a general sales tax at a uniform rate to the consumer is that it would fall most heavily on the necessities of life and lighter on luxuries. Does any of us believe that the sale of a loaf of bread should pay a tax at the same rate as the sale of a diamond?

Another element of unfairness is that a sales tax would fall upon the entire income of the poor and only part of the income of the rich. A poor man necessarily spends his entire income to live upon. The rich man spends but a part of it. It is of course true that those who possess taxable incomes would have to pay an income tax in addition to such part of sales taxes as were passed along on their purchases. But remember that it is proposed to raise two billions of dollars by a turnover sales tax alone, or nearly twice as much as from taxes on personal income.

It is proposed in order to correct this situation to increase the exemption from one and two thousand, respectively, for unmarried and married men to \$2,500 and 5,000. This would certainly be a move in the wrong direction and would not meet the situation at all, because it would relieve from the income tax only those whose incomes are between the present exemptions and the raised exemptions. It would not relieve at all the very people who need it the most; that is, those whose incomes now are below \$2,000 per year. These are over 80 per cent of our population. They are the only ones who have to spend every cent they get for necessities or slight comforts. They can not buy luxuries. They are the people who will not be able to see the justice of a tax on the sale of necessities at the same rate as a tax on luxuries. I should not think there would be much chance of convincing these people that a proposal to replace the excess-profits tax and the higher rates of taxes on personal income with a turnover sales tax was not a selfish attempt on the part of the more prosperous to shift two billions of taxes from their shoulders to those less able to bear it. Most especially would such a tax proposal seem unreasonable if to it was added an attempt to secure the repeal of any large portion of the sales taxes already in force. There undoubtedly are some of these sales taxes which are unjust or which do not produce sufficient revenue to justify their continuance. Such particular cases can be remedied; but it would create a much more unfair situation even to business itself if we should substitute for them a tax that would fall just as heavily on necessities as it would on luxuries, and that would be ten times as great on some forms of business as it would be on others.

It makes an appeal to us to say that even the poorest should help to support the Government and that the whole burden should not be thrown upon business and those who are now paying personal income tax. As a matter of fact, present consumption taxes, that is, the sales and excise taxes now in force, yield a revenue greater than the income tax with all its high surtaxes.

Do you suppose that a general turnover tax which it is not proposed should be paid as a tax by the purchaser, but simply added to the price, would be recognized by the average consumer as his contribution toward the support of the Government? Wouldn't he look upon the resulting advance in the price of necessities as being another indication of profiteering? The proposal of the sales tax advocates to increase the amount of exemption from the personal income tax would simply reduce the number of conscientious taxpayers. A sales tax which was reflected simply in the increased prices of necessities and perhaps a reduction in the price of luxuries would not make the average citizen feel any increased pride in his citizenship.

The turnover tax is not only unfair and dangerous to business and unfair to those members of our population who can least afford to pay it, but there is no reliable basis to make even an intelligent guess as to what it would produce. The variations in the estimates of its yield are so great that it would be laughable if it were not serious.

Some of them say: Tax committee of the National Association of Manufacturers, six billion seven hundred and twenty million; the *Fache Review*, April, 1920, five billion; Mr. Rothschild, Business Men's National Tax Committee, three billion; Mr. Charles E. Ford, two billions; Joseph S. McCoy, Treasury expert on commodities, excluding sales of service, real estate, etc., one billion two hundred million.

The *Drug Trade Weekly* in its issue of March 26, basing its estimates on the French experience says:

"A revenue of two billion from the sales tax will make up any deficiency from loss of other revenue and the elimination of the objectionable features of the present tax law. That this will be reached by the imposition of the new tax at the rate of two-tenths of 1 per cent seems entirely probable."

According to this guess a 1 per cent rate would produce over ten billions. Mr. Jules S. Bache has now reduced his estimate to \$3,000,000,000, but in a speech before the Economic Club said that no one can estimate within \$1,000,000,000 of what a 1 per cent sales tax would produce.

Now let us remember that this tax is to be collected in the first instance from business regardless of whether or not it is passed on. Do business men want to pay to the Government a billion dollars more or less than may be needed? For Congress to levy a tax on this basis would make them the laughing stock of the world.

Mr. Pahe says: "The sales tax would go on uninterrupted forever without injuring the capital from which it was drawn and would hardly fluctuate more than an average of 10 per cent per annum in its yield."

We know that wholesale prices as shown by Bradstreet's Index have declined 40 per cent. In addition to this, the volume of sales is decidedly less. How does Mr. Bache figure 10 per cent as the extreme variation in a sales tax with these facts so generally known? It might be true that taxes based on net profits would vary more than taxes on sales. I have heard this disputed, but at any rate the Treasury Department has past records to go upon in basing their calculations upon the yield of income taxes and seem to far to have been pretty accurate in forecasting what the yield would be.

A general sales tax would be an experiment in this country contrary to the experience of other civilized countries. Those who have been carrying on the propaganda for a turnover tax used to point to Canada as an example. They now admit that the Canadian sales tax is not at all what they propose. It is a tax limited to the sales of finished articles, with not more than three turnovers, and accompanied with a long list of exemptions and a variety of other sales taxes at varying rates. The wholesaler, retailer, and credit men in Canada are already backing a movement to have all the tax paid "at the source," viz., by the manufacturers, in order to make evasion more difficult. Germany and France are pointed to as examples of the successful application of a general turnover tax. Not much has been learned about Germany, but we know it was the last desperate resort of the French people after exhausting every other conceivable form of taxation, and that in spite of the statements which have been made to the contrary, the truth is that it has not been successful. The New York Times of Sunday, March 13, prints a wireless report from Paris as follows:

"French business men have learned to escape paying the tax on business transactions. This tax, put into effect last year, was expected to yield huge returns inasmuch as it was levied upon every business transaction at every stage. But not only has it never produced what it should, but it has fallen off every month until the receipts for January, published to-day, are about one-third of what they should be. It seems that skillful bookkeeping can do wonders toward getting exemptions from this payment.

"Last September this tax produced 290,000,000 francs, in October 205,000,000, in November, 203,000,000, in December 183,000,000, in January 151,000,000. Since it has been in effect the tax has produced 1,270,000,000 instead of the 2,900,000,000 calculated to be due.

"The total French receipts from indirect imports and monopolies in February was 921,000,000 francs."

The yield of the tax has rapidly fallen off each month. The economist of the French high commission told me in April that the revenue it is producing is about one-eighth of the total revenue derived from taxation, and yet the most conservative of the sales tax advocates want us to raise at least one-half of the revenue required by the Government through such a tax. The countries that are left to point to as examples of a successful sales tax are Mexico and the Philippines. Perhaps Mexico is a good example, I do not know, but it is evident that to compare the working of a tax they have in the Philippines with a turnover tax proposed for the United States requires a great stretch of the imagination. Great prominence has been given to an article by Mr. Martin R. Bourne, vice president of the Manila Trading & Supply Co. He says:

"The Philippine tax rests primarily upon the merchants' sales of commodities. It includes a supplementary equivalent tax on common carriers and others and provides an exemption for farmers, but substantially it is a merchant's tax \* \* \* Perhaps the clearest evidence of this is to take a typical statement of cost and selling price of my own company on an important article selling, we will say, at about \$1,200. This statement reads:

Net price f. a. s. New York.....	\$749. 00
Ocean freight.....	109. 25
Marine insurance.....	4. 70
Cost of landing.....	862. 95
Exchange.....	27. 57
Interest.....	13. 40
Bank commission.....	7. 85
Custom charges.....	11. 30
Ligherage, etc.....	6. 20
Unpacking, setting up, etc.....	87. 25
Profit, 15 per cent of cost.....	155. 00
Government revenue tax.....	11. 88
Total.....	1, 183. 35

"Selling price, \$2,367."



It appears to me that these very statements by Mr. Bourne indicate the difference between such a tax in the Philippines and a turnover tax on every sale from the raw material through all the complicated turnovers of American industry and our varied systems of distribution to the ultimate consumer. Certainly such a tax in the United States would not be confined to merchants' sales of commodities. You will observe that farmers are exempted. The tax is not levied on exports. Inasmuch as there is very little industrial development in the Philippines outside of agriculture, the tax must necessarily fall almost entirely on merchants' sales of imports. I think that Judge Wilfley, who had an active part in the framing of this tax in the Philippines, let the cat out of the bag when he told the New York State Wholesale Grocers in effect that it was devised to meet a requirement by the United States Government at Washington that the Philippines should not be solely dependent upon customs duties for their revenue. The inhabitants of the Philippines were accustomed to sales taxes on everything under Spanish rule. They were extensively resorted to by Spain to extort large revenues out of her colonies. These multitudinous sales taxes were regarded as the most serious obstacles to business prosperity.

Personally, I should be inclined to give more weight to the report made by the great manufacturing interests of Great Britain in the Federation of British Industries, than to have to turn to a country where industrial conditions are so totally unlike those in the United States, to find an illustration of the successful working of a tax which, even then, is not the kind of a tax which it is proposed to fasten upon American industry.

The turnover tax makes a great hit when only one side of the story is told, but its record is one of consistent failure when both sides have been presented. The enlarged tax committee of the National Industrial Conference Board, made up of representatives selected from over 100 business organizations, decided against it. The vote of the referendum sent out by the Chamber of Commerce of the United States was against it. The National Credit Men's Association is against it. The National Association of Manufacturers took a referendum which was overwhelmingly in its favor. No statement of the case, however, accompanied the request for a vote by the National Association of Manufacturers and affirmative answers were so strongly suggested that any man who had not studied the question for himself and had confidence in his officers would naturally vote in favor of a turnover tax. I imagine that most of the men in this room have had the arguments for a sales tax brought to their attention and have heard very little, if anything, of the other side. The propaganda in its favor has been widespread. It may defeat the effort for a reasonable revision of the revenue laws. It is easy for the representatives of the farmers and the poorer classes of our population generally to denounce the turnover tax as an attempt to shift two billions of taxation from business and the rich men of large incomes to the shoulders of the poor. It would be better to support a program of tax revision that is reasonable than to encourage a movement in favor of a tax which is most unequal in its application to various forms of business, which threatens to produce insolvency in unprofitable years, and which would be collected most largely from the necessities of life. Five hundred million from an increase in customs duties, and an increase in the corporation income tax would be the least objectionable method of raising the revenue lost by the repeal of the excess-profits tax.

The corporation income tax has its objections, of course, but they do not compare to the objections of the excess-profits tax. When the excess-profits tax is repealed it is reasonable to expect that the revenue department can rapidly catch up on their corporation income-tax returns, and that we can even expect them to make verification of tax returns and assessment of the proper amount before payment.

It is certainly better to increase the least objectionable taxes already in force than to impose a multitude of new taxes which it would require a new army of Federal job holders to collect. Imagine the tremendous task of checking up the sales of every form of business in the United States. It would not be a particularly difficult matter to check the return of an honest business, but it would take a large, active, and competent force to make sure that all sales made were included. The experience of France in this respect should be a warning, unless we want our revenue laws brought into as great contempt as the Volstead Act.

**STATEMENT OF PHILIP H. GADSDEN, PRESIDENT AMERICAN ELECTRIC RAILWAY ASSOCIATION, PHILADELPHIA, PA., REPRESENTING ALSO AMERICAN GAS ASSOCIATION AND NATIONAL ELECTRIC LIGHT ASSOCIATION.**

Senator McCUMBER. Mr. Gadsden, will you please state your name, your residence, and whom you represent?

Mr. GADSDEN. My name is Philip H. Gadsden. My residence is Philadelphia. I appear as representing the American Electric Railway Association, the American Gas Association, and the National Electric Light Association. I am one of the vice presidents of the United Gas Improvement Co., and I am president of the American Electric Railway Association. I am also chairman of the joint tax committee of these three associations. As representing our committee, I want to discuss with the Finance Committee the application of any proposed sales tax or turnover tax to regulated industry.

While the bill of Senator Smoot does not purport to impose a sales tax on street car fares as such, or gas bills, there have been suggestions made, and the general idea, I think, of a great many people in discussing the subject is that a sales tax should be a comprehensive one and include every transaction.

I wanted to show, Mr. Chairman, if such a tax came up before your committee, the difficulties of applying any sales tax to a regulated industry. In the first place, I would say that so far as our information goes no sales tax now existing applies to public utilities. I have studied the French act and there they are expressly excluded. The German act, I think, also expressly excludes public utilities. The Canadian act does the same thing.

Senator McCUMBER. Well, does not this, by implication at least, exclude it?

Mr. GADSDEN. It does. I am only suggesting that as this discussion develops there may be some members of the committee who may offer an amendment, or the committee itself may take into consideration how such a tax should be imposed upon a regulated industry, and I wish to anticipate a suggestion of that kind. The Philippine act expressly excludes public utilities.

Mr. Chairman, I want to say that the public utilities are not here seeking to evade any just share of any taxation. As an industry we are very much in favor of a sales or turnover tax, for the reason that we believe its tendency would be to increase the number of taxpayers, to distribute the tax burden equitably. We believe that a sales tax or a turnover tax would be less subject to cumulative effect than the present tax. So we are not here in opposition to a sales tax, but are throwing the full weight of our industries in favor of such a tax. We simply want to call the attention of the committee to the fact that so far as we are concerned there are very serious difficulties in its application in connection with passing it on to the consumer. For instance, take the gas industry. There are in the gas industry what are known as prepayment meters. You put 25 cents in the meter and get 25 cents worth of gas. It is a very favored meter among a certain class of people. There are 1,250,000 such meters in this country to-day. To make the changes in such a meter necessary to pass on a sales tax to the gas consumer, which, of course, is the purpose of a sales tax, we estimate would cost about \$2.50 a meter. In other words, it would cost something like

\$3,000,000 to the gas industry to put itself in a position to collect a sales tax in that way.

To put it in another way: To collect a Government tax per consumer of, say, 37½ cents, based upon a 1-cent tax, the gas companies would have to expend \$2.50. It would take about six or seven years for the Government to collect enough tax to equal the amount of money which the gas company had to pay out in the first instance to collect it. So with the application of a sales tax to the gas companies there would be imposed upon them a burden which would be out of all proportion to the benefit which the Government would receive and which the gas companies could not pass on.

Take the street car fare. We have fares in this country to-day ranging anywhere from 5 to 10 cents.

Senator McCUMBER. I want to understand this gas proposition a little more clearly, if I can. A company sells gas for home consumption. Why is it difficult for the company to determine under any system that they see fit just exactly how much gas they have sold and what they received for it?

Mr. GADSDEN. I was referring to the class of consumers who use what they call prepayment meters. A consumer uses the meter like one would use a prepay telephone booth. He puts a quarter in the meter.

Senator McCUMBER. I know; but the company would know when it unlocked the box how much money it had received. It would go into its monthly account.

Mr. GADSDEN. Unquestionably the company could account to the Government, but how could the company collect from the consumer?

Senator McCUMBER. It collects every time the consumer drops his quarter in the box.

Mr. GADSDEN. Say the price of gas is a dollar a thousand cubic feet. Those meters are now arranged to give the consumer 250 cubic feet of gas for a quarter. In order to collect 1 per cent tax on it, those meters would have to be changed so as to furnish him with less than 250 cubic feet of gas for his quarter. Otherwise we would give him the full amount of gas that he originally had and we would have to try to collect it from him. The tax would fall upon the gas company. Those meters would all have to be changed, which would involve an expense on the industry of something over \$3,000,000.

It will not take any argument to show that so far as a street railway fare is concerned there is not any way of passing onto the car rider a 1 per cent tax on a 6 or 7 cent fare. Twenty per cent on a fare of 5 cents is 1 cent. When you get to a 7-cent fare, which is the average to-day in this country, and apply a 1 per cent tax, you have something which could not be collected from the car rider. So that, Mr. Chairman, the point is not that there is not some way of getting an equivalent tax from the public utilities, because there is. I think in the Philippines to-day they have an equivalent tax upon public utilities. They have it in Canada. But the point is that if this tax is to be passed on you can not get it from the public utilities in this way. It must be framed so as to get the amount of money which would be required in another way.

Another very serious difficulty is, being a regulated industry, we have very great difficulty in passing on any tax. For instance, there are a number of commissions in this country, and courts also, which

have refused to allow us to include in our operating expenses the present income tax. Other jurisdictions have allowed it, and I think there is no question but what that is one of the expenses of performing service which the ultimate user must pay.

But the point is, our rates being the subject of regulation by commissions in different States, the only way we can pass on a tax is for Congress to specifically say so.

So that I would ask the committee in any tax which may be framed seeking to get revenue from public utilities that express authority be given by Congress to the public utility to include it in its rate.

We have a precedent for that as far back as the Civil War, Mr. Chairman. It was found necessary in the last days of the Civil War to pass an act imposing a tax on toll bridges and stage coaches. Congress specifically provided that those companies should have the right to add that to their rates or fares, any law to the contrary notwithstanding. That was found to be necessary to protect those rates.

Mr. Chairman, there is another very much greater reason why we urge the support of a sales or turnover tax than the simplicity of it, than the fact that it will spread the burden out. While public utilities, unfortunately, are not subject to any excess-profits tax, and while their income taxes amount to a very small amount of money—they amounted in 1918 to only about \$12,000,000, for the three industries I represent—while it is true that our stockholders and bondholders have suffered so that their taxes have been very greatly reduced, I want to call the committee's attention to the serious burden which the excess-profits taxes and the high surtaxes have in an indirect way upon the public utilities business.

We have recently had a study made of the effect of the surtaxes and the income taxes upon the sale of public utility securities. We have been very much disturbed, Mr. Chairman, to find that under the present fiscal and taxation laws of this Government the taxpayer who is subject to a surtax of over 3 per cent can not afford to buy a public utility security paying 8 per cent or less in preference to a 5 per cent tax-exempt bond. That means, Mr. Chairman, that practically the only purchasers of our securities must come from the people who are in the \$10,000 class. The reason for it is that the public utility, being regulated by law, its earnings being kept down to practically 8 per cent, it, of course, can not have any long-time securities of a greater rate of interest.

I am not trying to inject an argument for exemption of securities, but I am showing how vitally interested public utilities are in any law which will spread out the burden of taxation and which will make it possible for Congress to reduce, if not to cut out, these very high income taxes. The public utilities of this country, including the steam railroads, must every year find new money for their extensions and betterments. The group I represent require about \$750,000,000 a year. Altogether, including steam railroads, we need about \$2,000,000,000 of new money every year. That money must be obtained in the open market in competition with these municipal securities. No man with a high income can afford to buy our securities, because we can not afford to pay more than 6, 7, or 8 per cent, as the law says we can not get more than that amount. The investor is

being driven by that process away from public utilities into municipal bonds, building school houses and court houses, and public roads. The effect of that, Mr. Chairman, is this: In the first place, the \$2,000,000,000 of betterments which the public requires can not be made. They have not been made in four years. We estimate that the public utilities are behind in actual necessities—that is, the three public utilities that I represent—at least a billion and a quarter now, owing to the inability to get money.

The second effect is that as we fail year by year, owing to our inability to get this additional new capital to measure up to the standard and growth of our various communities, and fail to render the facilities which the communities must have, there is a growing dissatisfaction in the communities against our service and an increasing demand on the part of the population to take them over. It is quite apparent, Mr. Chairman, that the public will say, "If you can not raise money, we can; we can get all the money we need at 5 per cent." Therefore, we reach this anomolous situation, that while the political policies of this Government have been definitely and firmly fixed in opposition to the municipalization of these utilities, the financial and the fiscal policies of the Government are inexorably driving us into it. Therefore, any tax whose tendency is to spread out the burden; any tax which will raise money sufficient to enable this Government to relieve the higher brackets on the surtax and the income tax, is working in the interests of the public utilities and immediately in the interests of the users of those facilities all over this country.

**STATEMENT OF R. G. ELLIOTT, OF THE JAUQUES MANUFACTURING CO., REPRESENTING THE NATIONAL ASSOCIATION OF CREDIT MEN, CHICAGO, ILL.**

Senator McCUMBER. Mr. Elliott, will you kindly give your name, place of residence, and occupation?

Mr. ELLIOTT. My name is R. G. Elliott, of the Jaques Manufacturing Co.; my residence, Chicago; and I represent the National Association of Credit Men.

Mr. Chairman, the National Association of Credit Men is an organization of 33,000 business units—manufacturers, mining companies, wholesalers, and financial institutions. Our membership is made up of the business units and is not an organization of individuals. The committee on Federal taxation, of which I happen to be the chairman, was organized just a little more than three years ago and has been very active ever since in the study and discussion with our various members at their various meetings on the subject of Federal revenue.

I have not in mind taking a great deal of your time this afternoon. We have worked out some substitutes for the excess-profits tax, and at the proper time we should like to have the privilege of presenting them; but as I understand this is for the purpose of discussing the sales tax I shall confine my few remarks, probably 10 minutes of your time, to the subject of the sales tax.

It is true that while at the outset of our study of taxation we were more or less impressed with the seeming simplicity of a tax on business transactions; nevertheless, after we had given the subject very careful thought we came to the conclusion, which seems to us in-

evitable and which is concurred in by many of the other organizations, that it would not be a practical method of raising a large amount of Government revenue; that it would not be equitable; that it would not be sound; that it would be bad for business in general.

That conclusion was arrived at before many of the organizations now advocating the sales tax were formed and nothing has ever been said about it. We went on from that to developing things that we could stand behind and which we did feel were sound and should be incorporated in our revenue system. Our national convention a year ago and also a number of our State conventions during the past year passed resolutions against the enactment of any general sales or turnover tax. The tax committee of the Chamber of Commerce of the United States, of which I happen to be a member, was also unanimous in their condemnation of a sales tax.

The committee which was spoken of here this morning of the National Industrial Conference Board, with whom I had the pleasure of sitting throughout their meetings last year, also, as you know, came to that conclusion. The wholesale grocers of the State of New York passed a resolution condemning the sales and turnover tax. Also, I believe the wholesale grocers of Pennsylvania, New Jersey, and Delaware, if I am correct in that, passed a similar resolution a short time ago. The bulletin of the Retail Grocers' Association states that the retail grocers are opposed to it.

It might be interesting to note that I have just last evening received a telegram from the Cotton Yarn Merchants' Association of Philadelphia, in which they state:

Understand you are representing Credit Men's Association as opposed to sales tax. Cotton Yarn Merchants' Association also opposed. Would like to cooperate with you. If can be of assistance please advise us by wire.

I simply mention those things as indicative of the widespread feeling on the part of a great many business men that the sales tax is not the savior of the situation.

Now, any discussion of the sales tax must of necessity bring up the question of its incidence. Is it shifted or not shifted? At the present time I think everyone will admit that it can not be, in a general way, shifted; that is, in a falling market. If business is not profitable and it is not shifted, it becomes a tax on capital. Take in my own line of business, a business in which the price of our commodity has been maintained for 30 years. That is a part of our trade-mark. We can not shift it. We must absorb not only the tax that we pay, but we must absorb the tax of the succeeding distribution in order that the margin which the retailer who finally distributes the goods receives may be maintained at a point where he will continue to act as a distributing agent.

The point has been brought up of passing tax specifically by adding it to the invoice in a falling market. I think an effective answer to that is that the man in the falling market is getting all he can as a total invoice, and rather than put on a 1 per cent and collect it specifically as such, what really happens is that he takes off 1 per cent from his selling price and then adds it on as tax. Surely if he is losing money on his commodity he is not going to have a total invoice of a less amount than it is possible for him to obtain for his goods.

Now, speaking in normal times of the tax being passed on. Statistics show that for recent years—not 1920, however—only a little over one-half of the corporations of the country made any net income. Those are the figures of the Bureau of Internal Revenue. Over 150,000 corporations in this country showed no net income. I submit, Mr. Chairman, that it is hardly a proper procedure to collect such a tremendous amount of money from business which has been unprofitable; that these 150,000 corporations who showed no net income did a very large volume of business; they had a large volume of sales, and would under a sales tax have paid a very large tax which would have been an additional loss and which would have had to have been paid out of capital.

Now, the turnover tax borne by the seller is not fair for the reason that turnovers and margins of profit vary greatly in a great many industries. Margins are very, very small in a number of very large industries. Take the wholesale grocers and the packing industry. One per cent borne by the seller would be equivalent to from 25 to 50 per cent income tax. Then, we have the integrated industry, and I want to stress that point of the multiple process, the industry that carries on the various processes of distribution from the raw material down to the ultimate consumer and who are in competition with single-process businesses that are very helpful to the community. I think that those smaller units of business are really a wholesome thing in our fabric of business. It can not be explained away. It is absolutely existant.

The policy of Congress has apparently been away from integration, and I question very much the advisability or desirability of, and I seriously doubt that Congress has any thought in mind of passing, any legislation which would practically force all of the business of the country into larger units than now exist.

So much for the tax not shifted. Now, if it is shifted, as its proponents suggest that it will invariably be, it violates most seriously the principle of income and ability to pay, which has been a growing principle of taxation. As you go back through the history of taxation you will find that it has been growing for 75 or 100 years, and it has become pretty well established that income is a proper yardstick to apply for taxation; that ability to pay should be recognized, and that taxes should be levied on that basis.

Senator McCUMBER. Of course, that is still included in our scheme of taxation for the next year.

Mr. ELLIOTT. Mr. Chairman, the advocates, or many of the advocates, of the gross sales tax are advocating it in lieu of practically all other taxes. In other words, there is one prominent advocate of the gross sales tax that I have heard say that he wanted the income tax done away with, with the exception of possibly a 5 per cent flat income tax. Now, I do not think Congress is going to do anything like that, and, therefore, I am not going to discuss that.

There are some figures that were given here this morning that I just want to touch on, and one is the 23.2 per cent that is excess profits tax in the consumers dollar as against the 34 per cent which it is stated would be the tax content of the consumer dollar under the 1 per cent sales tax.

In passing I want to call your attention to the fact that there is a difference of 20 per cent there in the tax content of the consumer's

dollar. Apparently that is going to be very beneficial to the consumer, but this is the point I want to make, that they propose to raise the same amount of money. Now, the Bureau of Internal Revenue statistics show that profits have not been increasing since 1917, and I just want to leave that thought.

In 1918 corporate turnover was \$86,000,000,000. If the corporations collected 20 per cent more on their turnover than they paid the Government in tax, then this amount of 20 per cent on eighty-six billion, or seventeen billion, would be reflected in corporate profits. But corporate profits were only one half this amount for 1918.

I do not want to speak of this from a political standpoint; I am not qualified to do so; but it seems to me as a layman that if the taxes were shifted from wealth and income to consumption, there would be an irresistible demand for the return of income taxes; and that they would come back strong, and then we would probably have both of them. I think then we would have a very complex system.

I just wanted to ask this question, not because I know anything about the business in the Philippine Islands, but it would seem to me that in a broad general way they are lacking in the complexities of production, manufacture, and distribution we have in this country. I suspect that much of their finished product is imported in the finished state. I question whether there would be a great many cases in the Philippines where there would be five or six turnovers before it got to the consumer. I simply insert that question; I do not know; but there might be something in it.

The questions of simplicity and equity are often discussed in the same breath. Now, simplicity makes for inequity. It means the applying of a given rule to all people who come under the tax system. The greatest equity must of necessity carry with it some complexity, because the greatest equity would be obtained if it were possible to take each individual and apply a proper tax to him based upon all of the circumstances entering into his situation.

In closing I just want to say that our organization feels that what we are needing more than anything else is a permanent system of taxation. We are going to come to a time when there will be a fluctuation in the revenue requirements of the Government, and when that time comes if we shall have established a permanent system of taxation—and, incidentally, I believe the income tax is the real foundation of our revenue system, and it should always be considered as such and perfected as we may perfect it in the next few years—and then when we come to this point where we can stand a cut in revenue, all that will be necessary will be to shave down our rates. We will not have to stir up all those things or overturn our entire system. Those are the things that we would like to have you consider, and, as I stated, at the proper time we will have some few things to say on substitutes.

If I may do so, Mr. Chairman, I should like to leave with the stenographer just a few pages of matter to be included, which pages cover in a concise way these rambling statements that I have made.

Senator McCUMBER. Mark such portions as you want to insert.

I would like to have you who have studied this question, or some of you present, state what constitutes a sale. I will give a little illustration and see if it can be answered to at least my satisfaction. We will suppose that here is a person who weaves cloth.



He does not dye it; he does not make the prints; he takes the fabric which he has woven to a dyer or a printer, and has the coloring added at that time and then the cloth returned to him after the charge is put on. We will suppose, then, that the labor charges and overhead charges of the buyer would be \$5 and his dyes which he actually used were worth 25 cents. If you were applying a sales tax to that proposition, what would be the basic tax of his sale, or would it be a sales tax at all? I am asking for a statement from some of you experts who have made a study of this matter, and I do not care which one of you answers it. I would be glad to have any of you answer it who has studied that feature of the case. Would he put in as overhead charges and regard the printing of that cloth as a sale of his 25 cents worth of dye, with \$5 or \$4 overhead charges connected with it, or would it be equivalent to a sale of four or five dollars and twenty-five cents?

Mr. ELLIOTT. I am not a tax expert, Mr. Chairman; I am just a man engaged in business that has come in contact with these things, and I am frank to say to you that I have not been able to answer that question to my own satisfaction. It seems to me that it presents a very difficult situation.

Senator McCUMBER. I anticipate that there will be a great many of those and the committee is simply trying to get information. There are, perhaps, very few on the committee who are not open-minded on this subject at the present time.

(The matter above referred to is as follows:)

#### OTHER PROPOSED SUBSTITUTES.

##### THE SALES OR TURNOVER TAX.

A tax on sales as a substitute for the excess profits tax numbers many adherents among groups of business men. The advocates of this tax claim for it many virtues, among them simplicity, equity, and ease of collection. It is the opinion of this committee that this tax not only does not embody these virtues but that its enactment into law would be at this time most unsound and unwise. The committee therefore rejects the sales tax as a proposed substitute. In support of this course it offers the following analysis:

##### ANALYSIS OF THE SALES TAX.

Three general forms of a tax on sales may be distinguished:

1. A tax (at a suggested rate of 1 per cent) on every sale or turnover of commodities and services, real property, capital assets, rent, and interest.
2. A tax (at a suggested rate of 1 per cent) on every sale or turnover of goods, wares, and merchandise (limited to commodities).
3. A tax on all final sales of goods, wares, and merchandise for consumption or use.

The first two taxes are very similar and may well be treated together.

##### THE DIFFICULTY OF SATISFACTORY DEFINITION.

It is difficult to define the word "sale." It has been well pointed out by Dr. T. S. Adams in his monograph, *The Sale Tax* that mere sale transfer of title, in modern commerce and industry, is frequently a matter of convenience only. It can be postponed, divided, and often avoided. Leases, contracts for sale, commission, and agency arrangements in lieu of sale trading would be stimulated if a sales tax were enacted.

##### THE ADMINISTRATION OF A SALES TAX.

It is impossible, of course, to predict with accuracy the extent of the difficulties of administering the sales tax. Any tax, however, which is difficult of definition is difficult of administration. The tax force of the Treasury, as is well known, has been

unable to cope with the difficulties provided by the excess profits tax. While it is true that the repeal of this tax will relieve the Treasury to a considerable extent, it must be emphasized that the introduction of an entirely new type of tax, the sales tax, will demand the installation of a new type of tax machinery. The Treasury experts assert that the administrative task of covering and checking all industries and occupations of the country in connection with a sales tax will be colossal. The extension of the income-tax principle, on the other hand, will make use of the machinery of taxation already existing, which may reasonably be expected to improve in efficiency and technique.

#### THE EFFECT OF THE GENERAL SALES OR TURNOVER TAX.

There still remains, however, to be considered the important question of the effect of the application of this tax. Since this tax (and for this purpose 1 and 2 may be considered the same tax) is not levied on individual income or earnings, but is based on sales, the question of its incidence must play a prominent part in any discussion of it. Who bears the tax? Is it shifted or is it not shifted? Or is it shifted in part? The arguments in favor of or against this tax must vary with the answers to these questions.

#### SHIFTING OR NOT SHIFTING THE SALES TAX.

The question of the incidence of the sales tax is too involved to permit of easy generalization. Two points that find general acceptance may, however, be made. In general, it may be said that in a declining market and under close competition the sales or turnover tax will frequently be borne by the seller, and thus may even constitute an added loss. In a rising market the tax may frequently be (and undoubtedly frequently is) shifted. Only a careful study of the particular commodity under discussion in each period will answer this question. But whatever the difficulty of determining when the tax is or is not shifted, the fact remains that under certain circumstances the tax is (1) not shifted at all and thus borne by the seller or is (2) either wholly shifted and thus borne by the consumer or is (3) partly shifted and thus borne by both seller and consumer.

#### THE INJUSTICE OF THE SALES TAX WHEN SHIFTED TO THE CONSUMER.

If the tax is shifted to the consumer it will result in a gross violation of the principle of taxing according to ability to pay. Extended to all articles of consumption it will be a tax on the necessities of life that will fall most heavily on those with little or no ability to pay. Unlike the income tax, which recognizes exemptions, it recognizes no exemption. Passed on to the consumer the tax on sales constitutes a tax on purchase. Taxing purchases at the same rate, however, is quite a different matter from taxing individual income at the same rate, for income is an index of tax paying ability, whereas purchases are not. This tax on sales or purchases will mean that the man of low or moderate income with a family of four or five children will bear an unduly heavy tax burden. The man with a large income with one or two or no children, whose income and ability to pay vastly exceed that of the first man, will be taxed relatively very lightly. The sales tax, therefore, not only does not tax in proportion to income and ability to pay, it actually taxes often in inverse ratio to income and ability to pay.

#### INCREASING THE TAX BURDEN BY PYRAMIDING.

The burden of this tax is likely to be rendered more severe by the pyramiding to which it is open. The tax may be passed on cumulatively until it reaches the final consumer, this consumer bearing thus not only one tax but several taxes, the number depending upon the number of hands through which the commodity has passed. Conceived as a substitute for the excess-profits tax, it will in effect relieve business of \$50,000,000 of taxes and place this burden upon consumers with little or no regard to their ability to pay.

#### THE INJUSTICES OF THE SALES TAX WHEN NOT SHIFTED AND THUS BORNE BY THE SELLER.

The rate usually suggested for the sales tax is 1 per cent. The discriminatory effect of this rate becomes clearly apparent upon analysis. If a tax measure can be defined and framed to include every possible kind of sale or service, so that nothing will escape—so that the sale of stock, the sale of merchandise, and the sale of service of physician, architect, engineer, lawyer, wage earner, salaried man, etc., the sale

of capital assets, the sale of transportation, etc. will be taxed and taxed at the suggested rate of 1 per cent—there will not be lacking strenuous opposition from every quarter. This opposition will take the form of a general objection: "Put there are sales and sales," and the objection will be justified. It is obviously unfair to tax at the same rate of 1 per cent the sales on the stock market, the ordinary sales of merchandise and the sales of capital assets, to say nothing of taxing at the same rate all the different types of sales of service.

#### GROSS SALES ARE NOT A FAIR INDEX OF NET INCOME.

The inequity of the 1 per cent rate is revealed in a more startling fashion by a consideration of sales of commodities. Gross sales do not form a proper basis for the computation of business profits, and hence for the application of a common flat rate of tax. Taxing gross sales of all merchandising enterprises at the same rate of 1 per cent will result in inequalities without number. Smith, for example, may make a net profit of \$20,000 on gross sales of \$100,000. Jones may make the same net profit of \$20,000 on gross sales of \$400,000. Jones has turned over his stock far more rapidly than Smith. With a tax of 1 per cent he will be compelled to pay \$4,000 while Smith with the same net profit will pay but \$1,000.

An intimate knowledge of business is not necessary to appreciate the possible variations of this type of injustice. Business enterprises which are characterized by rapid turnover, and hence are likely to show a low rate of profit to total sales, are penalized, while business enterprises characterized by a low rate of turnover and presumably a high rate of profit compared to sales are favored. Specifically it will mean that wholesale business, with a rapid turnover and low margins of profits compared to sales, will pay taxes wholly out of proportion to their net income. Wholesale dealers whose businesses are characterized by a relatively low rate of turnover and a relatively high rate of profits compared to sales, will be proportionately favored. The discrimination applies with equal force to retail concerns. The 1 per cent tax on gross sales in some instances will, in normal and good years, be equivalent in some cases to one-quarter to one-half of the net income of going concerns, and will thus in reality tax these concerns at a rate of 25 or 50 per cent.

#### THE EFFECT OF THE SALES TAX IN A FALLING MARKET.

The effect of such a grossly inequitable tax in a period of rapidly declining prices will, of course, be still more serious. In such a period large total annual sales may be made with little or no profit. In such an event a tax on sales will eliminate profit entirely, or even constitute a loss to the business. The implications of such a tax are far-reaching. It would mean an entire reorganization, an entire readjustment of prices in individual businesses and in business at large. Such a readjustment could not be undertaken at any time without serious difficulties. To adjust the rate of tax in an attempt to distinguish fairly between all the various types of business is on the face of it impossible, and would invite confusion. To be equitable the rate of tax would have to be adjusted to every business in every line, for the ratio of net profits to gross sales varies with every business and every line.

#### THE INJUSTICES OF THE GENERAL TURNOVER TAX WHEN PARTIALLY SHIFTED—THE SALES TAX DISCRIMINATES IN FAVOR OF INTEGRATED BUSINESS.

Just as there are times when the general turnover tax will not be shifted at all or will be wholly shifted, so there are times when this tax will be partially shifted. The extent to which it will be shifted will vary and may not be predicted. One per cent, 5 per cent, 50 per cent, 95 per cent, or 99 per cent of the tax may be shifted. The result of this partially shifted tax will be to distribute the injustices of this tax between the seller and the consumer. Distributing these injustices, however, no matter in what proportion, will mitigate little, if at all, the evil results of the tax. Both types of injustices—the injustice to the seller and the injustice to the consumer—are in themselves flagrant. If the tax is only partially shifted, and the degree of shifting is not determinable, the business men of the country will face not only certain injustices of the tax but a serious uncertainty in marking their prices.

A sales tax that includes all the sales of a commodity in its passage from the raw state to the finished state in the hands of the ultimate consumer gives a tremendous advantage to the so-called integrated industry or business (i. e., to the industry that carries on several consecutive processes of manufacture and distribution) over those businesses that carry on only one of the processes of manufacture and distribution.

There are integrated industries that make but one sale of their product as it passes from the raw to the finished state in the hands of some ultimate consumer. Three, four, five, six, seven, or more sales of the same product take place as it moves from the raw state to the finished product through the hands of independent businesses, each of which carries on only one of the processes of manufacture and distribution.

The fabrication of a tenpenny nail may serve to illustrate the discriminations that result from the tax on sales. In a nonintegrated industry eight taxes are borne by the eight concerns which manufacture and distribute the commodity:

- Tax 1. Paid by the company which mines the iron ore.
- Tax 2. Paid by the company which carries the ore to the port on Lake Erie.
- Tax 3. Paid by the dock company which unloads the ore.
- Tax 4. Paid by the railroad company which carries the ore to the blast furnace.
- Tax 5. Paid by the blast furnace which smelts the ore.
- Tax 6. Paid by the steel mill which transforms the pig iron into steel.
- Tax 7. Paid by the factory which makes the nail.
- Tax 8. Paid by the wholesale hardware house which buys the nail from the factory.

A highly integrated industry which controls the process of production and distribution will escape possibly all these taxes. It is thus in a position to compete at a tremendous advantage over these businesses which are taxed. It will be impossible for the nonintegrated industries to market the tenpenny nail at the price made by the integrated industry.

#### THE EFFECT OF THE SALES TAX ON BUSINESS ORGANIZATION.

Former Assistant Secretary of the Treasury Leffingwell has predicted that such a tax would in five years revolutionize present methods of doing business because means of getting around the intermediate turnover tax would be devised and put into effect. Whatever may be said as to the merits or demerits of our present system of business organization, there surely can be no justification for instituting a tax measure which will disrupt that intricate organization for no other reason than for the purpose of collecting taxes.

For the reasons given above, which are here briefly recapitulated, the general turnover tax should be rejected:

1. It is difficult to define satisfactorily.
2. It is difficult of administration and involves the setting up of a new tax machinery.
3. If shifted to the consumer it constitutes a violation of the principle of taxing in accordance with ability to pay, for it will fall heavily upon the necessities of life and be paid largely by those with little ability to pay.
4. If not shifted and thus borne by the seller, it discriminates against businesses that have large sales with a small rate of profit compared to sales. The 1 per cent tax on such businesses may be the equivalent of a 25 to 50 per cent tax on profits and in abnormal years may tax all profits away and even cause deficits.
5. If only partially shifted, it discriminates against individual businesses and in favor of integrated business that carries on several processes of manufacture and distribution, and involves also injustices to both seller and consumer.

#### ANALYSIS OF THE TAX ON FINAL OR RETAIL SALES OF GOODS, WARES, AND MERCHANDISE FOR CONSUMPTION OR USE.

All the criticisms leveled at the general turnover tax (Nos. 1 and 2) can not be directed against the retail tax on all final sales (No. 3). Since it is a tax on final sales, it obviously will not discriminate in favor of integrated industry. In addition, the possibility of pyramiding the tax is removed. Since it eliminates sales of capital assets and sales of service, some of the difficulties connected with a satisfactory definition and rate of tax are removed. But serious difficulties still remain—difficulties both of definition and application.

#### THE DIFFICULTY OF DEFINING FINAL SALES FOR CONSUMPTION OR USE.

It is difficult to determine whether a final sale is made for consumption or use, or whether it is made for business purposes. Serious administrative problems will arise as a result of this difficulty. In connection with this problem Dr. T. S. Adams, in his article "Difficulties of the Sales Tax," says:

"Limiting the tax to final sales would create a difficult administrative problem. Merchants and other dealers would be required to secure affidavits from purchasers stating whether the goods were to be consumed or to be resold, either as bought or in some changed form. Would purchasers tell the truth? How about purchases of gasoline, coal, and similar commodities or services which can be used either in business or for final consumption?"

"Certificates of this kind, distinguishing purchases for resale from purchases for consumption and use, are now employed in connection with some of the existing sales taxes; but they are said to lead to considerable evasion. It is an even question whether such a device could be successfully administered. In any event the sales tax, like the income tax, would depend almost wholly on the honesty of the taxpayer for its successful collection. Experience with the income tax indicates that the honesty of the taxpayer, particularly in case of the larger business concerns, is capable of withstanding the strain, provided an administrative force large enough to check and supervise the returns is employed. The administrative problem would be a huge one, with almost every business concern in the country which sells at retail subject to the tax."

#### INJUSTICES OF THE RETAIL TAX WHEN BORNE BY THE CONSUMER.

Since the retail tax or the tax on final sales is not susceptible of pyramiding (being only one tax), it is not so flagrant a violation of the principle of taxing in accordance with the ability to pay as is the general turnover tax. It does, however, seriously violate this principle. As is the case with the general turnover tax, it will fall most heavily on families with only a living wage or with only a moderate income and comparatively lightly on families with a large income. It recognizes no exemptions. The poor man with five children pays taxes on pairs of shoes for all his five children. The man of wealth and great ability to pay, who has but one or two children or no children, pays taxes on a smaller number of shoes. Similar comparisons might be instituted between consumption by these two contrasted families of all necessaries of life. The poor man may bear a tax burden on the necessaries of life as great as, if not greater than, that borne by the rich man, and he obviously has not the ability to do so. If this tax measure is enacted, it will mean relieving business of a heavy tax and placing it on the shoulders of consumers without regard to their relative ability to pay.

#### INJUSTICES OF THE TAX ON FINAL SALES WHEN BORNE BY THE RETAILER.

As is the case with the general turnover tax on sales, retail sales are not a fair index of business prosperity or profits. A tax on retail gross sales, therefore, taxes unfairly those businesses which have large yearly sales and a low rate of profit as compared with these sales.

When borne by the retailer it introduces another type of injustice. Why should the retailer be singled out to bear the tax while the wholesalers and manufacturers are relieved of its burden?

The tax on final sales is, therefore, to be rejected for the reasons given above and briefly set forth here:

1. It is difficult of definition and administration.
2. When shifted to the consumer it is a gross violation of the principle of ability to pay.
3. When borne by the seller it discriminates unfairly in favor of businesses with small total sales and a high rate of profit, and against businesses with large total sales and a low rate of profit.
4. When borne by the retailer it imposes the sole tax burden upon him, thus discriminating in favor of manufacturers and wholesalers.

#### STATEMENT OF H. C. MCKENZIE, REPRESENTING AMERICAN FARM BUREAU FEDERATION, WALTON, N. Y.

The CHAIRMAN. Will you state your business, Mr. McKenzie?

Mr. MCKENZIE. I am a farmer and lumberman.

The CHAIRMAN. Will you state, as briefly as possible, your views on the sales tax?

Mr. MCKENZIE. Yes, sir. I speak for the American Farm Bureau Federation, which has between one and two million members and represents, roughly, about five million people in this country.

We think that any changes made in our present tax system should be made in view of four general principles: (1) That a man's net income is the true measure of his ability to pay taxes in support of the National Government; (2) that the rates should be progressive; that is, that the larger the man's income the higher the rate; (3)

that as this is the country of all the people everybody should have some part in supporting the Government, and that a certain portion of the taxes can, therefore, justly be raised through the tariff and other consumption taxes; and (4) while recognizing that the raising of the revenue is the first consideration in any tax scheme, the taxes should be so laid as to tend, as far as practicable, to the distribution of wealth in the hands of the many and not to its concentration in the hands of the few.

We want to draw clearly the difference between income and consumption taxes, because we think there is a vital difference which should be kept in mind. If my memory serves me correctly, in 1919 73 and a fraction per cent of the taxes were raised through income and excess-profits taxes and about 26 and a fraction per cent through consumption taxes. We think that that proportion is approximately correct, as far as principle (3) that I have enunciated is concerned.

Senator McCUMBER. You do not think that 73 per cent of the income and excess-profits taxes were not finally paid by the ultimate consumer and is not finally a consumption tax?

Mr. MCKENZIE. I would like to answer that by asking you a question. You are asking that on the theory that all taxes are ultimately passed on to the consumer?

Senator McCUMBER. I am asking that because I want to find out if there is any tax that the ultimate consumer does not have to pay; that is, any tax that is levied against either an industry or an article.

Mr. MCKENZIE. Yes; there are such taxes. I believe that if you change the taxing basis from net income to a sales tax you have done what President Harding in his message referred to when he said: "The country does not expect and will not approve a shifting of burdens"; that you will be shifting very largely the burden from those who are able to pay to the pockets of those who are not able to pay. You will be relieving the banker, the broker, the great newspapers of part of their taxes and shifting them to other shoulders. These are the people who are urging the sales tax.

Senator SMOOT. What are they?

Mr. MCKENZIE. Let us take the inheritance tax. Who passes that on to the ultimate consumer—the man who is dead or his heir who never got the money and who is the ultimate consumer?

The CHAIRMAN. That is a tax on capital, in a sense.

Mr. MCKENZIE. It is a tax.

The CHAIRMAN. That is not to be compared to the ordinary tax.

Mr. MCKENZIE. All right; let us take another. If all domestic taxes are passed on to the ultimate consumer, let us take the income tax.

Senator SMOOT. We are not going to repeal the income-tax law, so why not take up some law under which the taxes are to be collected direct that reaches the ultimate consumer? An income tax is after you have it. That comes into your possession and after it has gotten there we take a part of it, and nobody is going to repeal that law.

Mr. MCKENZIE. Mr. Chairman, may I answer the gentleman's question by referring to the income tax?

The CHAIRMAN. Go on.

Mr. MCKENZIE. If we take the income tax and take reduction of the surtax, if it is true that these taxes are passed on to the ultimate

consumer, why reduce them? We are not hurting the man who pays the tax, because he is passing it on to somebody else. There are many men in the country to-day who are taking good securities paying 6 to 16 per cent and selling them and putting the money into tax-free securities that pay only 5 or 6 per cent. If that theory is true, these men need a guardian.

Senator SMOOT. I do not see any argument in that.

Senator WATSON. Your theory is that taxes are not passed on to the ultimate consumer?

Mr. MCKENZIE. Not all taxes. I was referring to the surtaxes and the personal income taxes.

Senator SMOOT. As proof of his argument he refers to the fact that it is not these men that have to pay income tax that sell their stock drawing 15 and 16 per cent and put it into nontaxable investments or bonds.

Mr. MCKENZIE. Take me, for example. If I have \$10,000 invested in United States Steel Co. stock, or something else that is paying 16 per cent, and I sell it and put my money into 5 or 6 per cent tax-free securities, I need a guardian, if that theory is true. But it is not true.

Senator SMOOT. Let us see if it is not true. When he evades that tax by buying tax-exempt bonds, somebody else has to pay the amount of tax that is necessary to run the Government.

Mr. MCKENZIE. Yes; he has shifted his part of it.

Senator SMOOT. He has shifted it, and the Government has lost money because of the exempt bond, but the other man who pays his taxes and can not buy these bonds has to pay that much more tax.

Mr. MCKENZIE. Yes; but there is no proof that it will be shifted in his case to the ultimate consumer.

Senator SMOOT. It is bound to reach the ultimate consumer.

Mr. MCKENZIE. I do not think so. Let me give you another example, Senator.

Senator SMOOT. The one you have given is no example at all.

Mr. MCKENZIE. Suppose I am doing business in a small way. If I can run along at 50 per cent of normal capacity and do \$100,000 of business, I think I am lucky; but I am afraid the overhead is going to eat me up. If I come out at the end of the year possibly I have lost \$5,000. Now, suppose that these present conditions continue for another year and we do the same thing, and you put on a sales tax of 1 per cent, I lose \$5,000 and \$1,000 tax. I will not pass it on to anybody.

Senator SMOOT. You can picture any kind of a transaction that does not take place once in a million years and say that the tax will fit that. If it is taking place those people would not be in business.

Mr. MCKENZIE. Well, I am in business.

Senator SMOOT. Yes; you are in business, but do you mean to say that you have been in business for 30 years and there has not been a year passed that you did not make any money?

Mr. MCKENZIE. No.

The general theory that all domestic taxes are eventually paid by the ultimate consumer is not borne out by the facts and will not stand investigation.

If this theory were correct tax-free securities would have no reason for existence; the only advantage they possess is in that they free their owners from taxes.

The existence of \$16,000,000,000 of tax-free securities is an irrefutable argument against this theory; when you get to an argument of that size the theory blows up.

Senator SMOOT. That is true in the case of all business. You can not pick out one year, like a declining market existing to-day, and say there is no law that shall be passed that will in any way affect that one year. Not only that, but you must understand that there is no evasion to it. This tax is not to be paid by you, but by the man to whom you sell.

Mr. MCKENZIE. We believe that this general sales tax is unsound in principle; that it is unsound economically; that it is unsound from a social standpoint; and it is governmentally inexpedient.

The CHAIRMAN. What do you mean by the statement that it is unsound from a social standpoint?

Mr. MCKENZIE. I believe that if the general sales tax which is purported to raise anywhere from a billion and a half to two billion dollars were substituted for the higher surtax brackets and the excess profits tax, you would be putting an undue burden on the people who are already heavily burdened under the present tax rate.

Senator SMOOT. Do you think that that is all that the tax is going to take the place of? That is not the case. It will take the place of most all of the other taxes outside of the income tax.

Mr. MCKENZIE. So much the worse.

The CHAIRMAN. Well, suppose we permit Mr. McKenzie to go on and make his statement.

Mr. MCKENZIE. It is unsound if it is passed on to the ultimate consumer for that reason. Most of the advocates of the sales tax claim that it is eventually passed to the ultimate consumer, but they lack the courage of their convictions. If their statement were true all the Government would be concerned about would be the easiest way of getting the money, and they should, according to their theory, abolish all other taxes and raise all the revenue by means of a sales tax and avoid all the present income tax troubles. They should go a step further, and instead of going to the trouble and expense of checking and auditing a million accounts, as they would have to do with the general sales tax, they should reduce the trouble and expense to its lowest terms by collecting all the tax from one item, a salt tax, or a head tax. They do not believe their own theory, and many of them admit that if they can not show that it is passed on it is absolutely indefensible.

Senator McLEAN. Then, you think the excess-profits tax has resulted in raising prices to the ultimate consumer?

Mr. MCKENZIE. Not to the extent claimed for it.

You are familiar with the statement attributed to the Department of Justice, that the excess-profits tax added 23.2 per cent to the cost of living.

I sent an investigator to the department to see what basis there was for these figures, and he reports that he saw Mr. Reid, and that they have made a thorough investigation of their files and have not been able to run down any reference whatever to this percentage. I would like to suggest that the committee thoroughly look into this.

The first reference or publicity apparently came from Mr. Rothschilds, and I suggest the desirability of having him produce the facts.



You gentlemen are familiar with the course of prices in the world for the last four or five years, and you know that prices were no higher in England and the United States, where taxes were high, than they were in the neutral countries and in France and Italy, where taxes were low. You also know there was no relation right here between the taxes and the height of our prices. There is absolutely no connection. Taxes are not a controlling factor in fixing prices.

Senator McLEAN. I think you are right there. I think theoretically it is pretty hard work to add the excess-profits taxes to prices. For instance, where there is a monopoly, of course, the article will be sold for what the trade will bear, and where there is competition that regulates the price.

Mr. McKENZIE. Absolutely.

Senator McLEAN. The excess-profits tax can not legitimately be charged back to prices.

Mr. McKENZIE. I agree with you that that is true, but here are facts: I happen to know something about the price of methyl alcohol. Last July the price for local consumption was about \$3 a gallon. The exporters came in from Germany and wanted it and couldn't get it, and they ran the price right up to \$4.50. What had the excess-profits taxes to do with that increase in price? It did not control it.

Senator McLEAN. Nevertheless, I think that the going was good, and it was used as an excuse for raising prices.

Mr. McKENZIE. Most of them did not need any excuse. They took all the traffic would stand.

Senator McLEAN. Very likely you are correct about that, but as long as we maintain excess-profits taxes they will continue to use it as an excuse.

Mr. McKENZIE. And they will continue to get all the traffic will bear if it is repealed.

Senator McLEAN. But we must assume that the time will come some time when the normal effect of the law of supply and demand will control.

Mr. McKENZIE. Business is done in the United States under three forms: Individual, partnership, and corporation. Only corporations pay excess-profits taxes. I am in the lumber business. Suppose three of us are all selling on the New York market to the same customers. How can I add excess-profits taxes to my customers and get away with it in competition with the other fellows who do not pay it?

Senator McLEAN. Of course, excess-profits tax has resulted in many injustices. You will admit that?

Mr. McKENZIE. We will never get a perfect tax.

Senator SMOOT. What business are you in?

Mr. McKENZIE. I am in the farm and lumber business.

Senator SMOOT. Are you doing the lumber business individually?

Mr. McKENZIE. It is a corporation.

Senator SMOOT. Your corporation never, then, took any notice of the excess profits in arriving at what they were going to sell the lumber for?

Mr. McKENZIE. No. The taxes are figured up at the end of the year.

Senator SMOOT. That is, you did not care what the taxes were. If it had taken them all you would not have cared?

Mr. McKENZIE. It had absolutely no bearing on the price of lumber in the last four years.

Senator SMOOT. In other words, you sold the lumber for just as high prices as you could?

Mr. McKENZIE. No; we sold at the market price.

Senator SMOOT. No; you sold as high as you could sell it.

Mr. McKENZIE. All right; I will say that. What would be the virtue in your going into the market and selling the lumber below the market price? It would serve no good purpose whatever.

Senator WATSON. If the men who deal in lumber as a corporation sold their lumber as high as they could, taking into account the excess-profits tax, evidently those who were dealing as individuals came up to their level.

Mr. McKENZIE. It was justified.

Senator WATSON. So that the law of supply and demand did not operate. But that does not prove that the excess-profits tax should not be taken into consideration. The point about it is that it did not operate so as to bring you down to their level; but they took advantage of it to come up to your level and charge a greater price than they needed to charge. Evidently somebody had to pay that tax.

Mr. McKENZIE. The question of taxes did not enter into the thing at all, just as I have shown you by my statement with respect to the question in France and England. The tax did not correspond to the price at all.

Senator WATSON. You mean the relation between taxes and prices?

Mr. McKENZIE. It is not a controlling factor; I will say that.

Senator WATSON. But, according to what you said a while ago, it did not have anything to do with it.

Mr. McKENZIE. It is not a controlling factor.

Senator McLEAN. No; the going was good and everybody charged every dollar they could get. But the sentimental effect, the very existence of that tax, gave all dealers in the lumber business a good excuse for shoving up their prices, and they did it.

The CHAIRMAN. Would it not be better and expedite matters if the witness could go ahead and finish his statement?

Senator WATSON. I think it would unless it disturbs the witness.

Mr. Chairman, this is a very illuminating way of getting at it.

Mr. McKENZIE. I am perfectly satisfied to scrap it out with you gentlemen.

Senator McLEAN. I think the witness is absolutely sound on that point.

Senator SMOOT. So do I, wherever there is not any competition

Senator McLEAN. There was competition, but it was the sellers' mecca, and they were all raising prices.

Mr. McKENZIE. Yes; and why should anybody take less than the market price? They do not do it. I have some references here if I wanted to take time to go into them; but I shall not do that.

Senator JONES. What kind of references are they? Are they figures?

Mr. McKENZIE. I have, for instance, a statement by Mr. George E. Roberts, of the National City Bank, who is a good authority on economics, in which he says that the thing is absolutely true as I have

stated it. That theory is absolutely indefensible if it is not passed on to the ultimate consumer for the reason that it bases the amount of the tax on gross income, which has no fixed relation to a man's ability to pay taxes, which is his net income. If I do business at a loss I will have to pay that 1 per cent tax out of my capital, and it is a capital levy just as much as the German tax to-day.

Senator McLEAN. You do not pay it; you pass it on. You lose just as much without tax as you do with it.

Mr. McKENZIE. Take a jeweler. He may buy a diamond brooch at \$2,000 and sell it at \$3,000 and make \$1,000 profit. He would pay a tax of \$30. In the wholesale grocery business profits run from 2 to 2½ to 3 per cent. To make \$1,000 he would have to do \$30,000 worth of business. In the first case the jeweler's tax would amount to one-thirtieth of his net profits. In the case of the wholesale grocer, his tax would amount to one-third of his net profits.

I come from New York where we have the most intensive dairy business in the United States. Dr. T. S. Adams is responsible for the statement that probably it would take 35 to 40 per cent of the profits of the dairy business to pay 1 per cent tax. That is the way that tax works out as between the luxury people and the people who do business in the great staples.

Senator McLEAN. The spread would be precisely the same.

Senator SMOOT. If you pass it on it is exactly the same.

Mr. McKENZIE. Yes; but I do not believe that it is passed on.

Senator SMOOT. But we will so arrange that it will be passed on.

Senator SIMMONS. Take the case you put a little while ago. If that is passed on—and we all agree it will be passed on—in the case of the jeweler who made a profit of a thousand dollars and passed it on, the consumer would have to pay a tax of only \$30; but in the case of the retail merchant, who made \$1,000 and passed it on, the consumer would have to pay on the same product \$300, as I understand you.

Mr. McKENZIE. Absolutely; on \$30,000 worth of business.

Senator SMOOT. No.

Senator SIMMONS. That is what you said.

Mr. McKENZIE. You are correct.

Senator SIMMONS. Then, you develop one case where the consumer will have to pay \$30 where there is a profit of \$1,000, and \$300 where there is a profit of \$1,000 in another business, or ten times as much in one case as in the other.

Mr. McKENZIE. No; in the case of the wholesale grocer it will absorb one-third of his profit.

Senator SIMMONS. You said that in one case, where there was a profit of \$1,000, the tax would be only \$30, and in the other case, where there was the same profit and no more, \$1,000, the purchasers of those goods would have to pay \$300.

Mr. McKENZIE. No.

Senator SIMMONS. I am not talking about getting anywhere; I am talking about the tax. I am not making any argument; you are making the arguments.

Mr. McKENZIE. There is another feature of the inequalities between different forms of tax that I want to call your attention to, and that is the cumulative effect of this tax as between the self-contained business that performs a great many operations and the small concern that performs, possibly, but one operation.

We have up near where I live the largest single shoe business in the world, I think; at least the largest in the United States. That concern buys its hides in South America and tans the leather and makes shoes and sells them to the man who wears them. They would pay 1 per cent tax, as I understand it, according to the sales-tax theory. There are many smaller concerns that would get their leather from the hides gathered up in the country by the dealer who would sell to a jobber or a tanner. That leather would be sold to a shoe manufacturer, who would sell it to a jobber, and the jobber to a retailer, the retailer in turn selling it to the man who wears the shoes. You would get 9 or 10 turnovers and 4 or 5 per cent, probably, at the least.

One of the best informed men in the shoe business in the United States told me that 3 per cent would settle who got the shoe business in the United States. That being the case, it would be only a little while until all the shoe business in the United States would be concentrated in the hands of a very few strong organizations. That is not only true of the shoe business, but it is true of a multitude of other kinds of business, and it would be only a little while until America would become the land of monopoly instead of the land of opportunity.

There is another very serious objection to the sales tax, from my point of view, and that is the question of its collection.

Senator SIMMONS. With regard to that shoe business, do you mean that where the shoe is made by a very closely integrated concern the turnover would be less than where it is made by numerous independent concerns? I mean the shoe and all the things that go into the shoe.

Mr. McKENZIE. What I said was that that concern would pay 1 per cent tax, and that the individual who had to buy in any other way and who performed but one operation would pay 4 or 5 per cent.

Senator SIMMONS. The point that you are making is that the highly integrated product would be made at a less turnover than otherwise?

Mr. McKENZIE. Less tax.

Senator SIMMONS. I mean that.

Mr. McKENZIE. Absolutely. Whatever advantage there is is in favor of the strong and against the weak.

Senator McLEAN. Are you farmers not in favor of a cooperative organization, that will bring the consumer closer to the producer and thus avoid half a dozen profits?

Mr. McKENZIE. Yes.

Senator McLEAN. Would not this tax operate that way, right in the interest of the consumer, in the long run?

Mr. McKENZIE. I do not know about that. It will bring monopoly. If you consider that as being in the interests of the consumer, you are all right.

Senator McLEAN. Assume that it will not bring monopoly; that the Sherman Act can be enforced against these combinations. Will it not tend to bring the producer of shoes closer to the consumer of shoes and avoid the profits that they have to pay now?

Mr. McKENZIE. Let us take the question of fertilizers.

Senator McLEAN. No; answer my question.

Mr. McKENZIE. I seriously question that. I doubt it.

Senator McLEAN. Well, we have to pay anywhere from \$15 to \$20 for a pair of shoes now that cost much less.

Mr. McKENZIE. I do not. The farmers can not afford it.

Senator McLEAN. Well, we all have to buy a pair of shoes once in a while.

Mr. McKENZIE. I have bought but one pair in four years.

The CHAIRMAN. Well, go on, Mr. McKenzie, with your statement.

Senator JONES. I would like to have him give the illustration that he started to give about fertilizers in this country.

Mr. McKENZIE. I was going to illustrate the point. It is not vital. I will go on with the question of collections from retailers. You gentlemen know something about that question. You know that Canada had some retail sales taxes, and that last December they repealed all of them because they had just this trouble in connection with collections. They were being avoided. You gentlemen know something about the soda-water tax. As I understand it, the statement is being widely made that about three-quarters of the soda-water tax is being evaded. It simply is not being paid.

Senator SUTHERLAND. Do you mean that it is not being paid to the Government?

Mr. McKENZIE. It is not being paid to the Government.

The CHAIRMAN. Well, Mr. McKenzie, it brings in a very substantial revenue to the Government.

Mr. McKENZIE. Yes.

Senator McLEAN. That is a matter of administration, anyway.

Mr. McKENZIE. I think your tax experts will bear out the statement I have made.

The CHAIRMAN. The Government may not collect it all, but it collects a very substantial item.

Mr. McKENZIE. As a matter of fact, you gentlemen who are familiar with the French taxation system know that they have a sales tax over there, and that since it went into effect last July it has not produced half of the money that it was estimated to produce. One of our very large banking concerns in this country was interested in the operation of that sales tax. They sent over there and got some figures to find out just how it was going. I have the figures for three or four months. They show that the sales tax is producing about one-third of its estimated revenue, because it is being evaded.

I think the French are just as good tax collectors as we are, and I think we would get about the same general proportion of taxes from the general sales tax as from the soda-water tax.

Senator JONES. Where do you get those figures from with regard to the collection in France?

Mr. McKENZIE. I have them right here.

Senator JONES. I wish you would put them in the record.

Senator WATSON. Their tax is not on goods, wares, and merchandise, is it, Mr. McKenzie?

Mr. McKENZIE. If I may be permitted, Mr. Chairman, I would like to say that they are figuring now on changing some of their tax methods, and they are looking about to find how they may get additional money, not from the sales tax, but from income taxes.

Here are the figures that you asked for. That tax went into effect in July. For the months of July and August the estimated receipts were 700,000,000 francs. The actual receipts were 292,791,500 francs.

For the month of September the estimates were 460,000,000 francs. The actual returns were 234,000,434 francs. For the month of October the estimates were 460,000,000 francs, and the actual returns were 205,492,000 francs. For the month of February the estimates were 413,000,000 francs, and the actual yield 151,571,000 francs. That shows how the sales tax is being enforced in France. That information is issued by Dowd, Jones & Co., of the Wall Street Journal, and, as I understand it, the figures were gotten by one of the very large bankers in New York.

Senator SMOOT. Do you know anything about the French sales tax?

Mr. McKENZIE. I know that about it.

Senator SMOOT. That is all you know, is it?

Mr. McKENZIE. No, not quite all.

Senator SMOOT. The French tax in no way compares to this tax. It is the same tax as we call the luxury tax. It is divided into about 20 or 30 different sections. Every merchant has to give an exemption and impose a tax upon the balance that is paid over and above a certain price; and in each one of those divisions or groups there are different rates. I do not see how the merchants in France can keep track of the tax.

Mr. McKENZIE. They are not getting the money.

Senator SMOOT. Well, they got money from it during the war. That is about the only way they did get any money.

Senator SIMMONS. It is a turnover tax.

Mr. McKENZIE. It is a general sales tax, and was only put into effect last July, so could not have produced any money during the war.

Senator SIMMONS. It is based on the turnover?

Senator SMOOT. It is not a general sales tax. There are exemptions I do not know how many. There are different rates entirely on almost all the commodities in France.

Mr. McKENZIE. That does not change the underlying principle.

Senator SUTHERLAND. Have you discussed the Canadian sales tax?

Mr. McKENZIE. No; but I have referred to the fact that they repealed taxes applying to retailers because they found trouble in collecting them.

Senator SUTHERLAND. How about the rest of them?

Mr. McKENZIE. It applies to wholesaler and jobber; 1 per cent on the manufacturer and 1 per cent on the jobber. The retailer pays no tax unless he happens to be a manufacturer, and then it is on the manufacturer and not on the retailer.

Senator SMOOT. It is a manufacturer's tax, so-called, in Canada.

Mr. McKENZIE. Now, I would like to say a word or two about this excess-profits tax. One of the reasons usually advanced for that tax is that it is strangling business, and that it is taking from corporations money that is needed in the business. So far as my experience goes, these gentlemen who make this statement ask you to take their word for it. They do not offer any facts or figures to prove it. I have facts that I would like to call to the attention of the committee. The first is this, that if those statements are true, one of the first signs we will see of that thing is that the men of discretion and sense will stop putting their money in corporations. They will not put their money where they do not believe it is going to be profitable.

I took the trouble to look up the amount of money put into corporations in 1918, 1919, and 1920, and here is what I found: In 1918 the amount of money put into new corporations, with capital of over \$100,000, was, in round numbers, \$3,000,000,000. In 1919 that amount had jumped to \$12,000,000,000; and in 1920 it amounted to \$13,000,000,000. So that the investing public in the United States have not yet made up their minds that corporations are no good.

There is another sidelight on that line, and that is the amount of corporation profits. In 1909 the profits of corporations amounted in round numbers, to \$3,000,000,000, and in 1919, 10 years later, those profits had climbed to \$8,900,000,000.

Senator SUTHERLAND. That is after the tax was paid?

Mr. McKENZIE. Those are net earnings, as I understand it.

Senator WATSON. What did they amount to in 1920?

Mr. McKENZIE. I do not know.

Senator McLEAN. Are your estimates of the totals based on capitalization?

Mr. McKENZIE. The amount of net earnings?

Senator McLEAN. No; but the total investments in the new corporations are based on capitalization.

Mr. McKENZIE. Yes; new capital put into corporations.

Senator McLEAN. New capital put in, or the nominal capital?

Mr. McKENZIE. No; what was put in, as I understand it.

Senator McLEAN. Are you sure about that?

Mr. McKENZIE. I think so.

Senator McLEAN. I think you have your figures pretty high.

Mr. McKENZIE. I have documents here, if you want to see them.

Senator McLEAN. There has been about a billion dollars a year put into oil stocks and blue sky corporations of one kind or another.

Mr. McKENZIE. I have a clipping here from the New York Commercial Bulletin which gives those figures, if you are interested in them.

Senator SIMMONS. I would like to have them.

Mr. McKENZIE. Unfortunately, I cut the date off that clipping, and can not give you the date of the issue of that bulletin. Here is what they say:

The following are the comparative figures, as specially compiled by the Journal of Commerce and Commercial Bulletin, of companies incorporated in the principal States during the last three years with an authorized capital of \$100,000 or more:

	1920	1919	1918
January.....	\$2,280,480,000	\$492,079,400	\$267,641,000
February.....	1,158,801,000	323,035,000	182,183,000
March.....	1,375,797,000	370,871,000	197,071,000
April.....	1,354,262,400	515,665,300	255,701,000
May.....	1,417,613,900	748,683,500	309,322,500
June.....	1,323,221,400	1,255,427,500	227,243,000
July.....	1,260,418,600	1,419,539,700	185,726,500
August.....	941,288,300	822,746,000	144,786,000
September.....	950,953,200	1,946,954,500	214,820,600
October.....	1,179,501,300	2,363,635,200	134,224,000
November.....	\$95,563,100	1,341,447,500	151,080,000
December.....	\$60,863,400	1,077,545,000	129,951,000
Total.....	13,908,944,200	12,677,229,600	2,599,753,600

Senator McLEAN. That merely treats of the authorized capitalization. There may not have been a billion dollars put into the bunch, so far as your figures are concerned.

Senator McCUMBER. That is the authorized capital stock of the companies?

Mr. McKENZIE. Those are corporations formed with over \$100,000 capital in those years.

Senator McCUMBER. Do you know how much capital stock was issued of that authorization?

Mr. McKENZIE. I have no further figures than those.

Senator McCUMBER. And you do not know how much has been paid in?

Mr. McKENZIE. I do not, but that is not material as the increase in authorized capital proves the point.

Senator McCUMBER. What portion is represented by oil stocks?

Mr. McKENZIE. I do not know anything about oil.

Senator WATSON. Do you think that the excess-profits tax and higher surtaxes have anything to do with driving money into non-taxable securities?

Mr. McKENZIE. Yes; I do, most decidedly.

Senator JONES. With regard to those figures there, you have no reason to believe that there is more water in the capitalization of the companies in the last year than in the previous years, have you?

Mr. McKENZIE. Absolutely not. It is a fair measure of what people think of corporations. That is the reason I give the figures.

Senator McLEAN. Is not the excess-profits tax the greatest incentive to increasing capital, to watering stock?

Mr. McKENZIE. It will not get you anywhere if you water it because the Government will not allow it to you.

Senator McLEAN. Well, I said "water." Change your values. For instance, one man has a block that he paid \$100,000 for in 1912 and he gets \$30,000 income from it. It is worth \$400,000 to-day. Another man has a block that cost him \$400,000 in 1919 or 1920 and he gets the same income. The man with the \$100,000 block has to pay a profit tax and the fellow with the \$400,000 block does not pay a dollar.

Mr. McKENZIE. I can not quarrel with you on that. The low capitalized concerns are likely to be at a disadvantage in many cases.

Senator McLEAN. And it hits the small stockholder, does it not?

Mr. McKENZIE. I believe that corporations are artificial persons, created by the State, and that they are fit subjects for taxation.

Senator WATSON. Do we understand from you, then, that you prefer the existing tax situation to the one that would be brought into existence by the Smoot proposition?

Mr. McKENZIE. Absolutely. When the time comes for abolishing any of our existing taxes we should not begin by relieving the wealthy individuals and especially prosperous corporations, but by abolishing the transportation tax of \$330,000,000 and the present subsidy which has to be paid to the Shipping Board of another \$100,000,000; these two items make \$440,000,000, which is a direct charge on transportation, and is doing more than any other tax to retard the general prosperity.



Senator McLEAN. Suppose you do not get your money. Suppose you have five billion to raise and you can not get over three billion from present taxes. Where are you going to get the rest?

Mr. McKENZIE. We will have to get it. I believe in running the Government. But I believe that the eventual problem you will have to solve is this: We can divide all the people of the United States in two groups, the income-tax group and their dependents and the people below the income-tax rate.

Take the people who pay income taxes. In 1919 there were about 5,600,000 returns, and their net income was about \$20,000,000,000. If you will add to that the income of corporations, which was \$8,900,000,000, and then put on top of that the income from tax-free securities, which practically all goes to the same place, you will get a group of about 15,000,000 people with a net income of about \$30,000,000,000. Now, if you subtract those 15,000,000 people from the population of the United States, you will have left a bunch of 90,000,000 people who are below income-tax rate. And as nearly as anybody can figure out the income of those 90,000,000 is just about the same as the other 15,000,000, that is, \$30,000,000,000. Their average income was \$333. The question that comes up before you gentlemen, and which eventually you will have to solve, is how much of this average tax of \$50 a head that we have to get in the United States for the budget can we take out of an average income of \$333. That is the great problem that has to be solved and not work any social injustice.

Senator McLEAN. That is too much of a question to discuss in the time that we have to devote to it here.

Mr. McKENZIE. When you get beyond the question you raise you will have to go to that. Here is the thing: So far as it is practicable, we want to get the bulk of this tax out of income above the living wage.

Senator McLEAN. That is quite true. But if by shifting the tax you can raise incomes on the lower grades, it is a good thing to do.

Mr. McKENZIE. But I do not believe you are raising any income that way.

Senator McLEAN. I am not certain that you are right about that.

Mr. McKENZIE. There is a great difference of opinion on that subject. Now, there is another question in regard to this excess profits tax. The final refuge of the people who advocate it is that it can not be administered; that the determination of invested capital is beyond human power and intelligence to solve.

Now, I suppose that some of you gentlemen have new babies at home occasionally.

Senator SMOOT. Not in this bunch.

The CHAIRMAN. Not recently.

Mr. McKENZIE. If the baby gets teething trouble and outgrows its clothes, you do not kill the baby and get a new one. You remedy the difficulty. I am perfectly willing to admit that this excess profits tax baby that was left at the doorstep of Dr. Adams and the other Treasury experts was a new baby and they had no way of taking care of him.

The CHAIRMAN. How many children have you yourself?

**Mr. McKENZIE.** None.

**The CHAIRMAN.** I thought you talked like an expert.

**Senator SIMMONS.** You have a right to talk direct to the chairman on that subject.

**Mr. McKENZIE.** Has he none? Then, we are fellow sufferers in misery. I am very sorry that I have not half a dozen.

The fact is that those gentlemen in the Treasury are accumulating a fund of precedent that will help them in solving a lot of their problems. They are accumulating an efficient staff that will stay with them. The Supreme Court is handing down decisions from time to time which are ironing out a lot more of your troubles, and my honest judgment is that what you want to do is not to abolish that tax, but to remedy the administrative features of it. Then I think you will get away from a lot of your troubles.

The fact of the matter is that a lot of these people who want to repeal the excess-profits tax admit that it is founded on the proper principles. Mr. Otto H. Kahn said that the principles on which it is founded are absolutely right. I think Dr. Adams will agree with that statement. There is not any fault to find with the principles on which that excess-profits tax is founded. The great howl they make about it is on the basis of administration. One of the incentives for having it repealed now is the fact that if it is put into an efficient form some of these gentlemen fear that they will have to pay it forever.

**Senator SIMMONS.** You may have discussed this excess-profits tax before I came in. In the last analysis is not that paid by those 90,000,000 people you have just referred to as having an income of somewhere around \$300?

**Mr. McKENZIE.** No; I do not agree with you.

**Senator SIMMONS.** Do you think that is paid by the producers?

**The CHAIRMAN.** He has discussed that.

**Senator SIMMONS.** If he has discussed it, I will not open it up.

**Senator JONES.** Have you any suggestions as to amendments of the excess-profits tax law with regard to the administrative features?

**Mr. McKENZIE.** Yes; I have two, I think, that I will suggest later.

Another objection is the fact that it tends to extravagance because some of these people who pay it are inclined to spend more money in advertising than they would otherwise do. That argument is put out by the advertisers.

**Senator SMOOT.** Do you say it is not true, then?

**Mr. McKENZIE.** Here is what I say: In any event they will pay at least half the cost themselves. Are they likely to be spreading their own half dollars around the street promiscuously? I do not think so. I think your regulations will take care of that, too.

Another argument against it is that the revenue is shrinking; that it is not going to produce as much this year as in former years. That argument might be a good one for increasing rates but not for abolishing tax.

**Senator McLEAN.** Would that be a good argument, that the higher the rate the less they will collect?

**Mr. McKENZIE.** That is not a principle that would hold water. You would get to a point eventually where you would not gain

anything by raising the rate. But laying it down as a principle would not get you anywhere.

Senator WATSON. It is the same principle applied there as was applied to the railroad rate.

Mr. McKENZIE. Yes.

Senator WATSON. Have we not reached that point now with the excess-profits tax?

Mr. McKENZIE. No. The trouble with the excess-profits tax is that the corporations are not making money.

Senator WATSON. Raising the rate would not help them to make money, then, would it?

Mr. McKENZIE. Help the corporations? Absolutely not.

Senator WATSON. Certainly not, but you are saying raise the rate and get more money. What is the difference between the amount raised by excess-profits tax the first year they were applied and this last year?

Mr. McKENZIE. I have figures here, but I have not them in memory. My recollection is that last year the excess-profits tax amounted to \$1,750,000,000.

Senator WATSON. I think you have that too high. That is too high, is it not, Senator Smoot?

Senator SMOOT. Yes.

The CHAIRMAN. Well, go on, Mr. McKenzie. There are a number of other gentlemen here who are yet to be heard.

Mr. McKENZIE. If you will just let me go ahead I can finish in 15 minutes. Another objection to the tax is that it excites hostility because the corporations have to lay out their books for Government inspection. It seems to me that that is not an argument against the tax, but it is a good thing because it compels corporations who have slipshod ways of keeping books to keep proper books and they get much information that they did not have before and will have a strong tendency to prevent false statements to the public. If it has any effect, it has a good one.

There are two reasons, in my opinion, why this excess tax should not be repealed. The first one is that we need money. I think there is absolutely no dispute as to that fact. This excess-profits tax, as I said a while ago, is founded on correct principles, and even its enemies have not dared to dispute that fact.

Another thing that should be considered is the fact that if you repeal that tax you are going to allow corporations that make profits running up to 200 per cent and more to get out from under with a payment of a normal tax which is an entirely inadequate share of the tax burden, and you are going to put over on food, fuel, clothing, and other necessities of life the thing from which you are relieving these corporations.

John Hays Hammond said a while ago in *Colliers* that the greatest thing that this Government could do for the people of the United States was to see that nobody put any obstructions in the road of opportunity, and more especially that the Government itself did not put any obstructions in that road. To my mind the greatest obstruction that could be put in the road of opportunity for the common people would be to absorb all the possible savings of these people with consumption in taxes for the United States Govern-

ment. I think that would not only obstruct the road, but the road would be pretty nearly closed as long as that thing lasted.

Senator JONES. Have you considered the question of substituting the tax on undistributed earnings of corporations for the excess profits tax?

Mr. McKENZIE. Yes, but it does not appeal to me at all.

Senator JONES. For what reason?

Mr. McKENZIE. If you are interested in corporations you will know that here is what you are going to come up against: Just the moment you do that thing the stockholders will clamor to have all the money earned distributed in business, which is going to be bad for the business. They will say, "20 per cent has to be paid to the Government. Divide it and we will not have that to pay." I think that would be an utterly foolish thing from a business standpoint.

Senator SIMMONS. Mr. McKenzie, this excess-profits tax is, of course, added to the cost of the product of the corporation paying the tax, is it not?

Mr. McKENZIE. No; I do not agree with you. That is the theory that is held. Do you believe that—

Senator SIMMONS: Wait a minute. The chairman tells me that you have gone into that, and I will not ask you to go into it again.

Mr. McKENZIE: With the chairman's permission, I will answer it.

The CHAIRMAN: You have already gone into it fully.

Mr. McKENZIE. The railroads are now doing business under the supervision of the Government, and the Government has said that they can have 6 per cent and no more on their business. If 6 per cent is an adequate allowance for the railroads, then \$3,000 and 8 per cent on invested capital is a reasonable allowance for these other corporations, and there is no reason why they should add an excess-profits tax as part of the cost of doing business.

Senator SIMMONS. What I wanted to get at was whether, in your opinion, if the corporation did pay that, or add it to the price of their product, it would affect our export trade. To what extent would that additional amount so burden our export trade as to make it difficult for us to meet competition in the markets of the world?

Mr. McKENZIE. Do you think a business man in this country would not manufacture stuff at a profit of \$3,000, 8 per cent, and export it if he could do it without paying excess-profits taxes? There is nothing to it. They will be glad to do it for less.

Senator WATSON. You have said, in answer to the charge that the amount of the tax collected from excess profits has been reduced—

Mr. McKENZIE. It will be reduced this year, but the tax laws should be formed for normal years.

Senator WATSON. The Secretary of the Treasury says that it is estimated that the tax for the year 1921 would yield 450 millions as against two billion five hundred millions in 1918.

Mr. McKENZIE. In 1919, \$1,750,000.

Senator WATSON. I am talking about this year. How much of that is due to lack of business and how much of it to the very nature of the tax itself?

Mr. McKENZIE. I can answer that question only partially. Nobody could give you a complete answer to it. Here is the nearest

answer that I know of to that question. The bulk of commodities that are being handled to-day by the railroads is down about 40 per cent. That is the measure of the raw materials. In my judgment, that is a pretty fair idea of what is happening to business. The overhead is going along. They are running about 50 to 60 per cent and their overhead is going along at very nearly 100 per cent, and the result is that they are not making profits.

Senator WATSON. That is quite true; but is it not also true that the productivity of this tax has been greatly decreased because of the very nature of the tax itself, and in another year would they not altogether disappear? You have said that the best way to overcome that would be to raise the rate instead of abolishing the tax.

Senator McLEAN. Multiply the rate by five.

Senator WATSON. You would not get any more if you raised the rate now?

Mr. McKENZIE. You would from some people. The only way to find out would be to do it.

I would like to go to the question of surtax which has been brought in here. The statement was made before the committee here on Monday that the amount of money—

The CHAIRMAN. Mr. McKenzie, you have consumed a good deal of time. The committee wants to give you every opportunity, but it is hardly fair to important gentlemen who have come from a distance to attend the hearing and who desire to be heard.

Mr. McKENZIE. If I may be permitted just five minutes more I will quit.

Senator JONES. I would like to make this suggestion, Mr. Chairman. This witness represents a very important industry in this country, and we have not had many witnesses to speak along the lines that he is discussing, and I think this witness ought to have all the time that he wants.

The CHAIRMAN. The chair has no desire to suppress the witness.

Mr. McKENZIE. There will be nobody else here from the farms. There are very few to speak for the farms, and I would like, if I am not imposing on your courtesy, to go a little further into the subject.

Senator CURTIS. Why not let him complete his statement and not interrupt him any further? I think he is entitled to that.

Senator McLEAN. I think so, too.

The CHAIRMAN. I must concede that you have not had the opportunity to speak uninterruptedly.

Mr. McKENZIE. The statement was made before this committee on Monday that men with an income of over \$300,000 had put two-thirds of their money into tax-free securities. The proposition that is involved in repealing those surtaxes is to bring the surtaxes down from a maximum tax of 73 per cent to a maximum of not to exceed 40 per cent.

The proposition I want to put to you is this: If it is true that these men have two-thirds of their money now in a "bomb proof" where the Government can not touch them for taxes there is absolutely no justice in lowering the rate on the other one-third.

I have some tables that figure up and show the amount of taxes for different amounts of income.

Take a man with an income of \$300,000. His total tax amounts to 53 per cent. It is, to be exact, 53.73, but I will drop the fraction

and say 53 per cent. Two-thirds of his money is in tax-free securities, and all he is paying is 17 per cent. Why lower the rate for him? If he has \$500,000 of income and has two-thirds of it in tax-free securities, he only pays 20 per cent; he is getting off for less than he is entitled to. If he has a million dollars, he is only paying 66 per cent, and if he has two-thirds of it in tax-free securities he is only paying 22 per cent. He is not overburdened. He is not entitled to any relief.

Senator SMOOT. He can get relief by purchasing more bonds.

Mr. MCKENZIE. I have a recommendation that I will give you before I am through that will stop that.

Senator CALDER. I was in a bank in New York the other day, and my attention was called to the account of one gentleman who had a trust fund. This man had \$7,000,000 invested in different securities, 80 per cent invested in mortgages and real estate. During the past three years he has gradually withdrawn all of that money from mortgages and real estate until to-day 95 per cent of his entire fortune of \$7,000,000 is invested in tax-free securities that net him about 6½ per cent. He is one of the idle rich, and these excess-profits taxes, it seems to me, are working to the advantage of the idle rich, while the worker and the poor man who are taking the risk of business are being compelled to pay the taxes. Besides this there are excess profits and high surtaxes that have the effect of taking money out of mortgage investments. A man seeking to build a home is required to pay a very high rate of interest, and a bonus, perhaps.

Senator JONES. Is not the Senator from New York confusing the high surtaxes with the excess-profits taxes?

Mr. MCKENZIE. I would like to ask the Senator from New York a question. After you have succeeded in getting the money of your \$7,000,000 client back into taxable securities—and Senator Smoot said the other day that he wanted to get the money back into taxable form—after you have done that, who will own the sixteen billions of tax-free securities that are already issued?

Senator CALDER. Of course that is going to be very difficult, to levy a tax upon those already in existence. For my part, I would tax them if we can, or at least I would legislate to prevent the issuance of any more. But the idle rich are going to continue to own tax-exempt securities if there are any in existence.

Mr. MCKENZIE. There is one great point about it, and that is that automatically those securities that your \$7,000,000 client has sold are going to fall into the hands of a large number of men of moderate means, and it will tend to that principle which I stated to begin with, a distribution of wealth among the many instead of being concentrated in the hands of a few. I can imagine the agony of some of these men who are selling United States steel stock, and stocks of that sort, and putting the money into 5 or 6 per cent tax-free securities. That is perfectly evident; but I do not believe it is a social calamity after all. I think eventually it is going to do us good rather than evil, because I do not believe in tax-free securities. I think they ought to be stopped immediately, or as quick as we can do it.

I have only one other topic. I do not think you can discuss the sales tax or the excess-profits tax without the question being raised: Where are you going to get all this money?

I want to add a word that I omitted, and that is in regard to the effect of the sales tax on the farmer. We all know that the income tax is going to be with us. We are going to have it, and the farmer will pay a sales or an overturn tax in addition, if this scheme goes through. He will not be able to pass it on. He will have to absorb it, for this reason, that the prices of his commodities are fixed beyond his control. The price of wheat, for instance, is fixed in the Liverpool market, largely, and the farmer gets the price at Liverpool less the cost of getting it there.

I come from a dairy section of country where the prices that we get for milk are not even determined by the cost of production. They are determined by the price of liquid milk in New York City that will move the milk that we produce. Last month it was \$2.18. That had nothing to do with the cost of production. It was because they thought that a price of \$2.18 a hundred would move the milk.

Take last year's wool crop, still largely in the hands of the farmers, or in the wool pools; it can not be sold for half the cost of production. If you add a sales tax, wool will not go up any and the loss to the sheepmen will be just that much greater.

The farmer can not add a tax under those conditions at all. He will have to absorb it.

And then there is one other thing that I want you to bear in mind, and that is that there are a lot of institutions in the United States that are more fortunately situated than the farmers and that can control the price of their products when they sell them. You all know the great manufacturer of harvesting machinery, the International Harvester Co., has a big plant in Chicago. The New York papers made a general survey of industries in Chicago in January, and it showed that nearly all the business in Chicago was being run at 40 or 50 or 60 per cent of their capacity. When they came to the International Harvester Co., they found that the International Harvester Co. normally employed 25,000 men, and that they were running 1,750 men short, and they had made no reduction in wages. Why? Because they could control the price at which they sold their machinery. If they could add war costs of steel and material and labor to the price of their finished product, they could add a 1 per cent sales tax and pass it back to the farmer.

Take the fertilizer industry. It is in the same position. They had a lot of high-priced stock on hand used in the manufacture of mixed fertilizers, and they sold potash and nitrogen in mixed fertilizers to the farmers at \$100 a ton above the cost of raw material, and if they could add the extra price to their fertilizer they could add a 1 per cent tax. The farmer would have the income tax and a sales tax which he could not pass on, and all these consumption taxes that these other fellows hand back to him. So he would have three taxes in many instances.

Gentlemen, I think that the farmer has gone just about the limit. He has been deflated to the last degree; and I ask you to see that he gets a square deal when it comes to this tax matter.

When it comes to the question of the tariff, which I want to say two or three words about, here is what has happened. You know about organized labor. It is thoroughly organized. Many of you know about organized business. It is just as thoroughly organized. Those

two institutions are both interested in agriculture as their source of food and raw materials. They want to buy goods cheap, and they have gotten them cheap, because they have been organized and have been able to speak with authority. One of the reasons they have gotten them cheap is that little by little the tariff protection that the farmer used to have has been taken away from him, until now our New York farmers who raise beans have to raise beans in competition with coolie labor in China at 10 or 15 cents a day. Our men who raise wool have to raise it in competition with Indian shepherds in South America, who, I am reliably informed, get \$17 a year and their keep for attending to the sheep. We have to produce dairy products in competition with the world market, while the factories have demanded and have kept their protection. The result is as you all know. Industry on the farm is on one plane. Industry in the factory is on another plane. Labor is working eight hours a day and clamoring for a 6-hour day. The Department of Agriculture, I believe, says that the farmer's average day is 13½ hours. The average income of a farmer is less than \$600. You propose to the labor unions that they work for \$600, and they would simply laugh at you.

That has been brought about because the farmer has been compelled to sell his stuff and work on a free-trade market, and the factory has not.

Senator McCUMBER. You might add that the farmer's wife works 16 hours a day.

Mr. McKENZIE. Yes; and some of them more than that; and not only the wife, but a lot of the children.

Senator CURTIS. All the children.

Mr. McKENZIE. You can not get away with that stuff forever. The farmer has been the backbone of this country in every time of stress and trouble that you have encountered.

You gentlemen who have been in business have been accustomed to sit back in your swivel chairs and say, "We need not worry. The farmers will pull us through." If you destroy the agricultural population by crowding it out, you will reach the point that will mark the end of the Republic.

Senator McCUMBER. You are in favor of the emergency tariff act?

Mr. McKENZIE. Yes. Put all the business of the United States on one basis. If you have free trade, put everybody there.

I thank you for your attention.

Senator JONES. You said a while ago that you had one or two suggestions as to how we might change the administrative features of the excess profits tax law.

Mr. McKENZIE. Yes, sir; three or four general recommendations. The first one is that we are opposed to any sales tax. We are opposed to the repeal of the excess profits tax. We believe that you should submit to the people a constitutional amendment to stop issuing tax-free securities. We believe you should establish some agency here in Washington that could settle the question of income taxes so that it would stay settled and so we would not need to come down here four or five times with regard to adjustments. I believe you should at least consider carefully the proposition of a board such as they have in England so that the income taxes would be assessed in the district where they originate and you would get a great amount of taxes that you are not



getting to-day. If assessments were made in the district where they originate you would get a lot more money.

Another recommendation is that 75 per cent of this tax should be raised from incomes and excess-profits taxes and not to exceed 25 per cent from consumption taxes; and that the loss in any one year should be deductible from the preceding year or years.

Senator McLEAN. You have no suggestion as to new sources of revenue?

Mr. McKENZIE. I could sit down and tell you some other ways to get money if you had to have it. You can get about \$75,000,000, as I recall it, from making the postage rate 3 cents.

Senator JONES. Would you increase inheritance taxes?

Mr. McKENZIE. I would not like to express an opinion on that. I have not given that any serious consideration, but I do not think so.

Senator SMOOT. You are against the issuing of tax-free bonds?

Mr. McKENZIE. Absolutely. I do not believe that anybody ought to be allowed to put his investments into a "bomb proof" where we can not touch him for taxes to support the United States.

Senator SMOOT. Why should your organization support the issuing of tax-exempt bonds by joint-stock land banks—

Mr. McKENZIE. Do you know any reason why the agricultural population should allow the cities to have a monopoly on that sort of securities?

Senator SMOOT. I have not said that I believe in it.

Senator CALDER. Two wrongs do not make a right.

Mr. McKENZIE. There is no question of morals involved.

Senator CALDER. Oh, no; I agree with you. If it is done by one class it should be by another.

Mr. McKENZIE. Let us stop it. That is the way to do. We will say "Amen" if you will stop it right away.

Senator SMOOT. That is what I would do if I could.

Mr. McKENZIE. You are absolutely right. It is one of the greatest evils that I know anything about in the whole tax business.

Senator McLEAN. But if the agricultural interests got into this bath, would they not find it so nice and warm that they would want to remain, like the cities and municipalities?

Mr. McKENZIE. They are human.

Senator CALDER. Would it make any difference, in your view, if we exempted all incomes up to \$5,000?

Mr. McKENZIE. I think you would be going wrong. I think you would be getting worse rather than better.

Senator CALDER. Would it make any difference if we exempted sales up to five or six thousand dollars?

Mr. McKENZIE. You are going to make more complications and lose a lot of money. I am opposed to a sales tax on principle. I do not think there is any justice in it, because you are going to tax the necessities of life. You are going to take the money out of the pay envelope of the workingman and the pocket of the farmer and get it out of the living wage.

Senator CALDER. If you own a house or factory, or any building—say, you own a farm and you rent the farm, and it pays you so much rent; if we pass a law increasing the taxes on that farm and you are required to pay more taxes, you would make the tenant pay the increased taxes, would you not?

**Mr. McKENZIE.** To a certain extent. There is a limit to that, though.

**Senator CALDER.** I know that those of us who own property in the cities and our taxes have been doubled have simply passed it on to the tenants.

**Mr. McKENZIE.** You have got your tenant by the ears, because there is no place else to go. We have 25,000 vacant houses in the rural districts in New York.

**Senator CALDER.** I would like to get the people back to you if I could.

**Mr. McKENZIE.** You can if you make farming profitable.

**Senator SMOOT.** You referred to the Canadian taxation and thought it was very much better than our taxation or proposed taxation.

**Mr. McKENZIE.** You say I thought it was better?

**Senator SMOOT.** Better than the proposed sales tax.

**Mr. McKENZIE.** No; you misunderstood me. What I said was that they had no retail sales taxes. They had abolished them all. I do not think any sales tax is a good tax.

**Senator SMOOT.** They had only luxury taxes. They never had a sales tax at any time.

**Mr. McKENZIE.** Senator, I sat on the tax committee of the National Industrial Conference Board, and I suppose more than a dozen people have come down to that committee and quoted the Canadian sales tax.

**Senator SMOOT.** They call it that, the same as we call the luxury tax of ours a sales tax. Here is what Canada has done on May 10: Their proposals include an increase of 50 per cent in sales taxes—

**Mr. McKENZIE.** Manufacturers and jobbers?

**Senator SMOOT.** Yes. A duty to be levied on playing cards. No change in the principle of the sales tax. A 100 per cent increase in the tax on spirits.

That is what they have done, and their work was concluded on May 10.

**Senator WALSH.** You read from tables. Would you not like to leave those tables with the committee?

**Mr. McKENZIE.** They only show the percentage of tax on the different rates of income.

**Senator McCUMBER.** If there is any matter that you want to insert in order to explain any testimony you have given, you have the right to do so.

**Senator SIMMONS.** I want to ask you one question. Of course we all recognize that what you have contended is true—I do, at least—that this sales tax is a distinctly consumption tax that will be paid by 100,000,000 people. Most of it will be paid by the farmers and laborers because they constitute a great majority of the people of this country.

**Mr. McKENZIE.** Absolutely.

**Senator SIMMONS.** If it should be decided to eliminate the excess profits tax and to greatly reduce the surtax and the income tax, have you made any calculation as to what the wealthy in this country will pay?

**Mr. McKENZIE.** I am not crossing that bridge until I come to it.

Senator SIMMONS. I am simply asking if that should be done—

Mr. McKENZIE. I have no suggestion.

Senator SIMMONS (continuing). Have you made any calculation as to what amount would be left for the wealthy to pay? To my mind very little would be left. The bulk of the taxes raised in this country would then be paid as consumption taxes and there would be very little left. If you eliminate these two things it would be raised through impositions that will have to be paid by the wealthy class.

Mr. McKENZIE. If I get your question rightly, what I anticipate would happen if those things should be done, instead of having 75 per cent of our taxes come from incomes and excess-profits taxes and the 25 per cent come from consumption taxes, you would have about 75 per cent of the tax put on the common people and 25 per cent or less on the wealthy.

Senator SIMMONS. That is your calculation?

Mr. McKENZIE. Yes, sir.

Senator SIMMONS. Hereafter, instead of 75 per cent of these taxes being paid, as they are now—

Mr. McKENZIE. It would be just turned around. It would depend on your schedules and on a lot of things.

Senator WATSON. As a fundamental proposition, is it better to tax consumption or production? If production is full and free and unlimited and the producer is cared for amply, is not the consumer likely to take care of himself?

Mr. McKENZIE. The thing you want to tax is net profit. That is the measure of a man's ability to pay taxes. He can only pay them from two sources, out of profit and out of capital. There is not anybody in this country who proposes to levy a tax on capital. Germany is the only country in the world that has done that. Let us levy our taxes in proportion to our ability to pay, which is net income.

Senator JONES. Is it not a truism that any concern which earns an excess-profits tax is charging all that the traffic will bear, and is not passing the excess-profits tax to the consumer because of necessity, but simply because of his avariciousness?

Mr. McKENZIE. Absolutely. There is no question about that. I have no fault to find with that statement at all. Take the tax on tobacco—

Senator SMOOT. Yes. The consumer pays it just the same.

Senator JONES. I would like to add to that—would he not charge just the same amount whether he had to pay an excess-profits tax or not?

Mr. McKENZIE. His price is governed by market conditions. Prices are controlled by supply and demand; but as I have said three or four times, at least, here, the tax is not the controlling feature. It has little or nothing to do with it.

Senator McLEAN. You were going to say something about the tax on tobacco a while ago, I believe.

Mr. McKENZIE. I was just going to illustrate it by a question like this: If you put a tax on tobacco at 1 per cent—plug tobacco, for instance—you would get one amount of money, and if you raised that tax to 2 per cent you would get twice as much money, normally. I am not an authority on tobacco. I do not make any claims along that line.

**STATEMENT OF ROBERT B. GOODMAN, CHAIRMAN ADVISORY  
TAX COMMITTEE, NATIONAL LUMBER MANUFACTURERS'  
ASSOCIATION.**

**LUMBER INDUSTRY.**

The lumber industry is, among the industries of the United States, third in the value of its products, second, in the number of persons employed, second in the amount of capital invested, and is the second largest user of the transportation facilities of the railroads.

There are approximately 40,000 individual saw-mill units, large and small, in the United States. In 32 States the lumber industry is a substantial industrial factor. The conditions under which the industry is conducted vary greatly as between different regions.

Under the provisions of the existing system of Federal taxation the lumber industry as a whole has been under the handicap of the exclusion from its "invested capital" of the appreciation of the value of its tangible assets, above original cost. Because of the condition thus concerning the industry leading lumbermen have given careful consideration to Federal taxation.

**NATIONAL LUMBER MANUFACTURERS' ASSOCIATION.**

The National Lumber Manufacturers' Association is a federation consisting of 12 regional associations of lumber manufacturers and timber owners, representing the lumbermen of the United States so far as they have grouped themselves into associations. It represents approximately 70 per cent of the lumber industry.

The views of lumbermen are not unanimous, either with respect to the merits of a general sales tax or with respect to the merits of the excess-profits tax, or of any other form of taxation at present in effect or proposed.

**ATTITUDE ON SALES TAX.**

These statements are made by way of explanation of, and preface to, the declaration of opposition by the lumber manufacturing industry as a whole to a general sales tax such, for example, as is proposed in Senate bill 202.

This is not to be construed as opposition to a limited sales tax on a selected group of commodities, as illustrated by certain of the sales taxes which are even now in effect.

**REASONS FOR OPPOSITION TO A GENERAL SALES TAX.**

Not to indulge in repetition, the lumber industry generally concurs in the general arguments advanced against the sales tax.

First, that it violates accepted principles of just taxation which would cause taxes to be levied in proportion to ability to pay;

Second, that it would be a direct tax on the cost of living;

Third, that its impartial collection would involve great administrative difficulties, or else the tax would be frequently evaded;

Fourth, that it would be unequal as between integrated industry and industries not integrated;

Fifth, that it would place a disproportionate share of the tax burden upon businesses conducted on a small margin of profit on sales and a high turnover of goods and would favor those businesses conducted on a large margin of profit on sales and a relatively low rate of turnover of goods; and

Sixth, that in times of depression when the tax in many instances could not be passed on to the consumer, it would be a tax on a loss and not on a profit.

A supplementary memorandum may be filed later with the committee in which will be incorporated a statement of conditions relating particularly to the lumber industry which constitute specific grounds, in addition to the general objections referred to above, for its opposition to the general sales tax.

The lumber industry is of opinion that other systems of taxation involving less administrative difficulty, less evasion, and less inequality between taxpayers and between various lines of business may be devised that will at the same time yield adequate revenues, either through modification of existing taxes, or otherwise.

**STATEMENT OF H. B. FERNALD, OF LOOMIS, SUFFERN & FERNALD, NEW YORK, N. Y.**

The **CHAIRMAN**. Go ahead, Mr. Fernald. You reside in New York, do you?

Mr. **FERNALD**. My place of business is in New York. I reside in New Jersey.

The **CHAIRMAN**. What is your business or occupation?

Mr. **FERNALD**. I am a member of the firm of Loomis, Suffern & Fernald, certified public accountants.

My appearance before your committee is because of my personal experience with various tax systems, in the Philippines, in the Government employ, through business connections in Mexico, through accounts of a great many corporations and individuals under our own Federal and State tax laws, and through my having been for several years in charge of the New Jersey budget system under three different governors.

The main point that I desire to bring out before the committee is with regard to the Philippine and Mexican sales tax based on my personal experience.

I want to say, first, that there is no question that the sales tax is an entirely practicable tax. It is simple of definition if there are not many exceptions to it. It is collectible perhaps by a simple procedure, but it is not so collected in either the Philippines or Mexico. It is more certain in its yield than the income tax because it takes a revenue for the Government even though it has to get it from businesses which are making no profit, or from laboring men that are unemployed. It does not have the benefit of adequate precedent from either the Philippines or Mexico.

In the Philippines it had a background of the old Spanish commercial code. Looking over my library the other night I struck my own old copy of the commercial code put into effect by royal decree in Spain in 1885, superseding the prior code of 1829. This commercial code prescribed definitely the books merchants must keep; how a merchant must have them registered, each page stamped. They must all be bound. This was coupled with numerous stamp taxes, so that it made a very complicated procedure of business law. Business did not thrive and develop under it. So when we came to put in our sales tax the people accepted even the serial numbered stamps that were required for its payment.

It is generally admitted that our people would not accept the procedure used either in the Philippines or in Mexico for the collection of the tax; but from personal experience I am satisfied that they would not more readily accept the sales tax itself.

I say that not as an argument essentially against the sales tax, but the fact that it is no argument whatever for the tax. The temperament of the people is entirely different. The Philippine tax is not a general sales tax because it exempts from tax a large part of the important business of the Islands.

The **CHAIRMAN**. Such as what?

Mr. **FERNALD**. Importing and exporting. Many concerns, some of the largest concerns, import goods which, through their agents, are exchanged with the agriculturist for agricultural products. The agri-

cultural products in turn are exported with no sales tax whatever paid on the vast volume of business there represented. The yield of the tax alone shows that it does not apply to a large volume of business.

The CHAIRMAN. What is the purpose of exempting those activities?

Mr. FERNALD. I think it was purely because of the opposition to it; that if the attempt was made to tax those it would have given a background of opposition which would have made the attempt to install the tax fail.

Senator McLEAN. Just what is the tax?

Mr. FERNALD. It is a tax of 1 per cent.

Senator McLEAN. I know; but on what?

Mr. FERNALD. On all sales except—

Senator SMOOT. Goods, wares and merchandise.

Mr. FERNALD. On sales of goods, wares and merchandise; yes, sir; except to importers of foreign goods imported by them; agriculturists on products actually raised by them and consumed by them or sold to local dealers or to exporters; exporters on all goods exported. The Philippines are essentially agricultural. The largest business concerns are those importing and exporting, and there is practically no general manufacture of goods for local consumption.

The CHAIRMAN. Is it a turnover tax or a sales tax?

Mr. FERNALD. I do not know, Senator, what your distinction is.

The CHAIRMAN. As I understand it, there is a sales tax on the final product, and then there is a tax on a half dozen processes, for instance, through which the final product may have passed.

Mr. FERNALD. But applying only to cases where there is a technical sale in each case?

The CHAIRMAN. Yes.

Mr. FERNALD. I make that distinction, because there have been some advocates of a turnover who would have it apply on all pay rolls, all commissions, agreements, and so forth; and it is not that kind of a sales tax.

Senator SMOOT. There is no such tax before this committee nor before Congress.

Mr. FERNALD. That is as I understood it, Senator.

Senator SMOOT. The Philippine tax is a turnover tax with the exceptions you have named on all goods, wares and merchandise, no matter what process.

Mr. FERNALD. Yes, sir. I would class it as a sales tax instead of a general turnover tax, but it does apply to sales at intermediate steps.

The Mexican tax is essentially a general turnover tax because it is coupled up with taxes on pay rolls, and all forms of agreements, and so forth. The law with which I was familiar in Mexico was that of 1906, which had 102 different items of stamp taxes, including almost everything, even marriage settlements, lotteries and raffles, all subject to tax. It is a general tax, an essential feature of its collection being represented by a sales book, a registered book, and there is a tax of 1 cent stamped on each page of the sales book.

They have the usual provision of the Spanish Code, to which I have referred, regarding all this registration of books, and I think it is generally admitted that no such procedure could possibly apply here. But the point I wish to make in that regard is that those are things

which have entered into the background and which have made the people ready to accept what our people would not accept for a moment. The absence of experience in that form of government and control of all business transactions not applying here, our people would not accept the sales tax in the same way.

Senator SMOOT. It is not in the same way, and, of course, it is not to be collected in the same way.

Mr. FERNALD. If the entire elimination of the sales tax in Mexico or the Philippines has precedents that can not be carried out here is conceded by the committee, I shall not waste any further time on that score.

I had other matter which I would have been glad to present, but I do not wish further to trespass upon the time of your committee. I feel satisfied the sales tax is politically impossible.

I have here a statement which covers a number of other features which I have not presented.

The CHAIRMAN. Would you like to have that printed?

Mr. FERNALD. I would like to have it considered by your committee. If that is the proper step for it, I would be very glad to furnish it.

Senator JONES. Does that brief contain the substance of what you wanted to present here?

Mr. FERNALD. I think it does, sir.

Senator JONES. Do you go into the various objections to the sales tax?

Mr. FERNALD. I do; yes, sir.

The CHAIRMAN. Why not have it printed?

Mr. FERNALD. There is one statement I would like to make, Mr. Chairman, if I may be permitted. While I was sitting here this question of the inclusion of tax in overhead was raised. Again I do not want to trespass on the committee's time. I want merely to point out that the percentage of overhead in sales is unknown until the volume of business is determined. No merchant knows how much overhead is going to be in his sales prices until he knows the relation of his business to his fixed overhead. He does not know that until long after the prices of goods are made.

Senator JONES. And in that respect it would be a far more deleterious uncertainty than any uncertainty as to an excess-profits tax, would it not?

Mr. FERNALD. I think so. I believe that the excess-profits tax is thoroughly bad. Whatever justification there may have been for it in the war—and we must admit it did raise a lot of revenue then—I do not think it applies to-day. I think its effect on prices has been through cutting off competition, because people with small capital can not compete with people with large capital.

In the case of a man with small capital but good credit, borrowing a lot of money, it runs up quickly into high tax rates. The man with the large capital can throw it into the business, can raise his capital in that business, even if he does nothing more than put it into Liberty bonds, and make himself exempt from the excess-profits tax.

Senator JONES. I think it is agreed by everyone that there should be material modifications in the excess-profits tax law to eliminate the many objections such as you have just referred to, because there

are iniquities which should be remedied and can be remedied in my judgment.

Mr. FERNALD. I do not think they can all be remedied.

Senator JONES. Well, I do not think all of them can be. I agree with you about that. But they can be reduced in number. The suggestion you make now is not against the excess-profits tax per se, but it is against the inequitable provision in arriving at it.

Mr. FERNALD. No, Senator, because any tax which is based on a relation of income to capital gives a tremendous advantage to the man that has the capital. The man who by energy will turn over his capital, his small capital, ten or fifteen times a year, is under a tremendous disadvantage as against the man who has a slower turnover.

Senator JONES. But if we were to give that man with limited capital an opportunity of making a return as an individual or partnership, would not that eliminate that inequality?

Mr. FERNALD. I do not see where you could draw the line.

Senator JONES. Let them leave it up to the concern. Let him have the option of doing it.

Mr. FERNALD. That is a suggestion, but I think when you come to try to work it out you will find that the defects of an invested capital law are almost impossible to eliminate; and particularly there is this point: It is impossible to eliminate the matter of question and dispute as to what is the invested capital of a concern. That question of invested capital is a matter which has made more dissatisfaction and which is holding up, more than anything else, the settlement of the 1917 and 1918 taxes.

Senator JONES. I quite agree with you; but we are supposed to have ascertained that, have we not, under existing law?

Mr. FERNALD. To some extent; yes. A great many of the problems are settled, but new ones are arising, new businesses are starting and businesses are changing hands and many questions are entirely unsettled.

Senator JONES. I think you are quite right that there are still many, but in the vast majority of cases the question of invested capital for the given concern is ascertained, is it not?

Mr. FERNALD. For the majority of concerns, I should say 50 per cent of the concerns, in this country have not yet had any final determination of their invested capital.

Senator JONES. That is probably true because it has not been gone into, but the basis for fixing the amount has been ascertained in the vast majority of cases, has it not?

Mr. FERNALD. Yes; but in very many cases there is nothing to-day but a dispute between the taxpayer and the department.

Senator JONES. But after you have once done that, after you have once arrived at your invested capital, thenceforward there ought not to be much trouble in arriving at your profit.

Mr. FERNALD. That is largely true, except for this point: That just as soon as you get a concern which has a relatively small invested capital and finds that it is going to be subject to continuous penalties on that account, it is going to proceed to some form of reorganization or change which will increase its invested capital.

Senator JONES. Well, we will never get away from the party who wants to devise some plan for reducing taxes. I agree with you about that.



Senator SMOOT. If there are 50 per cent of the institutions of the country who have their capital settled by a decision of the department, most of those 50 companies are dissatisfied because discriminations are so great that nobody can defend them. Is not that the case?

Mr. FERNALD. I think that is entirely true. A lot of them are entirely dissatisfied.

Senator SMOOT. The honest man who has kept his capital stock where it ought to have been kept, with no water in it at all, is penalized as against the man who began his institution with an inflated capital.

Mr. FERNALD. That is true to some extent, but I would not want to assent to the statement that it is only dishonest people who have gotten the advantage, because I can cite two cases. One company incorporated in 1878 was confined to the value of its property at the date it was acquired in 1878. A similar concern incorporated, fortunately reincorporated and fairly and honestly reincorporated, got actual appraisals of the property in 1912. I need not say that that fortunate chance has practically eliminated any payment by them of the excess-profits tax.

Senator McLEAN. You are opposed to the sales tax, as I understand it?

Mr. FERNALD. Yes, sir.

Senator McLEAN. You are opposed to the excess-profits tax?

Mr. FERNALD. Yes, sir.

Senator McLEAN. Have you any suggestions as to how we can raise money, any new sources of income to suggest?

Mr. FERNALD. Yes, sir.

Senator McLEAN. Are they contained in your brief?

Mr. FERNALD. They are; yes, sir.

Senator McLEAN. Then I will not ask you to go into the matter here.

The CHAIRMAN. You say that you are an accountant?

Mr. FERNALD. Yes, sir.

The CHAIRMAN. Do you represent anyone or do you just come here in your own behalf?

Mr. FERNALD. I do not come here representing anyone, because I have no authority to say that I speak for anybody else.

**BRIEF OF HENRY B. FERNALD, OF LOONIS, SUFFERN & FERNALD,  
NEW YORK, N. Y.**

My appearance before your committee is because of my personal experience with various tax systems; in Government service in the Philippines, through business connections in Mexico, from acquaintance with the application of our own Federal and State tax laws to the affairs of many corporations and individuals, and through having been under three governors in charge of the preparation of the budget for the State of New Jersey.

After experience with a sales tax in both the Philippines and Mexico, certain definite arguments in its favor must be recognized. It is a relatively simple tax to define by law and regulations, provided it is to be a general sales tax at a uniform rate, not complicated by numerous exemptions. It could perhaps be collected by a fairly simple procedure, although it is not so collected in either the Philippines or Mexico. It would undoubtedly yield a large revenue and be more constant in its yield than an income tax. It would give the Government substantial revenues, even though they came from business which was making no profits or laboring men who were unemployed. It would spread the tax burden more evenly throughout all sections of the country and among all classes and conditions of the people.

These arguments may fairly be urged for it, but they are not the main arguments which have been advanced to gain for it the popular support.

## THE PHILIPPINE SALES TAX.

One of the principal arguments has been that a sales tax law has been successfully administered in the Philippine Islands and that, therefore, it would be successfully applied in this country. This seems a valid argument to those unacquainted with the provisions of the Philippine law, the history of Spanish tax systems, and the form and organization of the Philippine Government. The force of this argument disappears almost entirely when we consider the following facts:

(1) The Philippines are essentially an agricultural country. There is no general manufacturing of goods for local consumption. The largest trading enterprises are concerned with the purchase of agricultural products for export and the importation of foreign goods for sale in the islands. The law exempts from the sales tax—

(a) Importers, on foreign goods imported by them.

(b) Agriculturalists, on products actually raised by them, consumed by them, or sold to local dealers or to exporters.

(c) Exporters, on all goods exported.

(d) Merchants whose annual sales do not exceed in value \$250.

This results in exempting from the sales tax the larger part of the important business activities in the islands. For example, some of the largest concerns are engaged in importing goods which, through their agents, are sold to agriculturalists in exchange for the agricultural products which are then exported to foreign countries, with no sales tax whatever applying on such transactions. The result is that the Philippines sales tax yields about 70 cents a year per capita, although the present tax rate is three times that originally imposed. The tax as applied in the Philippines manifestly is not such a general sales or turnover tax as is being urged for this country.

(2) Stamp and sales taxes have been an essential part of the revenue policy in all Spanish countries. The people have been accustomed to the official stamping and scrutiny of practically all their transactions. I still have my old copy of the Spanish Commercial Code which by royal decree went into effect in Spain in 1886, superseding the prior code of 1829. By similar royal decrees it was, with only slight modifications, applied to Cuba and Porto Rico and to the Philippines.

Among the provisions of this code, were those prescribing the books which every merchant must keep—a book of inventories and balances, a day book, a ledger, and a copying book for letters and telegrams—all bound books, ruled and paged, which had to be presented, before they were put into use, to the municipal judge of the district, so that they might be duly registered and every leaf of each book duly stamped and sealed. Every business transaction for cash or credit must be entered through the day book and posted to the ledger, by order of dates, without leaving any blanks, and without any interpolations, erasures, or changes. Any errors were to be corrected by contra entries giving full explanation with regard thereto.

This was only part of their fundamental business law, and it was coupled with stamp taxes of all kinds. Business did not thrive and develop under it, but it formed the basis for the ready acceptance by the people of the sales tax. It even made them ready to submit to the serially numbered stamps which Mr. Ford, as collector of internal revenue, insisted were an important feature in preventing evasion of the tax. Careful record had to be kept of the serial numbers of all stamps purchased by each merchant so that inspectors could check up and see that each merchant was using the stamps which he had himself purchased, thus not giving him any opportunity to obtain and use stamps other than those he had purchased from the internal-revenue offices on filling out official forms, which served to register him as engaged in a business subject to the tax.

I did not then think, and do not now believe, that the serially numbered stamps were a necessary feature of the tax. I only cite them to illustrate the difference in temperament and habit of the people in the Philippines from those in this country. Give our people here the experience of a generation under the Spanish codes and we could argue that they would accept the sales tax, and even the serially numbered stamps. But without such experience, the Philippines sales tax constitutes no precedent for this country. There is no reason for believing our people would accept the Philippines sales tax itself when we know that they would not accept the methods successfully used in the Philippines for its collection.

(3) In the Philippines the insular government had a tax collector in every town, because municipal treasurers acted as collectors of insular revenues. To have equal facilities here, we should have to create a Federal tax office in every town and make the Treasury Department almost a rival of the Postal Department in number of employees. We could not, therefore, compare our cost of collecting the tax here with

that of collecting it in the Philippines. Here, again, Philippine conditions fail as a precedent for this country.

#### MEXICAN SALES TAX.

Mexico has had a general sales tax, and under the Mexican Federal stamp tax law of 1906, with which I was familiar, stamp taxes were also applied to pay rolls, to checks, to almost all forms of contracts and agreements, to marriage settlements, to antenuptial donations, to lotteries and raffles, to Government concessions, and practically every kind of financial transactions. There were 102 different classes of stamp taxes set forth in this law, including a tax of 5 cents for each leaf of the day book, ledger, and balance book, which merchants must keep to comply with the commercial code, and a tax of 1 cent for each leaf of the sales books which must be kept for every business habitually making sales. The Mexican law follows the old Spanish code in its requirements for all these books, and the officially registered sales books are the essential basis for checking up the correctness of the sales taxes paid.

The Mexican system is no more a precedent for this country than is that of the Philippines. I do not pretend to say whether their business law and tax systems have been responsible for the failure of business to develop in these Spanish countries or whether it is the absence of the proper commercial temperament which is responsible for the existence of such laws and tax systems. Whichever it may be, these countries do not constitute a revenue or business precedent for us.

Perhaps I may say a word from personal experience as to escaping the Mexican sales tax. It is particularly difficult because the Mexican law also applies the tax to compensation for service. Except where goods are exported, the final sales tax has to be paid, unless there is plain fraud, which unfortunately has always been only too common in Mexico. The taxes on intermediate turnover can, however, be largely eliminated. For example, a concern producing raw material, instead of selling it to the manufacturer, pays a service charge for manufacturing. This service charge is subject to tax, but, of course, it eliminates any tax on the value of the raw material. Then, instead of selling the goods to a jobber, they may be handled by him on commission. A tax is paid on the amount of this commission, but not on the value of the goods. Thus no sales tax may be paid except on final sale to the consumer. Needless to say, the smaller concerns do not try or are not able to make such arrangements, but pay their sales taxes or manage to fix the matter with the stamp agent. It is the large concerns that, by proper contracts and agreements, place themselves in a position where they can not be called upon to pay the sales tax.

#### EFFECT OF SALES TAX ON PRICES.

Sales tax advocates make very positive statements that a general sales tax would, even with a large number of turnovers, mean an increased cost of only 2½ per cent to 3½ per cent to the ultimate consumer. Calculations are made showing that on a loaf of bread the tax would be less than one-sixth of a cent, on a rubber tire the tax would be about 3½ per cent of the price to the consumer, and on a suit of \$60 clothes the tax would be 2.61 per cent of the price to the consumer. The figures seem convincing, as they start with the raw material and follow through the several stages of production, with a calculation of the sales tax at each stage. The tables are, however, entirely fallacious, in that they fail to take into account the effect which a sales tax would have on the many items of cost of manufacture other than the basic material.

For example, for the loaf of bread it is not the wheat and flour alone on which the sales tax would be levied. It would also affect every other item of expense from original producer to final customer. Coal, for example, will be subject to the sales tax, with one or more turnovers before it reaches the miller or the baker, so that in some form or other the sales tax applicable to coal must be reflected in the cost of the loaf of bread. But we can not consider merely the tax on the sales of coal itself; we must consider the tax involved in every item which enters into the cost of coal. Railroad freight is an important item both in coal and in wheat, and we can not expect railroad freight not to be increased if the railroad is having the cost to it of all the materials it uses increased even 2 per cent to 3 per cent by the sales tax.

Of course, when we attempt to figure the increase of freight due to the sales tax on steel rails, and the cost of rails increased by the sales tax on coal and coke and by the increase in freight on coal and ores, we get into an endless chain. The same endless chain develops if we try to take the barrels in which the flour is shipped, or any one of the many other items which, if increased, would give an increased cost for the loaf of bread.

But we can not figure merely on an increase in cost of commodities due to the sales tax. No one can pretend to urge that the sales tax would give an increased cost of even 3 per cent in commodities without allowing a compensating increase to labor. If we are to assume a general increase in commodities proportionate to the tax paid on their sales, we must assume a corresponding increase in wages. If, therefore, we wish to calculate the increased cost of the loaf of bread we must take into account not merely the sales tax on each dollar of commodities, but also a similar amount on each dollar expended for labor. This again leads to the endless chain which I think no one can try to measure.

We may admit that it is probably no more difficult to figure the effect of a sales tax upon prices than it is to figure the similar effect of any other tax. The sales tax does not, however, possess the particular advantage that a simple calculation can be readily made to show its exact effect upon selling prices. Any problem is simple of calculation if all bothersome factors are ignored and no attention is paid to the correctness of its solution. The sales tax does tend to pyramid, and the tables prepared are incomplete and misleading and do not reflect the actual results which a sales tax would have. My own best estimate is that the calculations are at least 100 per cent to 200 per cent in error.

I might in this connection say that I think the statements made as to the great increases in price which resulted from the excess-profits tax law are entirely unwarranted. To-day, with the excess-profits tax law in effect, we have a large range of commodities selling at far less than they were in the early part of 1917 before the excess-profits tax law was enacted. The same tax laws are in effect to-day as were in effect a year ago. It is not a difference in tax laws, but a difference in supply and demand, that makes the difference in prices.

No one, I think, can say that if the sales tax law were enacted prices a year from now would be higher or lower than they are to-day, but this is no justification for a set of calculations which purport to show the cumulative effect of the sales tax on commodities but ignore many other elements essential to a proper calculation.

#### UNIFORMITY OF TAX.

As to its uniform application, a large point has been made that a 1 per cent sales tax would apply uniformly to all business. It is admitted, of course, that the large business that handles its product through the various stages without sales would have an advantage over concerns which each handle but a single process. It is urged, however, that this only makes a difference of 1 per cent or 2 per cent, which is too small to be a material factor. The inadequacy of these calculations has been so fully discussed that further comment is probably unnecessary.

But regardless of the correctness of these calculations, the following points are to be noted:

(1) That a 1 per cent sales tax would not have the same relative weight in all businesses. The business which looks for a small margin of profit and quick turnover will pay relatively a much higher tax than the business with a wider margin of profit and a slower turnover. The jewelry business, for example, probably does not turn over its capital once a year but makes a wide margin of profit, and a 1 per cent tax would be a negligible factor. Compare this with some other businesses where the capital is turned over perhaps 10 times a year with the expectation of only making a 5 per cent gross profit on each turnover. Both will, of course, pay 1 per cent on their total annual sales, but in the one case the tax would be perhaps 2 per cent on the gross profits, and in the other case 20 per cent on the gross profits. This can hardly be called uniformity of taxation.

(2) If the business is large enough so that the amount of the 1 per cent tax makes it worth while, definite steps will be taken, and can be successfully taken, to avoid the technicalities of a sale at many points in their progress from producer to consumer. On sales of \$100,000 a year the tax would only be \$1,000 and would not merit any material change in business or contract relationships in order to avoid it. Sales of \$10,000,000 a year, involving a tax of \$100,000, would make it worth while to devise such forms of contract and agreement as would prevent the passage of title to the goods which would merit the imposition of a sales tax. The large business, therefore, could and would plan, as far as possible, for commission and service agreements and even for profit-sharing agreements, in place of having a "sale" of the goods made. Back of every such agreement would, of course, be the intention to retain as their profits the amount which their smaller or less fortunate competitors were forced to pay to the Government as sales taxes.

A provision that the sales tax was to be paid by the purchaser would not eliminate this feature because such provision could be met by a price differential which would be equivalent to the amount of the tax. This does not mean that any business could wholly avoid the sales tax, but only means that the larger the business the greater is the incentive to take steps which will avoid the technicality of sales, and the greater is the possibility of avoiding payment of the sales tax at some stages of the business.

#### DISSATISFACTION WHICH WOULD RESULT FROM THE SALES TAX.

The mere fact that the advocates of a sales tax have made use of some unsound arguments would not warrant opposition to the tax itself. I have already referred to the fact that I did not consider there to be anything essentially unsound and wrong in a sales tax. Perhaps it is not really subject to any greater criticisms or to any worse defects than apply to some other tax plans. There is no tax which can be relied on to apply with uniform fairness and equity to all the taxpayers of the country.

It is not, therefore, because the sales tax is not a perfect tax that I feel opposed to it, but it is because I am satisfied that the sales tax, being what it is and working as it would work, would not be satisfactory to the people of the country. If enacted, I am convinced it would breed such dissatisfaction that it would be promptly repealed. It would, therefore, be a backward step, since we would again find ourselves no nearer a permanent financial policy for the Government than we are to-day, and would have a largely increased feeling of distrust and dissatisfaction with the fiscal policies of the Government and a lack of confidence in those now charged with their administration.

The sales tax is undoubtedly a consumption tax intended to spread the burden of taxation proportionately to consumption instead of having it fall proportionately to income. The great consumers of the country are the farmers and the laboring men, and no one wishing to stir up dissatisfaction and discontent would want a better argument than to tell them in season and out of season that the sales tax was merely a device to transfer the tax burden from the wealthy manufacturers and traders, and from the capitalists and speculators, to the poor laborers and farmers, and to their wives and children.

In spite of all the arguments which may be offered that the sales tax would be only a minor part of the sales price of the goods, we know from our general experience that our farmers and laboring men and their wives will be told as they go to make their purchases in the stores that the prices were up because of the sales tax. Perhaps this may not be used as an argument for increasing present prices, but it would certainly be used as an argument against their decrease. It is such a good argument for the storekeeper that we could not expect that he would fail to use it. I do not see how we could hope under such conditions that the farmers and laboring men would not believe that the sales tax was placing on them a burden which, through some form of income taxes, or by luxury taxes, should be met by others. If we were faced with the absolute need of revenue, with no possible means of raising it other than the sales tax, I would, of course, feel that it should be adopted and the possible dissatisfaction should not deter necessary steps in the reconstruction of our Government's finances. I do not, however, feel that we are in that condition, and I therefore believe that it would be a great mistake to impose a sales tax, recognizing, as we must, the dissatisfaction to which it would give rise.

#### EXCESS-PROFITS TAX.

The question is not essentially one of substituting a sales tax for the excess-profits tax. The excess-profits tax should be repealed because it is bad. Whatever argument may have existed for it as a war measure does not exist to-day. It did raise a large war revenue, but it has the fundamental defect that it puts a premium on wealth and extravagance as opposed to energy and economy. The wealthy corporation with a large "invested capital" pays little or no tax, whereas the smaller corporation with less capital and perhaps good credit, in trying to build up a new business may pay the maximum tax rate. We need to-day to encourage, rather than to discourage, energy and economy in business, and we should not make large wealth necessary in order to avoid a high excess-profits tax rate.

Anyone who has had extensive experience with this excess-profits tax law can recognize this and many other defects which make it work out in a very unfair manner. The excess-profits tax law can not be amended to eliminate these features, since they are inherent in the standard "invested capital" on which it is based. It is because of its many and irremediable defects that the law should be repealed.

With this law repealed, we should then proceed to raise in the best manner possible the amount which is essential to the proper and economical conduct of the Government. This, I think, can be raised in methods which would be much less objectionable to the country than the proposed sales tax.

#### COLLECTION OF BACK TAXES.

Large amounts are to be collected as a result of the department's audit of tax returns for past years. How much this may be, it is impossible to say. The audit of 1917 returns is not yet completed. Perhaps a majority of those for 1918 are still to be settled, and the 1918 tax rate ran to over 80 per cent.

Additional assessments for 1919 and 1920 have hardly begun to come through. The collections of additional taxes for these past years should certainly exceed the revenue lost through repeal of the excess-profits taxes, and would go a long way toward payment of the soldiers' bonus, even if they did not fully cover it.

#### REDUCTION OF SURTAX RATES.

A reduction in the higher rates of surtax, whether with or without a provision for apportioning gain on sale of capital assets, etc., over the years during which it arose, would probably result in a gain, rather than a loss, in revenue. I know of too many cases where proposed sales have fallen through because the seller was faced with the tremendous shrinkage in the price which would result from the 70 per cent or 80 per cent tax rate, although the trade might have been made at a 40 per cent rate, and the Government would have received its large tax thereon. I know of no cases where large deals were willingly made with the deliberate intention of paying a 70 per cent tax thereon. The higher surtax rates are also practically prohibitive against business investments as compared with tax-exempt Government bonds. Many would be glad to place their money in business enterprises at a 40 per cent tax rate, to the great advantage of business and of the Government, but they can not now ignore the great advantage to them of tax-exempt investments.

#### REVISION OF SURTAX RATES.

Looking at the matter of individual surtax rates, there are two particular things to be borne in mind:

(1) That the maximum rate applicable should not be such as to put an undue premium on investment in tax-exempt securities.

(2) That the tax should not bear with undue weight on very low incomes.

Assuming that these conditions will be met (1) by providing for a maximum tax rate of surtax and normal combined not to exceed 40 per cent and (2) by allowing the present exemptions of \$1,000 to a single man, \$2,000 to a married man, \$200 for each minor child, etc., we may then look at the surtax rates applicable in between these two extremes.

The present law fixes rates for a single man which make a 4 per cent rate on income from \$1,000 to \$5,000; a 9 per cent rate from \$5,000 to \$6,000, with an increase of 1 per cent for each \$2,000 of additional income up to \$100,000. Under this schedule the 40 per cent rate would be reached at \$66,000.

It is to be noted that because of the sliding scale the average rate of tax to be paid on an income of \$24,000, for example, is not the 10 per cent surtax and the 8 per cent normal (equaling an 18 per cent tax rate applicable to the income between \$22,000 and \$24,000), but is \$2,770, or approximately 11 per cent of the total. In so far as concerns the ability to pay, there is no question that there could be an increase in the surtaxes on incomes above \$5,000 without working great hardship; particularly that there might be an increase in tax on incomes of over \$10,000 on a scale which would make the suggested maximum tax rate of 40 per cent be reached on incomes of \$50,000.

Probably it would not be possible to consider such an increase if the excess profits tax were to be continued or if a heavy income tax were placed on corporate incomes, but if the idea should prevail that a relatively small rate of tax should be applied to corporate incomes as such and that incomes are to be taxed entirely, or almost entirely, against the individual recipients, there would seem no reason why a scale of individual taxation should not be drawn up somewhat as shown in the following table. In this table the calculation is presented comparing the present tax scale with the suggested scale:

Typical comparisons of individual income taxes (for a single man) at present surtax rates, and at suggested rates, if the surtax were increased 1 per cent for each \$1,000 of additional income from \$5,000 to \$24,000, and 1 per cent for each \$2,000 of additional income from \$24,000 to \$50,000.

Income.	Present,			Suggested.		
	Maximum tax rate. <sup>1</sup>	Average tax rate. <sup>1</sup>	Amount of tax.	Maximum tax rate. <sup>1</sup>	Average tax rate. <sup>1</sup>	Amount of tax.
	Per cent.	Per cent.		Per cent.	Per cent.	
\$5,000.....	4	3.2	\$160	4	3.2	\$160
\$10,000.....	11	6.7	.670	13	7.1	710
\$20,000.....	16	10.3	2,070	23	12.8	2,550
\$30,000.....	21	13.2	3,970	30	17.7	5,320
\$40,000.....	26	15.9	6,370	35	21.5	8,620
\$50,000.....	31	18.5	9,270	40	24.8	12,420
\$60,000.....	36	21.1	12,670	40	27.2	16,420
\$70,000.....	41	23.7	16,570	40	29.1	20,420
\$80,000.....	46	26.2	20,970	40	30.4	24,420
\$90,000.....	51	28.7	25,870	40	31.7	28,420
\$100,000.....	56	31.2	31,270	40	32.5	32,420
\$200,000.....	64	46.6	93,270	40	36.2	72,420
\$300,000.....	68	53.7	161,270	40	37.5	112,420
\$500,000.....	71	60.6	303,270	40	38.5	192,420
\$1,000,000.....	72	66.3	663,270	40	39.2	392,420

<sup>1</sup> Tax rates stated include both normal tax and surtax.

TAX ON CORPORATE INCOMES.

As to corporation taxes, it is suggested that the corporation should pay a tax of 20 per cent (or possibly 25 per cent) on its income each year but that such tax should not be considered as a tax levied against corporate income as such, but rather that any amount thus paid by the corporation shall be considered a payment at the source for account of the individual stockholders. Accordingly, when and as stockholders receive dividends out of profits on which such tax has been paid, they will be entitled to credit for the amount of the tax which has been paid at the source. This does not mean that dividends will be tax exempt to the stockholders, but that this is a tax paid at the source in the same manner as is the tax on bank stocks, income taxes paid by foreign corporations to foreign governments for account of stockholders, etc. In other words, if this corporation rate was 20 per cent and a stockholder received a dividend of \$80 paid from such profits, his notice would recite that this represented—

A dividend of.....	\$100
Less income tax paid.....	20
Net cash distributed.....	80

The stockholder would take up on his tax return the \$100 and would include this in his total taxable income on which the tax would be figured in the usual manner. He would then take credit for the tax paid at the source, \$20, and pay whatever balance of tax might be due. If the stockholder's tax rate were more than 20 per cent, the difference would thus be paid by him. If it were less than 20 per cent, he would, in effect, have credit for the difference.

The important feature is that this would place no obligation on the part of the corporation to distribute any earnings which were required in business. It would place no penalty on the corporation for failure to distribute, but it would result in the collection of a tax on income realized through business during the year even though corporations should feel it was not practicable for them to distribute such income to their stockholders. Such stockholders would not, however, be in a position of being called upon to pay a tax on income they did not receive.

The effect of this would probably be very marked for the present calendar year. Every indication is that corporations this year will earn much more than they are able to distribute to stockholders as dividends. Under the proposed plan the Government

would receive its tax on such income but would not be in a position of trying to compel the distribution to stockholders or of penalizing the corporations which are not in a position to distribute such income.

Making this tax on corporate incomes at the source as high as 20 per cent or 25 per cent as compared with a maximum individual tax of 40 per cent would largely eliminate the inducement which now exists for stockholders who have large individual incomes to leave corporate profits undistributed in the corporation so that they may avoid payment of an individual tax thereon. There is no question but that, under present laws, stockholders of large wealth can place in a corporation sufficient capital so that the corporation will have no excess-profits tax to pay, and by leaving earnings in the corporation and having such earnings properly employed in some business of the corporation they can avoid any high personal surtaxes thereon. Under the suggested plan, a substantial tax would be collected on such corporate earnings without injustice to the stockholders.

#### **STATEMENT OF T. C. ATKESON, WASHINGTON REPRESENTATIVE OF THE NATIONAL GRANGE.**

The National Grange is opposed to a general sales tax in any form and I am authorized to present its opposition by two resolutions which were adopted at its last annual meeting at Boston, Mass., in November, 1920, which resolutions were presented to the session, referred to the appropriate committee, thoroughly considered by such committee, reported back to the general body, and after full consideration, adopted by unanimous vote.

The first resolution reads as follows:

"The grange opposes the repeal of the excess profits tax and the substitution therefor of a tax on sales or any similar tax law."

You will note that this resolution also opposes the repeal of the excess profits tax, a subject which is also before this committee.

The second resolution was this:

"The grange opposes a general sales tax because in effect it is a consumption tax and adds an unfair burden to all purchasers without reference to their ability to pay."

These resolutions were not the only action of the National Grange on the subject of taxation at its last session. Its position upon the ever present question of taxation is not a matter of recent consideration or sudden determination. The tax program of the National Grange has been before the annual sessions of that body and before the various annual sessions will show the development of a sane and constructive tax program based upon equity and fair distribution of the tax burdens, having in mind that the first principle of taxation should be justice between individuals and the second principle, distribution according to ability to pay.

What I have to say in opposition to the imposition of a general sales tax is but the application of these principles to the problem which now confronts the Congress of the United States in producing revenue adequate to the present enormous needs of the Government.

It is difficult to approach a discussion of a general sales tax from our point of view with either patience or consideration because of the manifest narrowness of the interest and the lack of fundamental principles of fairness and equity manifested by its proponents.

We are confronted before this committee by the spokesman for a propaganda which is apparently adequately financed and self-evidently playing for tremendous stakes. This propaganda is part of an effort to transfer present tax burdens, which we believe are justly and equitably placed upon those who are best able to pay them, to the millions of farmers, wage earners, and others of small means who now earn less than \$2,000 a year and are now burdened by indirect and other taxes beyond the limit of their actual ability to pay.

In spite of the ability with which this propaganda has been carried on and the tremendous financial interest which it self-evidently represents, we can not find that it has been able to bring to its support any material number of people or tax experts of recognized authority. Such representatives of large capital as may be in favor of it have carefully refrained from showing this publicly. The only exception to this is the recent action of the Council of the American Bankers' Association. The Business Men's National Tax Committee, which stands in the public mind as the sponsor for the legislation, has not demonstrated any large membership or wide approval, and in a recent controversy its chairman, Myer D. Rothschild, who has already appeared before this committee, has voluntarily stated that he himself has in large measure financed the propaganda. Incidentally, the general sales tax program as advocated by that committee is a far different program from that which is sought to be enacted into law



by the Smoot bill which is before you. The National Retail Dry Goods Association has indorsed and has representatives in Washington working for a general sales tax which is described in their own literature and is similar to the Rothschild program, but includes other and even more objectionable features.

Against this general sales tax in any and every form some of the largest and most representative organizations in the country are aligned. Among them will be found farmers generally. The National Grange declaration is typical of the general farmer opposition. Every other farmers' organization of which we have a record which has taken any action at all has adopted resolutions opposing this tax. All the agricultural newspapers are opposed to this tax. All of the labor organizations are on record in opposition to it. Every organization of consumers of which I have any information is in opposition to it. One of the most representative, if not the most representative, research organization representing the great national industries—I refer to the National Industrial Conference Board—after a thorough investigation, went on record in opposition to this tax. The Chamber of Commerce of the United States has conducted one referendum which resulted in a considerable majority against the sales tax, then took up the matter at its recent convention in Atlantic City, where its tax committee could not justify a resolution in favor of the sales tax but ordered another referendum.

If, in a democracy, legislation is supposed to be determined by the wishes of a majority of the individuals and not by a majority of the wealth, the above showing answers the question as to whether or not this Congress will pass general sales tax legislation.

The argument for a sales tax is summed up in the one sentence which is printed in large type at the top of the front page of the Sales Tax Primer, issued by the Rothschild organization, "Gross sales or turnover tax not exceeding 1 per cent and *no other tax on business.*" The argument is the last five words "no other tax on business." In other words, this says, "We," and that means those persons who are now paying the surtaxes and excess-profits taxes, "will unload our tax burdens and we don't care where they fall so long as we are relieved." As Mr. J. S. Rache, one of the Rothschild associates in the sales-tax propaganda, states it in one of his own pungent sentences when talking before the National Industrial Conference Board's tax conference:

"The greatest thrift tax would be the turnover tax, since if anybody don't want to pay any taxes he should merely refrain from consuming." (P. 58, Proceedings of Second National Industrial Tax Conference.)

Carrying out this argument the Smoot bill proposes the general sales tax. The understanding is that the revenue so produced shall be a substitute for the excess-profits tax, the higher schedules of the income tax and numerous sales taxes at higher rates which are now imposed upon various lines of business. It is a bald assumption that these taxes should be repealed, an assumption in which we do not acquiesce except in a few minor details.

The Smoot bill proposes a 1 per cent tax, with certain exemptions, which are interesting in themselves. On each turnover from the first sale of the raw material to the final sale of the finished product in some of the elaborate analyses of this measure which have been printed in the Congressional Record and elsewhere, proponents of this measure estimate that this 1 per cent turnover tax, unpyramided to the final sale, will amount to a tax of from 2½ per cent to 3½ per cent. This conclusion is reached upon half a dozen assumptions, none of which have any particular evidence beyond the bare statement of the proponents of this form of unloading tax burdens upon the consumers. One assumption is that this tax can be passed on to the consumer. Another is that it is fair to estimate this tax in the terms of the final turnover instead of the initial turnover, because it is self-evident in the case of wool, for example, that the tax which the purchaser of the suit of clothes pays is alone almost as much as the total price received by the woolgrower for the amount of wool which goes into the suit. Another assumption is that everything proceeds by the most direct route from producer to consumer, and everyone who had anything to do with the sugar deal of 1919 and 1920, and most everyone who has had anything to do with the sale of farm products through the city markets, knows that this is not true.

I have taken some pains to analyze the figures which have been submitted by Mr. Rothschild in arriving at the conclusion that the 1 per cent tax pyramided to the final sale amounts to about an average of 3 per cent of that sale. The result of this analysis shows that the amount of the tax paid reaches as high as 40 per cent of the price of the raw material in some cases and runs from 5 per cent to 25 per cent of the whole value of the raw material in the average of all of the cases submitted by Mr. Rothschild, and I can very easily submit numerous cases in which the tax will be upwards of 4 per cent of the final sale.

Over and above the general argument that this tax is an effort to unload the tax burdens of the very wealthy upon the persons of comparatively small income, there is the manifest inequality of this tax burden in the interest of those larger industrial organizations which carry on within one organization the various processes of manufacture, fabrications, and sale to the retailers or final consumer.

An analysis of the Smoot bill to determine what it really would do, if passed, discloses immediately that it is not a general sales tax bill. In the first place, it exempts all persons doing business of less than \$6,000 per year. Such persons could add the pyramided tax to their prices and pocket this additional profit. It exempts goods for export trade or which find their way into export trade, thereby creating a complication which will be difficult to administer. It exempts all sales by any mutual ditch or irrigation company, a peculiar exemption to say the least. It exempts all sales by hospital or other corporations operated without profit for religious, charitable, or philanthropic purposes. It exempts tobacco and all its products as covered by Table VII of the present revenue law and beverages as covered by Title VI except the so-called soft drinks, mineral waters, etc. covered by section 628. It exempts everything connected with the automotive vehicle business. It exempts the peculiar group of commodities enumerated in paragraph 12 of section 900 of the present revenue law, dirks, stiletos, dangerous weapons of this character, and it exempts pleasure boats as covered by paragraph 20 of the same section. The sales taxes on these commodities, that is, beverages, tobacco products, automotive materials, dangerous weapons and pleasure boats are left at the high rates provided in the present revenue bill, ranging from 5 per cent on automobiles up to 100 per cent on dangerous weapons. If a sales tax principle is to be established, any and all of these exemptions can be attacked with perfect logic. There is no reason for a general sales tax of this kind on any commodity, which does not apply to an equal sales tax on tobacco or automobiles. Just why those commodities should be left in some other class is beyond understanding. The argument, therefore, is not that these commodities named should be subjected to sales taxes in varying degrees, for in most cases good arguments can be made and were made for the establishment of these taxes at these levels when the original bill was drafted, but the argument plainly to be drawn is that there is no equity nor justice in creating a flat sales tax of 1 per cent or any other per cent on all the other commodities which enter into every act and habit and function of life. The Smoot bill leaves every other commodity except those named on the same tax basis regardless of its necessity or lack of necessity, its usefulness or uselessness, its scarcity or its abundance, whether it is an American product or a foreign product, or without consideration of any of these or the other factors which enter into the entire political and economic structure of business.

If this bill passes, the purchase of an automobile will carry with it a 5 per cent tax, the purchase of a piano a 1 per cent tax. What possible justification is there for this difference? The payment for professional services is exempt from tax, but the services of the deliveryman from the grocery store, which is made a part of the groceries which the housewife buys, is subject to a 1 per cent tax. You will pay no tax on a lawyer's fee but must pay a tax of 1 per cent on the blanks he uses to certify to the evidence in your case. Further analysis of this bill will only serve to accentuate these striking deficiencies in this tax system.

But these are arguments in detail. There is a general argument which far outweighs all of these and that is that the imposition of this tax, even in the imperfect form in which it is found in the Smoot bill, is the entering wedge of a sales tax system which means the transfer of the cost of war, of pensions, and of peace from those most able to pay to those least able to pay, a system of taxation which, once established, could hardly be shaken off, so that increasing expenses of the Government could be so easily met, and therefore made easily possible, by the charge of 1 to 1½ or 2 per cent or higher, so that the tax would finally result in but one thing and that is the further accentuation of the difference in wealth between the classes of the people.

A statement in support of this tax bill has pointed out five points of superiority of this system over all other taxes.

First, its extreme simplicity of assessment and collection. The chances are that instead of this being the case, it would multiply the number of taxpayers by four or five, thus making the burden which now exists in the income and corporation tax divisions of the Revenue Bureau vastly more complicated than at present. Besides this, the inability of the Revenue Bureau to collect the present fountain tax, which is pointed out by every investigator, would be multiplied by the number of additional business places to which this tax, identical in operation, would apply.

Second, that each taxpayer pays out of his gross income and automatically grades the amount according to his ability to pay. The cold-bloodedness of this argument is the same which characterizes the entire argument for this bill. If you don't want

to be taxed. you can starve. For the man of \$50,000 a year income, the tax on the part of it which he spends becomes a mere incidental; for the man of \$2,000, who must spend it all, it is a serious matter.

Third, that the tax is low and uniform on all goods, wares, and merchandise. This is not true and if it were true would be the strongest possible argument against the sales tax, because by the very nature of the difference between necessities and luxuries all goods, wares, and merchandise should not pay the same tax. Under the sales tax all goods, wares, and merchandise will not pay the same tax because of the exceptions in the bill and of the vastly more complicated systems of distribution through which some kinds and classes of goods pass than others and the exemptions noted above, facts which will in many cases cause the accumulation of a tax on essentials higher than the tax on nonessentials.

Fourth, that the taxpayer can tell to a cent, with a minimum of effort, at the close of each business day, exactly where he stands as to profits and tax liabilities. This may be true. He can also tell to a cent how much in excess of the tax he can add to the selling price of his goods and pass it on to the purchaser, and this does not apply only to the final vendor, but it applies to every intermediate between the place where the raw products left the farm until they reached the final consumer. It is this wide-open door of opportunity for permitting not only the addition of the tax but of this added profit to the sales price which is, next to the unholy purpose of unloading their taxes from the shoulders of those best able to pay, the strongest possible argument against the sales tax. Any profiteer who hid behind the excuse of "war taxes" in war times will find the excuse multiplied by 10 in "sales taxes" in peace times.

Fifth. That the pyramiding which its sponsors estimate at only from 2½ to 3½ per cent is not material as compared with the pyramiding of the excess-profits tax, which they estimate at 25 per cent. To answer this requires analysis of the excess-profits tax and a final analysis of the theoretical operation of the sales tax. On the rising market which existed during the first two years of the operation of the excess-profits tax, almost any pyramiding of profits was possible. The hardest opponent of the sales tax can not defend an assertion that this excess-profits tax was the only or the controlling factor in the pyramiding of profits. With or without the tax, these profits would have been thus pyramided in a rising market. The fact that the excess-profits tax can not always be passed on and can not now be passed on is evidenced by these sales tax bills now being pressed, providing for a form of tax which can and will be passed on.

An analysis of the theoretical operation of the general sales tax, on the other hand, shows that with most commodities, starting with the first sale considered as basic, and counting the pyramiding of taxes, labor costs, and profit at each turnover, the total tax from the first sale until this commodity reaches the consumer amounts to from 5 to 40 per cent of the basic sale price, while the profit to the final vendor pyramiding by this system will reach very frequently 50 per cent or more of the basic price.

The false impression conveyed to the public by the Rothschild statement is in basing the percentage of tax on the final sale instead of on the basic sale, which is the only sale which has to do with national wealth or prosperity. All the other sales are merely juggling dollars and goods back and forth to the enrichment of one class at the expense of another.

Coming now to the real crux of the argument against the sales tax, it is stated in fewest words thus: To enact this tax and repeal "all other taxes on business," or even a part of them, such as proposed in numerous measures now pending, is to relieve a few thousand persons and corporations—those best able to pay—of some hundreds of millions of dollars of taxes and compel several million people already loaded to and past their ability to pay the indirect taxes now levied, to pay this additional tax.

In all the arguments made and statements presented about either the theory or the practical experience of taxation, this fact seems perfectly clear despite all efforts to befog it—that the tax most difficult for the taxpayer to transfer to some one else to pass on is the tax on net income. If a sales tax is passed, it will permit the repeal of a part—the higher surtaxes probably—of the income tax law.

From latest available data, it is learned that of approximately 25,000,000 heads of families or single men and women without dependents in the United States, income tax returns are filed by somewhat less than 5,000,000.

That means that four-fifths of the heads of families and independent single individuals have, if married, less than \$2,000 a year income, or if single, less than \$1,000 a year.

This meager income, measured in commodities, must feed, clothe, and shelter these millions and provide such recreation, education, and those other essentials as are implied in Americanism and an American standard of living. To-day, and so long as the payment of the cost of the Great War and all other wars requires these people,

in the cost of every single item which becomes a part of their individual or family budget, are paying indirect taxes. That they are now and have been paying such taxes as a material factor of their cost of living, and up to and beyond their ability to pay and still save, is evidenced and proven by the simple fact that they are kept in this class of low income producers by the burden of indirect taxes, kept from thrift and saving and investment by sheer inability to secure wages or other income which will leave a margin of savings for investment over the cost of what they must buy, in which cost, taxes amount to a constantly recurring factor.

These people, four-fifths of the population, will be the victims of a sales tax. No specious argument can hide this fact. The demand for "No other taxes on business," which is the corollary of this bill, if put into law, and it can be if this bill can be passed, will cut off about a billion dollars of surtaxes, corporation and excess taxes, and luxury taxes, and then this sales tax bill will put—so Senator Smoot tells us—a billion and a half dollars of taxes on consumers—that is, on everybody—pro rata as per consumption. Of the 25,000,000 heads of families, of which 20,000,000 are below the one or the two thousand dollars income class, the richer 5,000,000 will not pay over one-third of the sales tax, while the 20,000,000 will be called on to pay the other two-thirds, or at least a billion dollars in addition to what they now pay, which is, as shown, all they can or ought to pay.

There is no relief in the "no other taxes on business" demand for the general public. Wiping out surtaxes, luxury taxes and excess-profits taxes will not reduce cost or taxes on essentials. There is only relief for the buyers of luxuries, nonessentials, the payers of excess profits and high surtaxes. Building material, coal, clothing, bread, meat, sugar, tea, coffee, milk, butter, cheese, and vegetables would not be relieved in any way. These now cost all the traffic will bear. Then along comes the sales tax to add what its proponents estimate at 3 per cent and what I estimate at from 5 per cent to 20 per cent tax on the final sale price of these essentials.

Proponents of this bill assert as a fundamental thesis that the excess-profits tax must be repealed and that the higher brackets of the income surtaxes must be reduced. Except for the fact that the excess-profits tax is, because of economic conditions, a disappearing tax, there is not the slightest argument for its repeal. Whatever excess profits there are, should by the application of every principle of justice in taxation, be taxed. The argument that they are passed on and reflected in higher costs of commodities is thoroughly exploded by the zeal of the "sales tax" propagandists to legalize some other tax which can be "passed on" to replace them. In a sellers' market, any tax is passed on, along with excess profits of all sorts and sizes, but the tax itself is not a factor in making larger or smaller the profits or the final price. Whatever change is justified in this matter is some substitute tax which will compel corporations to pay as and to the extent that individuals pay, and prevent the methods by which they have been escaping.

Secretary Mellon defends the repeal of the excess profits tax by offering a substitute. He would amend the corporation tax by repealing the \$2,000 exemption and continue a 5 per cent tax on all corporate profits. The present tax is 8 per cent.

There is sense in this proposal whether or not the excess profits tax is repealed. An initial exemption of \$2,000, or any other sum, for a corporation, which is an intangible, artificial person, can not be defended. But it does not put into effect another common-sense proposal that the tax on a corporation income may well be graduated according to size, increasing with ability to pay, just as the income of an individual is taxed. Corporations should pay a graduated income tax.

This brings me to the final point of the argument—the proposal to reduce surtaxes. Whatever surtaxes are decided upon should apply to corporation as well as to individual incomes. The problem is to establish the surtaxes upon the basis of two fundamental principles: (1) the gradation of the tax fairly as to ability to pay; (2) the gradation of the tax rate so as to produce the maximum of revenue—that is, so as to not drive individuals into investments in tax-free securities or corporations into extravagant salary scales, advertising campaigns, and other wasteful projects simply to defeat taxation.

The principal argument for the reduction of the higher surtax rates on individual incomes is that this will keep rich men from investing in tax-free securities. The argument is not in accord with facts or good judgment. If the surtax rates now written into the law are just, the surtaxes should be continued and the loss of tax due to investment in tax-free securities should be handled in some other manner, but if they are not right, as a matter of equity and justice, then the surtaxes should be readjusted on the merits of the case. The great quantity of tax-exempt securities, it must be admitted, offers a knotty problem in this whole tax consideration. Viewed in the light of the present experience, it is evident that many errors have been made in issuing tax-free bonds. It is evident that the principle is wrong that municipal improvement bonds should be tax-free when in the hands of owners residing outside

of that municipality, and the same argument applies to State bonds of other taxation districts. Several propositions have been made to correct this situation, the only one of which that is retroactive in any sense and still legal being Secretary Mellon's proposal that the total income of the taxpayer, irrespective of whether it is derived from tax-free securities or not, shall be made the basis of the surtax rate, which rate shall apply only to that portion of the income derived from investments which are not tax free. Should this be passed and accompanied by an increase in the surtax rather than by decreasing, as the frantic claimants for tax relief are proposing, it would accomplish a part of the desired end, which is to make the individuals most able to pay do so.

The argument that to voluntarily reduce the rate of taxation on large incomes would work like a lump of sugar to call the wild horse in from pasture is not a common-sense argument.

To summarize, no adequate argument has been advanced for the repeal of the excess-profits tax, or the higher surtaxes, or the luxury taxes, or the numerous other special-sales taxes now included in the internal-revenue law. In the absence of the repeal of these taxes, there is no necessity for the enactment of a general-sales tax.

The argument that the excess-profits tax is a disappearing tax has as its logical answer the enactment of a new corporation tax based upon the elimination of any initial exemptions and the establishment of a graduated system of surtaxes on corporation revenues, so graduated as to aid rather than penalize corporations which are run upon principles of efficiency and economy.

Except for a reduction in all business taxes due to general decline in business conditions throughout the country, there is no reason to expect the falling off in the revenues of the Government which will make new internal-revenue taxes necessary, excepting as suggested above. Such falling off as takes place because of general economic conditions should be made and insisted upon by Congress by the reduction of the cost of Government. An inspection of the summary of the appropriations made for the current fiscal year discloses ample room for these reductions, particularly in those appropriations which pay for military and naval preparedness for future war at a time when no country in the world, with the exception of the United States, could bear the financial burden of a single month's campaign.

This eliminates all necessity for a sales tax, leaving the only argument to be advanced in favor of such an enactment the impossible argument that it is a better kind of taxation than those now on the statute books. Any individual who attempts to argue that a law which will transfer a billion dollars of taxes from those best able to pay those taxes to the millions of people who are hardly able to exist at the present time, is arguing contrary to public morals, public policy, and common sense.

The clear evidence of the weight of popular judgment and public opinion is so overwhelmingly in opposition to a general sales tax that in a democracy, where the law is supposed to be the expression of the judgment and information of a majority, such legislation is absolutely unthinkable.

#### **STATEMENT OF W. M. CLARK, WASHINGTON, D. C., REPRESENTING THE FOUR TRAIN-SERVICE ORGANIZATIONS:**

**Mr. CLARK.** Mr. Chairman, I am Mr. W. M. Clark and I represent the four train-service organizations. I have a very brief statement that I would like to submit to the committee and have it appear as a matter of record. It is very brief and perhaps it might be all right if I should make my statement first.

**The CHAIRMAN.** You reside here in Washington, do you, Mr. Clark?

**Mr. CLARK.** I do not reside here, but I am stationed here and have been for the last eight years.

**The CHAIRMAN.** What do you mean by being stationed here?

**Mr. CLARK.** We have our offices here; that is, the representatives of the four train-service organizations, in connection with legislative work. We have had our offices here for nearly nine years.

**The CHAIRMAN.** What is your position?

**Mr. CLARK.** I am vice president of the Order of Railway Conductors of America and national legislative representative.

**The CHAIRMAN.** What about the Brotherhood of Locomotive Firemen and Engineers?

**Mr. CLARK.** I am speaking for the four train-service organizations. The **CHAIRMAN.** You may proceed now.

**Mr. CLARK (reading):**

**Mr. Chairman and gentlemen of the committee:** In appearing before you to-day we do so as the representatives of the Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, Order of Railway Conductors, and Brotherhood of Railroad Trainmen, whose membership consists of, approximately, 600,000 citizens of the United States. These members and their families are vitally interested in the question of taxation or any other question which may have a tendency to increase their existing cost of living.

The question of the repeal of the excess profits tax and the substitution therefor of a sales or turnover tax has been called to the attention of the membership of the organizations we represent and an expression from them asked for, with the result that we find unanimous response from this membership being opposed to the repeal of the excess-profits tax and likewise unalterably opposed to the enactment of a sales or turnover tax law. No doubt the various members of the Senate and House of Representatives have received letters and resolutions of protest from the various divisions and lodges of these organizations protesting against this legislation.

**Senator SMOOT.** Did you prepare resolutions and send them out over the country?

**Mr. CLARK.** No, sir.

**Senator SMOOT.** They are all coming in in exactly the same words, so I supposed you prepared them, or that somebody else did.

**Mr. CLARK.** No, sir; I did not.

**Senator SMOOT.** Well, somebody prepared them.

**Mr. CLARK.** That may be true.

We have at least received many copies of such communications which we could furnish the committee, but think it wholly unnecessary, and rest our contention as to the position of the railroad employees upon the information that has been received by us from the various members thereof.

We fully appreciate the fact that a serious problem confronts the Congress regarding the proper methods to raise the enormous revenue necessary to run the Government under the unusual and abnormal conditions surrounding the country at this time, and sincerely hope that a means may be devised whereby the burden of taxation be shifted to those who are able to pay and those who are not able to pay may be relieved to the greatest extent of such burdens. We appreciate fully the industrial and economic conditions confronting us at this time as a people, but necessity requires us to direct your particular attention to the fact that there are nearly 5,000,000 men and women out of employment in the United States at the present time, and to this number must, of course, be added those dependent upon these men and women for a living, which makes the unemployment situation probably the very worst in the history of the United States, and of the 2,000,000 railroad employees in the service under normal conditions there are at the present time about 500,000 of them that are unemployed, or one-fourth of the total number have no gainful employment. Some classes of railroad employees are affected to the extent that nearly two-thirds of them are unemployed.

There has been a slight reduction in the cost of certain commodities, but as a whole there has been only a very slight reduction in the cost of the staple commodities, and, on the other hand, there has been a constant increase in rents and other things necessary for the maintenance of a family to such an extent that it may be safely stated there is but little change in the ultimate cost of living.

I have some personal experiences in connection with the increases in rent. I maintain a little three-room apartment, and in the last year my rent has been raised from \$27.50 to \$55 a month, but I have no increase in salary.

**Senator SMOOT.** Why do you not go to the Rent Commission here in the District?

**Mr. CLARK.** Well, this is my home that I maintain in Chicago. My home is in Chicago, and they are not all Christians there, either.

**Senator SMOOT.** Nor anywhere else.

**Mr. CLARK.** Well, perhaps that is true.

The working people or those dependent upon wages and small salaries, or, in fact, those with small incomes, are being put to a severe test to make ends meet, and, in fact, many of them are running behind and going in debt every day, and this, coupled with the serious unemployment situation, materially affects the general welfare of the great masses of our citizenship. Therefore, this class of our people can not stand increased burdens brought about by increased taxation, which we believe will be the result of the enactment of a sales or turnover tax law.

**Senator SMOOT.** Have you given this any special attention yourself?

**Mr. CLARK.** I am somewhat familiar with it, Senator.

**Senator SMOOT.** Can you tell me how it is going to increase the burdens?

**Mr. CLARK.** Well, because it places additional taxes and burdens on the people who are the least able to pay.

**Senator SMOOT.** You say that just as a matter of fact?

**Mr. CLARK.** As a matter of conviction.

**The CHAIRMAN.** It is a very smooth phrase.

**Senator SMOOT.** It is very nice, indeed; but where the sales tax will impose a 1 per cent tax upon you people, the existing laws will impose 3 or 4, and, of course, you do not want that relief.

**Mr. CLARK.** Well, Senator, I find that there is a vast difference of opinion on that subject.

**The CHAIRMAN.** How much do you estimate the sales tax will bring into the Treasury?

**Mr. CLARK.** I have not figured that out to a definite conclusion. You gentlemen who have figured it out are better able to speak on that point.

**Senator CURTIS.** Those who have figured it out do not agree.

**Mr. CLARK.** I have heard it said that lawyers do not agree at all times. However, that is not germane to the subject.

We are satisfied that the very least that could be hoped to be accomplished by a 1 per cent sales or turnover tax would be about \$8 per capita, and that, based on the average American family of five, would be a minimum of \$40 per year; and we are inclined to believe that this would be increased to probably the sum of \$200 per year to each family, the whole burden being borne by the consumers or the great masses of the people who are least able to pay these costs.

**Senator SMOOT.** In other words, you think each family would have \$6,000 to expend?

**Mr. CLARK.** I have not reached that conclusion.

**Senator SMOOT.** Yes, you did. You said \$40. One per cent of \$4,000 is \$40. They must have that, and then you add \$200 more for each of the five. That is \$1,000 more, which would make \$5,000. and 1 per cent on that amount would be \$50.

**Mr. CLARK.** I said five in a family.

**Senator SMOOT.** That is what I said, five in a family, and if there were \$200 for each of the five in the family, making \$1,000, that added to the \$4,000 would make \$5,000.

**Mr. CLARK.** I believe if each family had \$5,000 they would not object, perhaps, to a turnover tax.

**Senator SMOOT.** That is what your argument is. You see, your argument does not hold together at all. Go on with your statement, however.

**Mr. CLARK.** Well, there is a difference of opinion on that, of course.

**Senator SMOOT.** You can figure this, that 1 per cent on \$4,000 is \$40?

Mr. CLARK. Yes.

Senator SMOOT. That is what you are saying that the family will cost, and then add \$200 more for each one, which would make the amount \$5,000. One per cent tax on that would be \$50. Now I am glad I know what you are figuring on.

Mr. CLARK (reading):

With the constant agitation for a reduction in wages, cheap labor, the relief from taxation of "big business" and large estates that is now permeating our country, to add to this the further agitation for a sales or turnover tax, it seems that the great masses of American workmen and their families are facing a most serious and far-reaching economic problem. This makes the masses of the people, which are the working men and women in industry and agriculture, believe that there is a constant, well-defined, and well organized effort on the part of the special interests or classes to escape the burdens of taxation and shift them to the masses of the people in order that they may add to and continue to enjoy their already amassed wealth and fortunes.

The CHAIRMAN. That is a pure demagogic statement, in my opinion.

Mr. CLARK. I have only a few more lines.

This sows the seeds of discontent and leads the people to believe that this Government is drifting rapidly to class legislation and class domination.

The membership of these organizations is not seeking to evade its duties or responsibilities and is willing to meet its just obligations to its country and its institutions, but we are most earnestly opposed to further burdens being placed on the people for the benefit of the few and in order that the few or the privileged class may be permitted to live in luxury and escape their responsibilities.

In conclusion we desire to place the membership of these four engine, train, and yard service organizations squarely on record as being opposed to the repeal of the excess-profits tax and unalterably opposed to the enactment of any form of sales or turnover tax. We trust that your honorable committee will not recommend any such plan nor that the Congress will enact any such legislation.

Respectfully,

W. M. CLARK,  
*Vice President and National Legislative Representative,  
Order of Railway Conductors.*

H. E. WILLS,  
*Assistant Grand Chief Engineer and  
National Legislative Representative,  
Brotherhood of Locomotive Engineers.*

P. J. McNAMARA,  
*Vice President and National Legislative Representative,  
Brotherhood of Locomotive Firemen and Engineers.*

W. N. DOAK,  
*Vice President and National Legislative Representative,  
Brotherhood of Railway Trainmen.*

The CHAIRMAN. Have these orders ever had a meeting and passed resolutions expressing the sentiments that you have embodied in this statement?

Mr. CLARK. They have met and come to the conclusions submitted herein, and have come to the executives of these organizations outlining their position and attitude.

The CHAIRMAN. Have they ever passed formal resolutions?

Mr. CLARK. In their divisions and lodges, yes, sir, many of them; and I assume that many resolutions have come to Congress here from the different lodges and divisions. I have noticed them in the record from time to time.

The CHAIRMAN. Very few. You state that you speak for these people, and I fail to see where your credentials are. Any vice presi-



dent or secretary of a fraternal or labor order can express views. I have seen that occur in politics quite often.

Mr. CLARK. I do not know that there is any brand of politics in this presentation.

The CHAIRMAN. I do not say that there is.

Mr. CLARK. These are instructions that came from our executive officers, Mr. Stone, Mr. Sheppard, Mr. Lee, and Mr. Carter.

The CHAIRMAN. These are subordinate officials whose names appear on this paper of yours?

Mr. CLARK. I know, but we have been instructed to present the views of our membership before the committee. They might come here themselves and do that, but we are authorized, through our executives, to present this proposition, and I ask, Mr. Chairman, that it be made of record.

**STATEMENT OF BENJAMIN C. MARSH, OF WASHINGTON, D. C., REPRESENTING THE PEOPLE'S RECONSTRUCTION LEAGUE AND THE FARMERS' NATIONAL COUNCIL.**

The CHAIRMAN. Whom do you represent, Mr. Marsh?

Mr. MARSH. I represent the People's Reconstruction League and the Farmer's National Council.

The CHAIRMAN. What constitutes the People's Reconstruction League?

Mr. MARSH. The People's Reconstruction League is a nonpartisan union of farmer and labor organizations and other progressive forces to carry out a program of economic justice—

The CHAIRMAN. How many members have you?

Mr. MARSH. May I finish—which will save the people on farms, in factories, mines, offices, trade and transportation, \$6,000,000,000 a year.

Senator SMOOT. You have raised that two billion since last year?

Mr. MARSH. Not at all, Senator Smoot; the estimates are carefully made and have been damned but not disproved by the enemies of the league.

The CHAIRMAN. How many members have you?

Mr. MARSH. I can not tell you exactly. I know this, that there are upward of 3,000,000 members of the organizations whose officers or chief executives are members of the executive committee of the People's Reconstruction League.

The CHAIRMAN. Have you got a list of your membership?

Mr. MARSH. We have a list of the organizations, and they know what membership they have in each organization.

The CHAIRMAN. But you have no list of your members?

Mr. MARSH. I have not a list of the individuals. The league is supported by dues from farmer and labor organizations and the general public.

The CHAIRMAN. How much time do you want?

Mr. MARSH. I shall try to keep within half an hour, which you suggested would be the maximum that I could get. I am speaking for more people than anybody else who has appeared before you.

The CHAIRMAN. Of course, there is no evidence of that whatever.

Mr. MARSH. Of course, you can deny my statement.

The CHAIRMAN. I do not deny it; I only say that there is no evidence of it.

**Mr. MARSH.** Do you want me to submit it?

The **CHAIRMAN.** I would be very glad to know how many you represent, and whether they are carried on the roll of membership, and just where your credentials are. Anyone can come in here with a fancy name of some league and claim they represent the earth.

**Mr. MARSH.** We make no such claims and no such pretensions. The officers and executive committee of the Peoples' Reconstruction League are; President, Hon. Herbert F. Baker, president Farmers' National Council; vice presidents, Wm. H. Johnston, president International Association of Machinists; C. C. Connolly, president United Farmers of America; Mrs. Florence Kelley; general manager, George P. Hampton, managing director Farmers' National Council; treasurer, Jackson H. Ralston; executive secretary, Benjamin C. Marsh, secretary Farmers' National Council. Executive committee: The officers and Warren S. Stone, grand chief Brotherhood of Locomotive Engineers; William Bouck, master Washington State Grange; E. H. Fitzgerald, grand president Brotherhood Railway and Steamship Clerks; E. F. Grable, grand president United Brotherhood Maintenance of Way Employees; Timothy Healy, president International Brotherhood Stationary Firemen and Oilers; J. W. Kline, president International Brotherhood Blacksmiths, Drop Forgers, and Helpers of America; E. C. Lasater; Arthur Le Sueur; J. H. McGill; James P. Noonan, international president Brotherhood Electrical Workers; R. W. H. Stone, president North Carolina Farmers' Union; L. E. Sheppard, president Order Railway Conductors; Frank P. Walsh; T. C. Cashen, international president Switchmen's Union of North America; J. A. Franklin, international president International Brotherhood of Boiler Makers, Iron Shipbuilders, and Helpers of America; John McParland, president International Typographical Union; John A. Voll, president Glass Bottle Blowers' Association of United States and Canada; Charles B. Stillman, president American Federation of Teachers.

I will claim this, that having talked to hundreds of thousands of American citizens, I realize that this program is appealing to millions of them.

The **CHAIRMAN.** You have talked to hundreds of thousands, have you?

**Mr. MARSH.** Oh, yes; in the course of my life.

The **CHAIRMAN.** Are you a salaried official of this league?

**Mr. MARSH.** I am, Senator Penrose.

The **CHAIRMAN.** Does its membership pay dues?

**Mr. MARSH.** As I have stated, we have not a dues-paying membership at present—I think we will have one—but the farmer and labor organizations are contributing to the work, and we have made a general appeal to the public and are getting money from them.

**Senator SMOOT.** This is a new thing. You have always claimed to represent here the farmers. This Reconstruction League is a new thing since you last appeared before the committee.

**Mr. MARSH.** May I answer Senator Smoot's statement, which I can not permit to go unchallenged, that I claim to represent all the farmers? I have made no such claim. I have made it clear that I was secretary and director of legislation of the Farmers' National Council. Of course I would like to get down to the merits of this proposition.

Senator McLEAN. I suggest, Mr. Chairman, that we let Mr. Marsh complete his statement. He has appeared before committees here for years.

Mr. MARSH. Mr. Chairman and gentlemen of the committee, I shall try to show you why we feel that a sales tax—and I am not speaking to a specific bill and I am not speaking personally—we feel that a sales tax is moral treason to the purposes for which we entered this war, as stated by President Wilson in reply to the Pope's peace note, to afford all peoples "participation upon fair terms in the economic opportunities of the world."

I am not going to address myself specifically to Senator Smoot's 1 per cent sales tax, because the purpose of introducing any sales tax bill and of establishing any sales tax, fortunately, the proponents of this sales tax have made clear, is to reduce taxes upon the enormous aggregations of wealth in this country and to make the sales tax or a general consumption tax, which is a sales tax in essence, the base, to use their expression, of Federal revenues.

Now, here are some of the estimates as to what could be raised from a sales tax, and I am not going to quote from any of the enemies of the sales tax. I am quoting from the primer, Gross Sales or Turn-over Tax Not Exceeding One Per Cent and No Other Tax on Business, published by the business men's national tax committee, of New York City:

Tax committee, National Association of Manufacturers.....	\$6,720,000,000
Roger Babson, statistician.....	5,000,000,000
Bache Review, April, 1920.....	5,000,000,000
Business men's national tax committee.....	3,000,000,000
Dr. Thomas S. Adams, former chairman advisory tax board, United States Government.....	2,000,000,000
Joseph S. McCoy, Treasury Department, United States Government..	1,700,000,000

I am going to proceed upon the assumption that you want to raise \$2,000,000,000, which is the amount that a great many of the advocates of the sales tax have stated, and point out the fact that, of course, this bill providing for 1 per cent can easily be amended so as to make it 2 or 3 per cent, the principle being identical. Unfortunately, this tax would levy a great deal heavier burden upon families with incomes of \$2,000 who are now exempt under the income-tax law, a good deal higher rate of tax, than is levied on those with \$2,000 income who also get, in the case of families, an additional exemption of \$200 per child.

For the fiscal year 1920 the taxes upon transportation and other facilities, insurance, beverages, cigars, tobacco, and manufactures thereof, admission to movies, theaters, etc., and dues, excise and stamp taxes, and customs amounted to \$1,458,317,126. This is an average per capita of \$13.79 or \$68.95 for a family of five. These indirect income taxes average nearly three and a half times as much as the average direct income tax paid in 1919 by the 3,013,816 individuals and families who in 1918 received an income of \$1,000 to \$3,000.

In other words, you are already taxing folks below the \$2,000 income much more heavily in proportion than those above it.

Now, what would a sales tax do? And I am going to speak to a sales tax to yield \$2,000,000,000, which is the purpose of the chief proponents of it, although I do not think a 1 per cent sales tax would yield anything like \$2,000,000,000. I doubt if it would yield

over \$750,000,000. But here is the point: Agriculture is absolutely prostrate. You gentlemen from agricultural States know that very well. Mr. Clark has called attention to the fact that we have the most serious unemployment situation in the country's history. Farmers lost at least \$5,000,000,000. It looks as if there were some conspiracy to deflate wages by a third also by this sales tax. In the face of that I will point out that there is no need for getting a dollar more by taxing the working people.

It is the purpose to raise anywhere from one to three billion dollars, most of it to come out of the people who are out of employment or the farmers who are in their present desperate situation.

A sales tax which would yield \$2,000,000,000 will mean an addition to the existing taxes upon the workers of the country of an indirect income tax amounting on the average to 4.25 per cent on a family income of \$2,000; 5.7 per cent on a family income of \$1,500, and 8.5 per cent on a family income of \$1,000. This is in every case a tax upon the total income without any deductions. We know that a sales tax will be pyramided and the indirect costs of such a sales tax we estimate will be at least twice as heavy as a direct cost, amounting to, perhaps, an indirect cost of 17 per cent upon the total family income of those families receiving only \$1,000 a year. We estimate that the average cost of such a sales tax to a family of five would be about \$200 a year.

We assert that there is no need for a sales tax or for any other tax upon consumption, and I shall quote the figures to show it.

In 1918, the last year for which official figures are available, the net income of those subject to the personal income tax was \$15,924,639,399, of which, in round figures, \$4,848,000,000 was income from property. Just over two-thirds of the total income from profit, or, \$3,259,000,000 was received by the 478,952 persons, each of whom had a net income of over \$5,000.

Now, gentlemen, while you are considering any additional taxes upon the workers of the country—and mind you, there are several millions with dependents and certainly 10 per cent of the population of America is either out of employment to-day or on part time—you are going to make them pay taxes by levying on their meager savings or upon what they borrow.

Now, what about the wealthy? Each of the 245 individuals who received an income during 1918 of \$500,000 or more had, on the average, an income of \$399,359 left after paying his income tax in 1919, while the 3,013,816 families having an income of \$1,000 to \$3,000 had an average of only \$1,926 left. In other words, the 245 persons who had an income of \$500,000 and up to \$50,000,000, or more therefore had left on the average two hundred and seven times as much income apiece after paying their income tax last year as the 3,000,000 individuals and families who had incomes of \$1,000 to \$3,000.

The 245 persons, each of whom had an income in excess of \$500,000 in 1918, received on the average an income from property of \$1,038,816 plus on the average an income from "personal service and business" of \$285,637, a total average, without deductions, of \$1,323,453.

The 43,037 persons having an income of over \$25,000 in 1918 had an average income of \$63,892, and each of them had left on the average after paying their income tax, an income of \$44,141.

Now, the plea is often made that we should have a higher rate of taxation upon unearned than upon earned income. On the average, only one-eighth of the income in 1918 of all persons reporting incomes of \$1,000 to \$3,000, was derived from property; while seven-tenths on the average of the income of those in receipt of \$1,500,000 to \$2,000,000 was derived from property, and nearly 96 per cent of the income of those in receipt of \$2,000,000 and over came from property. A rapidly progressive income tax therefore taxes unearned incomes much more heavily than earned incomes.

Now, there are five main sources of revenue which will yield the Federal Government, if the Congress of the United States has the courage to make the millionaires pay anything like as heavily as the unemployed, from six to six and a half billion dollars.

I want to take up right now the reasons advanced against these income surtaxes, the heavy surtaxes, on the large incomes. It is stated that those who have to pay these huge surtaxes, as they call them, which, in fact, do not affect them half as heavily as the present consumption taxes affect the workers, will invest in tax-exempt securities. The Government is now publishing a list of what they call the slackers, the draft evaders. I want to tell you that if you will pass a law that the Government shall publish a list of all the men having an income of \$100,000 and over or \$50,000 and over who are investing in tax-exempt securities you will speedily, in my judgment, end that sort of thing, because the Rockefellers and the Morgans and all the other multimillionaires and billionaires of America who are investing in tax-exempt securities are exactly in the same class as that young man Bergdoll who evaded draft service here and ran away to Germany.

Now, we have to face the fact that tax evaders are really positive traitors and are just as serious a menace as the boys who ran away from the service.

Senator McLEAN. I suppose you would apply that stigma to those who purchased nontaxable farm-loan bonds?

Mr. MARSH. Until Congress takes some action to prevent the wealthy from purchasing tax-exempt bonds it would be quite an injustice to tax these farm-loan bonds and hammer the farmer again, and the farmer has quite a right to object to that sort of treatment. I see no reason why you should discriminate against the farmer. If you make a uniform rule, that is one proposition; I know you do not intend to be unfair to the farmer, Senator McLean, and I am sure the other members of this committee do not. But why should we initiate this extraordinarily virtuous attitude of Government toward the farmer in his poverty which we do not see fit to apply to the millionaires in their wealth? And let me give you some figures, because I am going to suggest a tax that will yield two and a half billion dollars a year. The estate tax can not be shifted. The excess-profits tax can not be shifted in a falling market. I do not want to take time to quote to you gentlemen from this primer, but, of course, those who are advocating the repeal of the excess-

profits tax realize that we are in a falling-price market, and in a falling-price market you can not shift the excess-profits tax.

Now, these corporations made profits. If it were a case of rising prices they could shift them. The bare fact that they come here and say that they want the excess-profits tax repealed shows two things—first, that they know that they are going to make more profits; if not, they would not want the excess-profits tax repealed; and, second, it shows that they appreciate the fact that the large profits they made last year are not going to be duplicated this year, but they are going to make a good deal and they can not shift it. But they want a tax which will exempt them from taxation and put the heaviest burden upon the workers.

I am going to quote from a representative Wall Street journal an article in the September 11, 1908, issue of Commerce and Finance, published then at 15 Wall Street by the Theodore H. Price Publishing Corporation. I read from an article on "A national inheritance-tax law," by Mr. Richard Spillane. Mr. Spillane says that there are 10 American millionaires possessors of fortunes of \$125,000,000 or more, with an estimated total wealth for these 10 of \$2,500,000,000. He gives a total classification of 22,696 millionaires having, in 1918, an estimated wealth of \$68,056,250,000. He estimates at that time, and his paper did, the total wealth of America as \$250,000,000,000. We now place it, and the Commerce and Finance does, at \$500,000,000,000 instead of \$250,000,000,000. Mr. Spillane asked this question: "Would a 40 per cent tax be excessive in the case of a \$500,000,000 or \$1,000,000,000 fortune? Not much. Money accumulates rapidly. A tax of 40 per cent would take \$400,000,000 for the State and leave \$600,000,000 for distribution among the heirs. It is reasonable to suppose that within five years the \$600,000,000 would grow to \$700,000,000 or \$800,000,000."

Commenting on his statement that that wealth would increase from \$600,000,000 to \$800,000,000 in five years, he says of this tax, "there is nothing confiscatory in that."

On the same basis which justified Commerce and Finance, which is a very careful publication, in estimating the wealth of these 23,000 millionaires in 1918 at \$68,000,000,000, we estimate their wealth to-day at, approximately, \$156,000,000,000, or nearly 10 times our net national debt and over 27 per cent of the national wealth. A heavy Federal estate or personal tax would easily yield at least \$20,000,000,000 within the next 10 years and from two and a half to three billion dollars a year for the next few years, and Congress should promptly enact an estate tax that would yield this amount.

The Federal estate tax under the rates of the present revenue law yields only \$100,000,000 a year. It was \$103,000,000 when I last saw the figures. Under the present law a person who has a net estate of \$1,000,000 pays an estate tax of only \$51,500, or about 5 per cent, and his heirs and beneficiaries receive nearly \$950,000.

A person having a net estate of \$100,000,000 pays a Federal estate tax of only \$24,181,500, or about 24 per cent of his net estate, and can bequeath nearly \$76,000,000. Roughly speaking, there are probably 75 persons in America to-day worth \$100,000,000.

Instead of taxing those out of employment and the farmers who are broke, we ask that you gentlemen amend this estate tax law. Do you know what the rates are? They are disgracefully and un-

Americanly low. You know them. I will not go through the list, but point out to you—

The CHAIRMAN. Mr. Marsh, the committee is informed as to the rates.

Mr. MARSH. I am sure that if you are informed you naturally with a human outlook will entirely agree that they must be amended, and that it is unfair and absolutely unjust to consider taxing the workers any more. In point of fact, the present consumption taxes upon the workers ought to be repealed. I am not asking that, however.

Corporation profits amount to billions of dollars a year, though no recent figures are available on these profits, but the fight which the big corporations are making to repeal the excess-profits tax is ample proof that the corporations realize that they are going to make big profits as they have in the past. I want to call your attention to the fact that the decision of the United States Supreme Court on capital assets has an exceedingly vital bearing on this program of taxation.

The CHAIRMAN. I suppose you know that nine-tenths of the corporations have passed dividends, and that three-quarters of the so-called plutocrats can hardly pay their household bills to-day?

Mr. MARSH. I am sorry to say that I am unaware of that fact.

The CHAIRMAN. Well, it is so.

Mr. MARSH. If that be so, I would respectfully recommend that they sell some of their limousines and go to work.

The CHAIRMAN. They are selling them.

Mr. MARSH. It does not look that way. We admit that for the sake of argument some are selling them. Here is the point. You have 23,000 people of America owning 27 per cent of the wealth of the country.

Of course, in regard to a big estate tax or inheritance tax or capital tax you know this is just exactly what they are planning in England to-day.

Senator McLEAN. Just what they have done in Russia; get rid of capital and then they have their land to eat.

Mr. MARSH. I am not planning to do anything like they are doing in Russia; and I am not insulting the intelligence of the Congress by implying that they can not work out different plans from those used in Russia to take care of a difficult situation.

Does the Republican Party intend to refund our national debt for 40 to 60 years in order that it may compel the workers of America on farms, in factories, mines, and transportation to pay the interest on this debt for generations and also to pay most of the debt itself? This question has a vital bearing upon the method of raising revenue and the amount of revenue which the Government raises during the next fiscal year and is quite germane to the matter before the committee.

Senator SMOOT. Mr. Marsh, I would like to know whether you have changed your mind from what it was a few years ago when you appeared before the Finance Committee. You thought then that all of the wealth of the State ought to be taken by the Government. Have you modified that? Now, apparently, you want to take only a part of it.

Mr. MARSH. Well, Senator, I am afraid that your memory in that matter is as faulty as your judgment with respect to the sentiment of the American people on a sales tax. I have never said anything

of the sort and never intimated it. I am absolutely in favor of private property. What we are opposed to is the system of privilege enacted by Congress which has enabled a few people to secure 27 per cent of the wealth of America and make it almost impossible, extraordinarily difficult, for the little man to acquire the property which, God knows, I want him to acquire so that he will have more interest in his country and will, in my judgment, become a better American citizen, with ownership of his own property. I have never advocated the abolition of property, and I must make that statement as strong as possible.

Senator SMOOR. I do not want to be unfair to you at all, Mr. Marsh, but you appear before every committee that there is where hearings are open and your statements are about the same. I wondered if your views had been modified.

Mr. MARSH. I have not modified the fundamental principles.

You have to raise close to \$8,000,000,000, according to the statement of the Treasury Department. Next year, if we meet our current obligations and pay the part of our national debt that falls due, you can raise at least from two to two and a half billion dollars by a tax upon incomes without reducing the exemption. A sales tax abolishes exemptions, so far as an indirect income tax is concerned. You can raise at least two and a half billion dollars through the Federal estate or inheritance tax. You can raise at least half a billion dollars direct by a tax upon corporation profits, and we concede that there are some bad administrative features in the present excess-profits tax law. You can raise at least a quarter of a billion dollars by placing a very light tax upon the value of land and other natural resources held for speculation, and the existing consumption taxes, which I have enumerated earlier, including the transportation tax, which is very foolish, but that will yield about a billion and a quarter, and you could easily raise six and a half billion by these taxes.

You can reduce expenses by hundreds of millions of dollars by cutting Army and Navy appropriations, but we respectfully request that you will adopt this program of legislation as the only real 100 per cent American program. I thank you for your attention.

**STATEMENT OF MRS. WALTER I. SWANTON, WASHINGTON, D. C.,  
PRESIDENT OF THE WOMEN'S SINGLE TAX CLUB.**

The CHAIRMAN. What do you desire to speak on, Mrs. Swanton?

Mrs. SWANTON. Opposition to the sales tax, sir.

The CHAIRMAN. Whom do you represent?

Mrs. SWANTON. I am president of the Women's Single Tax Club.

The CHAIRMAN. You may proceed.

Mrs. SWANTON. I would like the committee to let me just make these statements before they begin to ask questions.

The CHAIRMAN. Very well.

Mrs. SWANTON. The proposed sales tax is another consumption tax. We know that all consume about the same amount, the poorer the quality the dearer in the end. Also those living from hand to mouth pay more for what they buy. This means that the poor man pays a heavier tax than the rich man. A family whose cost of living used up the full amount of its income pays a tax upon every cent of the income, while the rich pay a consumption tax upon the portion spent, and the portion saved is exempt. The richer the



person, the greater is the exemption. This is true of all consumption taxes; they are unjust and increase poverty.

It is argued that capital is being discouraged from entering productive enterprise, that it is leaving 8 per cent profits to take 5 per cent untaxed bonds. It is not all going there; that is limited; but it is going into land values. A letter came into my possession about the time when Congress first began to raise war revenues, from a Pittsburgh broker. He advised people of wealth not to put their money into taxable securities but to invest it in land values, where the interest would accrue in the form of unearned increment and be untaxed. His argument was sound, for the increased value would amount to more than 8 per cent, and they would be untaxed even in these trying times. This also is a part of the reason for the increased amount of farm tenantry, the farmers abandoning farms for city life.

The urgency of protecting production at the expense of consumption is putting the cart before the horse. Production does not create prosperity, but consumption does. The present situation is not one of over or under production. I beg permission to cite my own personal experiences. My hat, made over at trifling expense, has done service for five years. I could go through the whole of my household expenses in the same way. This is not an exception; every woman I know can tell a similar story. Women are the purchasers of the country. They are saturated with thrift. High prices have made it necessary. You no doubt think that by such frugal means vast savings have been piled up. That should be the reward of thrift, but it is not so. I have three growing children that must have nourishing food, and what I have saved from the dry goods merchants has gone into the pockets of the packers. Many less fortunate, having hit bottom long ago, can not save on dry goods, so must save on food to the injury of the family and the sacrifice of the future generation.

Figures showing the underfed people of this country are alarming; five children fainted in school recently from lack of nourishment. This is underconsumption; it is the reason why our warehouses are filled with cotton and wool, and our cold-storage plants filled with food. It is a disgrace to the voters of this country. I say voters because I believe in the truth of the story of the man who came to Washington to find the power of the Government. He came up here on the Hill. It was not here; he went to the Executive; it was not there. Some one said Wall Street. He went there, but did not find it. Seriously minded, he went home and looked in the looking glass; there he saw the power of the Government.

It was some time before I found the Negro in the wood pile of this turnover sales tax. It is this: The poison of monopoly is spreading everywhere into the textile and department-store business. It is like a cancer, and it will destroy the very thing it feeds upon. Trimming branches by the Sherman law will never destroy monopoly, but a tax upon land values will. Justice Marshall said "The power to tax is the power to destroy." Never was it so plainly shown as in this turnover sales tax. Monopoly can control its turnovers and the turnovers of small competitors. Monopoly will have two turnovers, one to the producer and one to the consumer; and it will see that the small competitors get enough turnovers to put them out of existence.

Under the profits tax the small competitor may be satisfied with 8 per cent and undersell, thus keeping himself alive; but with the turnover tax he is at the mercy of monopoly. With competition gone there never will be another bargain sale and the joy of life will be taken away from many women. We will never see those beautiful full page advertisements again. It will be the big five in the household mercantile business. The difference between the profits tax and the turnover tax to the industry is the difference between competition and monopoly. The difference between the profits tax and the turnover sales tax to the consumer is the difference between the frying pan and the fire. With monopoly in control of transportation, food, and household necessities, we will be reduced to Czarist Russian conditions of 90 per cent paupers and 10 per cent monopolists that own everything.

Finally, I would like to call the committee's attention to the fact that many have said to them that no tax could be equitable. That is not so. A land-value tax is an equitable tax, simple, easy and sure of collection. It will decrease prices and encourage consumption. The Ralston-Nolan bill proposes a 1 per cent tax upon land values over \$10,000 exclusive of improvement values. This tax is the only kind of a tax that will stay where it is put.

**STATEMENT OF WALTER W. LIGGETT, CHICAGO, ILL., REPRESENTING THE COMMITTEE OF MANUFACTURERS AND MERCHANTS OF CHICAGO.**

Mr. LIGGETT. Mr. Chairman and gentlemen of the committee, I want to make it particularly plain to you that in appearing here against the sales tax I do not appear as an individual. I am the authorized spokesman of the Committee of Manufacturers and Merchants of Chicago on Federal Taxation, and also of the Farmers' Federal Tax League of America.

The Committee of Manufacturers and Merchants on Federal Taxation, which has headquarters in Chicago, has a membership of more than 30,000 business men, representing some of the most solid and reputable firms in the United States.

The Farmers' Federal Tax League of America, of which Lieut. Gov. George F. Cummings, of Wisconsin, is president, also has a very representative membership of practically all the agricultural States in the Union.

Speaking for the Committee of Merchants and Manufacturers and the Farmers' Federal Tax League, I want to say that we consider the proposed Smoot sales-tax bill one of the most iniquitous measures that has ever been devised. We consider that the Smoot sales tax bill is a step backward to the days of the Roman empire, when the privilege of laying taxes upon the people was farmed out to private speculators who paid a certain fixed amount to the empire and collected all the traffic would bear from people and kept the residue themselves.

Estimates vary as to how much the Smoot sales tax will raise. I do not think anyone knows definitely. I certainly do not pretend to know. But the estimates say it will raise from one to three billions of dollars. We believe that while it may raise from one to three billions of dollars for the Government, it will impose an additional burden upon the consuming public of from five to eight bil-

lions of dollars. We think that to impose this burden upon the public at a time when business is already depressed, when industry is more or less stagnant, is a fatal business policy.

Senator SIMMONS. Why do you think that? That is what I want to get at?

Mr. LIGGETT. We think that, Senator, because the average commodity sold in this country is turned over from six to seven times and sometimes eight and nine times. The sales tax will be imposed upon each turnover. Not only will the sales tax be imposed, but a profit will be charged for the collection of that tax.

A little later I want to quote from Charles H. Ingersoll, vice president of the Ingersoll Watch Co., with particular reference to that point where he says the profit is taken through a collection of the tax. Not only does the business man collect the tax, but he charges a profit on the tax. The total is pyramided; so that while Senator Smoot, I believe, and other experts have stated that the total tax will only be about 3 per cent, that the turnover tax will only average about 3 per cent of the cost of the goods, we assume that it will average from 15 to 30 per cent on the final selling price of articles which the consumer must pay, and we think that to do that at this time will, as I say, have an extremely injurious effect upon the industry and commerce of the country.

Frankly, we think that no better means could be devised to injure the business of the country than to impose a sales tax at this particular time. The volume of sales in the United States aggregates about \$75,000,000,000 annually. Economists estimate that each article sold averages at least five turnovers. Under the provisions of the Smoot bill every handler would have to pay a 1 per cent tax on each sale. The aggregate tax of 8 or 10 per cent, plus the adhering profits which each handler would inevitably charge for collection, would eventually be passed on to the consumer. The actual increase in the final selling price probably would vary between 5 and 30 per cent on all commodities, yet under the provisions of this bill only a small fraction of this sum would go to the Government.

Senator SMOOT. Why do you not say 50 to 75 per cent as well as 30 per cent?

Mr. LIGGETT. I am trying to say just what I consider to be the facts.

Senator SMOOT. You could not possibly make it 30 per cent or you could not possibly make it 10 per cent.

Mr. LIGGETT. I think you are under a slight misapprehension of what I mean, Senator.

Senator SMOOT. That may be true.

Mr. LIGGETT. I do not say that the total tax which will go to the Government will be that amount. I say that the final selling cost of the article will be that much.

Under the provisions of the Smoot bill every handler would have to pay a 1 per cent tax on each sale. The aggregate tax of 8 or 10 per cent, plus the adhering profits which each handler would inevitably charge for collection, would eventually be passed on to the consumer.

Senator SMOOT. The handler does not pay the tax at all. The man that purchases pays the tax.

**Mr. LIGGETT.** I was coming to that.

The Smoot bill has been misnamed. It is not a sales tax at all. It is a purchase tax, and the inevitable result of this excessive burden added to prices already too high in comparison with wages would be a drastic reduction in the volume of business. If it was in the mind of Congress to put the finishing touches upon a business world already staggering under heavy blows, a bill better adapted to that purpose could hardly be devised. The National Industrial Conference, the United States Chamber of Commerce, the National Association of Credit Men, and more than a hundred and fifty organizations of reputable business men, in addition to the Committee of Manufacturers and Merchants on Federal Taxation, have pointed out the unjust and injurious nature of this bill. We simply can not conceive of its passage by any legislative body in possession of its senses.

**Senator SMOOT.** You say the United States Chamber of Commerce has voted against it?

**Mr. LIGGETT.** Yes, sir. I make that statement, that the referendum of the United States Chamber of Commerce is opposed to the sales tax.

**Senator SMOOT.** Then you do not know anything about what the referendum was, because in some cases they were 94 per cent in favor of it.

**Mr. LIGGETT.** In some cases?

**Senator SMOOT.** There were three or four answers, and there was one case where it was not over 84 per cent—

**Mr. LIGGETT.** Before making this statement I called up the secretary of the Chamber of Commerce and he sent me a copy of their referendum. I hope you have a copy of it here.

**Senator SMOOT.** I have not here; no.

**Mr. LIGGETT.** I went over it very carefully and I arrived at the conclusion, which I still maintain, that the United States Chamber of Commerce opposed the sales tax.

**Senator SMOOT.** Then the report did not show the fact.

**Senator DILLINGHAM.** Did the chamber adopt a resolution on the subject?

**Mr. LIGGETT.** On that particular point I can not say.

**Senator DILLINGHAM.** I had the impression that I had seen one.

**Mr. LIGGETT.** I have been informed by people connected with the United States Chamber of Commerce, and I have also read their printed referendum, which I have in my possession—not with me, however.

**Senator McCUMBER.** Did we not have a witness representing the Chamber of Commerce who testified against it?

**Senator DILLINGHAM.** I do not remember about that.

**Mr. LIGGETT.** I am not going to take the time of this committee. I have here in written form the conclusions of the National Industrial Conference, which opposed the sales tax; the conclusion of the National Association of Credit Men, which also oppose the sales tax, and quotations from several economists—

**The CHAIRMAN.** May I interrupt you just a moment? I will have to retire, and I will ask Senator McCumber to take the chair. Before I do that, however, let me ask you what is your occupation?

**Mr. LIGGETT.** I suppose, Senator, you may say I am a publicist. I assist in numerous political movements in which I have sympathy in the capacity of a publicity man and a legislative agent.

The **CHAIRMAN.** Are you an attorney?

**Mr. LIGGETT.** No, sir.

The **CHAIRMAN.** Are you an officer of these organizations that you represent?

**Mr. LIGGETT.** I am the representative of both of these organizations in Washington and their official publicity man.

The **CHAIRMAN.** You reside in Washington, do you?

**Mr. LIGGETT.** Yes, sir.

The tax committee of the National Industrial Conference Board, which may be said to be fairly representative of American business interests, in its report to its second industrial conference flatly opposes the sales tax. The arguments set forth in this report are lengthy. I summarize as follows:

The advocates of such a tax claim that it will in nearly every instance be shifted. If so, the tax could not be defended upon the grounds of social justice, because it would then fall with a force unequal to their ability to pay upon those least able to bear the burden. It would in fact be "a tax against the living wage," subject to no exemption such as is recognized in the income tax. But says the report:

The committee is convinced that in many instances industries or individual concerns will be unable to shift the entire tax, or in any event will be unable to shift it until after several years of readjustment. This necessarily means that it will be paid in large part by those unsuccessful business enterprises which do not now pay an excess-profits tax, or by individual traders or partnerships who pay the personal surtaxes. If business enterprises which are not making a profit have to pay this tax, is it reasonable to suppose that they can shift it any more than they have been able to shift other items of cost with a profit added? The committee can not accept as conclusive the assertion that this tax would be passed on, or that in the cases in which it was not passed on the tax is so small that the effect would be slight. A 1 per cent tax on sales would in many cases be more than a tax of 30 per cent or even 50 per cent of net income, and net income is the only source from which business can pay a tax without impairing its capital. If any great proportion of the billion dollars which is to be raised by such a tax would have to be paid by businesses which could not pass it on, the result would be widespread ruin and disaster.

The National Association of Credit Men, which is an organization which is fairly representative of American business and industry, has also taken strong ground against a sales tax. I submit as representative of the views of this organization the following statement by Mr. J. H. Trego, its executive secretary:

"Why should spending rather than saving be taxed?" That is the question puzzling J. H. Trego, executive secretary of the National Association of Credit Men. Writing to the 33,000 manufacturers, wholesalers, and bankers composing the membership of the organization, Mr. Trego has the following to say regarding the proposed sales tax:

We have heard advocates of the sales tax say that spending and not saving should be taxed. Let us look a while and see whether this is a real common-sense and fair statement. Inordinate spending and inordinate saving are equally bad. One is prodigal and the other is miserly. If spending is necessary, if common-sense spending is important to the commerce and industries of a people, why should spending rather than saving be taxed? It is not a fair proposition in our opinion, and when you consider a man with a large family who must spend more than a man with a smaller family to impose a tax on sales is inequitable and unfair. It seems strange to us

that so many good men have been gripped by the idea of a sales tax, especially a turnover tax, when on a careful analysis such a tax would be very unequal in its application and prove in years just as burdensome and uneconomic as the excess-profit tax.

It is perhaps significant that neither Mr. Houston, Secretary of the Treasury under the Wilson administration, nor Mr. Mellon, Secretary of the Treasury of the Harding administration, are willing to recommend a sales tax. Dr. Thomas Sewall Adams, adviser of the Treasury Department of both administrations, has the following to say on the sales tax.

Dr. Thomas Sewall Adams, professor of political economy at Yale University and chairman of the advisory tax board of the Bureau of Internal Revenue, in a recent address in New York City, before the National Republican Club, said:

The whole tendency of the sales tax would be to favor large combinations which control products from the raw material to the finished article, and would inevitably tend to increase the size of existing combinations and to bring about new ones.

The larger the number of small, independent business men, farmers, repair men, and other sturdy and independent contributors to material prosperity, the healthier must be the condition of our economic life. To reduce the numbers of these people, to bring about great combinations, would make terrific political problems. Such taxation in its results does tend to separate the classes, and it is going to be increasingly difficult in the coming years to prevent class warfare.

Our organization, the Committee of Manufacturers and Merchants on Federal Taxation (Inc.), with headquarters at 1346 Altgeld Street, Chicago, which speaks for 30,000 manufacturers, jobbers, and merchants and nearly 150 commercial organizations, have gone on record against the sales tax in the following language:

What business men might seemingly gain in lower taxes under this plan they would much more than lose, not only in increased strikes and labor disturbances, but in smaller profits due to the decreased trade that would follow. This is not mere theory; it is a historic fact. Any tax that will raise the price to the consumer is bound to cut down sales. Any tax that will increase the cost of living and reduce the purchasing power of the buyer is certain to restrict demand, curtail commercial activity, and slow down production generally. As this is written, word comes from Canada that the Government has now lifted the tax on numerous luxuries because the higher prices, resulting from the imposition of the tax, has practically cut off all demand, and forced many luxury-making industries to the wall. Such has been the experience in all countries and in all times. It was the stagnation of business caused by a sales tax rigidly enforced that brought Spain in the Middle Ages from the pinnacle of prosperity to the depths of poverty, just as it was the stagnation of business, due to the heavy sales tax imposed in the Netherlands by the Duke of Alva, that reduced that sturdy little nation to a howling wilderness.

No matter how or when or where a tax on industry be levied, the effect is always to injure industry; tax sales and you cut down the number of sales; tax imports and you shut out imports; tax manufactures and you check manufacturing; tax improvements and you lessen improvement; tax commerce and you prevent exchange; tax business and you drive it away.

The above quotations are purely economic, but of course there is a political side as well, and the political opinion is well expressed by Congressman James A. Frear as follows:

In my judgment any party that passes a sales tax will be held strictly accountable by the people, who will have to pay increased cost of everything they eat, drink, and wear.

So far as known every farmers' organization, including the Farm Bureau Federation, has gone on record against a sales tax. Organized labor is taking the same position, as it might naturally be expected it would. With fully 80 per cent of the population of the

country as represented by labor and by farmers opposed to the sales tax, and with business men sharply divided as to their attitude, it is not to be expected that Congressmen will be sympathetically inclined toward a sales tax.

Senator SMOOT. If Mr. Samuel Gompers came out for a sales tax you would favor it, would you not?

Mr. LIGGETT. I beg your pardon?

Senator SMOOT. If Mr. Samuel Gompers announced his approval of a sales tax, you would be for it?

Mr. LIGGETT. No, sir; certainly not. We have nothing to do with the opinion of Mr. Samuel Gompers.

Senator SMOOT. If the Grangers were in favor of it would you be in favor of it?

Mr. LIGGETT. Senator, I personally do not change my views upon such flimsy pretexts. I am now speaking for the association of merchants and manufacturers—

Senator SMOOT. You are calling attention to these parties being opposed to it; but if they should change their opinion, that would not change your mind at all?

Mr. LIGGETT. Not at all, Senator. You are stating a hypothetical case and I am stating facts.

Senator SMOOT. We will see about that before a month is over.

Mr. LIGGETT. All right. Thank you.

It is, however, necessary to raise a certain fixed sum annually for Federal revenue, and the present administration has pledged itself to repeal the excess-profits tax. This explains why the sales tax was suggested to supply the deficiency. We have given reasons why we think the Smoot bill out of the question, but we are not in the position of making destructive criticism without offering a constructive remedy. As a substitute for the suggested sales tax, the Committee of Manufacturers and Merchants and the Farmers' Federal Tax League of America advocate the land values tax measure which was introduced in the last Congress by Representative Nolan, of California, and which will soon be reintroduced by Representative Oscar E. Keller, of Minnesota.

The land values tax measure advocated by the Committee of Manufacturers and Merchants on Federal Taxation and the Farmers' Federal Tax League of America provides for a 1 per cent tax on land values, after deducting all improvements and allowing an exemption of \$10,000. Such a tax would raise at least \$1,000,000,000 annually; it is easily and cheaply collected; it can not be passed on to the consumer; it will decrease instead of further inflating prices; it will actually promote productivity instead of checking consumption; and it is just because its principal burden will fall on the owners of idle lands, vacant city lots, and unused natural resources who are holding property for speculative purposes and enjoying the benefits of our Federal Government without paying to support its burdens.

The last census reports show that land values and industrial values in the United States aggregate about \$140,000,000,000. Yet industry pays a total tax of more than \$4,000,000,000, while land values only pay \$600,000,000 in taxation, and not one penny of this comparatively insignificant sum goes to the Federal Government. The injustice of this distribution of taxes is apparent at a glance and naturally leads one to question why, with billions of injurious taxes

levied upon manufacturers, merchants, and business men generally, the owners of from fifty to sixty billion dollars' worth of vacant land and idle natural resources should escape without paying a cent of Federal taxation? We contend that the only logical method of relieving the present oppressive taxes upon industry is to place at least a small proportion on lands values, which, after all, are created by community use.

Senator SIMMONS. Do you not think that that would be a tax that would be constitutional?

Mr. LIGGETT. Personally I am not competent at all to pass upon that point. I am not a lawyer. I could not give you any opinion that would be worth anything; but we have consulted some of the best lawyers in the United States, and the lawyers whom we have consulted are unanimous in stating that the law is completely constitutional. Of course I can only give the opinion of attorneys. My own opinion is worth nothing.

Senator McCUMBER. That is, under the last amendment to the Constitution?

Mr. LIGGETT. Well, I assume they took that into consideration, Senator. That is purely a legal question. I have not gone into that at all.

We contend, further, that whereas the sales tax will prove ruinous to industry and greatly retard the normal courses of business, the land values tax actually will decrease the cost of living, stimulate production, check the alarming increase of farm tenantry, greatly increase our farm crops, tend to break up some of our most vicious monopolies in natural resources, and in general act as a tonic upon our national life. In this connection I want to quote four very well-known and extremely successful business men, whose opinions certainly should have weight with this or any other committee.

The first of them is Mr. Otto Cullman, president of the Cullman Wheel Works of Chicago, Ill., and chairman of the Committee of Manufacturers and Merchants on Federal Taxation. Mr. Cullman says:

No matter how or when or where a tax on industry be levied, the effect is always to injure industry. Tax sales and you cut down the number of sales; tax imports and you shut out imports; tax manufactures and you check manufacturing; tax improvements and you lessen improvement; tax commerce and you prevent exchange; tax business and you drive it away.

It follows, therefore, that since the putting on of new taxes on industry, as the proposed tax substitutes would do, would have the effect of further crippling industry, the taking off of taxes on industry would inevitably have the effect of promoting and stimulating industry.

Let us now turn to the tax on the privileges of land ownership. Here we find the very opposite principles to be true. For land is not artificial like industry and its products; it is natural. It is not produced by man, but has been produced by nature. Products may be duplicated or reproduced, but land can not be duplicated or reproduced. There may be any number of crops of machines, buildings, locomotives, warehouses, or factories, but there is only the one crop of land. Products can be moved about, burned up, blown to fragments, destroyed or replaced, increased or decreased, but not so with land. Land is stationary and its quantity is rigidly fixed.

No amount of land-value taxation, therefore, can reduce the supply of land, injure business, check production, or stop one wheel of industry. On the contrary, the more the value of land is taxed the more the land is used, and consequently the better it is for business, whereas the less the value of land is taxed the less the land is used, and consequently the worse it is for business.

This is true because the lighter the tax on the value of land the greater is the inducement to hold the land idle for speculation, or for the "unearned increment" that it will yield in the future. The heavier the tax on the value of land, on the other hand,



the greater is the inducement to put the land to profitable and intelligent use. And it is the land that is used and developed, not the land that is unused and undeveloped, that turns the wheels of industry.

In any event enough has now been said, I think, to show that the conclusions reached by the Committee of Manufacturers and Merchants on Federal Taxation are basically sound. It is manifestly unjust to compel industry—which feeds and clothes the Nation—to pay over five-sixths of the heavy Federal tax burden, while the privilege of holding land and natural resources—which renders no service and which is worth as much as industry—is allowed to bear less than one-sixth of the total burden. Such a policy is not only extremely unjust and unfair to industry in general, but it is fraught with a grave danger. If we are to keep the wheels of industry moving and our workmen employed, if we are to maintain agriculture on a paying basis, if we are to encourage commerce and hold our own in the keen competition for the world's markets, and if we are to stay clear of the financial rocks upon which the nations of Europe are now going broke, then we must adopt such a tax policy as conforms in the future with the principles of good economics, good morals, and good government.

Allow me now to quote Mr. James H. McGill, president of the McGill Manufacturing Co., of Valparaiso, Ind., one of the largest manufacturers of electrical specialties in the United States. Mr. McGill says:

The American business is already suffering from inflation and the oppressive burdens imposed by increased freight rates under the Esch-Cummins law. It can not prosper under the additional load which the Smoot sales tax bill would create. The bill is primarily a device by which the 5 per cent of the people, who own 65 per cent of the wealth of the Nation, propose to shift the burden of taxation onto the backs of the already heavily laden 95 per cent who do the work of the Nation.

Congress seems determined to annul the higher income surtaxes and the excess-profits taxes, but a great mistake will be made and a great harm will be done to business if the sales tax is adopted as a substitute. The land values tax is superior in every respect, and even if the sales tax is adopted to meet the demand of certain big interests, the country ultimately will turn to the principles advocated in the land values tax measure.

I now will quote Mr. Charles H. Ingersoll, of New York City, vice president of the Ingersoll Watch Co., who recently made the following statements in regard to our tax problems:

President Harding stated an obvious truth in his recent message to Congress when he declared that "The most substantial relief from the tax burden must come for the present from the readjustment of internal taxes and the revision or repeal of those taxes which have become unproductive and are so artificial and burdensome to defeat their own purpose," but, assuming that he had the relief of the industry in view, it is a great pity he did not go a step further and recommend that Congress pass the only form of tax that falls neither upon business nor upon labor. I refer to the one which provides for a 1 per cent tax on land values after all improvements have been deducted and an exemption of \$10,000 allowed.

Indirect taxation on the consumer through the medium of the income and excess profits tax has been tried and has failed. All these taxes are included in business costs and passed on to the purchasing public with additional charges for collection. They have discouraged business, for the public finally went on a strike as the result of the excessively high prices which this unscientific method of taxation caused. For taxation is like a rolling snowball and increases with each of the many operations of the commercial system. Every business man who knows his business makes just as much profit on his taxes as he does on his labor and material—perhaps more—because he learns to be "on the safe side of things" so uncertain as taxes and makes a larger allowance than the actual tax requires. That explains why the \$4,000,000,000 levied by Uncle Sam through internal revenue undoubtedly is increased to ten or fifteen billions by the time it is paid by the ultimate consumer. No wonder there is inflation; no wonder prices are high; no wonder the public went on a buying strike with a consequent depression of business.

In other words, Uncle Sam is largely responsible for creating the exorbitant figures of your weekly budget; first, by indulging in wars; second, in perpetuating war expenses after the war; and, third, in selecting forms of taxation that make the people instead of the war profiteers foot the entire bill.

This is the inevitable result of all indirect taxation. Turgot, the financial minister of the Bourbons, described it as a method of "plucking the goose without the goose"

knowing it and squawking." But even geese and the public can not be plucked indefinitely without reprisals. The Bourbons discovered this when the French Revolution overwhelmed them and our own industrial Bourbons were rudely awakened by the buyers' revolt. The sales tax, proposed in some quarters as a substitute for the income and excess-profits tax, would be even more vicious than the measures it replaces. This tax is so unscientific and so iniquitous that it is difficult to conceive how it can be sponsored by responsible statesmen. It would strangle retail business just as the increased railroad rates have harmed instead of helped the transportation companies.

There is, however, an alternative. That is a tax upon land values or, rather, upon the privilege of owning land. This tax has several unique features: First, it is direct and can not be passed, like a buck, to the public. Second, it encourages instead of discourages business. Third, it is a tax upon idleness instead of industry; and, fourth, it actually reduces instead of increases the cost of living. I let me prove these four points in order:

All economists are agreed that a tax on land values can neither be shifted to the tenant nor added to the price of the products from the land. Therefore this tax must be paid by those who own land and can not be shifted to the consumers.

The tax encourages industry because it checks speculation. Idle land now held out of use for speculative purposes must pay as much taxes as improved property. The speculator can not afford to pay this tax on unproductive property; therefore he will either make the property productive himself or sell it at a reasonable price to someone who will. The same applies to unused natural resources held by monopolists. The tax on land values will do more than all the antitrust laws to restore competition and make the law of supply and demand an actuality instead of a legal myth. This proves my contention that the main burden of this tax falls upon idle owners and idle resources instead of upon the industries.

By putting idle land into use, by checking monopoly by forcing the development of unused resources, by breaking up the huge estates of absentee landlords and thus abating farm tenantry, and by reducing rents everywhere by encouraging building, the tax on land values decreases the cost of living and prevents inflation. It not only promotes industry and encourages sound business, but has a strong tendency to equalize all of the most glaring of our existing social injustices.

My fourth witness is Mr. Frederick F. Ingram, president of the Ingram Manufacturing Co., of Detroit, Mich. Mr. Ingram says:

I very much fear that the sales tax will prove injurious to industry just as increased transportation charges have harmed instead of helped the railroads. The sales tax is unscientific; it can be passed on to the public in a constantly mounting sum; and it is certain to act as a check upon industry.

Taxation is the most serious problem that confronts Congress and it never will be settled until it is settled right. The land values tax bill offers the sanest Federal tax program that ever has been proposed. Organized labor has indorsed the principles of the bill and the progressive farmers are also advocating the measure as they come to understand that exemptions eliminate at least 95 per cent of the actual tillers of the soil from its operation.

Senator SMOOT. Mr. Chairman, I find that I shall have to leave now. Before going I wish to say that I have here the referendum of the Chamber of Commerce of the United States of America. An analysis of the actual vote made by referendum shows, substantially, for sales tax, 1,350; against sales tax, 350. The National Association of Manufacturers voted yes on proposition four, which was this: "Shall a sales tax be levied instead of the taxes mentioned in proposals 2 and 3?" They voted no on proposal 5, which is: "Shall a sales tax be levied in addition to such taxes as are mentioned in proposals 2 and 3 as above?"

Mr. LIGGETT. Before you go, Senator Smoot, may I ask you whether it is or is not a fact that the United States Chamber of Commerce, in session at Atlantic City about two weeks ago, did pass a specific resolution opposing the sales tax?

Senator SMOOT. I have never seen a copy of it.

Mr. LIGGETT. I shall be very brief now, Mr. Chairman. I have just a couple of paragraphs left.

**Senator DILLINGHAM.** Does the rest of your article consist of quotations in support of your views?

**Mr. LIGGETT.** There is just one more paragraph of quotations, Senator.

**Mr. Ingram** says further:

A 1 per cent tax on land values, after improvements are deducted, and a \$10,000 exemption allowed, will not be a burden on producing property, but will force absentee landlords and holders of idle property for speculative purposes either to develop their holdings themselves or to sell them to some one who will. Aside from adjusting present tax burdens to a more equitable basis, the land values tax will tend to check farm tenantry and to break up monopolies in natural resources. The committee of Manufacturers and merchants on Federal taxation intend to incorporate this bill on the statute books of the Nation if it is humanly possible, and, if we can possibly prevent it, we will not permit the passage of the burdensome and iniquitous sales tax measure.

That concludes Mr. Ingram's quotation. So far, the chief objection advanced against the proposed land values tax is the claim that the largest proportion of the revenue raised by this measure would come from the farmers. This assertion is made by persons who either are ignorant of the facts or are attempting to confuse the issue. Analysis shows the utter falsity of the allegations that the land values tax would impose added burdens upon the farming interests of the country; instead, the average farmer will pay far less under the measure than under the provisions of the sales tax.

The land values bill which Representative Keller will soon introduce deducts all improvements (buildings, fences, tilling, etc.) and then allows an exemption of \$10,000. It is exceedingly doubtful, under the definition of farm values in this proposed act, whether 2 per cent of the farmers of the United States would be taxed at all under its provisions. The average farm value in the United States in 1910 was only \$4,476, according to the census of that year, and, allowing the most generous estimates for inflation in farm values, it still is perfectly patent that an overwhelming majority of the farmers of the country would entirely escape paying this tax.

The statistical department of the committee of manufacturers and merchants is now working out a table, based on the 1920 census returns from 15 States, which shows that in Alabama 99.9 of the farms will pay no taxes under the land values tax bill; that in Colorado 95.6 per cent; in Delaware, 99.7 per cent; in Indiana, 91 per cent; in Massachusetts and Maryland, 99 per cent; and in Maine, 98.8 per cent of owners of farm land would pay no taxes whatever and the trifling number who would be called upon to are "country gentlemen" and not real farmers.

The small per cent of agricultural landowners who would be compelled to pay taxes under the land values law would not be farmers at all, but the possessors of great estates, absentee landlords, and great corporations which hold huge tracts of fertile land out of cultivation so that they may benefit by its increase in value—and the value is increased solely through the labor of neighboring farmers who actually produce. These are the "farmers" who will be called upon to pay Federal revenue under the land values tax measure. The taxes of the real farmers—the men and women who feed America by the sweat of their brows—will be materially lessened by the land values tax.

In conclusion, let me state again, that the Committee of Manufacturers and Merchants on Federal Taxation, representing a large

sector of the most influential and substantial elements of our business community, and the Farmers' Federal Tax League of America, whose membership reflects the intelligent opinion of farmers from all parts of the Nation, most emphatically protests against the passage of the sales tax bill, and, in its stead, we respectfully urge that your committee give serious consideration to the land values tax, which, in our opinion, is the most scientific and constructive excise measure yet proposed.

We feel that it offers the only solution that can remedy the business stagnation that has resulted from the wasteful and unscientific revenue raising devices which this Government adopted when it entered the war. The country is paying for that mistake now, and it will continue to pay, until we finally adopt the one just and economic method that will not only produce the needed Government income, but allay some of the most serious of our social disorders, whose disturbing evidences on many sides give grave alarm to all those who really love their country.

(The table referred to is as follows:)

*Farmers in 15 representative States who will pay \$1 or more taxes under the Ralston-Nolan bill, compared with the number who will be exempt, by States.*

[1920 census.]

State.	Total farms.	Number of farmers who will pay no taxes.			Number of farmers who will pay \$1 or more taxes.		Per cent of farmers who will pay no taxes.
		Tenant farmers (exempt).	Farmers having land worth less than \$10,000 after deducting value of improvements.	Total.	Farmers having land worth over \$10,000 after deducting value of improvements.	Per cent.	
Alabama.....	250,099	148,269	107,447	255,716	371	0.1	99.9
Colorado.....	59,934	13,703	43,525	57,288	2,024	4.4	95.6
Delaware.....	10,140	3,986	6,123	10,109	31	.3	99.7
Indiana.....	235,121	65,587	120,922	181,509	18,564	9.0	91.0
Maryland.....	47,908	13,841	33,741	47,587	325	.7	99.3
Massachusetts.....	32,001	2,287	29,406	31,083	322	1.0	99.0
Maine.....	48,227	2,004	45,676	47,680	526	1.2	98.8
Ohio.....	256,695	75,644	163,613	239,257	17,318	6.8	93.2
Oregon.....	50,206	9,427	36,319	45,746	4,529	9.0	91.0
Rhode Island.....	4,083	633	3,401	4,634	49	1.2	98.8
Tennessee.....	252,774	103,885	147,748	251,633	1,135	.4	99.6
Utah.....	25,662	2,787	21,565	24,352	1,309	5.1	94.9
Vermont.....	29,075	3,380	25,146	28,532	556	1.9	98.1
Washington.....	64,288	12,419	43,636	56,055	10,255	15.5	84.5
West Virginia.....	87,289	14,098	71,800	85,898	1,347	1.5	98.5
Total.....	1,431,507	472,607	900,083	1,372,089	59,290	4.1	95.9

#### ANALYSIS.

The figures given in the above table may be verified in the following manner:

Take the 1920 Census Report on Agriculture for each State.

Divide all farms in each State into two classes: (1) Those having land worth less than \$10,000, after deducting the value of buildings, fences, clearing, draining, fertilizing and similar improvements; and (2) those having land worth over \$10,000, after deducting the value of the same improvements.

Then deduct from each class the number of nonlandowning farmers—i. e., tenants—as based upon the percentage of tenancy given for each State. The number of farmers remaining in the second class therefore constitutes all of the actual farmers in each State who will pay \$1 or more taxes under the Ralston-Nolan bill.

To find the total number of farmers who will be entirely exempt from any tax under the bill simply add all of the nonlandowning farmers (tenants) in the State to the number of landowning farmers in the first class having land worth less than \$10,000, after deducting all improvements.

For example: The 1920 Census Bulletin on Agriculture contains the following information for Ohio:

Size of group.	Number of farms.	Average value of land. <sup>1</sup>
<b>Class I:</b>		
Under 20 acres.....	31,479	\$3,315
20 to 49 acres.....	44,535	4,963
50 to 99 acres.....	86,317	8,716
100 to 174 acres.....	69,738	13,616
	232,089	.....
<b>Class II:</b>		
175 to 499 acres.....	21,773	24,082
500 to 999 acres.....	726	63,967
1,000 acres and over.....	105	142,170
	24,606	.....

<sup>1</sup> Including buildings, fences, wells, cost of clearing, draining, fertilizing, etc.

If, now, we deduct the value of all buildings, fences, wells, cost of clearing, draining, fertilizing, etc., from the value of the farms given in each group (the Census Bureau, unfortunately, does not do this), it will be found that the value of the land in the first four groups (Class I) will easily fall below \$10,000, while the value of the land in the last three groups (Class II) will in most cases at least go above \$10,000. In any event there are 232,089 farms in the State whose bare land (exclusive of all improvements) is worth a great deal less than \$10,000, whereas there are only 24,606 farms in the State whose bare land (exclusive of improvements) is worth over \$10,000.

But the Census says also that 75,644, or 29.5 per cent, of all farmers in Ohio are nonlandowners (i. e., tenant farmers). Since all economists agree that a tax upon the value of land can not be shifted to the tenant or consumer, it follows that none of these 75,644 farmers will have to pay any taxes, whether they be in the first four groups or in the last three.

Subtracting, therefore, the number of tenants (29.5 of 24,606, or 7,258) from the number of farmers in the last three groups, we have only 17,348, or 6.8 per cent, of all the farmers in the State of Ohio who will be called on to pay \$1 or more in taxes under the Ralston-Nolan bill.

To find the number of farmers in the State who will pay no taxes under the bill simply deduct from 232,089 (the number of farmers in the first four groups) 29.5 per cent of this number, or 68,456, which gives us 163,613. To this add the number of all the tenant farmers in the State, namely, 75,644; this gives us, then, 239,057, or 93.2 per cent of all of the farmers in Ohio on whom will fall no taxes whatever under the bill in question.

**Senator DILLINGHAM.** You have not examined the provisions of the Constitution on the right to lay a land tax?

**Mr. LIGGETT.** I have not personally, but we have had some of the best lawyers go into that question, and they assure us that it is constitutional.

**Senator DILLINGHAM.** And they hold that Congress would have power to lay a land tax?

**Mr. LIGGETT.** Yes, sir.

**Senator DILLINGHAM.** Can you state upon what ground they make that statement?

**Mr. LIGGETT.** No; I have not even gone into that, Senator. If you are particularly interested in that point, I think that perhaps Mr. Jackson H. Ralston, of this city, who is one of our attorneys, and who has given that matter a good deal of thought, would be very glad

to appear before the committee; but my own opinion on it is worthless, because I am not a lawyer.

Senator McCUMBER. I just want to ask you one question. I agree with you entirely that with a \$10,000 exemption you would practically eliminate all real farms from consideration. But suppose you add a 1 per cent tax on city property and it will practically all go into and be taxed against city property—

Mr. LIGGETT. About \$40,000,000,000.

Senator McCUMBER. Suppose you add that to a store building down here. Will not that tax be immediately added as a part of the overhead expenses of the person doing business in that building?

Mr. LIGGETT. No. In the first place, Senator, the bill specifically exempts improvements. A vacant lot next to a building on which you are erecting a 10-story skyscraper would pay precisely the same tax. So none of that tax would fall upon business.

Senator McCUMBER. Whatever effect it would have, it would be carried on to the consumer just the same as other taxes, would it not, as a part of your overhead expenses?

Mr. LIGGETT. No. I think I can explain why that is not the case. It has been tried in Vancouver and elsewhere. I believe Senator Calder made a statement in that connection in New York City before the City Club last week. Did they not exempt improvements in New York to try to alleviate the housing condition there?

Senator McCUMBER. I do not think they have yet.

Mr. LIGGETT. I am not certain about that. But in Vancouver and numerous other places where it has been tried the immediate result has been that the productive and nonproductive land both pay some tax, and the tax, of course, is heavier on the nonproductive land. The owner of the nonproductive land is compelled to make that property productive. Of course, that creates more buildings, and more buildings instead of increasing rents, through the operation of the law of supply and demand and through natural competition, actually lessens rents.

Senator McCUMBER. Of course, the owner of nonproductive lots and land pays taxes now. It would simply be an addition of 1 per cent tax.

Mr. LIGGETT. No; he pays tax now, but he pays a relatively small portion. It is the improvements that are penalized under our present tax program.

Senator McCUMBER. But I am assuming that he pays just upon the bare land or lot the same as your merchant would pay upon the bare lot instead of his building on that lot. But, nevertheless, he is paying tax upon that, and it seems to me that that would be the only case in which it probably would not be taken directly over to the consumer. It would be adding to his tax.

Mr. LIGGETT. I think the immediate effect of that, though, Senator, would be as I have stated, that it would increase improvement on land, and that in time, and probably immediately, as it worked out in Vancouver, at least, would have the effect of actually reducing rents.

Senator McCUMBER. Of course, if the tax were heavy enough it would compel the owner of a vacant lot either to sell it or to put improvements on it.

Mr. LIGGETT. I might state the case, which I think we are both probably familiar with, of the effect of the North Dakota law upon

the improvement tax. I have given a good deal of thought to the tax situation in North Dakota, and I know that in Burleigh County, N. Dak., five big concerns—incidentally all of them living outside of the State—own as much land as the rest of the farmers in the county. They were holding that land and were not producing. They got the land originally out of railroad grants and were holding it for speculative purposes. The immediate effect of that law was to make these fellows sell their land. They could not afford to hold idle land when they were paying these taxes, and they did sell out to somebody who would produce.

**STATEMENT OF WESTERN STARR, WASHINGTON, D. C., REPRESENTING THE FARMER-LABOR PARTY.**

Mr. STARR. My name is Western Starr. I reside in Washington. I represent the Farmer-Labor Party here to-day.

I have had experience as a practical farmer and I have been asked to present the farmer-labor position on the sales-tax matter.

I want to say at the beginning that I find here the address to Congress by the Tax League of America, and I want to state that the first paragraph of their communication, to my mind, is very true, but it is an understatement of the truth. Where he says that we are in the midst of hard times brought about, in a large measure, by our present destructive system of taxation, I wish to reemphasize that. I have already made that point in a paper which I shall use as the text of my remarks.

Senator SIMMONS. Brought about by what?

Mr. STARR. Brought about by destructive systems of taxation. I do not suppose there is a public question of any kind that will be more thoroughly understood, more soundly reasoned out, during the course of the next few years, in this country at least, than the problems of taxation, because it is a question that goes home to every member of the community pointedly, and there is no escape from the fact that it is going to be discussed. It is going to be considered; it is going to be investigated; the history of the subject is going to be worked out, and by the time the next half decade has passed I think it may be safely claimed that the people of America will know all there is to know about taxation.

Now, we have gotten quite a ways ahead of the time when an English King used to send a tax collector out to the Ghetto with a bag and a pair of forceps and he was required to come back with the bag full either of gold or back teeth, one or the other.

We are not nearly as far along, however, as they were 2,000 years ago, when the Roman Republic had precisely the same propositions to consider that we are considering. The Roman Republic was practically on its last legs, a tremendous expansion of its people and its territory requiring unprecedented sums to consolidate their gains, making it necessary that new sources of revenue should be provided. Julius, who was called the foremost man of all the world, took that question into his own hands, and he solved it in a way to keep the Roman power alive for more than five centuries after he had been murdered by a corrupt senatorial oligarchy whose schemes he had defeated. I do not know that you will find the statement made in any reputable historian's book that Caesar was murdered by this

oligarchy as a matter of revenge, but that is the literal fact, and trying to get him out of the way and putting him out of the way did not overcome the popularity and the value to the community which his great services had rendered. He took the properties that the collegia and the guilds had, the property that they had been using, and diverted public revenue into the State, where it stayed during the continuance of Roman power. I think nothing has been more clearly demonstrated by the events of the last few years than the fact that the great problems of government center on the proposition of the production and distribution of wealth. It seems to me that that is the core of the whole thing.

I think it would not be difficult to trace the origin of the conditions which produced the war to that center. The proposal to substitute a sales tax in place of the present taxes on incomes and surtaxes in order to raise from a billion to a billion and a half—and the estimates vary as to that, it having been stated here yesterday that it would produce three billions, while others stated a less amount, although I want to be conservative about it and say from a billion to a billion and a half—makes it necessary to survey the whole problem of public revenue, and in such a survey you can not exclude the social implications, the political, economic, and industrial conditions which are contingent entirely upon what is done with reference to that matter. It is well to consider the possible consequences of the adoption of that principle.

Adam Smith a good while ago stated that a tax is merely compensation paid to the State by the taxpayer for and in consideration of a service rendered to the taxpayer by the State. Now, Adam Smith came to the study of political economy by reason of his work as a moral philosopher, a teacher of morals in a great school, and in order to determine why it was that men were unable to live moral lives, to live and act out their natural instincts as moral beings, it became necessary for him to undertake the study of conditions under which men were forced to live and which compelled them to live immoral and unnatural lives, and he developed the science of political economy. They call it dismal science. It is no more dismal than astronomy. It is as perfectly beautiful and symmetrical as any science can be. If that is true, and it has been accepted by all thinkers, any departure from that proposition necessarily must work a great injustice; the greater the departure the greater the injustice.

The purpose of the State is to insure to every citizen of the enjoyment of the full proceeds of his labor for a definite purpose, and that purpose is to the end that production and distribution of wealth may be promoted. The test of a nation's greatness is its capacity to produce, and production can not exist without consumption.

In providing for the new time that is coming it is wise, I think, to recognize the fact that the formulas of the past have been completely discredited; that the nature of the present widespread unrest, which is not merely confined within the boundaries of any one nation, but which is worldwide in its character; and the wide range of critical pretexts for this unrest, are convincing indications, to me at least and to many others, that a general reorganization of the political and economic machinery of society is imminent.



I want to say here that it is my firm conviction that what they call the progressive movement is more in need of guidance now than it is in need of steam. I believe that the movement has attained such momentum that unless it is guided aright it will work destruction; it will be a tremendously costly experience for society at large and much more so here in America than it can be elsewhere, where our people have been accustomed to free deliberation, to free assembly, to free speech, as contrasted with nations where that is not the case.

It will be much more difficult to control that spirit here than it will be elsewhere, and that is why I think it is necessary that no step should be taken, no legislation involving great changes of policy should be adopted, without the most scholarly, the most studious, the most scientific consideration; the best knowledge that the human mind is capable of is required here now. We are in a more critical and more dangerous situation than anybody believes. Just as this tax league says, "In the humble opinion of the Tax League of America the importance and magnitude of the question are underrated by our wisest men." The Nation is in an economic crisis. It is not only in an economic crisis; it is in a moral crisis and a political crisis, and the vital significance of what is done during the next few months with reference to this question is of greater importance to the State and our civilization than a simple matter of raising public revenues.

Forces have been released and set in operation by the great events of the last few years that we do not begin to estimate.

Now, a very brief statement of the basic principles that have been developed by our experiences which mark the current popular thought; and that is what I am trying to express as the representative of the Farmer Labor Party, the current popular thought. I am not trying to promulgate a new theory; I am not trying to indoctrinate this committee with my own ideas; I am simply trying to tell you what is the deliberate consensus of opinion of men whose judgment is accepted by that great inarticulate mass that stands behind the Farmer-Labor Party.

Taxes are paid in wealth. They can not be paid in anything but wealth, and all wealth is produced by labor as the labor is applied to opportunity. Wealth can be acquired in only two ways. One of them is by labor and the other is by law. Law is the mother of monopoly. Monopoly is the power to use a public right for a private purpose. Generically there are only two things that can be monopolized. One is the surface of the earth and its contents, and the other is the key to the surface of the earth, that we call credit. There is no subject of monopoly which, generically, does not sift and filter into one or the other of those two great groups.

I have in my bag a copy of the last annual report of the Commissioner of Internal Revenue. I doubt if this committee, or if the administration which prepared it, realizes the significance of that report. It is a most damnable indictment of American public policy, that in a nation of 105,000,000 people less than 4,500,000 of them had incomes sufficient to justify a return on a \$2,000 income.

I do not know whether you realize, as the Farmer-Labor Party does, the significance of that condition. Estimating a population of 105,000,000 people and estimating that each one of the 4,500,000

people who made returns represented a family, which by no means they did, reducing it to families, there were less than 18,000,000 families, or just about 18,000,000 families for which no return was filed. That is to say, over 85 per cent of the population of the country had no income tax returns made for them at all.

Inequalities in the distribution of wealth in the United States flow, as the Tax League says, and as I declare, very largely from a disregard of the principles enumerated above, and from none of them more largely than from departures from sound principles of taxation.

Remembering that a tax is the compensation paid for a service rendered, let us assume that the grant of a monopoly is a distinctly valuable service rendered, or that the toleration by the State of the operations of a self-erected monopoly is a continuing grant of enormously valuable services, and if that is true—and I assume it will not be denied, certainly not by competent economists—the interests, the organizations which have received and still use these immensely valuable services under the accepted definition of an equitable tax, should pay to the State the annual value of the privileges that they enjoy. The question will be raised at once: How can you determine the value of a privilege? It is the easiest thing on earth. Find how much somebody else would pay for the right to use it. We are doing that every day. Up here on Wall Street they are doing it at a rate of 1,000,000 shares a day some days.

The formula that taxes should be levied in accordance with the ability to pay is an incorrect attempt to state a proper principle. Sometimes it works out in approximation to justice and to a just result; yet it works infinite injustice in all cases where incomes are taxed which do not flow from a grant of power or service by the State. Professional men, chemists, architects, merchants, or manufacturers who enjoy no advantage beyond their own personal character and qualifications suffer a great injustice when they are compelled to pay the same taxes proportionately that men pay who enjoy grants of immensely valuable favor on the part of the State. The correct statement of the principle is that taxes should be levied in accordance with the value of the privilege enjoyed. You can not get away from that.

Senator WATSON. You make a distinction between earned and unearned incomes?

Mr. STARR. Yes, sir. That is a very important distinction, a distinction which will have an immense influence upon the future course of our political and social development, as I believe.

The latest report of the Internal Revenue Commissioner gives the data from which it is found that 17,711,656 families lived upon incomes below \$2,000. This is below the amount fixed as a minimum to maintain a decent standard of living in the American family. The average income of the farmers of the United States, as reported—I can not recall, now, the name of the authority, but it was official; I do not mean governmentally official, but it was a representative organization of people who were investigating the subject, not counting the value of the commodities consumed as a result of farming operations, raising their own meats, their own eggs, their own butter, and their own vegetables, but the actual incomes of the American farmers were less than \$450 a year.

These 18,000,000 families are now spending their entire incomes to keep alive, and in cases where it is possible they are drawing upon savings to eke out their incomes. In all cases where these conditions obtain the burden of a sales tax will reduce the family purchasing power by not less than \$50 per family. It has been estimated at more than that, but I want to be conservative. I will say \$50 per family.

Senator SMOOT. That would be 1 per cent on \$5,000?

Mr. STARR. Yes, sir; that would be 1 per cent on \$5,000; but the amount added to this by adhering profits in the natural turnover from original producer to ultimate consumer will multiply that by more than three times. In other words, the cost to the taxpayer will be at least three times the amount of revenue derived by the Government. So that you may call it \$150 per family and still be very conservative.

Senator SMOOT. How can you make that statement when you claim that the income of all of the 18,000,000 families is below \$2,000? They can not spend any more than their income, can they?

Mr. STARR. Certainly not.

Senator SMOOT. One per cent of \$2,000 is \$20.

Mr. STARR. Exactly. One per cent of \$2,000 is \$20, but the cost of the things that they have to live on comes in there. I think perhaps there is a point in your suggestion, Senator. I have no doubt of it. It is a question that I will have to look up. But this is figured as to what the average cost is going to be, dividing the amounts expected to be raised—

Senator SMOOT. The farmer, you say, does not have to pay any sales tax at all on what he uses in his family?

Mr. STARR. Certainly not.

Senator SMOOT. Then his average is \$450, you say?

Mr. STARR. Yes, sir.

Senator SMOOT. One per cent on that is—

Mr. STARR. \$4.50.

Senator SMOOT. And you say, now, that it is \$150.

Mr. STARR. I say that the cost per family, averaging the thing up by families—

Senator SMOOT. You know that is impossible, do you not?

Mr. STARR. No; I do not. Taking the amount which this tax is expected to raise and apportioning it among the families that have got to pay it, it comes to that amount.

Senator SMOOT. Of course, you know that we can not do that.

Senator McCUMBER. I understand that witness's suggestion is that for each \$50 that the Government gets, the consumer will pay \$150?

Mr. STARR. Exactly.

Senator SMOOT. His argument is that if there are three turnovers, of course, the Government would get every turnover of tax on the sales.

Mr. STARR. I go further than that estimate of three turnovers. I will take the Senator's own suggestion as to turnovers—about seven. But I am cutting it clear down so as to be conservative and clearly within the line.

Senator McLEAN. Your idea is, I think, that if the tax on the turnovers is pyramided it finally is charged up to the last consumer?

Mr. STARR. Absolutely; that is the expectation.

Senator McLEAN. And if it averages 3 per cent or 3½ per cent in some instances—

Senator SMOOT. That is the highest.

Senator McLEAN (continuing). And if a man gets \$800 a year and spends it all, his tax, instead of being 1 per cent, is 3 per cent?

Mr. STARR. That is exactly so. That is the point I want to make. I think my language has been a little cloudy there.

Senator SMOOT. If it is \$1,500, 3 per cent of that will be \$45.

Mr. STARR. The average income of the nearly 18,000,000 families for which no income report was made can not exceed \$1,500. It is, in fact, very much less than that. The reduction of their buying power by 10 per cent cuts down the Nation's production by \$2,700,000,000. On a labor cost basis of 50 per cent it cuts the wage fund of American labor \$1,350,000,000. Whether paid by this family or that group of families or some other group of families, those are the total figures.

Senator SMOOT. Why do you not make it 20 per cent? Then it would be just double the amount.

Mr. STARR. My dear sir, I want to be truthful if I can.

Senator SMOOT. You do not mean to say that the sales tax is going to amount to 10 per cent?

Mr. STARR. I think it will make more than 10 per cent. One man said yesterday that it will make 30 per cent. I do not agree with him. I say 10 per cent.

Senator SMOOT. You might as well make it 90 per cent and you would have just as much truth.

Mr. STARR. Senator, I do not want to make this proposition ridiculous. I am trying to present a serious argument.

Such an annual direct loss to American labor, in the present state of industry, would result in serious complications of existing difficulties.

Senator SIMMONS. To whom does American labor lose that? To the Government?

Mr. STARR. It does not lose it to the Government. It simply stops employment. A man does not lose his wages to the Government when he gets fired and does not get any more wages. The man has quit his job.

Senator SIMMONS. You do not mean that labor would have to pay that amount?

Mr. STARR. No, sir; labor would not have to pay it. Labor would simply not receive it. It would not have it to spend.

Senator SMOOT. Why would it not?

Mr. STARR. Because they do not get it

Senator SMOOT. That is a very good reason; but why do they not get it?

Mr. STARR. Because of the sales tax. Simply because the commodities they would produce by receiving that amount of wages are not produced because the people can not buy them. Production and consumption have got to keep even pace with each other. If consumption stops, production stops automatically, because one will not produce goods that he can not dispose of.

Senator McLEAN. If consumption stops, production stops?

Mr. STARR. That does not necessarily follow.

Senator McLEAN. It is very likely to.

Mr. STARR. Yes; it is very likely to. That may be assumed as axiomatic.

Senator McLEAN. That is a point you would want to consider very seriously.

Mr. STARR. I suggested that at the beginning.

Senator McLEAN. You have to have the goods before you can consume them.

Mr. STARR. Exactly.

Senator McLEAN. And if this shifting of the excess-profits tax and the surtaxes should finally result in sustaining profitable employment which otherwise could not be had, that is a matter that you want to consider pretty seriously.

Mr. STARR. That is very true. Right on that point I want to say this, that the Farmer-Labor Party and a great many hundreds of thousands of people who are associated with it seem to feel that the Government has been farming out its taxes to the surplus taxpayers. They say, "Go to it, now. We are going to take so much. You get all you can. You profiteer on the people and we will profiteer on you."

They may be very much mistaken as to that being the case.

Senator McCUMBER. They certainly were not mistaken during the war period.

Mr. STARR. Very truly. It takes a long time to slow down from war speed to peace speed on propositions of that kind.

The most serious difficulty connected with these consequences to my mind is this: In the present state of industry in America it would tend most seriously to discredit the professions of parties, professions of their official representatives, and breed a degree of suspicion and distrust that would be a menace.

I have heard it suggested—of course it would not apply here, and I will be through in five minutes, Mr. Chairman—that most politicians, using the word in its notorious sense, which does not apply here, of course, regard the people as a spendthrift rake regards his creditors, not with an idea of how much he can do for them, but how little he can satisfy them with, how small is the amount that will keep the fellow quiet until the next time.

The transfer of a billion or billion and a half of taxes from incomes chiefly derived from monopoly as a result of services by the State to the grantees of monopoly privileges during a period of industrial stagnation and economic stringency—the transfer of those taxes from incomes derived from monopoly to incomes derived from personal labor would accentuate the dissatisfaction with the material results of our economic and political system and also would develop an environment hostile to the moral progress and intellectual expansion of our people.

As there are only two ways to acquire wealth and as there are only two subjects of monopoly, there are only two generic subjects of taxation—only two. John Bright said it was land and commerce. The only trouble with that is that he did not integrate commerce in its proper terms. Those two subjects are land or labor, privilege or property. Taxation of wealth produced by labor is a taxation of labor, whether it is levied by the State in the form of a tax or by the possessors of privileges granted or tolerated by the State in the form

of service charges that are very largely a tribute to monopoly, instead of revenue to the State.

If I were here to advocate the substitution of a different method I would elaborate on that, but that is not why I am here. I am here to show you why the Farmer-Labor Party believes that the adoption of the sales tax would be a catastrophe to the country only second to the catastrophe of the war.

Senator SIMMONS. You understand, or at least I understand, and I suppose everybody does, that the sales tax is proposed as a substitute for some other tax that we have now?

Mr. STARR. Yes, sir.

Senator SIMMONS. The taxes we have now would yield the four billions that the Government needs?

Mr. STARR. Yes, sir.

Senator SIMMONS. And the proposition of the sales tax is fundamentally that it takes the place of some of the taxes that we now have that will probably be abolished.

Mr. STARR. Yes, sir.

Senator SIMMONS. What I would like to hear you upon is this: You know the taxes that they propose to eliminate. I would like to have you discuss the question of whether these taxes that are to be eliminated are also of the same character as the sales tax with reference to the fact that the sales tax has to be paid by the ultimate consumer. Do not these other taxes likewise have to be paid by the consumer? I do not mean by that question to express an opinion myself, but I am trying to get your opinion.

Mr. STARR. Exactly. I have been amazed at some of the remarks which have been made here by witnesses before the committee, and also I have been a little shocked at suggestions in the colloquies that have passed between Senators here on the statements of witnesses. Your point is the shiftability of the tax—the evil of the tax on account of its possibility of being transferred. The transference of a tax—

Senator SIMMONS. Those who are asking the repeal of these taxes and the substitution of the sales tax therefor contend that the taxes that are to be repealed are consumption taxes—or more oppressive consumption taxes than the sales tax. I want to get your view about that. I have my view, and I would like to have yours.

Mr. STARR. Very well. The cutting down of the surplus taxes—and that is what you mean, the surtaxes—

Senator SIMMONS. Surtaxes and excess-profits taxes and certain luxury taxes.

Mr. STARR (continuing). And transferring a proportion of those taxes as they now stand to a sales tax? The proponents of a sales tax claim that the very evils we suggest as a result of the sales tax exist in a still larger degree in the surtaxes and surplus income taxes.

Senator SMOOT. That is not the argument at all. I have never claimed it at all and never thought it, and I do not think any member of the committee that is in favor of a sales tax believes such a thing as to the income tax.

Mr. STARR. That it is transferable?

Senator SMOOT. Of course it is not. And not only that, but I want to state to the Senator that statement after statement has been made to the committee that the only reason the higher brackets of

the income tax should be lowered at all is not to relieve the rich man of paying a tax, but putting him in a position where he can not buy tax-exempt bonds and escape taxation.

If you will take the excess-profits tax and these other excise taxes that are paid, then there is a question as to whether they should go on to the consumer. The proponents of the sales tax say, "We claim that the sales tax is paid by the ultimate consumer. We also claim that the excess-profits tax and these other excise taxes are paid by the ultimate consumer, only in a modified form."

Mr. STARR. I get you.

Senator SIMMONS. There is a question I want to ask Senator Smoot in that connection. If a tax is imposed upon the income of a corporation, do you not believe that the corporation would estimate the amount of that income tax and would carry that to overhead?

Senator SMOOT. Yes.

Senator SIMMONS. And if it goes to overhead it would be transmitted to the consumer.

Senator SMOOT. Any tax that is imposed upon business is counted in the overhead expenses of business.

Mr. STARR. Surely, and supported by receipts for commodities sold.

Senator WATSON. Do you or not believe that the excess-profits tax is passed on to and paid by the ultimate consumer?

Mr. STARR. I certainly do. The claim is made that it is more burdensome to the ultimate consumer than the proposed sales tax. I doubt it. The very source of the propaganda in support of the sales-tax proposition is a denial of it.

Senator SMOOT. I do not know what you mean by propaganda. As far as I am concerned, I have believed in a sales tax for a good many years, and there is no propaganda that brought it to my attention.

Mr. STARR. All right. I accept the Senator's disclaimer as to that; but the Senator is perfectly familiar with the fact that page after page in the metropolitan press has been carried in arguments supporting the sales tax proposition and signed by--well, the National Bank of Commerce of New York in its March issue, I think, had a 13-page article proving to its own satisfaction that there is absolutely no escape from a sales tax. It was written by Prof. Henry A. E. Chandler, Ph. D., economist. It is as necessary now for a bank to have an economist as it is to have a janitor or a teller. I do not know just what the meaning of "Ph. D." is added to the statement, but here are 13 or 14 pages devoted to the proposition that a sales tax is absolutely necessary in order to save the Nation from bankruptcy.

The very source of propaganda in support of it, Senator, to my mind, is the demonstration of its evil intent.

Senator SMOOT. You have made up your mind upon the source of the propaganda?

Mr. STARR. Not at all. I will defy any competent economist to take that article and not be able to drive through it with a coach and four on every page.

Senator SMOOT. That may be. I have not seen it, so I do not know.

**STATEMENT OF A. E. RHODES, AMERICAN LA FRANCE FIRE ENGINE CO., ELMIRA, N. Y.**

Mr. RHODES. I am not really here representing the company I am with, or even the industry. The point I wish to come to relates to a certain technical feature relating to the sale of goods to municipalities.

Under the excise tax of 3 per cent upon automobiles, we ran into a constitutional question, and we are apt to run into the same question on the sales tax. I did not appear to argue at all about the sales tax. I do not believe in it, I am frank to say, and I am equally frank to say, further, we have no difficulty in passing the sales tax along; I am quite convinced of that.

Senator LA FOLLETTE. What business are you engaged in?

Mr. RHODES. I am engaged in the manufacture of fire engines, but I have heard it said the tax was passed to the consumer. I do not think that is quite correct. We do not always pass it to the consumer, but we do always pass it along, not always by increasing the price. That point is not at issue.

I think also that the other feature of the tax, those terrific legal bills, which have run into thousands of dollars will run into the hundreds of thousands of dollars. I think the industry equally passes that on.

I should like to relate for just a moment what happened under the excise tax, in order to give my point of view. When that tax was passed in October 3, 1917, we paid the tax for some three or four months under protest, claiming that a fire engine was not an automobile; that there came a point in the construction of a fire engine when it ceased to be an automobile and taxable under the excise tax; furthermore, that sales to a municipality were not taxable. The Treasury Department sustained both of those claims and refunded the tax paid along in 1918. So we proceeded on the theory that there was no tax, but I am frank to say now that the industry feared that that might be reversed, and it is my belief we were still shifting that tax all of that time or a very large part of it, one way or another, because you can shift a contingency just as well as an actual tax.

Then we came along into late 1919, when the Attorney General ruled that a sale to a municipality was taxable, and the Treasury Department broadened out and very materially changed the definition of automobiles so that at least a great bulk of the fire engines previously exempt were now taxable, and, of course, the tax was assessed and collected retroactively. So we have put up, as I say, about \$600,000 at the present time in taxes.

We are now suing in the United States court to settle that question, not so much because we care whether there is a tax, as we pass it along, but because you can not continue in business with unsolved problems. If we win that suit and get that money back we do not know what we will do with it. We will probably keep it, because I have no idea from whom we collected it. It seems to me if we are to pass a sales tax law we will pass along the tax, and as a business man I think we pass along every tax except the excess-profits tax. We will pass the sales tax along. We may run into another string of administrative decisions that are unavoidable. We will be collecting the tax as a contingency, and we will be running along 5 or 10 years in the Supreme Court, and it will cost us probably hundreds of



thousands of dollars before we are through, and we will have that same difficulty to go through again.

I do not pretend to say whether it is possible to exempt municipalities from the sales tax, whether it would be possible to make a provision that the tax should not apply to sales to municipalities until this constitutional question is settled, or whether that is not possible. It would suit me, from the point of view I am taking here, if the bill in some way could raise the issue squarely. It is the uncertainty—so expensive, so uncertain, so unjust—and I think that if that issue had been met clearly and squarely on October 3, 1917, in that revenue act we would have had it through the Supreme Court by this time, and had a decision.

If we can not exempt the sales in this particular instance, I wish something could be done to raise that issue so squarely that we can come before the court and settle it either by administrative decision in a clean-cut way or else by our own initiative come before the court.

Senator LA FOLLETTE. I understood you to say that the excess-profits tax could not be passed along?

Mr. RHODES. Nor the surtax on income; any tax on differential advantage. We do pass the tariff, excise tax, corporation stock tax, income taxes. So far as the income taxes are concerned, they are promptly shifted in one way or another; that is, the business man promptly proceeds to pass them along, because everyone in his field of competition is subject to the same influences. However, if you tax him on a differential of advantage that he has over the other fellow, if he is the low-cost producer, as we are in my particular concern, we are helpless and we can not pass the tax along; that is, a tax on that differential advantage.

Senator McCUMBER. That is conditioned on both selling at a very reasonable rate—that is, selling so they can make only a reasonable return?

Mr. RHODES. Yes; as a trade considered as a whole.

Senator McCUMBER. Suppose here is a corporation which has been making 20 or 30 per cent right along for years, and you enact a law for taxing in excess of over 10 per cent, and they find the trade will back it up. Will not those corporations raise their prices to take care of that excess profits tax, in order that they may still reap the 30 or 40 per cent?

Mr. RHODES. The only thing that permits them to do that is to obtain a situation in the entire industry where the high-cost producer, the fellow on the margin, can be brought into the room and talked to. But that is not fashionable at the present time under the antitrust acts. The absolute result of competition, as I see it, is that so long as you do not have a monopoly—and if you do have a differential advantage, a tax on that can not be shifted—if you had a monopoly created artificially, such as you described, then you would perhaps shift part of it, but you can not get a very large amount in price. Monopoly prices are already at the point where they are bringing the greatest return. You probably would shift in other directions, change the volume of business, cost, expenses, cut in wages—you would recover it to a certain extent, but such a perfect monopoly I have never seen in my experience.

Senator McCUMBER. If the business were such that the public would bear to pay the extra charge to cover the excess by the person who is producing cheaply, he would take advantage, would he not, and put his goods up to yours?

Mr. RHODES. It is the man on the margin who is really setting the price; the high-cost producer is the man on the margin.

I might give you an illustration in this way: Let us take the rubber industry, and let us suppose that the price of crude rubber in the market is 50 cents a pound. Let us suppose every manufacturer of rubber goods pays that price except one, and that for some reason or other he can get rubber at 25 cents; that is his differential advantage, whether he grows the rubber, or steals it, or obtains it in some other way. As long as you tax him on the difference between that 25 and 50 cents he is powerless. The other trade is going right along, operating its business, because it is in a normal condition. If you tax that differential advantage he can not recover.

The same point relates to wages. Cutting wages, of course, is one of the favorite methods of shifting a tax. Take common labor, for example: The income tax, we will say, does not touch common labor, which in my city at the present time is receiving 40 cents an hour. It so happens that in my particular concern we are paying common labor 55 cents an hour. If you pass an excess-profits tax in a sense that it touches that common labor between 40 and 55 cents, which is receiving 15 cents above the market, and the Government is going to take that, he is powerless.

The common laborer does not know that that act was passed. He is scot free at 40 cents an hour. But the man who is getting 55 cents an hour comes to his employer and says, "Here, all of a sudden I have been taxed 15 cents out of that 55, which was my differential, and that hurts me and I ought to get it back." Any employer immediately says, "We can get all the common labor we want at 40 cents. You have not any sound ground of complaint. You had better be satisfied with what you are getting. We are willing to pay above the common labor market, but be hanged if we will pay the taxes the Government imposes." In other words, he has a differential advantage which he can not replace. There is only one way he can possibly replace it and that is by becoming a better man.

But the point I wish to bring out is that we are spending a tremendous amount of money and going to be involved for years in litigation. We do not know where we are going to come out. There are going to be millions hung up in the air, and who is going to get those millions I have not the slightest idea, and I wish something could be done to raise that issue so signally that it would prevent another situation of that same kind arising.

**STATEMENT OF JOHN BRAYSHAW, NATIONAL ASSOCIATION OF RETAIL GROCERS, WASHINGTON, D. C.**

The CHAIRMAN. You reside in Washington, Mr. Brayshaw—for the record. What is your business?

Mr. BRAYSHAW. I am a retail grocer.

The CHAIRMAN. Do you represent yourself or any association?

Mr. BRAYSHAW. I represent the National Association of Retail Grocers, with State organizations in 42 States and the District of Columbia.

The CHAIRMAN. Are you an official in that organization?

Mr. BRAYSHAW. I am chairman of the legislative committee.

The CHAIRMAN. And also you are in business as a grocer here in Washington?

Mr. BRAYSHAW. Yes, sir; I was president of the local association for five years up to last January.

The CHAIRMAN. Will you state briefly to the committee your views on the sales tax, which I believe you want to address yourself to?

Mr. BRAYSHAW. The National Association of Retail Grocers has not held a meeting to become thoroughly familiar with this tax. We only know it as a tax on turnover, and we suppose that the tax is 1 per cent. The executive committee of the association is opposed to this thing, because they are opposed to being placed in the position of tax collector if it can possibly be avoided. We have the record of the unpopularity of tax collectors 2,000 years ago, and while the grocers may be still sinners, we do not care to have them publicans also.

The tax, it seems to us, would be rather indefinite because of the number of times it might be levied, and the amount of money that it might produce is rather vague; and for that reason we have grave doubts that it would accomplish the purpose for which it is proposed, and whether it would afford the relief that it is hoped by the repeal of other measures of taxation.

I was speaking to a man this morning and he said, "The sales tax means to put a tax on the poor and take it off of the rich."

Another man said: "I did \$350,000 worth of business last year, and made \$6,000, after paying \$2,100 in taxes, income and excess profits, and if I had had to have paid this 1 per cent tax that would have only left me \$2,500 on \$350,000."

If this sales tax should become a law, we are opposed to the present form, to any exemptions, because that would exempt every huckster who imagined that he did less than \$6,000 worth of business; he would keep no record of it. It would exempt every fruit peddler and practically all of the stores that are open at night.

It would exempt the farmer who retails his stuff from door to door, and retail dealers in perishable goods are not in the condition to face this unfair competition. If this sales tax law is enacted, we are unreservedly opposed to any exemptions.

We feel that the accusation that was brought against the tax collectors of old would be brought against the retailers to-day if they were allowed to collect this as a hidden tax and pay it themselves. We feel that if this law is passed it should make it obligatory to let the purchaser pay the tax as a tax, and we believe the only way to assure the collection would be to make it compulsory that stamps be applied to the bill or the purchase by every vendor of merchandise; and, as I said, while we oppose having to do this, if this is a tax that must be levied, we request that no exemptions be made, and that every dealer of any size must either affix his tax stamps to his bill, or to the article that is sold, and that this must be collected as a special item.

I do not think there is anything more I could say to you.

One of the difficulties we have thought of is that in the ordinary retail grocery store 75 per cent of the purchases are less than 50 cents.

I do not mean 75 per cent of the sales of the business is less than 50-cent sales, but what I mean is that we have so many sales such as 1 cake of soap, 1 pint of milk, or 1 can of tomatoes, or small items like that, and that at least 75 per cent of our sales would be less than 50 cents, and the imposition of a cent on these small items would work a hardship on the class of people who are the least able to stand it. You know the shopper who buys 10 or 15 or 20 cents worth is usually the person who has not means, and that feature of it we feel would work a hardship on a great number of poor people.

Senator DILLINGHAM. Under those circumstances, would not the imposition of a stamp be rather burdensome to the retailer?

Mr. BRAYSHAW. Yes; it would be burdensome, but we feel that that is the only way to do it.

Senator McLEAN. You would not have any monthly accounts less than a dollar?

Mr. BRAYSHAW. No, sir.

Senator McLEAN. You would not have any trouble there, no matter how small the separate purchases might be on your monthly accounts?

Mr. BRAYSHAW. No; on monthly accounts, say, for \$52.50, a 53-cent stamp would be fixed on the statement, and we would expect that to be paid, and it would be paid. But the size of our sales we feel would make this tax burdensome on a few, and we do not believe that with the competition we have, if it was done in any other way than by the affixing of stamps, that it would be paid at all.

Senator SMOOT. If you leave it to the stamp, you know very well you would not put a stamp on every loaf of bread or cake of soap that you refer to; it is not done to-day. You are losing to-day through what little stamp tax we have more than a third of the amount that ought to be collected. You recommend that stamp business more to cast discredit upon the sales tax bill than for any other purposes.

Mr. BRAYSHAW. No, sir; we recommend the stamp tax in order to let the people know they are paying this as a tax, and when the stamp goes on they have paid this as a tax.

Senator SMOOT. They will know if they pay it, and if you are held responsible to collect it they will know it all right; and we are not trying to evade that question at all.

Mr. BRAYSHAW. We want the law made so that it will be collected as a separate item, at least.

Senator SMOOT. You will pay it as a separate item and you will collect it as a separate item.

**STATEMENT OF ROBERT G. WILSON, WASHINGTON, D. C., REPRESENTING THE AMERICAN MINING CONGRESS.**

Senator WATSON. Please state your full name to the committee.

Mr. WILSON. Robert G. Wilson. I am chief of the tax division of the American Mining Congress, which is the national organization of the mining industry.

My purpose in appearing here is not to urge the consideration of any particular plan, but rather to indicate, if possible, the feasibility of actually reducing the tax burden.

To conserve the time of your committee I have hastily prepared a statement which is before you, and I merely wish to take a few minutes to elaborate upon that.

A year ago last April the American Mining Congress, the American Petroleum Institute, and the National Industrial Conference Board jointly called the first National Industrial Tax Conference at Chicago, at which time a committee of 15 was named to investigate the problem of Federal tax revision and to make its report.

As a result of the calling of the second conference in New York last October and the third in New York last January, that report has been completed and has been made available, and I understand copies are in the hands of the committee. If not, I shall be glad to see that they are in the hands of the committee.

I am not here authorized to speak for that committee. I had the privilege of sitting with the committee in its deliberations. I know how they arrived at their conclusions. I merely wish to touch for a few moments on the primary findings of that committee in the published report.

First, these are recommendations respecting loss of income.

We recommend, first, the repeal of the excess-profits tax, representing \$520,000,000.

Second, the reduction of surtaxes involving a loss of \$200,000,000.

Third, a provision as follows:

A net business loss for any year should be deductible from income of the succeeding year to the extent that the income of the preceding year is insufficient—involving a loss of \$50,000,000.

Those figures were confirmed to me yesterday by Mr. McCoy. That is a total of \$770,000,000.

At Denver last November the American Mining Congress in its annual convention adopted a resolution recommending the repeal of the excess-profits tax. Because the conference committee report was not completed at that time we were not prepared to recommend a specific substitute. There seemed to be a tacit understanding at the convention that our tax committee and the industry it represents would largely abide by the findings of that committee.

We adopted another resolution recommending to Congress the creation of a Federal war-tax settlement board to pass upon and settle complex tax cases consequent upon the war-time period, also with specific powers to compromise in simple equity the more complex cases that do not appear to be susceptible of any other determination.

A gentleman appearing before you the other day stated that there are between \$2,300,000,000 and \$3,300,000,000 of taxes remaining to be collected. I think that estimate is a little rash. I come frequently in contact with the Revenue Bureau authorities. I place the figure roughly between \$1,000,000,000 and \$2,000,000,000, probably in excess of \$1,500,000,000.

Unless some radical steps are taken immediately a large proportion of that, or a fair proportion of it, probably 20 per cent or more, will never be collected. There are assessments going out that never will be paid. Business has become impatient. We feel that something should be done, and we think the remedy lies in the creation of some tax settlement board such as we propose.

We have no pride of opinion. That may not be it. We merely wish to recommend to your committee the consideration of the subject and a thorough investigation leading as quickly as possible to some action in the matter.

Second, we earnestly recommend that there be some investigation immediately of conditions prevailing in the Internal Revenue Bureau, particularly the income-tax unit. They have to-day 5,500 employees, the average wage of whom is only \$1,650 per annum.

That is a matter that perhaps should come more appropriately before the Civil Service Committee, but dealing, as we believe, with an emergency in the revenues, we only want a few minutes to call that to your attention.

The turnover in the Revenue Bureau last year in the income-tax unit was about 100 per cent. If we eliminate all the interdepartmental transfers, the total influx and outgo were about 37 per cent. That means that 37 per cent, constituting almost entirely the most able men they have in the department, have gone. There have been no promotions since April 1.

Senator CURTIS. Is not that brought about by the stringent rules they have in reference to employment? In their accounting division you have got to have a man who is an expert accountant, who has graduated from some school, and who has had two years' experience in double-entry bookkeeping, and who can get more salary outside. Yet that kind of a man or woman is not needed. Probably an ordinary bookkeeper could do the work, or an ordinary accountant, without having all this experience and having a certificate from a school of two years' experience in double-entry bookkeeping.

Mr. WILSON. Senator, they have what they call a kindergarten in the Revenue Bureau, holding classes daily. They have found it necessary to train their own men. They have not the funds necessary to bring in the high-priced men.

Senator CURTIS. Just the other day I took a man there who had graduated from a school, and he had only had one year's experience in double-entry bookkeeping, but had had a year's experience in a bank. They refused to employ him, and he was glad to work for the money.

Mr. WILSON. I do not understand that.

Senator SMOOT. We understand something about the conditions down there, and we know why they are. Your statement does not take into consideration the conditions existing there. Most of the turnover was due to the fact that the employees become educated in the work, and just as soon as they are educated they want to leave and go home and open an office and make three or four times the amount of money they can earn in the Government service by getting business concerns in the towns in which they live to employ them and give them so much or a certain per cent of what they save by making out the returns so that they will be acceptable to the department.

Mr. WILSON. Exactly, Senator Smoot.

Senator SMOOT. That is what it is; and we can not meet that situation here by paying higher wages.

Mr. WILSON. I think it can be partially met, if you will pardon me.

Senator LA FOLLETTE. I would like to hear what you have to say about that.

Mr. WILSON. I could give you the names of a dozen men, some of them the most able men in the bureau, who expect to leave on July 1 if no promotions are made at that time. Those men would stay indefinitely for \$4,000 a year or \$5,000 a year. They will be worth \$5,000,000 a year to the Government. They have pledged me personally that they will stay.

I should like to say that there have been no promotions since April 1, and there will be none on July 1 unless funds are available, and there seems to be no hope of that. If no salary increases are made a veritable army will go out. They are three years back in their field work. They have only 2,500 men out in the field to-day. The average salary is less than \$2,000 a year. The average salary of the technical men—and when I say technical men I mean the divisional heads, the sectional heads, the engineers, and the auditors, running from \$1,800 a year up—is only two thousand one hundred and fifty per annum. Naturally, as Senator Smoot suggests, the Revenue Bureau can not hold them. That is absolutely true.

Despite this, the Revenue Bureau has been collecting as high as \$50,000,000 a month in additional taxes. Last quarter—the quarter ended March 31—the total collection of the additional tax was \$106,000,000. It is running to-day between thirty million and thirty-five million dollars. It has run as high as \$50,000,000. It is receding now, because the bureau is gradually reaching the most complex cases.

Senator Jones the other day inquired to what extent the invested capital of corporations had been determined. I investigated that. I find that for the year 1917 alone there are over 50,000 corporations whose invested capital has not yet been determined.

Senator CURTIS. How many?

Mr. WILSON. Over 50,000.

Senator LA FOLLETTE. For what year?

Mr. WILSON. 1917; 1918 has been touched to some extent in connection with the audit of 1917; 1919 has been barely scratched. Fifty per cent of the returns for 1918 have not been touched at all. Ninety per cent of the returns for 1919 have not been touched.

At this juncture I should like to interpolate a few words of a statement by Dr. Adams before the House Ways and Means Committee last December:

We must use the larger portion of the force and all the brains we can get, and more if we can possibly get hold of them, to get through with the audit of tax returns now in the bureau for the calendar years, 1917, 1918, and 1919. In other words, if the Bureau of Internal Revenue, with the favor of Almighty God and all the ability and talent it can possibly procure, gets through the next two or three years under any administration and under any party without a breakdown I shall thank God.

And that situation has become considerably more serious to-day.

Senator WATSON. I imagine that this will all be considered by Senator Smoot's Committee on Reorganization when the time comes.

Senator LA FOLLETTE. Well, some of the rest of us may want some information.

Senator WATSON. I hope we can get it.

Senator LA FOLLETTE. And we do not want to have to depend upon one or two members of the Senate who assume to know all about everything pertaining to the employees of this Government.

Mr. WILSON. My purpose in appearing before the Senate Finance Committee to-day is just because of the hope that something might

be done before the general revenue program. An investigation I am quite sure would confirm these facts. The figures that I have quoted here are absolutely official. They were given to me by the head of the income-tax unit, Mr. Batson. That unit is auditing 100,000 returns per month. In the last quarter 1,118,000 pieces of mail passed through their hands. Twenty-eight hundred claims for abatement or refund are being adjusted weekly.

There is another consideration that I should like to inject. Purely from personal observation and without being spectacular at all, I should like to draw a comparison.

The San Francisco fire cost \$300,000,000. The average annual fire losses in the United States to-day of property is about \$270,000,000. If a firebrand were to set a match to that tinder-box known as Treasury Annex B, the Government would immediately sustain an irreparable loss of fully half a billion dollars through destruction of returns and tons of important miscellaneous data absolutely required in the determination of past, present, and future taxes. It is a temporary war building and is still being used.

Senator WALSH. To what extent is that building guarded by fire watchers?

Mr. WILSON. It is to some extent. I do not know just how much.

Senator SMOOT. They are ordered out of temporary building B. Space is provided. The place is to be torn down.

Mr. WILSON. I asked that question, Senator Smoot, the other day and nobody seemed to be able to give me a satisfactory answer.

Senator SMOOT. Then you did not ask the head of the department, because they have been instructed about it.

Senator SIMMONS. Where are they going to put the records?

Senator SMOOT. In the so-called Arlington Building, the War Risk Bureau Building.

Senator LA FOLLETTE. When will that be ready?

Senator SMOOT. We have ordered it months ago, and they said it would be ready just as quickly as possible. They have got to have it by the 1st of July because they are going to demolish the other building at that time.

Senator SIMMONS. The Arlington Building is fireproof?

Senator SMOOT. Yes.

Mr. WILSON. Coming back to the Federal war tax settlement board proposal, our committee studied that proposition for several months before preparing the report which is before you.

Senator LA FOLLETTE. Would you like to have it printed in the record?

Mr. WILSON. I should like to have the privilege, if I may, so that the data may become available.

Senator WATSON. There will be no objection to that.

Mr. WILSON. We received hearty indorsement from many authorities. I should like to quote just half a dozen.

Prof. Plehn, an economist of the University of California, says:

The Federal war tax settlement board is absolutely necessary. Not pick and shovel methods, but blasting and steam shovel methods, are needed.

Prof. Haig, Columbia University, says:

Congress should not hesitate to vest such a board with power to arrive at agreements with the taxpayer.



**C. B. Hurrey, ex-Deputy Commissioner Internal Revenue, says:**

Arrangement for injecting finality and equity into tax decisions essential for rapid collection of back taxes.

**C. M. Zander, chairman of the Arizona Tax Commission, says:**

Commission to liquidate tax controversies absolutely necessary.

**R. N. Miller, ex-Solicitor Internal Revenue, says:**

An important proposal. Situation requires the cutting of a knot.

As to the general situation I have already quoted Dr. Adams, although he has not been consulted on this matter. The full report of our tax committee, as I have stated, is in that statement.

I should like to have the privilege of calling upon Mr. Paul Armistage, of New York, chairman of our tax committee, to appear before your committee to elaborate upon that proposition some day this week.

**Senator WATSON.** We can hear him on Friday.

**Mr. WILSON.** Just one more remark. I have been speaking for the American Mining Congress, and I should like to speak for myself, personally, for one moment.

The Secretary of the Treasury has recommended the repeal of the excess-profits tax. He has recommended the reduction of the surtaxes upon the income of the wealthy. The proponents of the general sales tax subscribe to that and then ask that you further take the tax off the luxuries of the rich man and transpose it into the dinner pail.

Until a year ago I was favorably disposed toward the sales tax, like a great many others. I made quite an extensive study of the situation and began speaking and writing against it. I have had one protest from a member of the mining industry. The American Mining Congress at Denver last November adopted a resolution recommending the repeal of the excess-profits tax. We realized at that time that that would probably involve an increase in the income taxes and that the aggregate burden upon the mining industry, at least temporarily, would be increased. Nevertheless we have felt that the excess-profits tax is an impracticable proposition in point of administration, and we are opposed to it. The mining industry of the United States is not worrying about the excess-profits tax. There is not a copper mine of size in the United States to-day that is operating. Some of the copper companies did make considerable income last year. They will pay some income tax. Some will make a little income this year. Other branches of the industry will have some income this year that will be taxable. If the rate is increased, the burden upon the mining industry will be even larger.

I have nothing to say at this time in opposition to that except that I do not think that capital can honestly come before Congress and honestly urge the creation of an additional tax imposed upon the necessities of life. I more or less subscribe to the statement of the speaker at Atlantic City not long ago who objected to taking the tax off the diamond shirt stud and imposing it upon the bone collar button.

**Senator SIMMONS.** Have you made any calculation as to the amount of the income that the Government is likely to receive from the excess-profits taxes if they are continued?

**Mr. WILSON.** \$520,000,000. Those are Mr. McCoy's figures. The excess-profits taxes last year yielded in excess of \$1,000,000,000.

**Senator SIMMONS.** He calculates it will be cut down about \$500,000,000?

**Mr. WILSON.** Yes, sir. We feel that if the excess-profits tax is eliminated and the Federal war tax settlement board is created or other means are used to increase the efficiency of the Revenue Bureau, the Government will receive in excess of \$1,000,000,000 during the next year or 18 months, which is not now anticipated, or, if anticipated, the authorities do not expect to realize for at least two or three years.

We do not mean by that that corporations shall not be additionally taxed. We should like to avoid it, of course; but if the excess-profits taxes were repealed I think corporations would be willing to pay a very moderate increase in the income tax.

**Senator SMOOT.** A good many hundred thousand dollars have to be paid out for refunds, too?

**Mr. WILSON.** I think that has been considered by the authorities in arriving at a net estimate. That is the reason I bring it down from two or three billion dollars to one billion and a half.

**Senator WALSH.** You started out in favor of the sales tax?

**Mr. WILSON.** Over a year ago.

**Senator WALSH.** What converted you to your position of opposition?

**Mr. WILSON.** My objections closely approximate those that were found by the National Industrial Tax Committee in its report. And it is politically impossible. I do not see any reason why we should apologize for injecting political considerations into the discussion. The gentlemen of Congress are representing their constituents, or are supposed to represent their constituents. If Mr. Gompers, who, I understand, is scheduled to appear here later, will agree to absorb it in the dinner pail, the corporations will be very glad, I am sure, to have the sales tax remove all the other taxes on corporations. Some advocate the sales tax as a complete substitution for all income taxes. You would be surprised at the number of men throughout the country, particularly throughout the West, who are advocating the sales tax because they believe it will replace the income tax that now exists upon personal incomes.

**Senator WALSH.** When you say it is politically impossible you mean that the opposition of the consuming public will be so great that Congress will be afraid to fight for it?

**Mr. WILSON.** Exactly.

**Senator SMOOT.** You speak of the feeling in the West in relation to that matter. I think I know something about the feeling in the West. I think I am in as close touch with the West as you are. This is the first time I have ever heard that thought expressed. I never saw it in a letter or heard it in a convention or heard that a convention had passed upon it. I do not know where you get it or what authority you have for making that statement. Nobody here anticipates it. No newspaper clipping that I ever saw in the United States anticipates it, and I wonder why you should make that statement.

**Senator LA FOLLETTE.** Will you state why you make it and what your authority is?

Mr. WILSON. The American Mining Conference held its twenty-third annual convention at Denver six months ago. At that time I personally discussed the sales tax with at least a hundred and fifty mine operators. I did find a few who thought it would be a great thing for them so far as their personal pocketbooks were concerned. If it were to replace income taxes upon corporations they, selfishly, were for it. They were not worrying about the excess-profits tax.

Senator SMOOT. It is not to replace anything, with the exceptions of taxes that must be repealed anyhow. It stands upon its own footing as a tax.

Senator DILLINGHAM. I understood that you were speaking from the standpoint of the Miners' Association?

Mr. WILSON. In so far as the sales tax is concerned I have no authority. I have authority to speak in behalf of the settlement board and other measures. I have no authority to speak for the mining industry or any branch of it so far as the sales tax is concerned. We have never taken any action on it. I merely wish to inject my personal opinion.

Senator SMOOT. You spoke of agreeing on the Industrial Conference report, did you not?

Mr. WILSON. Yes, sir.

Senator SMOOT. I know that the Industrial Conference has never opposed a sales tax. There was a committee appointed by that conference that made a report against the sales tax and was turned down by 90 per cent of the conference itself—

Mr. WILSON. Pardon me, Mr. Smoot, but I was present at that conference. It was disagreeably packed by sales-tax advocates, only two or three of whom were delegates to the meeting. It is true that that report was never officially adopted by the National Industrial Conference Board nor by the American Mining Congress, or by the American Petroleum Institute. I inadvertently referred to the conference board. I really meant the conference committee.

Senator SUTHERLAND. I think you said the conference committee, if I am not mistaken.

Mr. WILSON. I thought I had said so, but I am not certain.

Senator WALSH. Have you noticed a change in the sentiment of the country on this question?

Mr. WILSON. I have noticed a considerable change in sentiment on the part of anybody who has stopped to think about the sales tax more than a few minutes.

Senator WALSH. I find a very strong sentiment for it in my section of the country among business men connected with chambers of commerce, department store managers, and owners of retail stores. I am surprised to find quite a sentiment in favor of the sales tax.

Senator SIMMONS. Are they not people who are going to pass the sales tax on as distinguished from people who are going to pay the sales tax?

Senator SMOOT. The sales tax will be passed on by everybody.

Senator WALSH. They are simply a conduit for collecting for the Government.

Senator SIMMONS. Nearly every witness who has appeared here advocating the sales tax has admitted that the tax will be passed on.

Senator SMOOT. There is no doubt about it.

Senator SIMMONS. And they have been representing people who are going to pass that tax on. The man who is going to pay that tax has had very little representation in our hearings.

Senator WALSH. I was wondering if the witness could enlighten us as to the form of propaganda or information that has been given in those quarters, because there really is a strong sentiment among substantial business men for the sales tax.

Senator SMOOT. It is all over the United States, and is growing, I will say to the Senator.

Senator SIMMONS. Is it not perfectly natural that the business people, the merchants and manufacturers, who are going to pass this tax on, should be for it? They are not going to pay it.

Senator SMOOT. Senator, I will say it is perfectly natural, when the consumer finds out that in paying the sales tax he only pays about one-third of what he is paying now, that he will be in favor of it; and he will be as soon as he is educated.

Senator WALSH. I have found that some of these Boston gentlemen who were here the other day and were very ardent supporters of the sales tax, after they had been in the room a couple of hours and heard the questions and the discussion, said to me that for the first time they had begun to think of another side of the question. They did not say they were converted or changed, but they were surprised that there was another side to the question that had some support and strength.

Mr. WILSON. I think perhaps, Senator, that most of these interests you refer to have jumped to conclusions just like we did—just as I did a year or 18 months ago when I thought that it perhaps was a panacea. The more I have investigated it the more I am convinced that that is not the answer.

Senator WALSH. It is true, too, that there have been very complimentary articles written in the press of the country in support of the Canadian and Philippine taxes. One of our newspapers, the Boston Globe, has had a series of very able articles upon the operation of the sales tax in Canada. Do you not think that people have been influenced by those articles?

Mr. WILSON. To a considerable extent. I have had some experience with the Canadian tax laws. I spent a considerable time in Ottawa, and I talked taxation with the minister of finance, the commissioner of taxation, and others. Not recently. The Canadian sales tax is not the kind of tax that has been proposed here.

Senator WALSH. We understand that; but is it a popular tax there?

Mr. WILSON. The agriculturists and labor in general are opposed to what they are now considering, a general broadening of the sales tax. There are so many exemptions that the present form has been accepted, in my opinion, largely because it does not fasten itself upon the necessities of life and, therefore, does not brook any particular opposition. I think there will be just as much opposition, relatively, in Canada to it if they should undertake to broaden it as there is in the United States at the present time.

Senator WALSH. I did not mean to carry this discussion into different lines, Mr. Chairman.

**BRIEF OF ROBERT G. WILSON, WASHINGTON, D. C., CHIEF OF THE TAX DIVISION OF THE AMERICAN MINING CONGRESS.**

In April, 1920, the American Petroleum Institute, the National Industrial Conference Board, and the American Mining Congress, jointly representing about 30 other organizations, called a National Tax Conference at Chicago. Due to the dissatisfaction with the revenue act of 1918 then evidenced, a committee of 15 was appointed to meet frequently and study the subject, with the view of presenting a committee report of recommendations for corrective legislation. That report has been issued in final form, following revision prompted by the second and third national conferences held in New York in October, 1920, and January, 1921. It is known as the "Report of the Tax Committee of the National Industrial Conference Board on the Federal Tax Problem."

In Denver last November the American Mining Congress, at its twenty-third annual convention, unanimously adopted resolutions recommending the repeal of the excess-profits tax. We did not advocate any specific substitutes at that time. The report of the National Industrial Conference Board Tax Committee, otherwise known as the allied tax committee, had not been completed. The Mining Congress had two representatives on that committee; another member of the Mining Congress tax committee was an adviser to the conference committee. The delegates to the Denver convention were urged to communicate their suggestions to the conference committee.

My purpose in appearing before your committee is not to urge the consideration of any particular tax plan, but rather to call to your attention the feasibility of actually reducing the volume of taxes.

The present problem of Federal taxation is not concerned alone with the urgent need for reformation of the revenue laws. No less important to the Government and to industry is the prompt and decisive determination of war-tax liabilities for prior years. Therein lies the possibility for a lowering of future taxes.

Considerably more than a billion dollars of income and profits taxes, long past due, remains uncollected. A fraction of it never will be collected. Unless radical steps are taken immediately 20 per cent or more never will be collected. A comparatively negligible investment at the present time should actually save the Government a quarter billion dollars and bring in a billion dollars additional during the next 2 years—probably fully a billion dollars during the next 18 months. The saving in interest alone through these expedited receipts would prove a highly successful return upon the investment. The total saving, including the salvage of taxes that are being lost to a considerable extent in the mazes of computation and collection difficulties, should make the investment the most profitable in the world. Income, quick income, is a vital consideration with the Government. That is the immediate and perhaps the most important consideration in tendering these proposals to the committee. There are, however, many other incentives.

The prolongation of the volume of war taxation is sufficiently distressing without the indeterminate settlement of obligations incurred by business three or four years ago. We are mindful of the restriction upon industrial expansion, the worry and harassment of uncertainty and delay, the impending mass of complex litigation, and in general the whole gamut of economic waste and distress.

The American Mining Congress suggests the following remedies:

First, the creation by presidential appointment of a temporary board to be known as the Federal war tax settlement board, vested with sufficient authority not only to pass upon and settle cases consequent upon the war-time period, but with specific powers to compromise in simple equity the disputes that appear hopeless under interpretative application of the laws.

This proposal is outlined in detail in the accompanying exhibits, as follows: Exhibit A, report of the committee on taxation of the American Mining Congress; Exhibit B, resolution of the American Mining Congress in annual convention assembled, Denver, Colorado, November 19, 1920; Exhibit C, reprint from the Mining Congress Journal, containing opinions of prominent authorities; Exhibit D, suggested draft of bill for the creation of a Federal war tax settlement board.

Second, men and other means for the income tax unit of the Bureau of Internal Revenue to function effectively.

I am in constant contact with the Revenue Bureau. The function of the tax division of the American Mining Congress is to assist in humanizing the relations between the taxpayer and the bureau and to disseminate helpful information. The following facts are the result of observation and of interrogation of officials of the income tax unit.

There are to-day (these are official figures) 5,500 employees in the income tax unit of the Internal Revenue Bureau alone. The average wage scale of these employees is \$1,650 per annum. Fifty per cent of these employees are "technical"—auditors,

engineers, divisional heads, sectional chiefs, etc. The average wage of the technical man is but \$2,150 per annum.

There are only 307 employees of the unit receiving more than \$3,000 per annum; only 52 more than \$4,000; only 3 more than \$5,000. The absolute limit is \$7,500—that is paid to one man. The largest class of employees receives \$1,200 (see Exhibit E). The income tax unit has acquired no new men since April 1 of this year. No funds are available for promotions due July 1. If no salary promotions are made at that time, a veritable army of employees will seek employment elsewhere. The unit at the present time is in urgent need of upward of 100 engineers. The amortization section has before it 1,500 exceedingly complicated technical claims, which can neither be effectively nor equitably determined without the services of a number of high-class men.

During the year 1920 the labor turnover in the income tax unit was close to 100 per cent. Eliminating interdepartmental changes and confining figures to influx and exflux, the total turnover was 37 per cent. This percentage is far more significant than appears, for the reason that the 37 per cent constitutes almost entirely a loss of the most able men, who have sacrificed whatever advantages may exist in governmental services for the advantages of employment by private interests, however temporary such new employment may be.

Income tax returns for the year 1917 have been preliminarily audited to the extent of 90 per cent. However, this largely represents personal returns. Fifty thousand invested capital cases remain to be determined for the year 1917. This figure is most significant; it largely represents the hardest nuts that the Revenue Bureau has to crack. Generally speaking, the simplest cases have been disposed of first.

For the year 1918, only 60 per cent of all tax returns, including both personal and corporate, have been investigated; for the year 1919, only 10 to 15 per cent.

Even a lowly \$1,800 a year auditor can with little effort shake \$100,000 per annum right out of the bushes; a more efficient auditor can produce \$1,000,000 per annum, and in many instances considerably more. A divisional head or a member of a review committee is faced daily with the necessity of making decisions involving hundreds of thousands of dollars—sometimes many millions of dollars. A prominent Treasury official is authority for the statement that the resignation of one technical man who departed not long ago has cost the Government \$50,000,000.

Four hundred and six million dollars additional taxes for the year 1917 alone have been assessed to date. The unit is, at the present time, auditing 100,000 returns a month and assessing about \$30,000,000 a month in additional taxes. During the last quarter the total additional assessment amounted to \$100,000,000. During that period 1,118,000 pieces of mail passed through its hands—to say nothing of the Bureau of Internal Revenue in general. Twenty-eight hundred claims for abatement and refund of taxes are being adjusted weekly.

My observation is that, while the income tax unit is in a bad mess, it is at the same time relatively a remarkably efficient organization. The figures I have mentioned are significant of what could be accomplished with additional technical men and better working facilities. It is easy to appreciate that the still undertermined taxes are to issue from the most complex cases. The Income Tax Unit, in its distress over lack of employees, working equipment and other facilities, has naturally referred first to the most easily adjusted returns.

The income tax unit to-day is working in four buildings in Washington, two of them almost a mile apart. There are few corporate returns, for instance, that can be successfully audited without constant consultation between many departments. All but one of these buildings are absolute firetraps.

The property loss by the San Francisco fire was about \$300,000,000. The annual loss of property by fire in the United States to-day is about \$270,000,000. If a fire-brand were to set a match to that tinder-box known as Treasury Annex No. 2, the Government would immediately sustain an irreparable loss of fully half a billion dollars through destruction of returns and tons of important miscellaneous data required in the determination of taxes.

The purpose of this statement is not to censure, nor to render a report by one who appreciates that it is unsolicited; it is intended simply to bring to your attention an opportunity to expedite and increase the Federal revenues by hundreds of millions of dollars.

May I suggest that it need not wait upon the general revenue program?

## EXHIBIT A.

## REPORT OF COMMITTEE ON TAXATION, AMERICAN MINING CONGRESS.

Your committee is of the opinion that one of the most important tasks before the Government in the matter of taxation, if not indeed one of the most important tasks of any character, is that of finally and definitely settling and disposing of the uncertain liability which hangs over thousands of taxpayers with respect to the amount of income and excess-profits taxes they will ultimately be called upon to pay for the period in which the excess-profits tax has been in force, namely, 1917-1920, inclusive.

The excess-profits tax, as we all know, is a most complicated and difficult form of taxation. We tender our profound respect to the Bureau of Internal Revenue and the many able and patriotic citizens, who temporarily joined the forces during the war, for the work that has been done, but we are deeply impressed with the fact that the task of gathering the war revenue is far from accomplished.

During the war a large group of public-spirited men actuated primarily by a desire to aid in meeting the crisis, and disregarding the compensation they received, voluntarily took up the burden of assisting in the administration of the law. But as soon as the national emergency was at an end, these men returned to private life, leaving the Commissioner of Internal Revenue in the position of carrying on the work with a greatly reduced staff of experienced assistants. He was called upon to renew his force with inexperienced men, most of whom were attracted to the work primarily by the compensation offered for their services. It is notorious that Government salaries are grossly inadequate in many cases. We believe this to be true to a great degree within the Bureau of Internal Revenue, and this is one reason why men of the caliber of those who surrounded the Commissioner during the war period are now seldom to be found on the Government's side of the table when tax cases come to be settled.

The numerous changes in the personnel of the bureau has increased the delay and uncertainty in the settlement of back taxes, and there is now no prospect of the excess-profits taxes being finally settled within any reasonable period, unless new and radical steps are taken.

Many large taxpayers, employing expert talent to present and argue their cases, have been able to settle their taxes with the department for the war period and up to the present date. But thousands of smaller taxpayers find their cases still unsettled, even so far back as 1917, and are either worrying over the amount of additional taxes they may be called upon to pay, or are blissfully unconscious of the claim which the Government may at any moment assert against them.

By reason of the large amounts involved in excess profits taxes, this situation leads, on the one hand, to extreme uncertainty in business, to hesitation in entering upon new transactions, to a tendency toward conservation of capital in the form of cash or securities. On the other hand, many taxpayers are now risking their funds in new enterprises, and when the Government eventually comes to assert its claims to a part of those funds it may find they have been dissipated or invested in such assets that liquidation can not take place except at great loss to the taxpayer. The difficulty of borrowing money to pay taxes is now extremely great, and no doubt will increase as time goes on.

Many taxpayers have come forward with the facts pertaining to their cases and have settled the matter of their tax liability for the war period. Many others have held back, postponing and delaying consideration of their cases as long as possible. Your committee believes we must see to it that these delinquent citizens be made to bear their just share of the war tax burden without further quibble or delay. Still other taxpayers have, by reason of circumstances surrounding their particular cases, been compelled to pay an unjust amount of war taxes and they should receive prompt and effective relief. Some cases are indeed impossible of settlement within the strict terms of the statute. We may as well recognize this fact and proceed directly to a compromise settlement of such cases on terms fair to the taxpayer and Government alike. These considerations, and in fact every consideration of both Government and taxpayer, point to the absolute necessity of cleaning up the situation which now confounds the business world and hampers the Bureau of Internal Revenue in the difficult task of carrying on its current business in a post-war period that has many problems of its own.

Cleaning up the back taxes for the years in which the excess profits tax was in force is an extraordinary and complex proposition. It is analogous in some respects to the necessity of clearing up the multitude of claims against the War and Navy Departments of the Government, to which Congress has given special attention. If Congress has deemed it advisable to take extraordinary steps to settle claims of citizens against the Government, why should it not take such steps to finally dispose of the old and indefinite claims which lie against taxpayers for the same period and arising under somewhat similar conditions?

The revenue act of 1918 contains several extraordinary relief provisions, such as the provision for inventory losses, amortization of war facilities and the treatment of net losses arising within the period beginning November 1, 1918, and ending December 31, 1919. These special provisions are peculiar to the problems of taxation arising during the war period and immediately thereafter. Their administration is throwing an additional and extraordinary burden upon the Bureau of Internal Revenue. The questions arising in the course of their administration, together with the difficulties of valuation that enter into the computation of invested capital, require the keenest intellect, the soundest judgment, and the widest discretion for their proper solution.

We respectfully submit that these and the other problems of our extraordinary war-time taxation should be solved with the greatest diligence, and that this can not be done by leaving the matter to the routine activities of the Bureau of Internal Revenue, limited as it is in its operation by strict statutory and departmental rules and procedure all tending to delay and indecision.

We propose, therefore, that the American Mining Congress recommend to the Federal Congress the enactment of a statute authorizing the President to appoint, by and with the consent of the Senate, a bipartisan board of 10 men, composed of lawyers, accountants, engineers, and business men, who will sit for the period of one year, to pass upon and settle the cases of taxation arising during or consequent upon the war-time period of 1917 to 1920, both inclusive.

Such a board might be called special commissioners of income tax. Its powers should be of the broadest character, to summon witnesses, to compel the production of books and papers, to determine questions of fact and law, and to make assessments, under both the general terms of the statutes and those special remedial provisions embodied in section 210 of the revenue act of 1917 and sections 327 and 328 of the revenue act of 1918.

The board should have power to compromise taxes in cases where the need arises, and should be given a power which is not now provided for in our statutes, namely, to postpone the payment of taxes for reasonable periods, or to provide for their payment in two or more installments, where the board deems it necessary in order to prevent undue hardship on the taxpayers, requiring, of course, adequate security from the taxpayer to safeguard the interests of the revenue.

There exist many cases in which large amounts of tax depend upon the construction of an ambiguous or obscure provision of the statute, in which cases great hardship may be worked upon the taxpayer by compelling him, as is necessary under the existing provisions of the statute, to pay in the tax before commencing suit to contest the legality of the assessment. Under the uncertain conditions of the post-war period the payment of large sums of money to the Government to be held by it, without paying interest, until some doubtful provision of the statute can be interpreted by the courts, may spell ruin and disaster to the taxpayer. It may be of small avail to him that the courts eventually set aside the assessment and order the return of his money. In the meantime his capital has been tied up and unproductive, his business has suffered for lack of money which has been held by the Government during a long-drawn out period of litigation, and the Government has gained nothing for the injury inflicted on the taxpayer.

Under ordinary circumstances the present rule of paying the tax and suing to recover it back is desirable and practical, but the war period saw taxes of such undreamed-of magnitude that ordinary rules must be set aside to meet extraordinary conditions. For 1918 the tax may take as much as 80 per cent of the net income of the corporate taxpayer. It thereupon becomes exceedingly important to determine the real net income—a small error in that calculation may result in the tax exceeding 100 per cent of the real net income and becoming in fact a tax on the capital of the taxpayer. It behooves us, therefore, to not only safeguard the interests of the Government, but those of the taxpayer as well, and this leads your committee to recommend that the board shall have power to postpone the collection of taxes in such cases until after the case has been heard and determined by the courts, adequately protecting the Government by requiring such bond or other security from the taxpayer as will assure the collection of the tax and interest upon final determination of the tax liability, and that the courts shall be given authority to hear and determine such cases.

We strongly urge that the board shall be an independent body separate and apart from the Bureau of Internal Revenue and the Treasury Department, responsible to Congress only. Free from red tape, the board must act promptly and decisively to settle the cases before it. The procedure under which it should operate would be analogous to that of an appellate body to which the taxpayer could appeal from decisions of the Bureau of Internal Revenue, or to which he could refer his case in the first instance if the bureau failed within a reasonable time to make an assessment or



finally approve of his reports for the years in question. The board should have authority to remand the case to the Bureau of Internal Revenue, with instructions how to close it, or on the other hand to summarily dispose of the case and determine the final assessment.

Appeal would, of course, lie from any decision of the board in the district courts, or the Court of Claims, as is now the case upon final rejection of a claim for refund by the Commissioner of Internal Revenue.

If, however, a determination and assessment is made in the case of any taxpayer and an agreement in writing signed by the taxpayer and the board that such determination and assessment shall be final and conclusive, then (except upon a showing of fraud or malfeasance, or misrepresentation of fact materially affecting the determination or assessment thus made) the statute should provide that the case shall not be reopened or the determination and assessment modified by any officer, employee, or agent of the United States, and no suit, action, or proceeding to annul, modify, or set aside such determination or assessment shall be entertained by any court of the United States. This provision (which is now proposed in somewhat similar form in House bill No. 14198) would enable the board to expeditiously settle cases on terms satisfactory to the Government and the taxpayer and with the assurance that neither the Government nor the taxpayer could thereafter attempt to reopen the assessment. In the opinion of your committee, such provision is absolutely essential to the expeditious handling of cases by the proposed board.

Your committee believes that men of the character and ability required to perform the important duties of this board could be found if the work would not last for a period of more than a year and the compensation were commensurate with their ability. We therefore strongly urge that the compensation of each member of this board should be fixed at a sum not less than \$25,000 per annum. It must be borne in mind that this board will have an exceptional and extremely difficult task, to which the very best talent should be directed; and men of the stamp required must be paid at a rate somewhat approaching the current market value of their services, and that to take less able men or to attempt to attract able men by offering compensation ridiculously below the value of their services would be a short-sighted policy certain to doom the whole plan to failure.

Your committee suggests a large board, one composed of 10 members, since the work it will perform may be divided into three or four general classes. The full board should not be required to sit in every case; three members should constitute a sufficient quorum to hear and determine the case, although more members may sit on complicated or important cases. The decision in each case should be subject to the written approval of a majority of the board, including those members who sat on the case.

A sufficient appropriation should be made to enable the board to employ an adequate staff of clerks and assistants. In addition, it should have power to call upon the Bureau of Internal Revenue for such auditing or other assistance as it might require in any particular case.

We believe the energetic, impartial operation of such a board, clothed with broad and ample powers, would result in the settlement of practically all the cases of war taxation within a year, and leave the department free to carry on its current work. We do not believe the present system of handling back taxes will ever accomplish the final completion of the work—the task is too stupendous, the amounts involved are too great, the need for sound judgment followed by prompt and courageous action is too apparent to be handled by ordinary means of tax administration.

#### EXHIBIT B.

ABSTRACTS FROM RESOLUTION UNANIMOUSLY ADOPTED BY THE AMERICAN MINING CONGRESS IN ANNUAL CONVENTION NOVEMBER 19, 1920.

Whereas the immediate need of the present moment is a definite fixing of the past tax liability for each taxpayer, especially for the war years, 1917, 1918, and 1919, and this need is emphasized by the present unstable business conditions; and Whereas this need for prompt final tax determination for the war years is so vital as to require immediate provision for final settlement of all unsettled cases for the years 1917, 1918, 1919: Therefore be it

*Resolved*, That the American Mining Congress recommend to the Federal Congress the enactment of a statute authorizing the President to appoint, by and with the consent of the Senate, a bipartisan board, composed of lawyers, accountants, engineers, and business men, to pass upon and settle the cases of taxation arising during or

consequent upon the war-time period of 1917 to 1919, both inclusive. The powers of such board to be of the broadest character; to summon witnesses, to compel the production of books and papers, to determine questions of fact and law, and to make assessments under both the general terms of the statutes and those special remedial provisions embodied in section 210 of the revenue act of 1917 and sections 327 and 328 of the revenue act of 1918. The board to be given power to compromise taxes in cases where the need arises, and should be given a power which is not now provided for in our statutes, namely, to postpone the payment of taxes for reasonable periods, or to provide for their payment in installments where the board deems it necessary in order to prevent undue hardship on the taxpayer, requiring, of course, adequate security from the taxpayers to safeguard the interests of the revenue. The board should have authority to remand the case to the Bureau of Internal Revenue, with instructions how to close it, or on the other hand to summarily dispose of the case and determine the final assessment.

If, however, a determination and assessment is made in the case of any taxpayer and an agreement in writing signed by the taxpayer and the board that such determination and assessment shall be final and conclusive, then (except upon a showing of fraud, malfeasance, or misrepresentation of fact materially affecting the determination or assessment thus made) the statute shall provide that the case shall not be reopened or the determination and assessment modified by any officer, employee, or agent of the United States, and no suit, action, or assessment shall be entertained by any court of the United States.

The board should have the power to refuse to hear any appeals that they may deem frivolous or vexatious.

#### EXHIBIT C.

[From Mining Congress Journal, January, 1921.]

#### FEDERAL WAR-TAX SETTLEMENT BOARD AN URGENT NECESSITY.

That the creation of a Federal war-tax settlement board, as recommended to Congress by the American Mining Congress, is not only advisable, but a most urgent necessity, is the opinion of business men and taxation authorities in widespread comment upon the proposal.

"The Government is using pick and shovel methods to work a mine where blasting and steam shovels are needed," is the appropriately expressed view of the present situation by Prof. Carl C. Plehn, economist of the University of California and prominent writer on taxation. "I wish to say, as emphatically as possible, that a Federal board of adjustment to deal with the accumulated returns of income and excess profits taxes is absolutely necessary."

Prof. Robert M. Haig, of Columbia University, expressed himself similarly. "I thoroughly approve of what the report of the committee on taxation of the American Mining Congress says of the urgency of the situation and of the necessity for such action as will result in speedily fixing the precise liability of taxpayers," said Prof. Haig, who is well known as an authority. "We must at once radically improve our income and profits tax administration if we are to escape very serious fiscal and economic consequences."

C. B. Hurrey, until recently deputy commissioner of internal revenue; Robert N. Miller, ex solicitor of internal revenue; C. M. Zander, chairman of the Arizona Tax Commission, and many others experienced in tax administration, have also joined with taxpayers in the appeal for a definite and authoritative settlement of cases consequent upon the war-time period. The reasons are many and varied, but largely relate to justice to the taxpayer, much needed income to the Government, and relief to the Revenue Bureau. There are those who feel that the settlement board might be attached to the bureau, but the majority opinion inclines to the belief that it would function more effectively if independent of all existing departments.

Prof. Plehn holds that "with billions of dollars at stake it is worse than penny-wise and pound-foolish to delay. It is fundamentally wicked to hold up tax settlements for five years. They hang like a great rock suspended by a thread over the head of industry, and threaten to fall when industry is at its weakest. If you will look at page 3 of the Digest of Income Tax Rulings you will see that there are 10 different official sources of rulings on income tax decisions. If you will read any hundred such decisions, selecting 10 from each source, you will find numerous inconsistencies, often flat contradictions. Added to this confusion are the unrecorded and arbitrary decisions of 'auditors' and 'inspectors' who often deal with industries and accounts of which they have less than an elementary understanding. How far would you get in operating a big mine if you had 10 independent sets of orders going out to gang bosses who had never been in a mine before?"

"There are many radical reforms of administration necessary before we can have a workable income tax. But the first thing, the most pressing thing, is to clean up the past output, to get the ore that is above ground into the smelter and the metal out."

Prof. Haig, with the assistance of George E. Holmes, of the American Mining Congress tax committee, recently completed a volume on "The Taxation of Excess Profits in Great Britain," a study of the British systems in relation to the problems of taxation in the United States. In it he points to the highly successful boards of referees which have long been a part of the British income tax procedure.

In view of Prof. Haig's intensive study in England of the administration of heavy taxation, his opinion on the urgency of creating a settlement board in this country was particularly sought. In gladly replying he refers to the fact that under the British system a condition like that now confronting us is quite impossible. "There," he describes, "the accounts are carefully examined and the tax liability determined by a capable government assessor before the tax is assessed or collected, and their force of civil servants has proved equal to the task of keeping up to date with its work. They have the fullest possible provisions for appeals to administrative authorities and to boards organized and operating on the principle of arbitration by disinterested outsiders.

"Our civil service, in spite of its best efforts, has fallen far behind, and unless some emergency organization is supplied it is difficult to see how the situation can be met," he informs the Mining Congress. "A board of special commissioners, such as you suggest, would undoubtedly command the respect of the taxpayer and would deserve the confidence of the Government. Congress should not hesitate to vest such a board with power to arrive at agreements with the taxpayer. The interests of the Government would receive proper consideration.

"In the case of such taxes as the income and profits tax, the liability of the taxpayer rests to a very material extent upon items which represent mere estimates and valuations. There is a possibility of wide differences of opinion between the Government and the taxpayer as to the correctness of these items and there is usually no absolute standard for determining which view is right. The only way to settle the problem satisfactorily is for the Government to establish some body in whose intelligence and fairness the taxpayer has confidence, and to give power to this body to make decisions as their judgment may dictate after full consideration of the facts. The British, who have had 80 years of continuous experience with income taxation, fully appreciate the necessity of elasticity in administration and grant to their local assessors, as well as to their higher officials, what seems to us to be an amazingly large degree of latitude in arriving at agreements and compromises with taxpayers. It would be foolish for us at this juncture to decentralize our system and vest our local authorities with power similar to that exercised by the corresponding British official. Before we can do that we must build up a force of skilled, responsible, and able civil servants comparable with the British force. But the plan of the committee calls for the establishment of a board, which unfortunately must probably be temporary in character, which could safely be given power to arrive at decisions, and there should be no hesitation in granting them the power. British experience plainly indicates that such power must be delegated to some factor in the administration if the income and profits taxes are to be promptly and fairly assessed.

"In a word, we must arrange for a prompt and certain determination of tax liability. To secure this, we must empower some capable, intelligent, and trustworthy authority to use their judgment and discretion in arriving at agreements with taxpayers. A board such as you propose would, I believe, be a body which could safely be entrusted with the necessary authority and the plan would undoubtedly meet the present emergency. A complete solution of our general problem rests fundamentally upon our ability to build up a capable, permanent force of civil servants."

Mr. Hurrey, whose opinions are largely based on three years' experience as one of the chief administrators of the unpopular 1917 and 1918 revenue laws, replies to the American Mining Congress that it "has arrived quickly and surely at the very heart of the taxation problem and evidently recognizes clearly that one of the greatest problems confronting the incoming Administration is some kind of equitable settlement of the vast number of unadjusted income and profits tax cases. It is easy to follow the clear analysis which the committee has made of the situation and the solution proposed is one which will appeal strongly to those who are hoping for a direct and final settlement of all these cases on a broad and comprehensive basis."

Many provisions of the revenue laws are altogether too inflexible to provide a satisfactory basis of according equitable treatment to all of the taxpayers affected, Mr. Hurrey agrees. He calls attention, on the other hand, to the fact that the law has been made intricate and difficult of interpretation by the very attempt of Congress to pro-

vide for every possible case which might arise. Under these complicated laws, which, despite all their refinement and qualifications, are nevertheless inflexible and arbitrary when applied to many individual cases, the Commissioner of Internal Revenue has had an unenviable and almost impossible task to perform. With the solemn responsibility of interpreting and applying the law as he finds it to be, the commissioner and his subordinates have been under the necessity of asserting tax liability in many cases quite at variance with clear considerations of equity.

"The proposal of the American Mining Congress," continues Mr. Hurrey, "is the establishment of a separate independent board to be charged with the sole function of taking up and settling finally the more difficult of the tax cases which now confront the Bureau of Internal Revenue for settlement. The proposed membership of the board—nine in number—should be sufficient, if men of high standing and ability are selected, to command the confidence of the public. Presumably the board will be guided in its decisions by the provisions of the law, but would be free to exercise more discretion under the law than the Commissioner of Internal Revenue has heretofore exercised.

"I believe that some such arrangement for injecting finality and equity into the administrative decisions of the tax cases is essential if the Government is to proceed with rapidity to collect the back taxes which are due and if the business community is to be relieved of the incubus of uncertainty which now surrounds the whole question of back taxes.

"I think that Congress may well consider in connection with the committee's recommendations the question of whether the proposed board should be separate and independent, or should be made an integral part of the Bureau of Internal Revenue, similar to the Advisory Tax Board which was some time ago discontinued. If the latter alternative was adopted, the power of closing cases finally would be vested in the Commissioner of Internal Revenue. This question is one of organization, and it might be deemed advisable to place all of the responsibility for tax administration under one head, so that the procedure of the board and of the bureau might be effectively coordinated."

Ex-Solicitor of Internal Revenue Robert N. Miller recently stated publicly that it was plain to him that "we have now reached a place where the disadvantages of final and quick judgment, and they do exist, are more than overborne by the advantages of getting this thing finished and done. Of course, we all want to do things absolutely right, and of course we realize the necessity of following principle, but we are in a situation here that absolutely requires the cutting of a knot. It is very, very important to consider the American Mining Congress proposal. That body has a better right maybe, certainly as good a right, to say something definite and forceful on this subject as any body in the United States. Mining is the most hazardous business in the country, and in spite of the hazards it has managed to pay practically 10 per cent of the taxes paid by corporations. So it has a right to speak very definitely as to what ought to be done."

Mr. Miller also called attention to the necessity of more adequate salaries for Revenue Bureau employees, "to hold the good men that it has got and to get more," in order that the tax settlement board's achievements might be accelerated and aided.

The chairman of the Arizona Tax Commission, C. M. Zander, telegraphed his views succinctly but definitely: "Proposed commission to liquidate tax-controversies absolute necessity."

The purpose and scope of the proposed settlement board were well described by George E. Holmes before the recent convention of the American Mining Congress: "What we need to cope with the extraordinary situation is a board of greater power than can be created under the present law, a board with powers particularly to compromise or arbitrarily fix taxes in cases where it is impossible to ascertain definite values or to determine fine points of law or accounting. Such a board would have an extraordinary task before it, and must necessarily adopt extraordinary methods to handle the situation. It is precisely what the courts will have to do eventually if these cases are appealed to the courts, and such a board, acting in a judicial or semijudicial capacity, would relieve the courts of a great deal of burden, would most expeditiously settle cases (more quickly because away from the muddle in which we find ourselves at the present time because of war taxation), and could start in on the collection of current revenue and keep the business of the Bureau of Internal Revenue more nearly up to date."

That the seriousness of present conditions has not been exaggerated is shown by the statement of Dr. Thomas S. Adams, tax adviser to the Treasury Department, before the House Ways and Means Committee on December 14. "We must use the larger portion of the force and all the brains we can get, and more if we can possibly get hold of them, to get through with the audit of tax returns now in the bureau for the calendar

years 1917, 1918, and 1919," declared Dr. Adams. "In other words, if the Bureau of Internal Revenue, with the favor of Almighty God, and all the ability and talent it can possibly procure, gets through the next two or three years under any administration and under any party without a breakdown, I shall thank God."

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EXHIBIT D.

SUGGESTED DRAFT OF A BILL FOR THE CREATION OF A FEDERAL WAR TAX SETTLEMENT BOARD.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a board is hereby created and established, to be known as the Federal War Tax Settlement Board (hereinafter referred to as the board), which shall be composed of nine members, who shall be appointed by the President, by and with the advice and consent of the Senate. In selecting the members of the board the President shall have due regard to a fair representation of the different branches of industry and commerce, and of the Bureau of Internal Revenue. The board shall cease to exist at the expiration of two years after the taking effect of this act. Not more than five of the members shall be members of the same political party. The board shall choose a chairman from its own membership, who shall be the executive officer of the board. No member during the period of his incumbency shall engage in any other business, vocation, or employment. Any member may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the board. Vacancies in the membership of the board shall be filled in the same manner as an original appointment.

SEC. 2. That each member shall receive a salary of \$—— a year, payable in the same manner as the salaries of the judges of the courts of the United States. The board shall appoint a secretary, who shall receive a salary of \$5,000 a year, payable in like manner, and it shall have authority to employ and fix the compensation of such special experts, examiners, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be appropriated for by Congress. The board shall also have the power to call upon the Bureau of Internal Revenue for such auditing or other assistance as it may require.

With the exception of the Secretary, a clerk to each commissioner, and such special experts and examiners as the board may from time to time find necessary for the conduct of its work, the board shall employ and fix the compensation of all other employees in accordance with the rules and regulations of the Civil Service Commission.

All of the expenses of the board, including all necessary expenses for transportation incurred by the members or by their employees under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the commission.

Unless otherwise provided by law, the board may rent suitable offices for its use.

The Auditor for the Treasury Department shall receive and examine all accounts of expenditures of the board.

SEC. 3. That the principal office of the board shall be in the city of Washington, but it may meet and exercise all its powers at any other place. The board may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

SEC. 4. That the Commissioner of Internal Revenue may, and on the request of any taxpayer directly interested shall, submit to the board for consideration, approval, rejection, redetermination, compromise, or such other action as a majority of the board in their discretion may determine, any assessment or impending assessment of any tax or taxes arising during or consequent upon the calendar years 1917, 1918, and 1919, or fiscal periods beginning or ending within the calendar years 1917, 1918, and 1919, under the provisions of Titles I and II of the act approved October 3, 1917, known as the revenue act of 1917, and Titles I, II, and III of the act approved February 24, 1919, known as the revenue act of 1918, protested by the taxpayer directly interested therein or wherein in the opinion of the Commissioner of Internal Revenue the invested capital or net income can not be satisfactorily determined. The board shall have the power to determine the amount of tax, penalties, and interest to be assessed in any case submitted to it, or compromise the same, and shall certify said amount to the Commissioner of Internal Revenue for assessment and collection at such times, not exceeding nine months from the said determination, and in such amounts as the

board may designate: *Provided, however,* That the board shall not review any assessment or assessments of tax or taxes made prior to the taking effect of this act except when and if protested by the taxpayer directly interested therein.

Sec. 5. That if after a determination and assessment in any case submitted to the board the taxpayer has without protest paid in whole any tax, penalty, or interest, or accepted any abatement, credit, or refund based on such determination and assessment, and an agreement is made in writing between the taxpayer and the board, that such determination and assessment shall be final and conclusive, then (except upon a showing of fraud or malfeasance or misrepresentation of fact materially affecting the determination or assessment thus made) the case shall not be reopened or the determination and assessment modified by any officer, employee, or agent of the United States, and no suit, action, or proceeding to annul, modify, or set aside such determination or assessment shall be entertained by any court of the United States.

Sec. 6. That the board shall have the power to prescribe rules and regulations for its procedure and the hearing of cases. Three members of the board shall constitute a quorum sufficient to hear each case submitted: *Provided, however,* That the decision in each case shall be subject to the written approval of a majority of the board.

Sec. 7. That the board shall have the power to refuse to hear and act upon any cases that it may deem frivolous or vexatious.

Sec. 8. That the board shall have the power to summon witnesses, take testimony, administer oaths, and to require any person to produce books, papers, documents, accounts, correspondence, or other data relating to any matter under investigation by the board. Any member of the board may sign subpoenas. Any employee of the board, when so authorized, may administer oaths, examine witnesses, take testimony, and receive evidence.

Any employee of the board who shall make public any information obtained by the board without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$5,000, or by imprisonment, in the discretion of the court.

#### EXHIBIT E.

*Personnel by rates of pay, income tax unit only, Bureau of Internal Revenue.*

	Rate of salary.		Rate of salary .
2.....	\$660	5.....	\$2,750
14.....	720	171.....	3,000
49.....	840	98.....	3,300
54.....	900	98.....	3,600
111.....	1,000	31.....	3,800
650.....	1,100	31.....	4,000
1,321.....	1,200	15.....	4,200
1,041.....	1,400	18.....	4,500
564.....	1,600	9.....	4,800
494.....	1,800	7.....	5,000
310.....	2,000	1.....	5,500
245.....	2,250	1.....	6,000
241.....	2,500	1.....	7,500

#### STATEMENT OF EDWARD F. McGRADY, WASHINGTON, D. C., REPRESENTING AMERICAN FEDERATION OF LABOR.

Senator WATSON. Mr. McGrady, will you kindly state your full name, your residence, and whom you represent?

Mr. McGRADY. My name is Edward F. McGrady; my residence, Washington, D. C.; I am representing the American Federation of Labor. Mr. Chairman and members of the committee, Mr. Gompers was extremely anxious to appear before your committee to-day, but at the last minute he was called into a conference of national scope which will mean a great deal to labor in this country, and he felt that he had to be there.

The executive council of the American Federation of Labor, which has just concluded a conference at Cincinnati, adopted a strong protest against the sales tax. This will be submitted to the American Federation of Labor convention which meets in Denver in June.

In addition to this protest of the executive council, we have received in our office thousands of letters of protest from labor unions from every section of the country. The American Federation of Labor, therefore, is appealing to you in behalf of the American worker.

Five millions of the now idle workers and many other millions whose wages have been reduced from 25 to 60 per cent are now going to be called upon to assume that burden in the form of a sales tax. Big business, not satisfied in reducing the standards of living of the wage earners, is now attempting to shift the burden of war and the cost of Government from its own shoulders to the backs of the working men and women of the country.

The American worker to-day is toiling for a living wage. A living wage is nothing more than a horse gets—enough to eat and a place to sleep. This proposal would be a tax upon his entire inadequate income, whereas the wealthy would pay out of their excess profits.

Again, there are many of the well-to-do who have very small or no families to support, while the poor people with large families, of three to six or more children, would be taxed for each and every mouth in their household. The more children in a family the larger the tax.

To be sure the automobile dealer, the fur dealer, the diamond dealer, and other dealers in the luxuries of life want their taxes reduced, and in doing so they are willing to place extra taxes upon the necessities of life, such as food, fuel, clothing, etc.

Mr. Otto H. Kahn, in a report to the National Industrial Tax Conference, declared:

Taxing a poor man's breakfast table is a formidable slogan to run up against.

But the sales tax is not only taxing the breakfast table, but his supper table and his dinner pail. The "full dinner pail" has elected many men to public office, but what will happen to the men or party who place a tax extraordinary upon a "half-filled dinner pail"?

In the report of the committee appointed by the United States Chamber of Commerce on taxation it thus refers to a sales tax:

Perhaps the greater inequity, however, would appear in the proportionate results of any of the taxes here under consideration upon the person with small income as compared with the person of large income. At the bottom of the economic scale are the persons whose income barely suffices to provide with necessities of the poorest quality and in the smallest amount and at the other end of the scale are persons whose expenditures for necessities, no matter how large, represent but a fraction of their income. Any tax falling upon the general expenditures is consequently disproportionately heavier for the persons of smaller incomes as compared with persons of larger incomes. To the extent sales taxes of the sorts that have been suggested were used as a source of revenue, that would be a departure from the principle that taxes should be levied in accordance with the ability to pay.

The tax committee of the National Industrial Conference Board reported:

It is claimed by the proponents of such a tax that not only will it generally be shifted but that the exact amount of the tax would be passed on to the consumer.

Carl C. Plehn, professor of finance in the University of California, has this to say about the sales tax:

It is hardly possible to consider a sales tax as a small proposal. It becomes multiple almost at once if it is on every sale of everything, and if at all in proportion to the amount of the payment it would be most burdensome and most inequitable.

The United States Chamber of Commerce committee further says:

A statement has been frequently made that the excess-profits tax has increased prices. Some economists contend that the tax has not in any direct way had this effect, and suggests that when its rate was lowered by one-half for the taxable year of 1919 for subsequent years prices continued to advance and have now taken a downward turn without any change in the rate for 1920. They also assert that prices rose more in the 12 months preceding the enactment of the original law of 1917 than in the following 12 months.

In this connection let me say that we believe that the workers are going to be more heavily assessed than anybody else. The rich man can go out and buy the necessities of life in large quantities, but the average workingman and his wife buy articles costing 15 cents, 20 cents, 25 cents, and 30 cents; and they will be taxed on all these articles 1 cent each. It may be said that it will not be so, but it was proven so when they put the tax on soda water and other things. The fraction of a cent was never given to the worker; he had to pay the entire cent, and we are reasonable in assuming that the same mode of procedure will be followed in this connection.

Senator Walsh said that he heard a number of business men in his State say that they rather favored the sales tax. I have been in Massachusetts recently and the large number of business men, such as the corner grocers, men who deal with the small buyers, the workers, have told me that they were opposed to the sales tax and they did not want to be tax collectors, which they would have to be if this law passes.

Senator SIMMONS. Let me ask you a question there. If we make every business man in this country a tax collector, do you not suppose that the bulk of them will charge a commission to collect that tax about equal to the tax itself?

Mr. McGRADY. Positively. That has been the experience of the poor man and woman in America to-day.

Senator SIMMONS. They pass that on?

Mr. McGRADY. It is passed onto their shoulders. Not only are the workingmen opposed to the sales tax, but we can speak for the wives of the workers, who will deliver the final verdict on the sales tax. The average prices paid by the wage earners' wives for articles of food range from 15 to 25 cents. Every penny is counted, and when the housewife must pay an extra cent on every article she buys as a tax there will come a cry of indignation from every quarter of our Nation. It requires a long time to awaken the people to any issue. But when you go down in the pockets of those who have to count their pennies and extract therefrom a further tax upon things needed to sustain life there immediately will be an uproar so loud and prolonged that the men who now think of voting for such unfair taxation would do well to hesitate. There is bound to be a monster reaction. And we can promise you that indignation meetings against the sales tax will be held in every city, town, and hamlet of this country.

Senator SMOOT. Is that Mr. Samuel Gompers's statement?

Mr. McGRADY. This is a statement prepared by myself as representing the American Federation of Labor.



Senator SMOOT. I thought maybe he had sent it up for you to present.

Mr. McGRADY. No, sir; I present it for the Federation of Labor.

Senator SIMMONS. Has that been submitted to Mr. Gompers?

Mr. McGRADY. Mr. Gompers was called very early to the conference this morning with a number of employers.

Senator SMOOT. Was that submitted to Mr. Gompers?

Mr. McGRADY. That was submitted to Mr. Gompers's secretary.

Senator SMOOT. Mr. Gompers has not approved of it?

Mr. McGRADY. I say that Mr. Gompers has indorsed every word of that.

Senator WATSON. Does Mr. Gompers want to come before the committee later on?

Mr. McGRADY. I do not know, but we will ask Mr. Gompers, Mr. Chairman, if that is your wish.

Senator WATSON. I believe we would be very glad to have him come if he desires to do so.

Mr. McGRADY. Well, I am sure he was very anxious to be here to-day.

Senator SIMMONS. You are satisfied that that paper you read reflects the sentiment of Mr. Gompers?

Mr. McGRADY. I state that positively; that that paper reflects Mr. Gompers's sentiments and those of the executive council of the American Federation of Labor.

Senator DILLINGHAM. Does it also represent their understanding of the provisions of the bill that is under consideration?

Mr. McGRADY. I should say so.

Senator SIMMONS. It has been said here that if we do not impose a sales tax under the system of taxation that will probably have to be adopted, the consumer would have to pay a heavier tax than if we impose the sales tax. What is your view about that?

Mr. McGRADY. I do not believe that is so, Senator. It seems rather peculiar to me that if the big business men of this country are trying to get rid of the excess-profits tax and, as has been said, if this sales tax is put into effect the consumer will only be taxed one-third of what he is paying now, we would like to know who is going to pay the rest. If a sales tax is adopted and it is only going to cost the consumer one-third of what he is paying now and the big business men are going to get rid of a lot of taxes that they want to get rid of, where is this money going to come from? Somebody has to pay it.

Senator SMOOT. Somebody pays it now and in a multiplied form, and we want to get rid of that multiplied form.

Mr. McGRADY. In other words, these big business men and wealthy men of the country are trying to unload the burden that they are carrying. They have to unload it some place.

Senator SMOOT. There would not be any unloading. You are mistaken in the idea that a sales tax would mean unloading from the shoulders of the wealthy to the shoulders of the poor. The idea of a sales tax is this: That taxes are paid by the ultimate consumer, and it has been proved beyond a question of all doubt that the excess-profits tax and taxes of that kind are multiplied and pyramided as they pass on. I think you will admit that.

Mr. McGRADY. If that is so, Senator—

Senator SMOOT. But do you admit it?

Mr. McGRADY. If the consumer is going to pay the ultimate cost, if he has to pay the ultimate cost, then let me say, representing over 5,000,000 consumers, that we are satisfied with the present condition of affairs rather than to have the excess-profits tax and the surtaxes taken off and adopting a sales tax.

Senator SMOOT. In other words, you would very much prefer to pay high taxes, if you do not know it, than to pay an honest tax that is known to everybody?

Mr. McGRADY. No such thing.

Senator SIMMONS. If the excess-profits tax is unjust to the consumer, to whom it is said to be passed, and the sales tax would likely be unjust to the consumer, do you not think that instead of trying to devise another scheme of taxing the consumer we ought to be trying to devise another scheme which would more certainly tax profits than wealth?

Mr. McGRADY. Positively. That is the attitude of the American Federation of Labor. I am much obliged to you, gentlemen.

**STATEMENT OF PROF. FRED ROGERS FAIRCHILD, OF YALE UNIVERSITY.**

The CHAIRMAN. Prof. Fairchild, you are down on the list for to-day as desiring to address the committee on tax matters. Where do you reside?

Prof. FAIRCHILD. New Haven, Conn.

The CHAIRMAN. What is your occupation?

Prof. FAIRCHILD. I am professor of political economy in Yale University.

The CHAIRMAN. How long have you been a professor there?

Prof. FAIRCHILD. Well, I have been in various ranks of the university from 1904 to the present time.

The CHAIRMAN. Are you a graduate of Yale?

Prof. FAIRCHILD. I am not a graduate of Yale College. I received my doctor's degree at Yale. I am a graduate of Doane College.

The CHAIRMAN. Will you state your views to the committee, Prof. Fairchild?

Prof. FAIRCHILD. I have been asked by Senator La Follette to appear in order to speak with reference to the sales tax, a subject to which I have given considerable study.

The sales tax, in my opinion, is, first of all, a tax upon consumption; that is, the tax is bound to be ultimately shifted from the immediate taxpayer to the ultimate consumer of the goods. It is a tax which must rest as a burden on cost, being an addition to the cost of each unit of product, and since business can not normally go on producing at a loss, ultimately the consumers must pay this additional cost.

The CHAIRMAN. Is not that largely true of any tax?

Prof. FAIRCHILD. No, sir; I should say not. It depends largely on the form of the tax. For instance, the inheritance tax is a tax that could hardly be shifted.

The CHAIRMAN. Well, that is a tax on capital, and you as a professor in economics ought not to bring that up as a pertinent illustration. The Government raises over a billion dollars by sales tax now, which is shoved on the consumer, but to bring up the inheritance tax is hardly a worthy comparison.

Prof. FAIRCHILD. Well, that is certainly a tax which, on account of its form, is not shifted. Also the individual income tax. The only way a tax can be shifted is through control of price. Take the income tax. There is no longer any question of price and no possibility of shifting it to the consumer. The same is, on the whole, true with respect to the excess-profits tax. That differs from the sales tax in that it is a tax not added to the cost on all units of product, but simply a percentage on the profits of business above a rate which is not subject to tax, and therefore can not have the effect of driving men out of business.

I think there is a general agreement that the sales tax is added to the cost and shifted to the consumer of the goods. It is not shifted, however, with equal ease and certainty and speed by all competitors. During the process of shifting injustice may be done and inequality result, due to different ratios of net to gross earnings, since the sales tax is virtually a gross earnings tax, due to different rates of turnover on capital. So that during the period of transition the sales tax is going to be very hard on those businesses that are struggling against adverse conditions.

The CHAIRMAN. Such as what?

Prof. FAIRCHILD. Any business which at the present time of depression is struggling to keep its head above water. I do not apply that to any particular line of industry, but simply to the individual concern. It is also hard on those concerns which have large gross sales and small ratio of profits.

Senator SMOOT. Like the packers.

Prof. FAIRCHILD. Yes; like the packers. The dairy business is another in which there is a very rapid turnover and a very small margin of profit, so that a gross-earnings tax appears unequal. After the transition has ultimately taken place, then it becomes a burden on the consumers, and that is, I think, the most important feature of the sales tax. There the injustice is due to the fact that in the process of manufacture goods pass through various stages from the extraction of the raw material, the manufacture in various stages, the sale to jobbers and retailers, and, finally, the delivery to the ultimate consumer. The sales tax means a tax on every single process from the raw material to the final consumer. In some lines business is integrated and all of these processes are embraced in a single great concern. Here there is one tax. In other cases, small concerns are each one performing one part, one process, in this series, and the sales tax has to be paid as a tax on the sale at every process in the series. It has been figured that this may mean a tax paid ten or a dozen times over in some cases.

The advocates of the sales tax have no answer to this argument. I think there is no answer, except to say that it is not of very great importance. Based on figures presented by the advocates of the sales tax themselves, the tax when it finally reaches the ultimate consumer will not exceed more than  $2\frac{1}{2}$  or  $3\frac{1}{2}$  per cent of the price of the goods when finally sold. Now, I submit that a tax of  $2\frac{1}{2}$  or  $3\frac{1}{2}$  per cent is not a small matter. The great integrated concern pays only 1 per cent, while the small dealer who has finally to pass on to the consumer the accumulated taxes coming from all the processes, must pass on a tax two or three or more times the tax paid by his great competitor. He will find that tax not a matter of insignificance.

It means that in competition the small concern performing a single process is going to suffer a tremendous handicap as compared with the great integrated concern that embraces all processes within its own business. That is an objection which, I think, can not possibly be avoided, and I do not think there is any answer to it. If we are going to have the sales tax, we must have it with our eyes open and recognizing that difficulty.

There are times when business is flourishing, prices rising, and everything going well, when business can stand added cost, but, I submit that the present is not that sort of a time, and right now is a very poor time to add to the cost of business by a tax which will add to all business costs but will not add equally. It will be a burden of two or three or four times as much on some concerns as others in the same line of business.

Just one other point, Mr. Chairman, I think is significant. The real issue, I believe, here is between the sales tax and the income tax. I have yet to see any argument urged in favor of the sales tax as a substitute for existing taxes which seems to carry much weight, unless the intention is ultimately to replace the income tax on individuals and corporations with a sales tax.

Objection is made to the excess-profits tax, but it is pretty likely that that is going to go anyway. Apparently we are pretty much committed to abolishing the excess-profits tax.

There is objection to certain of the excise taxes, the luxury taxes, etc. But there, again, it is reasonable to assume that Congress will make such changes as will make the excise taxes tolerably fair and reasonable.

I do not believe that the sales tax is being advocated so vigorously merely as a substitute for the excess-profits tax and for the most obnoxious feature of the excise taxes, because those are reforms that are pretty likely to come anyway. In my opinion the sales tax is advocated by those who would like to see the burden of the expenses of the Federal Government shifted from the income tax on to taxes on consumption, which, as you know, was the situation prevailing from the time of the Civil War until 1913. It would take a long while to discuss the relative merits of the income tax and taxes on consumption.

The CHAIRMAN. Do you mean to say, Professor, that the proposition is to abolish the income tax?

Prof. FAIRCHILD. I think that to a very considerable degree that is the aim which is ultimately in the minds of those who are now urging the sales tax.

The CHAIRMAN. I want to say candidly that I have not in my vast mail and number of callers had a single individual or group intimate in any degree any desire to abolish the income tax, but, on the contrary, I have been met with the statement that the income tax has come to stay and properly so. Now, if you have any evidence to the contrary I should be mighty glad to have it. The only thought is, shall the income tax be placed where individuals will not hide their incomes?

Prof. FAIRCHILD. I have here an extract from the published proceedings of a meeting of the National Tax Association held in Salt Lake City last September.

The CHAIRMAN. What is that association?

Prof. FAIRCHILD. That is an association of tax experts and tax officials throughout the United States.

The CHAIRMAN. There are so many mushroom associations growing up every day, and men and people coming here purporting to represent them, that it is well to investigate the pedigree of an association.

Prof. FAIRCHILD. This is a very well-known association and has been in existence since 1907. It holds an important meeting every year and publishes a bulletin of its annual proceedings and is recognized by students of taxation, particularly the tax officials of the various State governments throughout the United States.

The CHAIRMAN. It is a responsible association, is it?

Prof. FAIRCHILD. It certainly is. May I quote the remarks made by Mr. Meyer D. Rothschild, one of the foremost advocates of the sales tax?

The CHAIRMAN. Yes.

Prof. FAIRCHILD. Mr. Rothschild, addressing the annual conference of the National Tax Association in Salt Lake City last September, said:

My own personal view is that business, through the medium of a small turnover tax, could well pay the entire cost of economically running the Government, take care of the great national debt, and permit the dropping of all other kinds of Federal taxation. Such an exclusive tax would naturally eliminate the personal income tax and relieve business from the burden of providing the additional interest, dividend, or profit which it must now furnish to pay the income tax.

The association, which Mr. Rothschild represents, in its published platform does not go so far as to advocate the abolition of the personal income tax, but it shows its leaning not only by advocating the abolition of the surtax, but by proposing to raise the personal exemptions to \$2,500 and \$5,000, respectively. That is, it would lop off the income tax at both the top and bottom and leave only the normal individual tax beginning with a pretty high exemption.

The CHAIRMAN. Would you advocate keeping the income tax at its present rate?

Prof. FAIRCHILD. No, sir; I am very much in favor of such reductions in the high surtax rates as will make them both reasonable and equitable, and also, what is more important, make them effective from an administrative point of view.

The CHAIRMAN. I think that is as far as any of us want to go.

Prof. FAIRCHILD. I think that is where most tax experts will stand, but I can not believe that the sales tax, which its friends say is going to yield from three to five billion dollars a year, is being urged simply to get rid of some of the excrescences of the present tax system, because that much revenue is not needed for that purpose.

The CHAIRMAN. Do you think that Mr. Rothschild speaks for anybody but himself?

Prof. FAIRCHILD. Yes; he is the spokesman of the largest and most active organization that is working for the sales tax.

The CHAIRMAN. What association is that?

Prof. FAIRCHILD. The National Business Men's Tax Association.

The CHAIRMAN. Is that a new association?

Prof. FAIRCHILD. I think it was organized for the sake of pushing the sales tax.

The CHAIRMAN. A few months ago?

Prof. FAIRCHILD. Well, within the year. I am somewhat embarrassed in thus speaking for Mr. Rothschild. He should doubtless be here and have an opportunity to speak for himself, but I have taken only his own statements as publicly made and in print, where anybody can find them. I do not need to argue before this committee, I think, the merits of the income tax; the fact that it is the backbone of the tax systems of the leading nations of the world, and that the United States has finally fallen in line.

The CHAIRMAN. It does not require argument, Professor. We are all agreed that it has come to stay.

Prof. FAIRCHILD. The final point, Mr. Chairman, to which I should like to call your attention, and one with which you are more familiar than I, is the opinion which I hold that the sales tax really is not necessary at the present time to enable us to remove the objectionable features of the present tax system or to balance the budget. I have every confidence in the ability of Congress to reach a solution of the present financial problem without introducing a new tax of this sort.

I am fearful, therefore, lest we find ourselves saddled with a great new tax machine, a tax which is inherently unjust in that it is a tax on consumption, a tax which bears more heavily on the poor than on the rich; a tax which will be a burden on business at a time when business needs all the assistance it can have to get on its feet again; a tax which will affect unequally different businesses according as many processes are integrated in one concern or distributed among many small concerns; a tax which, if we may accept the estimates of its friends, would produce revenue far in excess of what is now needed; a tax which would leave us with the danger of a reversal of our tax policy, a fundamental change in our tax system which would set our faces against the weight of all tax authority and against the history of modern democratic countries of the world. If I can answer any questions, Mr. Chairman, I should be happy to do so.

Senator LA FOLLETTE. Prof. Fairchild, I was delayed at my office and did not have an opportunity to hear all your statements. It may be that you have covered the points that I would inquire about, and if you have and the record has covered these propositions, I shall not ask you to repeat them; but have you stated what the effect of a sales tax would be as to the cost and price?

Prof. FAIRCHILD. I tried to state to the committee that the effect would be to raise all costs and raise prices and so pass the burden to the ultimate consumer.

Senator LA FOLLETTE. Would such a tax as is proposed by this bill affect business equally or unequally?

Prof. FAIRCHILD. That point also, I think, I have covered.

Senator LA FOLLETTE. You have fully covered that, have you?

Prof. FAIRCHILD. Yes, sir.

Senator LA FOLLETTE. And have you discussed the relative merits of a sales tax as compared with an income tax?

Prof. FAIRCHILD. I did not go into that. The chairman stated that there was a pretty general agreement that the income tax was here to stay. My impression is that the fact that some of the advocates of the sales tax would like to see the income tax go and a tax on consumption take its place is perhaps not pertinent, if everybody agrees that the income tax is to remain. Therefore, I did not go very far into that question.

Senator LA FOLLETTE. Well, it is the opinion of some of us that that is the beginning of the going out of the income tax.

Prof. FAIRCHILD. That was exactly the opinion I expressed myself.

Senator LA FOLLETTE. I should be very glad, if you have not already covered that ground, to have you go into that somewhat.

Prof. FAIRCHILD. In just a few moments I might state that there are certain fundamental principles which I think you will find generally acceptable by students of taxation. First, that the burden of taxation should be distributed among the citizens according to their ability to pay. There have been various other theories of distribution proposed and discussed and one by one rejected, and I think there is to-day a pretty general agreement on the principle of distribution according to ability to pay. Secondly, that the best measure of ability to pay is income. Here again we have tried property taxes and consumption taxes and business taxes of various sorts, and throughout the world I think it is perfectly safe to say that there is a general agreement that individual income is the truest measure of ability to pay taxes. Third, there is an agreement that the ability to pay taxes increases at a faster rate than the increase of the income, which justifies progressive taxation.

On the basis of those three principles, which I think it will be very difficult to change, tax students throughout the world are pretty thoroughly agreed that the individual income tax should be the basis of the tax system, and this is not merely an academic agreement among tax theorists, since it is the actual tax policy of virtually all the leading countries of the world which have a democratic government.

The United States, as you all know, through our constitutional restriction upon direct taxes, was prevented from 1894 on from having an individual income tax; but since the Constitution was amended so as to make that possible we, after lagging a generation or two behind the other nations of the world, have fallen into line and have made rapid progress and now have a developed income tax which I think it would be a very great mistake to weaken or threaten to withdraw. I do not at all insist that the present income tax is perfect. I am of the opinion that the highest surtax rates are too high, both on the grounds of justice and, what is more important, on the grounds of administrative effectiveness, particularly when we leave open to the wealthy taxpayer the opportunity of tax-exempt investments which are now before him and which, I think, is one of the serious blunders we have made.

Senator LA FOLLETTE. Have you any suggestion to make as to how that should be met by legislation?

Prof. FAIRCHILD. I think without any question legislation should go just as far as constitutional restrictions permit in removing from now on the tax-exemption privileges of certain investments. There may be some question as to how far constitutional requirements will permit that, but I can conceive of no question but what it ought to go so far as our constitutional restrictions will permit. I think the next step we should take would be to make an amendment to the Federal Constitution which would permit the various State governments to impose their taxes upon the securities of the United States Government and, conversely, permit the United States Gov-

ernment to submit to its income tax the bonds and other obligations of the States and their political subdivisions.

I do not see how we can avoid a very serious curtailing of the effectiveness and the equity; in fact, even the threatened breakdown of our income tax system, so long as we leave the present situation in which States and their subdivisions are encouraged to extend their issues of securities exempt from the income tax. And, conversely, it is no more than fair to permit the States with their income taxes to reach the securities of the Federal Government.

Senator LA FOLLETTE. Have you studied the sales tax legislation and its administration in Canada?

Prof. FAIRCHILD. Only in a very cursory way, Senator La Follette. I understand that the Canadian tax is quite different from any of the forms of the sales tax being advocated in this country. It is not a tax on retail sales at all. It is at different rates under different circumstances, the details of which I am not very familiar with. So that I do not think that the results of the sales tax in Canada are very important evidence as to the probable working of the sales tax in the forms in which it is being advocated in the United States.

Senator LA FOLLETTE. What about the Philippine sales tax?

Prof. FAIRCHILD. I know very little about that. The French Government also has a sales tax. All I learn about that is that the yield has been disappointing.

Senator LA FOLLETTE. Have you prepared a paper or a brief upon this subject?

Prof. FAIRCHILD. A couple of weeks ago I appeared before the Chamber of Commerce of the United States at its annual meeting and read there a paper which I could submit to this committee if you care to receive it.

Senator LA FOLLETTE. I would like very much to have you submit it and have it go into the record.

The CHAIRMAN. It will be printed in the record, if it is so desired.

Senator DILLINGHAM. Have you in that paper embodied your views on a constitutional amendment authorizing the General Government to tax the obligations of the States and of the State governments to tax the obligations of the Federal Government?

Prof. FAIRCHILD. No, sir; that is not a part of this paper.

Senator DILLINGHAM. Have you ever prepared a paper on that subject?

Prof. FAIRCHILD. No, sir; I have not.

Senator DILLINGHAM. Have you given any thought as to what the possible effect might be if the States had the authority to tax Government securities on the power there would be, perhaps, to attack the very sovereignty of the Nation in time of need?

Prof. FAIRCHILD. Yes, sir; I have given thought to that.

Senator DILLINGHAM. And, on the other hand, the power of the General Government to tax what you might call the sovereign powers of the States?

Prof. FAIRCHILD. Yes, sir.

Senator DILLINGHAM. Do you see any danger in that?

Prof. FAIRCHILD. Not such as would qualify my proposal, which was that the Federal Government and the States, respectively, should



have the power under a general income tax to tax the income from these respective securities.

Senator DILLINGHAM. You would limit it to that?

Prof. FAIRCHILD. Yes, sir. There was very good ground, I think, for the early decisions of the Supreme Court, which restricted the powers of the respective governments to tax each other's agencies, for there was at that time an attempt to impose an exclusive tax on particular agencies of another grade of government. For instance, the tax first came up in connection with a State tax on the United States Bank, and the court, under Justice Marshall, I believe, very properly declared that the power to levy such a tax gave power virtually to attack or destroy the sovereignty of another grade of government. But it is very hard for me to see how any such danger can lurk in the power under a general income tax which reaches income of all sorts to include the incomes from securities of another grade of government. For example, if the State of New York imposes an income tax upon all incomes from every source, and among those includes the interest on United States bonds, how can that tax in any way affect the sovereignty of the United States Government?

Senator DILLINGHAM. I am very glad to know that you would limit such an amendment as that. I was a little startled by your suggestion without this explanation.

Prof. FAIRCHILD. I am very glad you gave me an opportunity to explain.

Senator DILLINGHAM. There is a general movement coming from various sources of the Government to invade the State and assume duties of the State, which I look upon as very dangerous.

Prof. FAIRCHILD. I agree with you very heartily.

Senator LA FOLLETTE. Professor, have you in the course of your statement here discussed the excess-profits tax at all?

Prof. FAIRCHILD. Only incidentally. I compared it with the sales tax as to where its ultimate burden rests. I drew the distinction between a tax like the sales tax, which must be an added cost to every unit of product, and, therefore, must ultimately be shifted to the consumer in a higher price, and, on the other hand, a tax on excess profits, which is not an added cost on every unit of product, which is not borne at all by those concerns that make profits small enough so they are not subject to the tax, and I pointed out that such a tax on excess profits is not normally shifted to the consumer, either not at all or certainly to no such extent as the tax on gross sales, which has to be paid, whether profits are made or not, on every unit of product.

Senator LA FOLLETTE. The very strong advocates of the sales tax who have appeared before this committee from time to time have been, apparently, to my mind at least, representatives of business very desirous of getting rid of the excess-profits tax, and they have been loudest and strongest in their affirmation that the excess profits tax is all passed on, not only the tax, but that it is multiplied over and over again and pyramided, and that the consumer has to pay it all and has to pay it in the very worst form in which a tax could be passed on. I would like to know what your views are about that.

Prof. FAIRCHILD. I am very familiar, indeed, with such statements as that, and, in my opinion, they are merely assertions with no

basis of logical argument to sustain them and nothing in the way of practical experience to bear them out. On the grounds of economic principle it is impossible to show that a tax which is borne only by those who make profits above a certain rate can all enter into the cost of products so as to be shifted. How can the concern which pays that tax raise its price if its competitors do not raise their prices, and why should a competitor who is making small profits and does not pay a tax be compelled to raise the price on account of a tax which he does not pay? How can anybody be driven out of business by a tax which he does not pay? Those whose profits are small—that is, up to 8 per cent or whatever the limit is—are not going to be affected at all, because they do not pay any tax, and if they are not affected and go on selling at the old price, how can these more prosperous concerns, whose profits are so high that they pay a tax, raise their prices in place of the old price level made by their competitors, and finally how would they go out of business sacrificing good profits because the Government takes a share of them? That is theory, but it is a theory that it is difficult to escape the conclusion of. On the practical side, I know perfectly well that it is open to any business man to add his excess-profits tax in calculating his costs and in keeping his accounts, and that is the nearest to argument that I have come in studying these assertions. But it is very clear that it is one thing to add certain elements into your costs in keeping your accounts and a very different thing to pass them on to the buyer of your goods. The mere calculation of taxes does not give any power to pass them on to the purchaser of the goods. I am pretty certain that the average business man with the common sense for which I give American business credit charges prices which he can get and strives to make his profits as high as he can make them, and I do not see how the imposition of a tax on profits above a certain limit—that is, excess profits—gives any power to raise prices which was not already possessed and presumably exercised before.

Senator LA FOLLETTE. And would be exercised after the excess-profits tax is removed.

Prof. FAIRCHILD. Absolutely. Some of the more enthusiastic advocates of the excess-profits tax put up an argument which can rest only on the assumption that the one thing which controls prices is the sweet will of the seller, and I submit that prices are not so controlled. If they were we would not to-day see some of these very concerns doing business at a loss. There are other things outside the will of the seller that control prices.

Senator DILLINGHAM. I have observed, Professor, that among those who have testified before us on that subject, heads of department stores and manufacturers, that almost invariably they say that they have estimated what that tax would be and have added it to the overhead charges and then based their prices accordingly, so that in effect it has gone into the price of the goods and in that way reached the ultimate consumer.

Prof. FAIRCHILD. I have heard those statements over and over again and am perfectly free to admit that they represent the facts so far as those who make them see the facts, namely, that they have calculated the taxes; they have added them into their costs in making up their accounts; they have added them to the overhead; but having done all that, that does not guarantee that they will get a price suf-

ficient to cover all these things, and if they could get that price I think they would not have waited for the Government to give them this particular thing to calculate before charging it.

Senator DILLINGHAM. Some of us have felt during the war here that the tax had been multiplied several times. The Buyer's League had to be formed to bring down the competition that you speak of.

Senator LA FOLLETTE. And some have been pretty certain that the prices would have been just as high, taxes or no taxes.

Senator SUTHERLAND. I think the witness is right in theory, but on a rising market, such as they had during 1918 and 1919, they could use it as an excuse, and automatically the contagion of price raising spreads among the small men as well as the big men. They charge what the trade will bear. They might have charged as much if there had been no excess-profits tax, but, as a matter of fact, they used that as an excuse, I think, and the public submitted. Now, in a falling market they could not use it.

Prof. FAIRCHILD. Nor in a normal market, ordinarily.

Senator SUTHERLAND. Where there was active competition.

Prof. FAIRCHILD. Yes, sir. I should myself have made that point more clear, that it is quite true that in circumstances such as existed during the war, when demand was exorbitant and anybody on the ground with goods to sell could get almost any price it was desired to ask, there doubtless were those who in seeing this opportunity found their consciences somewhat comforted by the fact that they could lay the blame on the Government. That had the effect of prices going up here and there, higher than they would otherwise have gone; but the effect of that is all worn off in a short time, and that is only the effect of such an abnormal condition as we had during the war. Now we are discussing the merits of the sales tax and the excess-profits tax for the normal times supposed to follow, and that argument, I think, has no weight.

The CHAIRMAN. I do not recall, Professor, whether you have referred to this matter or not. I am impressed with the fact that you have made a study of this question, however. Have you considered the difficulties of administration, if there are any, in the collection of the tax?

Prof. FAIRCHILD. I have given that some consideration, and I do not regard the difficulties of administration as the most serious objection to the sales tax. If the sales tax is added to all existing taxes, of course, we do not get any simplicity. No matter how simple the sales tax is, we have at least that addition, and I have not been impressed with the argument to the effect that the sales tax is so very simple, and would add so greatly to the simplicity of the administration of taxes. That argument can have no weight unless it is presumed that the corporation income tax is to be abolished. A concern which has given the information necessary for the corporation income tax has given, I think, all the information necessary for the sales tax. Therefore, the sales tax can bring no simplicity into our tax machinery, unless the income tax is to be abolished. That is another reason which rather inclines me to the opinion that the sales tax is really an attack upon the income tax. The sales tax would undoubtedly cause a very serious burden of administration, particularly in applying it to the small concerns. I notice that some of its

advocates suggest that the small concerns be entirely exempted. In Canada many important industries are completely exempted for one reason or another.

Now, you have your choice, either to make this an all-inclusive sales tax, in which case you must face serious administrative difficulties with the small concern, or else you begin to make exemptions; and as soon as you start on the road of exemptions you begin to weaken and break down what foundation of principle there is for the universal gross turnover tax. So my opinion is that if the sales tax is added without sweeping away a good part of the present tax system, you will get no additional simplicity, but additional complications, and if you avoid the complication of imposing the tax on the small concerns you exempt concerns right and left, here and there, and then you destroy about all the argument there can be urged for the sales tax on the ground of equity. You might as well then go to a scheme of special excise tax, such as we have always had since the Civil War, which has a very great advantage on the ground of administrative simplicity over the universal sales tax.

Senator LA FOLLETTE. Professor, you are a member of the Yale faculty, are you not?

Prof. FAIRCHILD. Yes, sir.

Senator LA FOLLETTE. What department?

Prof. FAIRCHILD. The department of political economy.

The CHAIRMAN. The committee is much obliged to you, Professor. (The paper previously referred to is as follows:)

#### THE CASE AGAINST THE SALES TAX.

(By Fred Rogers Fairchild, professor of political economy, Yale University, before the Chamber of Commerce of the United States.)

Owing to the limit upon my time, I shall make no attempt to discuss in detail every phase of this important subject. My purpose is rather to set before you in plain English four fundamental propositions, which I conceive must be the basis of any sound judgment upon the merits of the sales tax as a practical revenue measure for the United States at the present time.

1. The first proposition is: The sales tax is a consumption tax and therefore an added business cost.

By this I mean, first, that the sales tax is normally shifted by the seller to the purchaser and so finally rests as a burden upon the ultimate consumer of the goods sold. In the long run, it makes no important difference whether the tax is definitely imposed as a percentage of the price, to be invoiced and added specifically to the price of each article sold, or is imposed as a percentage of the gross receipts from sales. The only difference is that under the first plan, the shifting is more direct, more rapid, and more easily made by the seller. But the shifting must take place ultimately in either case. Since the tax must be paid by every producer or dealer, in an amount directly proportional to the amount of his sales, it becomes an added cost of production upon all competitors. Such a cost must normally be borne by the consumer.

When the sales tax first came into prominence, there was considerable doubt and confusion upon this point, among both its advocates and its opponents. To-day I think we may safely assume that the confusion has been pretty well cleared away, thus removing one of the murkiest of the smoke screens that have kept us from reaching a clear-cut issue.

There are, of course, exceptions to this rule. The process of shifting is not instantaneous, and it is not accomplished with equal ease or equal promptness by all sellers. During the period of transition the burden of the tax may rest in whole or in part upon the seller. This causes inequalities, depending on varying ratios of net to gross income, on varying ratios of gross income to capital, on varying rates of turnover. Particularly in a declining market, these inequalities work injustice to the weaker competitors, whose destruction may thereby be caused or hastened. These inequalities, inherent in the sales tax until such time as it has been completely shifted to the consumer, have been set forth fully by others during the discussion of the past months.

I wish merely to remind you that these are real defects of the sales tax, as of any gross-income tax. They are defects which may easily cause widespread injustice in a time of business depression like the present.

But the matter which I wish to emphasize here is the inherent nature of the sales tax as an added cost of business. This is permanent. It is the fundamental objection to the sales tax as to every gross-income tax. I shall try to indicate some of the consequences a little later.

Now, I know the answer that is made by the sales-tax advocates to this argument. They say: What of it? Don't all taxes—the income tax, the excess-profits tax, and all the others—finally rest upon the consumers? These questions can not be ignored, since they are at the foundation of the argument for the sales tax. Even though my time is limited, it will be worth our while to examine carefully the process by which taxes are shifted. Taxes are shifted through control of prices, and in no other way. The individual income tax is certainly not shifted, since there is no longer any question of price. The income has reached its final resting place; there is no one on whom to shift the tax through an increase in price. And if the taxpayer seeks to go back to the source of his income and make good by charging higher prices he is powerless. The tax gives him no power over prices which he did not already have and presumably use.

A special tax on the profits of a particular industry will be shifted. Producers will leave that industry and enter other tax-free lines, until the reduced supply in the taxed line compels the consumers to pay prices high enough to yield the normal rate of profits.

On the other hand, there is no such shifting of a general tax on all business profits. Since all industries must pay the same tax, the taxpayer can not escape by going into another line. The tax, not being paid unless profits are obtained, has little or no tendency to drive the taxpayer out of business (assuming, of course, that it is at a reasonable rate). For example, the 10 per cent tax on the net income of corporations will not normally be shifted to any important extent through charging higher prices. Even less can the excess-profits tax be shifted, since it is imposed, not even on all profits, but only on the excess above a certain rate.

Some of the sales-tax advocates, in their enthusiasm to prove the shifting of the excess-profits tax, offer a line of argument which can rest only on the assumption that the one thing that determines prices is the sweet will of the seller. The seller, so goes the argument, anticipating a heavy excess-profits tax adds it with a liberal margin for safety to his costs and correspondingly increases his selling price. But whence, we may be permitted to ask, comes this power to increase prices at will? If the seller had this power before, why did he refrain from using it? I have too much respect for the commercial sense of American business men to believe that any considerable number of them voluntarily refrain from accepting profits within their grasp by charging lower prices than they could obtain for their goods. Or is it claimed that the imposition of the tax gave a corresponding power to raise prices? I have yet to hear any argument in support of this proposition. There is clearly nothing in it. Prices, in a competitive market, are determined by the forces of supply and demand. The imposition of a tax on excess profits can normally give no power to sellers to raise prices above the level already determined by supply and demand.

I am of course perfectly aware that the taxpayer is free to add his excess-profits tax to his costs in making up his accounts. But calculating costs is not the same thing as passing them on to the buyer; and the mere calculation of costs gives no power to raise prices. The simple fact remains that the seller will normally use all his power to get as good a price as he can, and a tax on excess profits gives him no added power over prices.

Here is where the excess-profits tax differs from the sales tax. The latter enters as an added cost into the production of every unit. It affects every competitor. It must be paid whether profits are made or not, even though business be run at a loss. Goods can not normally be produced at a loss. Very soon the selling price must be increased by the amount of the tax. If not, some producers, already just on the margin, will go out of business; others will curtail production; till finally the reduced supply forces buyers to pay the higher cost. The excess-profits tax, on the contrary, does not enter into the cost of all goods. It does not affect all competitors. Those that were making small profits can continue on the same terms as before. They have no occasion to raise their prices, and they can hardly be driven out of business by a tax which they do not pay. On the other hand, those whose profits are high enough to pay the tax can not raise prices if their competitors do not, and they will hardly go out of business, sacrificing good profits, merely because the Government takes a share of the excess above a certain rate.

You will understand that I am discussing the fundamental character of the excess-profits and sales taxes respectively. I am not denying that the present excess-profits

tax is imperfect, nor that its operation has in many cases been unjust, nor that it may even have driven some concerns out of business. But these are exceptional results of imperfections in the tax and not indicative of its true nature.

I ask you also not to draw the conclusion that I am here to defend the excess-profits tax. That tax, in my opinion, played a useful part during the war. It has done its work, and, in agreement with opinion generally, I am now ready to see it go.

Let me make one more qualification for the sake of perfect fairness. I am not overlooking a long-run process, by which even profits taxes might ultimately be shifted to some extent. This shifting would be the result of a general diffusion, requiring that other things remain equal during a period measured in decades and generations. Under the rapidly changing conditions of American business, this sort of shifting is too remote and too vague to be of practical importance in our present problem.

The point I wish to leave with you here, and I want to make it emphatic, is that there is a fundamental difference between the excess-profits tax and the sales tax, in that the latter is an addition to cost of production and must normally be shifted to the consumer, whereas the excess-profits tax will normally not be shifted but be borne by the taxpayer on whom it is imposed.

Here is the foundation of the case against the sales tax. It is an addition to business cost. All goods must normally be sold at higher prices on account of it. The amount of goods that can be sold is diminished through the inexorable working of the laws of supply and demand. The wheels of industry are slowed down.

There are times when such an addition to business costs could be borne without serious result. These are the times of business expansion when demand is strong and production is pushed to keep pace with consumption. But this is hardly a picture of the present situation. Just now is a poor time to take any action that will increase costs. The business world is sick, and the medicine needed is lower costs. Demand is slack, either because consumers can not pay the prices asked or because they are cannily waiting for the expected further reductions. The pick-up will not start before costs, and therefore prices, have come down to bedrock level. Anything that helps to reduce costs is hastening the revival of business. Anything that tends to increase costs is deepening the gloom and delaying the dawn.

2. My second proposition is this: The sales tax is unequal in its effects on different business concerns.

I have called attention to inequalities and discriminations which attend the sales tax during the transition period before the process of shifting the tax to the consumer has finally taken place. These are serious defects, which must be borne for some time after the tax is imposed. What I invite your attention to now is a species of discrimination which will continue permanently, even after shifting has taken place. This is the discrimination between the "integrated" business and its single-process competitor.

This matter has been discussed rather fully in the recent debate over the sales tax, and need only be stated briefly at this time. The production and distribution of most articles involves a series of steps of extraction, manufacture, and sale, from the extraction of the raw material to the delivery of the finished product to the consumer. It has been shown that there are often as many as six or eight steps in this series. In some cases all or many of these steps are embraced in the business of a single corporation, in other cases the several steps are split up among separate and independent concerns. In the latter case the product of each step must bear the sales tax as it is passed on by sale to the concern that performs the next process in the series. The cost of the finished product includes the accumulation of all these sales taxes. The great self-contained business, on the other hand, has its cost increased only by the single tax paid on the sale to the consumer. The result is a discrimination, favoring the large integrated business at the expense of its less self-contained competitor, and furnishing a strong inducement to consolidation and monopoly.

This argument is probably familiar to you all. But, so far as I have been able to discover, it has never yet been refuted. The fact is it can not be refuted. The advocates of the sales tax content themselves either by falling back on the old fallacy of the shifting of the excess-profits tax or else by making light of the whole burden of the sales tax and asserting that the discrimination doesn't amount to much anyway. The first line of defense consists of the assertion that whatever inequality may result from the sales tax, the inequality coming from the excess-profits tax, as it is passed on from step to step in the productive series, is just as bad or worse. This defense loses its theoretical foundation, when once the fallacy of the shifting of the excess-profits tax is exposed. It loses its practical importance as soon as we remind ourselves that the excess-profits tax is slated for repeal anyway. It is no defense of a proposed unjust tax to say that it is no worse than an old tax which we are about to abolish.

In support of the second line of defense, there have been presented elaborate sets of figures purporting to show that the accumulated sales taxes finally added to the cost of a selected list of commodities would generally fall between 2½ and 3½ per cent of the price to the consumer. The conclusion, expressed or implied, is that this is a very small matter and that any inequality between competitors doesn't amount to much.

Now I maintain that a 1 per cent sales tax is not a small matter. One per cent on sales is frequently a very large part of net profits. My colleague, Prof. T. S. Adams, makes the following statement in a recent article:

"One per cent on gross sales is more than one-third of the net profits in dairying and meat packing. It is more than one-fourth of the net profits in the manufacture of millinery and artificial flowers, in the grocery trade, in the sale of many forms of leather goods, and the wholesale feed trade. It is more, much more, than one-fifth of the net profits in the wholesale lumber trade, in coffee roasting, grist and flour milling, rice milling and cleaning, smelting and refining, and the manufacture of leather goods, hats and caps, and some silk products."

And if this is 1 per cent, what about an increased cost of 2½ to 3½ per cent? Will this look like a mere trifle to the concern that has to stand it? The single integrated corporation pays one tax of 1 per cent. Is it a matter of insignificance to the small single-process manufacturer or merchant to have the burden of passing on to his customers a tax 2½ to 3½ times that paid by his powerful competitor? Is there any doubt that the great integrated corporations will take merciless advantage of their newly granted power to undersell their small rivals? These will be hard questions to answer, and they are not answered by the mere gesture of waving them aside as of no importance.

### 3. The sales tax versus the income tax.

If we are asked to accept the sales tax, it must be either as an addition to present sources of revenue or as a substitute for existing taxes. Financial reconstruction after war is ordinarily supposed to involve reduction, not increase, of taxes. The only ground on which a new tax can now ask a hearing is as a substitute for existing taxes to which it claims superiority. Most of the advocates of the sales tax take this position. Those who favor the gross sales or turnover tax use the slogan: "The sales tax at 1 per cent and no other tax on business." What are the parts of the present tax system which are to give way to the sales tax?

First and foremost stands the excess profits tax. But the fight against the excess profits tax is virtually won already. The President has stated (I quote from his message): "We are committed to the repeal of the excess profits tax \* \* \*". No opposing voice is heard. The excess profits tax is doomed. It can scarcely be supposed that the sales tax is being advocated with such extraordinary vigor, merely as a means of getting rid of the excess profits tax, which seems sure to go in any event.

Then there are the various special excise taxes, luxury taxes, etc. Some of these taxes are admittedly annoying, unworkable, and indefensible. But others, such as the excise taxes on liquors and tobacco, have been firmly established for generations, are admittedly successful revenue producers, and are not the subject of any serious complaint. The present system of excise taxes is a hodge-podge, which no one defends in its entirety. But it may be put in order, by abolishing some taxes, revising others, and retaining others. To this program also the Government appears committed. Let me read in full the sentence from the President's message already quoted in part: "We are committed to the repeal of the excess profits tax and the abolition of iniquities and unjustifiable exasperations in the present system." A system of excise taxes on certain selected articles, not necessities, yet of wide use, is firmly established as an integral part of the revenue system of practically every nation of the world. The United States has had such a system continuously since the Civil War, successfully administered, productive of large revenue, and giving universal satisfaction. It is unthinkable that we should throw away such a tried and useful revenue device, simply to get rid of certain excrescences which have become attached to it during the war, particularly when such excrescences seem fairly on the way to be removed in any case. It appears scarcely reasonable that we should be asked to adopt the sales tax for this purpose.

Mr. Meyer D. Rothschild, one of the most vigorous advocates of "the gross sales tax in lieu of all other business taxes," said, addressing the annual conference of the National Tax Association in Salt Lake City last September: "My own personal view is that business, through the medium of a small turnover tax, could well pay the entire cost of economically running the Government, take care of the great national debt, and permit the dropping of all other kinds of Federal taxation. Such an exclusive tax would naturally eliminate the personal income tax and relieve business from the burden of providing the additional interest, dividends, or profit which it must now furnish to pay the income taxes." I suspect there are others, among the advocates of the sales tax, who share Mr. Rothschild's views. The association which he repre-

sents does not go so far as to advocate the abolition of the personal income tax, but it shows its leaning not only by advocating the abolition of the surtax, but by proposing to raise the personal exemptions to \$2,500 and \$5,000, respectively.

It is my opinion that the real conflict before us is the sales tax versus the income tax; that the present advocacy of the sales tax is in reality an attack upon the principle of the graduated income tax.

In the time at my disposal I can not go far into this broad question. But I should like to put before you some fundamental truths which I think you will find generally accepted by students of taxation. (1) The basic criterion on which the tax burden should be distributed is ability to pay. (2) Nothing so well measures tax-paying ability as income. (3) It is generally accepted that tax-paying ability increases at a ratio faster than the increase of income. As a result of these fundamental principles the progressive income tax has come to form the backbone of the revenue systems of most modern democratic States. This development came later in America than in Europe, but our progress has been rapid since the sixteenth amendment opened the door.

The second great advantage of the income tax is that, being a direct tax, its burden is felt and recognized by those who bear it. The taxpayer knows that it is right out of his pocket that the money comes to meet Government expenses. This is the one and only way to compel the taxpayer's interest in Government finances. It is the surest means to promote efficiency in Government business and to combat that tendency to waste and extravagance which seems to be inherent in democratic legislative bodies.

Consumption taxes are deficient in both these respects. Their burden is relatively heavier on the poor than on the rich; that is, they are regressive, the opposite of progressive. And their burden is camouflaged. The ordinary taxpayer does not realize that he pays. How often have you heard bitter complaint over a small income tax from a person whose total burden of consumption taxes was many times the amount of his income tax? Where taxes are indirect and their real incidence concealed, Government expenditures are popular, and the healthy resistance of the taxpayers to waste and extravagance is lacking.

I am not opposing consumption taxes entirely. As I have already said, a moderate group of consumption taxes is a desirable part of any tax system. Such taxes offset in part the progressive character of the income tax; they place a part of the tax burden upon citizens whose incomes are not large enough to come under the income tax; and they may be made to yield a large and regular revenue with little trouble or expense of administration. But the mainstay of the revenue system must be the income tax. It is inconceivable to me that the United States should ever go back on this principle. It would be to turn our backs upon all the weight of scientific authority; to set ourselves directly against the current of world history in the development of the modern democratic tax system. I am certain that the American public will never stand for this. I do not believe the American business community wants to commit itself to this.

#### 4. Do we need the sales tax?

Let us look at this matter now from a different angle. Assume that the income tax is to remain, that no revolutionary change in the present tax system is contemplated, but that we are facing the practical problem of a common-sense reorganization of our revenues to harmonize them with normal conditions and to balance the budget. Do we need the sales tax?

We are justified in assuming that the individual income tax will remain, with probably some reduction in the upper surtax rates. The excess profits tax will almost certainly be repealed. But in its place there will have to be some additional tax upon corporations. I make this prophesy with considerable assurance. Here are the reasons. The excess profits tax on corporations now roughly balances the surtaxes paid by individuals. If the excess profits tax were removed and no tax put on corporations in its place, a discrimination would be made in favor of corporate business as against partnerships and individual business men, which would be utterly without justification. We may rest perfectly sure that Congress will never hand out such a gift to corporate business. There may be an additional 5 or 6 per cent tax on corporate net income, or a tax on undistributed profits, or the elimination of the specific exemption of \$2,000. Whatever the exact provision may be, there will certainly be some additional tax on corporations in lieu of the excess profits tax. This will in part make good the loss of revenue.

Some further revenue will probably be lost through adjustment of the special excise taxes. On the other hand, a considerable increase of revenue is to be expected from the revision of the tariff. Taking everything together, there is reason to believe that the budget can be balanced with a fair margin on the right side after making



provision for a moderate reduction of the public debt and without calling upon any new sources of revenue. In the next year it should be possible to make a further cut in expenditures, which would give opportunity for either a more rapid reduction of the public debt or a further decrease of taxes.

Where, then, is the need of the sales tax? Is this the proper time to introduce a great new tax machine, capable of yielding, according to the estimates of its friends (though grossly exaggerated, in my opinion), from three to five billion dollars a year?

The simple fact is that we do not need the sales tax. That this fact is beginning to compel the attention of the friends of the sales tax is possibly to be inferred from the recent suggestion that the real purpose of the sales tax is to raise money to pay off the floating debt. That such use would ever be made of the proceeds of the tax is highly unlikely. The suggestion looks like an afterthought; anything to give an excuse for the sales tax.

In this connection we may give passing attention to another favorite argument for the sales tax, namely, its great simplicity and ease of administration. Obviously, this argument rests on the assumption that both the excess-profits tax and the corporation income tax are to go. If the latter tax remains, as it certainly will, adding the sales tax will not bring simplicity. It will simply add more complications. Thus another argument falls to the ground.

The sales tax has nothing to commend it as a substitute for our present tax system. It is not needed to make possible the repeal of the excess-profits tax or the removal of other obnoxious taxes. It is not needed to balance the budget. Why, then, should we accept it? Let us beware lest we find ourselves saddled with a great new tax device which will prove to be simply an additional tax, yielding a revenue in excess of the needs of an economical administration, inviting new forms of extravagant and wasteful expenditure, discriminating unjustly between different business concerns, and adding to the costs of all business just at the time when business is struggling to get back on its feet. I think we shall want to ponder long and carefully before we commit ourselves to such a program.

**STATEMENT OF J. F. ZOLLER, COUNSEL AND CHAIRMAN TAX COMMITTEE OF THE NATIONAL CONFERENCE OF STATE MANUFACTURERS' ASSOCIATIONS, SCHENECTADY, N. Y.**

Mr. ZOLLER. Mr. Chairman and gentlemen of the committee, since 1907 I have been the tax attorney of the General Electric Co. I have been a student of taxation since that time, and I have learned certain fundamental principles concerning taxation by virtue of my position.

The CHAIRMAN. You are a practicing attorney now, are you, Mr. Zoller?

Mr. ZOLLER. Yes.

The CHAIRMAN. And you represent the General Electric Co.?

Mr. ZOLLER. I have not the authority to represent, Mr. Chairman, anybody except myself. I came here at the request of one of the members of the committee, and the reason I am in that position is this: I think I convinced my clients that the sales tax was unsound in principle, and I was asked to talk on the sales tax—

The CHAIRMAN (interposing). Which client?

Mr. ZOLLER. Well, I have several clients. The General Electric Co. happens to be one. I am the counsel for the National Conference of State Manufacturers' Associations, which is another, and I am counsel for the Associated Manufacturers and Merchants of the State of New York, and I have a few other clients.

I convinced these clients, I believe, that the sales tax was unsound in principle, and that they therefore could not afford to defend it, notwithstanding the fact that it might mean a saving in taxes to those concerns. Fortunately, I feel that they would not even gain financially, because it is my opinion that the bitterness and unrest

which would result by the substitution of a sales tax for any part of the income tax or the tax on corporations would more than offset any financial gain in the reduction of the present taxes on business.

The difficulty with the sales tax, as I understand it, is that the rich would pay the same tax as the poor if their consumption happened to be the same; that is a fundamental fact. More than this, the sales tax, as I view it, is absolutely the reverse of the principle under the net income tax theory. Under the net income tax, we have learned, I believe, that ability to pay increases more than in direct proportion to the increase in the net income. For that reason we tax individuals with large incomes under the net income tax at a higher rate than we do individuals with smaller incomes. You can not do that under a sales tax. No matter how small the income is, the rate must be the same.

Under the income tax—and I want to compare the sales tax with the income tax, because it is being considered as a substitute—the higher the income the higher the tax rate. Under the sales tax, on the other hand, the smaller the income, the higher the tax rate. What I mean is this: Take the case of the individual whose net income is, say, \$1,000,000. Suppose he spends \$100,000 of it; he spends then one-tenth of his income. He pays the sales tax on what he spends, at the rate of 1, 2, or 3 per cent, whatever it may be, but he is taxed only on one-tenth of his entire income. Take another individual, with an income of only \$2,000, who spends it all; he is taxed upon 100 per cent of his income. If the rate be 1 per cent, then the individual taxed upon the whole of his income is taxed at the rate of 1 per cent, but the individual taxed upon one-tenth of his income is taxed at the rate of one-tenth of 1 per cent; that is the chief difficulty with the sales tax. It works the reverse of the net income tax principle.

There would be no escape from the whole tax on the amount consumed, even by the person of very small means. The only way to escape a tax on consumption is to stop consuming. There can be no specific exemption under a sales tax as there is under the net income tax. Under the net income tax an individual having a small income is not taxed, and the exemption is thought to be justified. This exemption can not be had under a sales tax.

There is another objection to the sales tax, and this other objection is not only from the standpoint of the consumer but from the standpoint of business as well. The pyramiding of the tax is the other chief objection. It makes no difference what the rate is, even if it be as low as 1 per cent, the consumer will pay as many taxes as there are sales; if there are 10 sales of a commodity before the commodity reached the ultimate consumer, there will be 10 taxes for the consumer to pay; if the tax on the first sale is \$1, the consumer will pay as many times \$1 plus a tax on the profits added as there are sales.

I have made a table showing the result of the pyramiding of this tax, which I can file with the committee.

The CHAIRMAN. I wish you would file that paper. It is a very interesting point, Mr. Zoller, and will be printed as part of your remarks.

Mr. ZOLLER. Thank you.

(The paper referred to is as follows:)

## DISCUSSION OF TAXATION.

There has undoubtedly been much loose thinking and more loose talking concerning the sales tax. Probably not one man in ten who says to-day he is in favor of a sales tax knows the kind of a sales tax he would advocate, the administrative difficulties in the application of it, or the general effect it would have upon the country if enacted. Before launching any argument concerning the merits of the sales tax, I want first to read into the record the names of associations that have endeavored to make careful study of the situation and have reached certain conclusions.

Probably the first and foremost business organization that has made a study of the subject is the National Industrial Conference Board, with headquarters at No. 10 East Thirty-ninth Street, New York City. That association has affiliated with it the following-named associations:

- American Cotton Manufacturers' Association.
  - American Electric Railway Association.
  - American Hardware Manufacturers' Association.
  - American Malleable Castings Association.
  - American Paper and Pulp Association.
  - Electric Manufacturers' Club.
  - Institute of Makers of Explosives.
  - Manufacturing Chemists' Association of the United States.
  - National Association of Cotton Manufacturers.
  - National Association of Finishers of Cotton Fabrics.
  - National Association of Manufacturers.
  - National Association of Wool Manufacturers.
  - National Automobile Chamber of Commerce.
  - National Boot and Shoe Manufacturers' Association.
  - National Electric Light Association.
  - National Erectors' Association.
  - National Founders' Association.
  - National Implement and Vehicle Association.
  - National Industrial Council.
  - National Metal Trades Association.
  - Rubber Association of America (Inc.).
  - The American Pig Iron Association.
  - The Railway Car Manufacturers' Association.
  - The Silk Association of America.
  - United Typothetæ of America.
  - Associated Industries of Massachusetts.
  - Associated Industries of New York State (Inc.).
  - Illinois Manufacturers' Association.
  - Manufacturers' Association of Connecticut (Inc.).
- The National Industrial Conference Board appointed a taxation committee consisting of the following-named gentlemen to study the subject:
- Fayette R. Plumb, president, Fayette R. Plumb (Inc.), Philadelphia, Pa.
  - Magnus W. Alexander, managing director of the National Industrial Conference Board, New York City.
  - Charles A. Andrews, treasurer Gorton Pew Fisheries Co., Gloucester, Mass.
  - Albert Greene Duncan, treasurer Harmony Mills, Boston, Mass.
  - James A. Emery, general counsel, National Council for Industrial Defense, Washington.
  - R. P. Hazzard, president R. P. Hazzard Co., Gardiner, Me.
  - R. C. Allen, vice president Lake Superior Iron Ore Association, Cleveland, representing iron ore producers.
  - Paul Armitage, attorney at law, New York City, representing mining interests.
  - Wilson Compton, secretary-manager National Lumber Manufacturers' Association (lumber manufacturers and timber owners).
  - James J. Forstall, Butler, Lamb, Foster & Pope, attorneys at law, Chicago, representing coal producers.
  - F. W. Lehmann, jr., counsel Western Petroleum Refiners Association, Kansas City, representing petroleum refiners.
  - L. F. Loree, president Delaware & Hudson Co., New York City, representing public utilities.
  - H. C. McKenzie, member board of directors, American farm bureau federation, Walton, N. Y., representing agricultural products.
  - Harry H. Smith, secretary Mid-Continent Oil & Gas Association, Tulsa, Okla., representing petroleum producers.

This committee after giving the matter most careful consideration and after nearly a year's study of the problem decided against the adoption of the sales tax.

The committee on taxation of the United States Chamber of Commerce also, after giving the matter careful consideration, disapproved of the imposition of the sales tax. As a result of the conclusions reached by such committee, the United States Chamber of Commerce took a referendum vote of its members and as a result of that vote the United States Chamber of Commerce has definitely decided against the imposition of a sales tax, either in the form of a sales turnover tax or a tax on retail sales.

The national association of credit men appointed a committee on Federal taxation which committee decided against the imposition of the sales tax.

The Wholesale Grocers' Association has gone on record as opposing the sales tax.

In the formal report of the United States Treasury Department for 1920 it was stated that the sales or turnover tax would be "decidedly inexpedient."

On the other hand, the National Retail Dry Goods Association, the New York Board of Trade and Transportation, and the Business Men's National Tax Committee have gone on record in favor of the sales or turnover tax.

There may have been other investigations and reports which have not come to my attention, but before discussing the matter upon its merits I thought it important to state the extended study that has been made of the subject up to the present time. Whatever our different views may be on the subject it is probable that a general sales or turnover tax is the most inclusive form of taxation ever advocated in this or any other country.

There are only two sources from which taxes can be paid—net income and capital. If a person has no net income and is required to pay a tax, he must pay it out of capital if he pays it at all.

There are three forms of sales taxes which have been considered:

1. A tax on every sale or turnover not only of commodities but also of services, real property, capital assets, and rent and interest.

2. A tax on every sale or turnover of goods, wares, and merchandise; or, in other words, limiting the tax to the sale of such commodities.

3. A tax on all final sales of goods, wares, and merchandise for consumption or use.

The first form of sales tax mentioned is all inclusive and would put a tax upon every exchange of property even though a part of the price paid represented services as well as the value of the property transferred. It would include a loan made by a bank to a customer, because such loan is nothing more or less than the sale of commercial paper to the bank. It would include the sale of a meal in a fashionable hotel, 25 per cent of the price probably representing services and the other 75 per cent representing food.

The second form of tax only includes the sale of goods, wares, and merchandise, or what might be reasonably designated as trading commodities.

The third form would put a tax only upon the final sale for use, the same as is now done under section 900 of the revenue act of 1918 in the taxation of certain commodities known and designated as luxuries.

In considering the first two forms of sales taxes mentioned much discussion has been had and much conflict of opinion has resulted in an attempt to determine whether or not the tax imposed is shifted from the seller to the purchaser. That point could be argued unprofitably from now until the end of time and I am not certain that a unanimous agreement could be reached as to whether or not the tax is shifted, as to when it is shifted, or how much of it is shifted. For the purpose of the argument which I shall endeavor to present it is immaterial whether the tax be shifted or not.

It is my contention that the tax is unfair, unjust, inequitable, and unsound from both an economic and scientific standpoint whether it be shifted or not. While we can not all agree whether or not the tax is shifted, we probably can all agree that it is either shifted or is not shifted or perhaps if some of us desire to be technical we can at least agree that it is shifted in part and not shifted in part.

Let us first assume, for the sake of the argument, that the tax is not shifted. If the tax is not shifted I believe that I can convince any ordinarily prudent individual that it becomes a most unjust, inequitable, and unscientific form of taxation. If the tax be not shifted it becomes a tax in effect even though not so expressly stated upon gross income instead of a tax upon net income. The gross income of any business—individual, firm, or corporation—does not represent at all the ability of that business to pay taxes. There may be a tremendous gross business without any profit; the result may even be a loss. Under a tax upon gross income two taxpayers doing the same amount of business would pay the same tax even though one made a profit of 1 per cent and the other made a profit of 100 per cent, or even though one made a profit and the other sustained a loss.

Under a gross income tax law the sale of a watch for \$100, representing a profit of \$40 would result in the same tax as in the case of the sale of \$100 worth of salt, or other

coarse commodity, where the profit was less than \$1. The tax upon gross income, if it be not shifted to the consumer, becomes inequitable between different taxpayers of the same class. There are many transactions where the total net profit does not exceed 1 per cent of the selling price. A tax of 1 per cent upon such gross sales, unless the burden be shifted to the consumer, would entirely wipe out the profit. It seems unnecessary to pursue this argument further because any individual with sound judgment will admit that a tax upon gross income, unless it be shifted, is not only an impracticable but an impossible tax.

Let us next assume, for the sake of the argument, that the tax is shifted. The foremost proponents of this tax admit and claim that it will be shifted because without such admission they know that the tax is impossible of application. If the tax then be shifted to the consumer it is not a tax based upon ability to pay, like a net income tax, but is a burden upon the consumer regardless of his ability to pay it. Under a sales or turnover tax two individuals whose consumption was the same would not only be taxed at the same rate but would pay the same identical tax.

Under a net income tax the larger the income the greater the rate of tax, an individual a net income of say \$200,000 per year being taxed at a much higher rate than an individual having a net income of \$5,000. Under the turnover tax the situation is reversed. The smaller the income the greater the rate of tax on the whole income. Figure it for yourself; an individual taxed upon the whole of his income pays 10 times the rate of tax upon the total net income paid by an individual taxed upon one-tenth of his income. If the rate in the former case be 5 per cent, the rate in the latter case is one-half of 1 per cent. It takes no great amount of imagination to draw the conclusion that under a turnover tax people of small means would be taxed upon all their income whereas wealthy individuals would only be taxed upon a small part of their income. This is one of the chief objections to the turnover tax. It is inequitable between individuals of wealth and the great mass of individuals required to pay the major part of the tax under such a system.

There is no escape for the individual even of small means from the turnover tax. The only way for an individual to avoid the turnover tax is to avoid consumption. This fact is admitted by the proponents of the turnover tax.

But the proponents of the turnover tax state that the tax would be so small that its inequalities and inequities would be negligible whether borne by rich or poor. In this connection you must remember that the proponents of this measure intend to produce from \$1,000,000,000 to \$4,000,000,000 of revenue. I would not insult any man's intelligence by asking him to believe it possible to raise this amount of revenue on consumption without materially burdening that part of the consuming public that find it necessary to spend each year their entire earnings. Certain it is that the sales tax will either have to be a burden upon the average consumer or it will be disappointing in the amount of revenue that will be produced.

Again the proponents of the turnover tax say that practically all taxes are borne in the last analysis of the case by the ultimate consumer anyway and the turnover tax will not be so great a burden on the consumer as the present taxes which now, they say, are being shifted by those individuals, corporations, and firms paying the present net income taxes. Before answering this contention it is proper to determine who these individuals are that are advocating the turnover tax to take the place of the present excess profits and income taxes.

Are those individuals not now paying income taxes asking for any relief under our present taxation system? No. They represent a majority of the people that will pay the turnover tax. In fact, has the great mass of people that will pay the turnover tax made any petition to Washington for relief under the present system? No. Have any of these people advocated the turnover tax? No. Has the workingman or the farmer advocated a turnover tax? No. In fact, the farmer organizations have taken action against the turnover tax.

But the advocates of the sales tax are those individuals and concerns that now are being heavily taxed. They claim one moment that they are not now being taxed because they are shifting the tax to the consumer and they want a sales tax to make it easier for the consumer. The next moment they say that their business is overburdened with taxes under the present system and they want a sales tax to relieve business. One of the proponents of the sales tax makes this statement:

"Even though it is not freely admitted by some economists, business men know that in a large percentage of cases in the past, and in practically every instance in the future, substantial business taxes have been, and will have to be, added to the cost of merchandise for the same reason that all producing or manufacturing costs, rents, royalties, wages, salaries, traveling expenses, advertising and general overhead must be included. The conclusion is inevitable, therefore, that the consumer is bearing a very heavy burden under our present tax system." (Mr. Rothschild's address before National Tax Association, Sept. 6-10, 1920, Salt Lake City, p. 7.)

Another proponent makes this statement:

"In order to lift the burden of taxation which is so universally paralyzing industry and destroying business initiative \* \* \* some of the soundest thinkers in this country have proposed a small widespread tax on sales of tangible property \* \* \*"

The two positions are inconsistent. Both can not stand. If the present taxes are shifted to the consumer then they are paid by the consumer and not by business. Therefore, business is not being paralyzed. If, on the other hand, the present taxes are not shifted but are paid by business then there is no occasion for relief for the consumer and the consumer is not asking for relief.

More than this, if taxes are always shifted to the consumer, as the sales tax advocates would sometimes have you believe, then why all this trouble and expense on the part of these sales tax advocates to get the present system changed? One system is about as good as another if the consumer must pay in any event.

The fact is (and we might as well face the facts) that all these proponents of the turnover tax feel that either they or their businesses are being unduly burdened under present conditions and it is their purpose to attempt to shift some of this burden to the consumers who are not now being taxed. There doubtless is no objection if any taxpayer feels aggrieved under any taxation system to the advocating of some other system, but we might just as well admit at the outset that the purpose of all this sales tax propaganda is to relieve the present taxpayers by putting a part at least of the burden on some one else. It follows that the consumer is not burdened under the present system to the extent that he is expected to be burdened under the turnover tax for if he was the individuals and concerns mentioned would not be so desirous of changing the system.

A tax on every turnover, as distinguished from a tax on the final sale, becomes more and more burdensome to the consumer as the number of sales or turnovers increases because there is a tax added to the price of the commodity at each turnover. If there are 10 sales before the article reaches the consumer there will be 10 taxes for the consumer to pay. If the tax on the first sale be \$1 the consumer will pay slightly more than \$1 as many times as there are sales. The tax will be slightly more than \$1 on each sale after the first because of the constant increase in the selling price due to the constant adding of taxes and profits. The result is that when the consumer makes the final purchase he not only pays a tax on the final selling price (including original cost and all profits and taxes added), but he pays also all taxes loaded into the selling price as a result of previous sales. The consumer will know the amount of tax paid on the final sale but he probably will never know the extent to which the selling price has been increased to take care of taxes assessed on previous sales of the article purchased.

If you desire to know the extent the selling price may be loaded with taxes under a system which imposes a tax at every turnover make up a table showing the original cost of some article; then add a profit and a sales tax at every turnover and have enough turnovers to make the consumption price about twice the original cost.

This has been done in Tables A and B following:

TABLE A.

Number of turnovers.	Cost.	10 per cent profit.	Selling price without tax.	1 per cent sales tax.	Selling price with tax added.	Total tax.	Per cent total tax of cost.	Per cent total tax of selling price (column 4).
1.....	\$100.00	\$10.00	\$110.00	\$1.10	\$111.10	\$1.10	1.1	1.0
2.....	110.10	11.11	122.21	1.2221	123.4321	2.3221	2.09	1.9
3.....	123.4321	12.3432	135.77531	1.3577	137.1330	3.6798	2.98	2.7
4.....	137.1330	13.7133	150.8463	1.5084	152.3547	5.1882	3.78	3.4
5.....	152.3547	15.2354	167.5901	1.6759	169.2660	6.8041	4.5	4.0
6.....	169.2660	16.9266	186.5126	1.8619	188.3745	8.7260	5.15	4.6
7.....	188.3745	18.8374	206.3599	2.0685	208.4284	10.7945	5.70	5.2

It will be noted from the above:

Last selling price.....	\$208.9284
Original cost.....	100.0000
Difference.....	108.9284
Total tax paid.....	10.7945
Total profit.....	98.1339

Of the total difference between the cost and the last selling price \$10.7945, or approximately 10.8 per cent, represents the tax paid by the consumer, and \$98.1339, or approximately 98 per cent, represents profit paid by the consumer.

TABLE B.

Number of turnovers.	Cost.	2 per cent profit.	Selling price without tax.	1 per cent sales tax.	Selling price with tax added.	Total tax.	Per cent total tax of cost.	Per cent total tax of selling price (column 4).
1.....	\$100.00	\$2.00	\$102.00	\$1.02	\$103.02	\$1.02	1.02	1.00
2.....	103.02	2.06	105.08	1.05	106.13	2.07	2.08	1.95
3.....	106.13	2.12	108.25	1.08	109.33	3.15	2.95	2.91
4.....	109.33	2.18	111.51	1.12	112.63	4.27	3.905	3.82
5.....	112.63	2.25	114.88	1.15	116.03	5.42	4.81	4.68
6.....	116.03	2.32	123.35	1.18	119.53	6.80	5.68	5.58
7.....	119.53	2.39	121.92	1.22	123.14	7.82	6.54	6.41
8.....	123.14	2.46	125.60	1.26	126.86	9.08	7.37	7.23
9.....	126.86	2.53	129.39	1.29	130.68	10.37	8.17	8.01
10.....	130.68	2.61	133.29	1.33	134.62	11.70	8.95	8.77
11.....	134.62	2.69	137.31	1.37	138.68	13.07	9.71	9.51
12.....	138.68	2.77	141.45	1.41	142.86	14.48	10.44	10.23
13.....	142.86	2.85	145.71	1.46	147.17	15.94	11.15	10.93
14.....	147.17	2.94	150.11	1.50	151.61	17.44	11.85	11.61
15.....	151.61	3.03	154.64	1.55	156.19	18.99	12.52	12.28
16.....	156.19	3.12	159.31	1.59	160.90	20.58	13.17	12.98
17.....	160.90	3.22	164.12	1.64	165.76	22.22	13.809	13.53
18.....	165.76	3.32	169.08	1.69	170.77	23.91	14.42	14.14
19.....	170.77	3.42	174.19	1.74	175.93	25.65	15.02	14.78
20.....	175.93	3.52	179.45	1.79	181.24	27.44	15.59	15.29
21.....	181.24	3.62	184.86	1.85	186.71	29.29	16.16	15.85
22.....	186.71	3.73	190.44	1.90	192.34	31.19	16.705	16.37
23.....	192.34	3.85	196.19	1.96	198.15	33.15	17.23	16.89
24.....	198.15	3.96	202.11	2.02	204.13	35.17	17.74	17.401

Last selling price.....	\$204.13
Original cost.....	100.00
Difference.....	104.13
Total tax paid.....	35.17
Total profit.....	68.96
Total tax about 17 per cent of selling price. Total profit about 33 per cent of selling price.	

In this connection I want to quote from a statement made in the New York Herald, February 24, 1921. The statement is being circulated by the Tax League of America (Inc.), one of the proponents of the general sales or turnover tax. The statement reads in part as follows:

"The man who spends \$100,000 a year on his ordinary living will contribute to the Treasury, even at so low a sales tax rate as 1 per cent, the comfortable sum of \$1,000. \* \* \* But the man spending \$1,000 a year on his ordinary living will contribute at that rate only \$10 to the Treasury, whereas now perhaps his theater ticket taxes alone count up as much as that."

The statement is that the man who spends \$1,000 per year to support his family will be taxed only to the extent of \$10 under a 1 per cent sales tax. How erroneous, unreliable, and deceiving that statement is. Why, that \$1,000 representing the last selling price will be loaded with taxes. If there have been seven turnovers before the article or articles reach the consumer more than \$50 will have been added to the selling price because of taxes assessed on account of previous sales. In other words, if there had been no tax the selling price of the same article or articles would have been \$950 instead of \$1,000. The tax on the last sale is \$10, the tax on previous sales is \$50, making the total tax paid by the consumer \$60 instead of \$10. The New York Herald and the Tax League of America (Inc.) evidently have not given this matter the attention which is required of so important a matter.

But the turnover tax is fundamentally objectionable because of the pyramiding of it, from a commercial point of view. A concern that performed all the different processes of production and distribution would not pay as much in taxes, and therefore would have a lower cost and selling price than a concern that performed fewer processes. The last-mentioned concern would not be able to compete in business with the first-mentioned concern. To illustrate, suppose that A buys hides, tans them into leather, makes the leather into shoes, and sells the shoes direct to the public. There would only be two taxes added to the selling price of the shoes—one on the sale of the hides and one on the sale of the shoes. Suppose, again, that B, a retail merchant of shoes, buys shoes from a wholesaler who buys from a manufacturer and suppose the shoe manufacturer buys the leather from a leather dealer that buys the hides from a hide dealer. Here there would be sales from the hide dealer to the leather dealer, from

the leather dealer to the shoe manufacturer, from the manufacturer to the wholesaler, from the wholesaler to the merchant, and from the merchant to the consumer—five sales in all and five taxes instead of two. A's selling price would contain but one tax; B's selling price would be loaded with four taxes. A would undersell B; B could not compete with A.

The sales or turnover tax is no new tax. It has been tried one time or another in nearly every country but is not in force except in a very limited degree in any first-class country to-day. This country considered it in 1865 at the close of the civil war but abandoned it upon the report of the Secretary of the Treasury made to Congress January 29, 1866. England and Italy have recently considered the matter and decided it to be a tax to be used only as a last resort. It has not found favor in either of those countries. About one-fourth of the revenue of France is now being produced by a turnover tax, but the financial condition of France is such that she doubtless had no choice in the matter. The Philippines have adopted a sales tax, but that government is hardly to be compared with this. A sales tax would doubtless be equitable in a country where wealth was nearly equally divided, as in the Philippines, because there each taxpayer would have about the same ability to pay taxes.

Canada has a limited sales tax but the sales of most necessities are exempted from the operation of the tax and the collecting agency of the Canadian Government has power to grant further exemptions in case the tax becomes burdensome upon any class of individuals. In effect the Canadian law is about the same as the so-called luxury tax now in force here.

Under a state of socialism a turnover tax would be equitable because under socialism property and incomes would be equal; consumption would be equal; and ability to pay would be equal. But you can't have equal taxation and at the same time have unequal ability to pay and have the scheme equitable.

As a last resort a turnover tax on the sale of all commodities, including the necessities of life, might be sustained by public opinion, but if England and Italy do not find such tax a necessity there would appear to be no excuse for so drastic a measure in the United States, whose financial condition is much better than the financial condition of either of those countries.

But it is stated that the present net income tax must be amended; that the corporate excess-profits tax must be eliminated. If the excess-profits tax is repealed then some logical tax must be substituted to take the place of it. The sales tax is not a logical tax to take the place of the excess-profits tax, because that tax is upon the consumer and not upon the corporation. If the sales tax be substituted for the excess-profits tax then corporations will be granted a valuable subsidy as compared with partnerships and sole proprietors. The repeal of the excess-profits tax will leave corporations subject only to the normal income tax, whereas partnerships and sole proprietors will be subject to the normal income and the surtaxes. Your system then will be out of balance unless the surtaxes are repealed altogether.

In conclusion I will say that in my opinion a general sales or turnover tax imposed upon the necessities of life will do more to raise the cost of living of the ordinary citizen than any other known tax, and unless the public can be convinced that all other sources of revenue reasonably have been exhausted will do more to engender bitterness between classes of individuals than any other known taxation system.

This pyramiding, as I see it—and Prof. Fairchild emphasized the same point—is objectionable from the standpoint of competing business concerns. Take a concern that carries on all of the different processes of manufacture and distribution, such a concern will not pay as many taxes as the concern that does not carry on all those different processes.

I have taken an illustration that is very ordinary. Perhaps I have exaggerated the situation. We have to exaggerate at times in order to emphasize our point. I have taken shoe manufacturers. There is such a thing as a concern buying hides from a hide dealer, tanning those hides into leather, making the leather into shoes, and selling the shoes direct to the consumer. That situation actually exists. In that case, there are only two taxes to be paid under sales tax, one upon the sale of the hides and the other upon the sale of the shoes.



But take another merchant who sells shoes. Suppose he buys these shoes from a jobber or wholesaler; suppose the jobber or wholesaler buys the shoes from a manufacturer that buys the leather from a leather dealer, and suppose the leather dealer buys the hides from a hide dealer. In this case, I believe there are five sales instead of two and five taxes instead of two. It will be difficult, if not impossible, as the professor said, for the concern that pays five taxes to compete with the one that pays only two taxes.

The question is always raised and argued and disputed as to whether or not a sales tax is shifted. I believe your committee believes it will be shifted. I believe the proponents admit that it ought to be and will be shifted. But it seems to me that this tax is unsound, whether it be shifted or not. If it be not shifted it becomes a tax in fact, although not so expressly stated, upon gross income instead of net income, and that means that each of two concerns doing the same gross business would pay the same tax, even though one made a profit of 1 per cent and the other made a profit of 100 per cent, and even if one made a profit and the other sustained a loss.

If the sales tax be not shifted, it is not only an impracticable tax but I submit it is an impossible tax. Now, if it be shifted, then it is objectionable for reasons which I have mentioned, and is not a tax based upon ability to pay.

The sales tax is advocated sometimes as a tax to take the place of the excess-profits tax. It has been my understanding that this administration is committed to the repeal of the excess-profits tax. I can not see how a sales tax can be made to properly fit into our taxation system to take the place of the excess-profits tax. If we should repeal the excess-profits tax and substitute the sales tax, then the only tax left upon corporations—and I represent them—would be the normal income tax. But partnerships and individuals in business would not only be paying a normal income tax but the surtax also. This would result in giving corporations a valuable subsidy or commercial advantage over partnerships and individuals and probably would result in making it necessary for every individual business man and partnership to become a corporation in order to do business in competition with corporations.

The sales-tax proposition comes up periodically. It is not a new tax, and I somewhat dislike to take the time of this committee in discussing this subject, because I know you have heard it over and over again. I presume I have covered ground here that has been covered before. The sales tax was considered in this country in 1865, and the proposition abandoned in 1866 after the Congress got the facts.

It has been considered very carefully, I believe, by both England and Italy, whose financial conditions are worse than ours, or perhaps I should say that the financial condition here is much better than the financial condition of either of those countries. It was abandoned in those countries as inexpedient.

There is a sales tax in Canada, but it is not much more of a sales tax than we already have here. Canada went at it in another way; it passed a general sales tax and then exempted necessaries.

We, on the other hand, instead of passing a general sales tax and then exempting the necessaries, put the tax only on the nonessentials

in the first instance. So it is not correct to say that Canada has the kind of a sales tax that is being generally advocated before this committee.

France, however, raises about one-fourth of her revenue by means of an out and out sales tax. I believe that the conditions in France at the time she adopted the sales tax were such that she had perhaps no choice in the matter. The yield, however, in France has been disappointing, and I prophesy that if a sales tax should be passed here that the yield will be disappointing, or else the burden upon the consumer will be much greater than the advocates of the sales tax are willing to admit.

Senator DILLINGHAM. Do you remember the rate in France?

Mr. ZOLLER. It varies on different commodities. It is not a flat-rate tax. There is a feature about the sales tax in France that we do not have here under our tax laws. The administrative authorities have the power whenever this tax becomes burdensome to make further exemptions—the exemptions are left to a great extent with the administrators of the law. The legislative body expresses certain exemptions in the act and then gives the administration power to extend the exemptions in cases where it feels that the tax constitutes too great a burden.

Senator DILLINGHAM. I find the committee have a statement on that subject.

Mr. ZOLLER. There is a sales tax in the Philippines which, as near as I can find out, is working satisfactorily. I think, however, that the Philippines is not a country to compare with this. I believe it is true that wealth is more equally divided in the Philippines than it is here. I believe that under a state of socialism where every one's wealth was the same and all incomes were the same that a sales tax would be equitable. But where there is unequal ability to pay there can not be equal taxation if the system is to be equitable.

I want to answer the contention of the proponents of the sales tax, as I understand it. Their main argument is that the sales tax will be shifted, but that all taxes are shifted anyway. As a matter of fact they say that the sales tax will not constitute as great a burden upon the consumer as the excess-profits tax which is being shifted now to the consumer; that the present taxes are not only shifted but an amount in excess of the tax is being passed on to the consumer. They make the argument that the corporation, not knowing the actual amount of the excess-profits tax, in order to play safe, adds three or four times the amount of the tax to its costs, and shifts it all to the consumer.

Senator WALSH. That is very strongly urged, and I wish you would answer that.

Mr. ZOLLER. I will answer it.

One answer to it is what seems to me to be the two inconsistent positions of the proponents of the sales tax. I want to quote a statement from one group of proponents, and then I want to quote another statement from another group of proponents.

This statement, I think, was made by Mr. Rothschild in some of his propaganda which was sent out urging the sales tax. I believe he is honest in the statement and believes it:

Even though it is not freely admitted by some accountants, business men know that in a large percentage of cases in the past and in practically every instance in the

future substantial business taxes have been and will have to be added to the cost of merchandise for the same reason that all producing or manufacturing costs—rents, royalties, wages, salaries, traveling expenses, advertising, and general overhead—must be included. The conclusion is inevitable, therefore, that the consumer is bearing a very heavy burden under our present tax system.

The statement made by another group of advocates of the sales tax is as follows:

In order to lift the burden of taxation which is so universally paralyzing and destroying business initiative, some of the soundest thinkers in this country have proposed a small widespread tax on sales of tangible property.

Both of those statements can not stand and very often they are both made by the same proponent of the sales tax.

If it be a fact that the tax is passed on to the consumer, then business is not being paralyzed and business needs no relief. If, on the other hand the tax is being paid by business and for that reason business is being paralyzed, then the burden is not on the consumer and there is no reason for any relief for the consumer. As a matter of fact, the consumer is not asking for relief.

We all fall into the error, or a great many of us do, by supposing that all that is necessary to pass a tax on is to put the amount of it into the cost. Putting a tax into cost as a bookkeeping matter does not pass it on, unless at the same time the selling price is increased by the amount of the tax so put into cost. If the selling price already represents all the traffic will bear, then increasing the cost by the amount of the tax will not pass it on to the consumer. I have no doubt that during the war the cost of living would have been just as high if there had been no excess-profits tax. I think the facts prove that statement to be true. In countries where there was no excess-profits tax the cost of living was higher than it was here where there was an excess-profits tax. In 1919, when the excess-profits tax was reduced one-half, the cost of living instead of going down went up. All the evidence seems to prove that the excess-profits tax did not increase the cost of living during the war.

Senator CALDER. Do not high taxes make high prices generally?

Mr. ZOLLER. Not if the taxpayer gets all the traffic will bear anyway.

Senator CALDER. I have often thought of that in connection with the city taxes. When the taxgatherer increases taxes on property in the city, that is passed on to the tenant, is it not, usually?

Mr. ZOLLER. Let me give you an illustration of a tenant in Utica, N. Y. There was a landlord in Utica who had a two-story house renting for \$2,600 a year. The assessing authorities ascertained that such landlord was assessed only \$6,000 for that dwelling. They said he ought to have been assessed at \$26,000, because any building is worth 10 years' taxes.

Whether the landlord's assessment was increased from \$6,000 to \$26,000 or not, he was certain to get \$2,600 a year as rent. He would have taken more than that if he could have charged it and kept the tenants in the building. If his assessment of \$6,000 had been entirely wiped out he would still have charged a rental of \$2,600, because the traffic would bear it and he could get it.

Senator CALDER. I think that is true.

Mr. ZOLLER. If it is a fact, Senator, that the excess-profits tax law made it possible for corporations to pass on to the consumer three

times the amount of the tax, what is to prevent these corporations from increasing their selling prices by this same amount even though the excess-profits tax were repealed altogether?

It is sometimes stated that the excess-profits tax was an excuse for increasing the selling price. No concern needs an excuse for getting all the traffic will bear. Everybody is doing it; it is a business proposition.

A tax in order to be passed on—

Senator WALSH (interposing). You are making a very able, clear and concise argument, one of the best made on this subject from the standpoint that you have taken.

Mr. Zoller. Than you, Senator.

Senator WALSH. Sometime in your argument I want you to give us some light upon who is behind this propaganda for a sales tax, if you can tell.

Mr. ZOLLER. I would like to finish this.

Senator WALSH. You quoted Mr. Rothschild.

Mr. ZOLLER. I have no quarrel with Mr. Rothschild. I believe the organization which he represents was organized for the purpose of getting relief from taxation. Certain taxpayers felt that perhaps they were paying more than their share, and that other people were not paying their share, and they wanted to shift some of this tax upon somebody else. That is all right from their standpoint. The only objection I have is that they claim that the consumer will be better off that he now is by paying the sales tax.

There is no objection, it seems to me, if a taxpayer feels he is burdened under a tax system more than he ought to be, to his advocating a different system. But we might just as well face the facts that we can not raise the same amount of revenue and relieve some of the taxpayers who are paying now without putting the burden upon somebody else.

A tax in order to be generally shifted must be a universal tax; in other words, it must be a general tax like the sales or turnover tax. A taxpayer will not attempt to shift a tax unless he knows that his competitor is paying it. If he does not know that his competitor is paying on excess profits—as I said before, paying the excess-profits tax—he can not undertake to shift it. Not all competitors would be subject to the excess-profits tax. For that reason such tax would not be generally shifted. Mr. Fairchild discussed this here this morning. The excess-profits tax is not paid by every corporation. The rate, depending upon the relation of income to invested capital, is not the same upon all corporations. So it would be a very difficult tax to shift in toto, whereas I believe the sales tax could be shifted in toto.

I can mention another tax that can not be shifted, as I see it, and that is the individual surtax. If an income tax is imposed at the same rate upon every stockholder, the corporation might undertake to increase its profits so that its dividends would be large enough to enable a stockholder to pay his taxes and have as much left as he would have had if there had been no tax. But this can not be accomplished with reference to the surtaxes because the different stockholders are taxed at different rates.

There are other taxes that can not be wholly shifted, and yet we are met with the statement that all taxes are shifted.

Another tax that probably would not be shifted at all is the tax upon undistributed income of corporations. I will not stop to discuss the objections to it, but it would not be shifted because it is not a general tax; those corporations that distributed their earnings would not pay it.

The CHAIRMAN. Would you advocate a tax on distributed surplus?

Mr. ZOLLER. There is a kind of tax on undistributed income that I would advocate. Mr. Chairman, if you care to have me, I will give you a synopsis of a plan for such a tax which I have prepared.

That is another tax that can not be readily shifted.

Senator CALDER. Would not the surplus be distributed if there was a tax on distributed surplus?

Mr. ZOLLER. That depends upon the rate of tax. I have advocated a form of tax upon undistributed income which I do not think would cause undue distribution. It is somewhat complicated, but my experience leads me to believe that we can not have a really equitable tax in a country like this without having it somewhat complicated. Simplicity and equity do not seem to go together in taxation.

In answer to your question I have to say that I do not know anything about the source of this propaganda that is being distributed nor the individuals back of it. I know there is an organization called the Tax League of America (Inc.), or something like that, which is advocating a sales tax. It has asked for funds. Some of my clients have been asked for contributions. I have recommended that they not contribute, because I thought the proposition unsound from an economic standpoint. I have learned in my brief career that tax attorneys are unable to assist their clients for a very long period if they are willing to advocate anything that is of financial benefit regardless of whether it be sound or not. That is all I know about it.

Senator WALSH. It looks to me as though the movement originated with the people who want to get rid of excess-profits tax, resulting in a backfire on the part of the consumers against the relief from the excess-profits tax. If they had taken up the sales tax, they would have been more likely to succeed in getting the excess-profits tax reduced.

Mr. ZOLLER. I think the present income-tax system is illogical and unscientific. I think it should be changed. I do not think the substitution of a sales tax is the proper remedy. My objection to the excess-profits tax is not the objection urged by many people—the inability or difficulty of determining invested capital. I believe that can be done under proper administration. If the tax is in force long enough I believe that will be done scientifically and fairly. A number of people would take issue with me on that proposition. My objection to the present system is this: It imposes on the corporation a normal tax and an excess-profits tax. Then if the corporation distributes the income it is again taxed to the stockholders, the corporation paying the excess-profits tax and the stockholders paying the surtaxes. This is double taxation so far as corporate income is concerned. Individual income and partnership income is not doubly taxed.

I think it would be better to not tax the corporation at all in respect to income distributed, because the stockholders should be taxed in respect to that income, and a tax should not be imposed

upon both corporation and stockholders in respect to the same income. As to income not distributed, the corporation should be taxed, because the stockholders can not be taxed on this income. The undistributed income should be taxed at progressive rates, so that the greater the rate of profit retained in the business the greater the rate of tax. This would make it necessary to retain the invested-capital feature of the present law.

The progressive rates should be based upon the relation of the undistributed income to the invested capital, so that the corporation which made 50 per cent on its invested capital, if you please, and did not distribute it would be taxed at higher rates than a corporation that made 5 per cent upon its invested capital and failed to distribute it. In each case the rate could be low enough so as not to result in unwarranted distribution of earnings. A rate of, say, 5 or 10 per cent upon a corporation that made a profit of, say, 100 per cent (an extreme case) would not cause it to distribute its income, but the same rate—

Senator LA FOLLETTE. Begging your pardon, Mr. Zoller—Mr. Chairman, I have some matters requiring my attention upon the floor of the Senate and I am informed that I must go there. Mr. Zoller came here at my request, and I am very anxious that he should be as fully heard as possible, and I hope my leaving will not be misunderstood as a discourtesy to him.

The CHAIRMAN. The committee has known Mr. Zoller favorably for a number of years and will be glad to hear him fully.

Mr. ZOLLER. I do not want to burden you, Mr. Chairman. This prolonged discussion results from questions that have been asked of me.

The point that I wanted to make was this: That a tax of, say, 20 per cent upon undistributed income, where the corporation made 100 per cent, would not cause unwarranted distribution, because it would be a small tax for that corporation. But the same tax upon a corporation that only made 5 per cent profit might result in unwarranted distribution for the purpose of avoiding the tax. So, a flat tax would result in unwarranted distribution in cases where the incomes should not be distributed, but would not force distribution where it should be distributed. In order to meet that situation and to be fair to all corporations and to be logical and scientific, it seems necessary to impose the tax at progressive rates upon the relation of undistributed income to invested capital.

That is complicated.

Senator DILLINGHAM. Are you going to furnish the committee with copies of your brief?

Mr. ZOLLER. I would be glad to do that. There is just one other point to which I might call the committee's attention. I think the present income-tax system is illogical for another reason. It results in no normal income tax at all upon corporate income received by preferred stockholders. That is absolutely so, because under the theory of the present law a normal income tax is imposed upon the corporation which is supposed to be paid by the corporation for the stockholders. The dividends to the stockholders are supposed to be reduced by the amount of the normal tax paid by the corporation. The result is that when the dividends are declared they are free of tax in the hands of the stockholders, so far as the normal tax is con-

cerned. If the tax is paid by the corporation for the stockholders it must be paid out of that part of the corporate earnings belonging to the common stockholders, because the preferred stockholders are guaranteed a certain dividend, tax or no tax. The income of the preferred stockholders is not reduced by the imposition of the normal tax upon the corporation. If the corporation should be exempted altogether from payment of the normal tax and the dividends made subject to both normal and surtax instead of being subject to the surtaxes only, as at present, both preferred and common stockholders would be treated alike.

Another thing about the present situation is that the normal tax paid by the corporation for the common stockholders is paid for every common stockholder, even though some of the common stockholders may not have income in excess of \$1,000. In that case they get no specific exemption if they have no income from other sources, as intended under the law.

I thank you for your courtesy.

Unfortunately, I was called on short notice and all I have here is an address which I made before the board of trade. It is not in proper form for filing here. I can go over it, make certain changes, and then send to the committee a copy of it. I understand the chairman will permit this document to be inserted with my remarks in the record.

Senator WALSH. I think this witness has, from his point of view, made the best and most concise statement I have heard since I have been on attendance of the committee, and he is evidently well informed.

**BRIEF OF J. F. ZOLLER, COUNSEL AND CHAIRMAN TAX COMMITTEE OF THE NATIONAL CONFERENCE OF STATE MANUFACTURERS' ASSOCIATIONS.**

**PROPOSED REVISION OF THE FEDERAL TAXATION SYSTEM.**

**GENERAL STATEMENT.**

There has been much activity upon the part of business in general throughout the country for a revision of the present Federal taxation system and much propaganda has been published and circulated, not only pointing out defects in the present system but making various suggestions as to what should be substituted in lieu of the present Federal taxation system. The matter was deemed of such importance that each of the great political parties made mention of it in the platform, each party recognizing that some revision should be made to alleviate, as far as possible, any unnecessary burdens on business due to Federal taxation. The business interests throughout the country seem to feel, as a general proposition, that the burdens imposed under the present system were imposed for the purpose of prosecuting a war already passed and for that reason business is entitled to relief from the present burdens under peace conditions.

**PROBLEM OF CONGRESS.**

The next Congress doubtless will be called upon to solve the problem of reducing the present tax burden on business and it probably will be the desire of Congress to meet the situation, if possible, by advocating a tax law that will not shift the present tax burden imposed on business to taxpayers less able to bear it, and at the same time produce the amount of revenue required.

Whether the whole of our present taxation system be sound or not, the Government has probably reached the position where it recognizes that so long as large expenditures are made for the maintenance of Government it is better to impose taxes upon ability to pay than upon supposed benefits received by the taxpayers. Under this principle of taxation there has been introduced in this country the net income tax. The people of the United States having taken the trouble to amend the Federal Constitution for the purpose of permitting Congress to impose such tax doubtless will be

reluctant to give up net income taxation. For this reason it is probable that whatever revision may be made in the present Federal taxation system, the net income-tax feature will be retained. It has also been learned from experience already had, and is a principle involved in net income taxation, that ability to pay taxes increases more than in direct proportion to the increase in the net income. Upon this theory net income taxes upon large incomes are imposed at higher rates than upon smaller incomes. For this reason both in this country and in Great Britain surtaxes upon net incomes of individuals of, say, \$500,000, are imposed at higher rates than upon net incomes of less than that amount. This seems to be fair and equitable and sound from an economic standpoint when taxes are imposed with reference to ability to pay. This principle is recognized under our present net income-tax system in imposing both normal and surtaxes upon individuals and in imposing the excess-profits tax upon corporations. It is, therefore, also probable that whatever changes are made in the present Federal taxation system, the principle of progressive rates should be retained in imposing taxes based upon net income.

If the problem could be solved by simply imposing net income taxes on individuals without attempting to impose any tax with reference to business there would be no great demand for a revision of the present taxation system unless it were for the purpose of reducing the present tax rates or perhaps changing the present rates under some of the brackets. Some individuals would doubtless advocate a reduction of some of such present tax rates. Others might in some cases advocate an increase of some of such tax rates. However, such suggestions would not go to the fundamental principles of taxation but only to the application of such principles, which matter is not so important nor difficult as the determination of what fundamental principles of taxation should govern in securing the revenue.

#### INDIVIDUAL INCOME TAX.

Experience has shown that it is not difficult, and is entirely feasible, to impose a net income tax upon individuals receiving a net income. Such a tax can be made fair and equitable. The problem becomes complicated and difficult when an attempt is made to extend the principles of the net income tax to business generally, and it probably is more important to the country as a whole to reduce the present burdens upon business than upon individuals. If business be not burdened unduly by excessive taxation the prosperity of the country is probably secure, so far as taxation can make it secure, notwithstanding the fact that an individual in his individual capacity may be more heavily taxed.

#### BUSINESS TAXES.

Generally speaking there are three different business entities under which business is transacted in this country—(a) the corporation, (b) the partnership, and (c) the sole proprietor. The problem in taxing business is to apply some principle of taxation which will result in imposing a fair tax in respect to these different business entities. By experience already gained it has been found impracticable to attempt to tax the business of the sole proprietor or the business of the partnership by the same method used in taxing the business of the corporation. This situation resulted, under the present law, in imposing no tax on the business of the partnership or sole proprietor. In lieu of these exemptions the partners (instead of the partnership) and the sole proprietor were taxed as individuals in respect to the total net income of the business. It probably would be impracticable and impossible from an economic standpoint to tax generally the members of a corporation (the stockholders) in respect to the net income of the business as is now being done in the case of partners in a partnership. Therefore, unless we desire to again attempt to tax the business of a partnership and the business of a sole proprietor, it would appear to be necessary to undertake no change in the present method of taxing partners and sole proprietors. It would seem that the taxation of the business of a partnership or sole proprietor would present difficulties which could not be satisfactorily met if there is to be any just relation between the taxation of these businesses and the taxation of business transacted in a corporate capacity. The present method of taxing the partners and sole proprietors as individuals and exempting the business doubtless should be continued. This reduces the problem to finding some just and equitable tax to be imposed upon corporations so that corporations and their stockholders may be required to contribute a just proportion of the burden as compared with partners or sole proprietors. With the business of partnerships and sole proprietors not taxed at all under the present system, the only necessity for relief from a business standpoint applies to the present taxes imposed upon corporations. These taxes are known as the "normal income tax" and the "excess-profits tax."



## THE EXCESS-PROFITS TAX.

The excess-profits tax has been generally condemned by the business interests required to pay it. This tax paid by the corporation was supposed to be the equivalent of the surtaxes paid under the present law by partners in a partnership and by sole proprietors. It was an attempt to equalize taxation between the three different methods of conducting business. Economic experts have pointed out that the excess-profits tax is a very crude equivalent of such surtaxes. Such experts contend that in some cases partners of a partnership pay much more in taxes than would have been paid under the present law by both the corporation and stockholders had the business been incorporated. That in other cases such experts contend the situation is just the reverse. The objections advanced by the business interests required to pay the tax are numerous. Many of these objections being based upon the fact that the law is not simple from an administrative point of view, can hardly be said to go to the merits of the case because simplicity can hardly be said to be compatible with equality or justice in raising any great amount of revenue. It probably is more important to have equality and justice on the one hand under any tax act than simplicity on the other, if both can not be attained at the same time. Without discussing fully the different criticisms that have been advanced against the excess-profits tax, it is doubtless sufficient to state that the tax seems wrong in principle and undoubtedly should be supplanted by some form of taxation sounder from an economic and scientific point of view. The excess-profits tax doubtless was imposed because the stockholders of a corporation were not taxed in respect to corporate earnings not distributed in dividends, whereas partners of a partnership, as well as sole proprietors, were taxed with respect to the entire earnings of the business whether distributed or not. It was felt that some tax should be imposed upon corporations because of the fact that not all the corporate earnings would be distributed. The excess-profits tax, then, was to take the place of the surtaxes paid by partners of a partnership and sole proprietors. Of course, if all corporate earnings were distributed each year there would be no reason for imposing any tax at all upon the corporation for the reason that the stockholders would in that case pay a tax in respect to the total earnings precisely the same as is done in the case of the business of the partnership or sole proprietor. The excess-profits tax, however, does not meet the situation because it imposes the same tax upon corporations having the same earnings and investment regardless of the amount of dividends paid, and, therefore, without respect to the amount of surtaxes paid by the stockholders as a result of such dividends. Under the excess-profits tax law, the corporate income is taxed twice if distributed (the corporation paying the excess-profits tax and the stockholder paying the surtaxes) but only once when the income is not distributed, because, in that case, no surtaxes are paid by the stockholders in respect to the corporate income. The tax is, therefore, unscientific, and does not meet the situation which it was intended to meet and is inequitable between corporations made subject to it. It, therefore, follows that some tax should be imposed in respect to income of corporations not distributed in lieu of the present excess-profits tax so as to equalize the burden between partners of a partnership and sole proprietors on the one hand and corporations, including the stockholders, on the other.

## TAXATION OF DIVIDENDS.

As before stated, the problem of the Government is to relieve business without shifting the burden to those less able to bear it and at the same time produce sufficient revenue to meet the needs of Government. There is one remedy which would seem to meet this situation which does not appear to have been generally advocated by those who allege to have given the matter careful consideration. By exempting corporations from the payment of any normal income tax at all upon the corporate earnings and then making corporate dividends subject to both the normal and surtaxes in the hands of the stockholders, corporate business would be relieved to the extent of about \$650,000,000 per year, and if the rate of the normal income tax imposed on individuals was the same as the rate of normal income tax imposed upon corporations, there need be no substantial loss of revenue at all to the Government in respect to income distributed in taxable dividends, as the stockholders could be required to pay the same amount in taxes on the amount distributed as would be paid if the tax were imposed upon the corporation, and business would be relieved to the extent mentioned. It would seem to be much more scientific to impose the normal tax upon the individual stockholders than upon the corporation, for the reason that if imposed upon the stockholders it could not be shifted to anyone else and would be paid by the individuals actually receiving the income, and, therefore, having ability to pay the tax. Under the present law the theory is that the tax is paid by the cor-

portation for the stockholders and that the dividends to the stockholders are reduced by the amount of the tax. If this be true it makes no difference to the stockholders whether the corporation or the stockholders themselves pay the tax. If the corporation now pays the tax the dividends would be increased by an amount sufficient to enable the stockholders to pay the tax if the corporation is relieved of the burden.

The theory of the present law, however, would appear to be erroneous as regards dividends to preferred stockholders. The tax certainly is not paid by the corporation and the dividends correspondingly reduced in respect to preferred stockholders. The rate of dividend to preferred stockholders is guaranteed by the corporation, tax or no tax. It, therefore, follows that under the present theory of normal income tax on corporations the preferred stockholders go untaxed. The tax, if any, paid by the corporation reduces the dividends of the common stockholders without affecting the dividends of the preferred stockholders. By imposing the normal tax upon the stockholders, both preferred and common stockholders would be treated alike and each would be taxed in accordance with ability to pay, which is after all the true theory of the net income tax. It is sometimes contended that in many cases the present normal tax imposed upon corporations is not paid by the corporation at all, but is shifted to the consumer, and instead of being a tax upon the stockholder paid by the corporation, it becomes a tax upon the consumer and is, therefore, not paid with reference to ability, as intended under the law. If this contention be true, then imposing the tax upon the stockholders as herein suggested instead of the corporation, would place the burden where it was intended to be placed under the law. More than this, the imposition of this normal tax upon stockholders would exactly equalize the tax between stockholders, partners and sole proprietors in all cases where the corporate income is distributed. This is not accomplished under the present law which imposes the tax upon the corporation, in respect to preferred stockholders, nor in cases, if any, where the tax is shifted to the consumer. This proposed change in the present tax law relieves business materially without shifting the burden upon those less able to bear it and can be accomplished without substantial loss of revenue in respect to distributed income.

#### TAX ON UNDISTRIBUTED INCOME.

If all income of corporations were distributed, nothing further probably would have to be done to constitute a fair and equitable tax system in lieu of the present law. As a matter of fact, all income of corporations is not distributed, and from a financial point of view it is probable that all corporate income can not be distributed. Therefore, in addition to this proposed change in the present taxing system, as above stated, it is necessary to impose some tax with reference to that part of the corporate income not distributed in dividends to the stockholders and, therefore, not made subject to taxation in the hands of the stockholders.

Since the decision of the United States Supreme Court in the case of *Eisner v. Macomber* (252 U. S., 189), holding that stock dividends can not be made taxable to stockholders as income, the necessity for imposing some tax in respect to undistributed income of corporations becomes more apparent than ever before. If stock dividends are not taxable as income there is afforded, temporarily at least, a means of avoiding taxes to stockholders in respect to business earnings not available to partners or sole proprietors. This advantage can only be offset by some form of tax in respect to corporate income not distributed in cash or other taxable equivalent.

Great caution necessarily should be exercised in imposing any tax upon corporations in respect to undistributed income. No attempt should be made in any tax law to force unwarranted distribution. The sole purpose of the tax should be to secure a fair equivalent of the tax that would probably be paid by the stockholders if the income were distributed, in order that there may be as little discrimination as possible between the taxation of corporations and the stockholders on the one hand and the taxation of partners or sole proprietors on the other. It is probably necessary to admit at the outset that it is impossible to impose upon any corporation a tax in respect to undistributed income that will be the exact equivalent of a tax that would be paid by the stockholders of that particular corporation if the income were distributed or that would be paid by the partners if that particular corporation were a partnership instead of a corporation. So many factors enter into the determination of income taxes imposed upon individuals such as the number of stockholders or partners, the specific exemptions allowed each individual and the amount of income from other sources, that any tax imposed upon business in respect to income is not comparable to a personal income tax imposed upon the individual members of the business. There can be obtained, however, by a tax imposed in respect to undistributed income of corpora-

tions an amount in revenue that would approximate the total revenue that would probably be obtained if the total income not distributed of all the corporations taxed had been distributed in taxable dividends instead of having been retained in the business. In this way corporations and their stockholders as a class can be required to contribute their fair proportion of the tax burden.

#### PROGRESSIVE RATES VERSUS FLAT RATE.

In imposing such tax it seems necessary that the rates should be progressive. In order to make the rates progressive it is necessary to retain that feature of the present excess-profits law relating to invested capital. It is a fundamental principle of taxation that progressive rates can not be imposed upon the income of corporations the same as is done in the case of individuals. The total net income of an individual represents his ability to pay taxes. The total net income of a corporation, on the other hand, does not represent its ability to pay taxes. It is the rate of return on the investment that represents the ability of a corporation to pay taxes. Therefore, in order to impose a progressive rate tax upon corporate earnings it is necessary to compare at all times the earnings with the investment.

The only alternative to this plan is to impose the tax at a flat rate. If this be done, the rate would have to be exceedingly low so as not to force unwarranted distribution in cases where the return on the investment and the amount undistributed were moderate. A moderate rate of tax imposed in respect to undistributed income would not only fail to produce sufficient revenue, but corporations retaining in the business a high percentage of the investment would not be adequately taxed. Any flat rate sufficient to adequately tax corporations retaining out of earnings a high percentage of the investment would doubtless be ruinous eventually to a vast number of corporations. The chief objection advanced against a tax upon undistributed income of corporations is that it puts a premium upon distribution which would result in excessive distribution and subsequent insolvency. Certain it is that the amount of distribution that would result from the tax depends upon the rate as applied to any particular business. If the rate is high as compared with the return on the investment then excessive distribution probably would take place because the corporation probably would decide that the stockholders could better afford to pay the tax. On the other hand, if the rate were low as compared with the return on the investment distribution probably would not take place because of the tax. In other words, any flat-rate tax upon undistributed income of corporations if high enough to force distribution at all, would force it in cases where the income ought to be retained in the business, but would fail to force distribution in cases where the income, so far as the financial needs of the corporation were concerned, could and perhaps ought to have been distributed. A progressive-rate tax based upon the relation of the undistributed income to the investment, on the other hand, would not influence distribution to any greater extent in one case than in another, which of course is desirable if distribution is to be influenced at all. If the progressive rates were properly worked out and were fair under the circumstances of each case, it would seem that unwarranted distribution would not result. When a corporation fails to distribute that part of its earnings over and above the present and probable future needs of the business there is at least a suspicion that the purpose is to avoid taxation. The needs of the business can best be determined by comparing the net earnings with the investment.

It may be stated as a fact that some corporations are more favorably situated as to ability to make profits than others. Some corporations are bound to make larger returns on the investment than others. This situation is natural and can not be prevented. Where no recognized law is violated, probably no attempt should be made to change the situation. However, in imposing a tax with reference to ability to pay, it is recognized that no injustice is done by requiring the taxpayer most favorably situated as to profits and, therefore, having the greatest ability to pay, to respond to the greatest extent in meeting the financial needs of government. This leveling process between different taxpayers (some more favorably situated than others as to profits) by means of taxation is deemed justifiable under the general theory of any net income tax law. That progressive rates of taxation rather than a flat rate are better adapted to such leveling process is borne out by the recognized principle involved in all net income taxation "that ability to pay taxes in respect to net income increases more than in direct proportion to the increase in the net income."

The objections and inequalities that would result in imposing a tax at a flat rate in respect to undistributed income of corporations would appear in a large measure to be swept away by imposing the tax at progressive rates based upon the relation of the undistributed income to the investment.

## INVESTED CAPITAL.

The chief objection to the scheme herein proposed doubtless will be that it retains a feature of the present law that has been difficult to administer, viz: The ascertaining of invested capital. The answer to this contention, however, is that no matter what modifications are made in the present law the invested capital of each and every corporation will have to be determined under the present law for the years 1917, 1918, 1919, 1920, and possibly for 1921. After the invested capital has once been determined it is an easy matter to determine it thereafter, because after it is once determined invested capital for any succeeding year is the invested capital already determined plus the capital which has gone into the business since such determination. The difficulty of determining invested capital will probably have been passed in a majority of cases before this proposed law would take effect. Whether this be so or not it seems to follow that the importance of imposing this tax in a fair and equitable manner in order to meet conditions with which the Government is now confronted makes it necessary to continue the determination of invested capital, notwithstanding the difficulties that may have been experienced by the United States Treasury Department in the past. Whatever objections may have been offered to the invested capital feature of the excess-profits tax law are minimized when invested capital is only used for the purpose of determining a tax upon undistributed income. So-called close corporations, if any, whose invested capital can not be fairly or equitably determined are in any event only taxed on income not distributed, and can elect to avoid all tax on the corporation by distributing the income. Under present law the corporation has to pay the tax whether the income is distributed or not. The proposed plan would only require corporations that elected not to distribute the income to establish the need of it in the business by showing that an investment had been found necessary in the business. This doubtless could and would be done in a majority of cases. Corporations requiring only a nominal investment probably should either distribute the whole income and require the stockholders to pay the tax, or pay the tax themselves. It is submitted that invested capital has a more logical relation to undistributed income for the purpose of imposing a tax upon corporations, than to the total net income as provided under the present law. Under any logical scheme of taxation the relation of the total net income of a corporation to its investment does not necessarily determine the tax which the corporation ought to pay. If all the earnings are distributed no tax should be imposed upon the corporation at all, regardless of the amount earned on the investment, for the reason that in that case the tax is collected from the stockholders. In respect to a tax on undistributed income, however, it is the investment which determines, better than any other measure known at the present time, the amount of income which should be retained in the business and, therefore, the amount of the tax which should be imposed in respect to income not distributed.

## SMALL TAXPAYERS.

It will also be contended that a tax upon undistributed earnings of corporations at progressive rates is unfair to corporations having small investments as compared with corporations having large investments. Whenever any tax is imposed generally, either on individuals or on business, it always becomes necessary to make exceptions to general rules for the purpose of taking care of the small taxpayer. Exemptions and qualifications are required in any law for this purpose. This principle is recognized in the exemption of \$2,000 in case of married persons in imposing the present income tax. It is recognized under the present normal income tax law in taxing individuals whose incomes do not exceed \$6,000 at a lower rate than individuals whose incomes exceed \$6,000. It is recognized in the exemption of \$5,000 in imposing the so-called capital-stock tax upon corporations, and it is recognized in our exemptions of \$2,000 and \$3,000, respectively, in imposing the present normal income and excess-profits tax on corporations. The principle will have to be recognized here, and for that reason it will be necessary to complicate the matter because of small business. In order to meet this situation it is proposed to make the following exceptions to the general rule:

(1) That all undistributed income not in excess of \$5,000 shall be taxed at the lowest rate and unless the present normal income rates are to undergo a change it is suggested that the first \$5,000 of undistributed net income be taxed at the rate of 4 per cent, which is the lowest rate that would be paid by any stockholder in case such net income were distributed. As to all undistributed income in excess of \$5,000, it is suggested that it be taxed at progressive rates, but by means of a double progression based upon (a) the amount of the corporation's invested capital, and (b) the ratio of

the undistributed earnings to invested capital. In other words, the rate would be determined by two factors, the amount of the invested capital and the relation of the undistributed income to invested capital, so that corporations having small investments would pay at lower rates in the progression than corporations having large investments.

The rates in the following table are suggested, but only for the purpose of showing the application of the scheme herein proposed. These rates may be too high in some cases or too low in others. Perhaps also more or less brackets should be established in order to do substantial justice. They were made with the view of having them harmonize, so far as practicable, with the personal-income tax rates that would be imposed in case the net income were distributed:

*Relation of undistributed income to invested capital.*

Invested capital.	In excess of—				
	\$5,000 but not in excess of 10 per cent of invested capital.	10 per cent but not in excess of 30 per cent.	30 per cent but not in excess of 50 per cent.	50 per cent but not in excess of 75 per cent.	75 per cent.
Less than \$100,000.....	10	15	20	25	30
\$100,000 to \$1,000,000.....	10	20	30	40	50
\$1,000,000 to \$10,000,000.....	10	25	40	50	50
\$10,000,000 and over.....	10	30	50	50	50

In the first column of this table will be noted invested capital ranging from \$100,000 to \$10,000,000 and over. It is proposed to tax all undistributed income in excess of \$5,000 and not in excess of 10 per cent of the invested capital at the rate of 10 per cent regardless of the amount of capital in the business. This is for the reason that 10 per cent is the lowest rate under the income-tax law that would probably be paid by the stockholders on corporate income in excess of \$5,000 of all corporations regardless of size if the income were distributed.

The next bracket proposed is where the undistributed earnings exceed 10 per cent of the investment but do not exceed 30 per cent. Under that bracket corporations with an investment of \$10,000,000 and over would be taxed at the rate of 30 per cent, whereas a corporation with an investment of less than \$100,000 would be taxed at the rate of only 15 per cent. The same principle is carried out throughout all the brackets beyond the first, with the result that corporations with large investments retaining in the business more than 10 per cent of the invested capital are taxed at a higher rate than corporations with small investments. This is for the sole purpose of protecting small business and making it possible for small business under the law to compete with large business.

#### FEDERAL TAXES DEDUCTED.

In imposing a tax upon undistributed earnings great care should be taken to only tax that part of the income actually retained in the business. For this reason it is necessary to deduct from the total net earnings of the corporation for any year not only the cash dividends paid to stockholders subject to income tax, but also the amount paid by the corporation in taxes to the Federal Government. Under the present law Federal income taxes are not deducted with the result that the corporation is not taxed on its true net income. There may be no objection to this arrangement in imposing taxes under the present law, for the reason that if the Federal taxes were deducted in arriving at the net income the rate of the tax would have to be increased if the Government was to receive the same amount of revenue as would be received in case such taxes were not deducted. The tax on undistributed income, however, is imposed upon an entirely different theory than the net income tax. It is a tax in respect to the true net income which is not distributed to stockholders and made subject to taxation in the hands of the stockholders. Certain it is that sums paid each year to the Federal Government in taxes are not retained in the business and, therefore, in order to arrive at the amount that is retained these taxes as well as cash dividends should be deducted from the total net income for any year.

## DIVIDENDS OUT OF SURPLUS EXEMPTED.

The purpose of imposing a tax upon stockholders in respect to corporate income distributed and a tax upon the corporation in respect to income not distributed is to secure from corporate business a far tax in respect to the total corporate income and at the same time avoid the taxation of any portion of such income to both the corporation and the stockholders. In order to carry out this scheme it is necessary to exempt, in the hands of the stockholders, dividends made from accumulations upon which the corporation has paid the tax. If a corporation under this proposed plan fails to distribute any part of its income of any year it is required to pay a tax thereon substantially equivalent to the tax that would be paid by the stockholders if the income were distributed, so that if any portion of these earnings upon which the corporation has paid the tax should be subsequently distributed the dividends out of such earnings should be exempted from taxation in the hands of the stockholders. Under the present law corporations are permitted to distribute to stockholders, free of tax, dividends from earnings accumulated prior to March 1, 1913, provided all earnings accumulated on or after March 1, 1913, are first distributed. A similar arrangement should be made in the law hereby proposed, to the effect that after a corporation distributes all its earnings of any year any further dividends distributed out of earnings of prior years upon which the tax has been paid by the corporation may be distributed free of tax.

## HOLDING CORPORATIONS.

A tax upon undistributed income of corporations, the rate being determined by the relation of the undistributed income to the investment as herein proposed, can be applied generally against all corporations, including holding companies. In taxing holding companies with reference to investment care must be taken to avoid duplication of invested capital in order that not more than one corporation may secure the benefit of the same investment. Under the present law this is accomplished by means of a consolidated report where one corporation owns or controls the voting stock of another. Where, under the present law, the corporation receiving the dividends does not control the corporation paying it, the dividend is not taxed. The invested capital is adjusted under present law by disallowing as invested capital stock held in corporations the dividends from which are not taxed to the company holding the stock. The same scheme could be worked out under the plan herein proposed by crediting corporations with dividends paid in cash to individual stockholders and taxing the corporation in respect to dividends paid to corporations, the same as if such dividends had not been declared. This would require the taxation of a corporation upon its entire net income if its dividends were paid exclusively to other corporations. This seeming injustice, however, would be offset by exempting from the taxable net income dividends received from other corporations subject to the tax. For example, suppose A held stock in B; B held stock in C and C held stock in D; suppose also that D had a net income of \$1,000,000 which was distributed to C and by C to B, by B to A and by A to the individual stockholders of A. Of course, if A controlled the stock in B, C, and D, the matter would be disposed of by requiring a consolidated return of the four corporations and imposing the tax upon a single entity. If, on the other hand, none of the corporations represented controlled the stock of the other, then in that case the whole tax would be imposed upon D and no tax would be imposed upon C, B, A, or the stockholders of A. While this would result in the imposition of a tax upon D in respect to income distributed to C, nevertheless this would be offset by any dividends received by D from other corporations in which D might hold stock, and the whole result would be a single tax upon the earnings of the group with respect to the invested capital of the group.

## SUMMARY.

To summarize, the proposition herein presented is:

1. Attempt no change in the general principles involved under present law in taxing individuals (other than stockholders), sole proprietors, and partnerships.

NOTE.—This would not preclude minor amendments to the income tax law or changing the rates if such action were found desirable.

2. Make dividends received from corporations in cash or other taxable income subject to both the normal and surtaxes instead of being subject to the surtaxes only as at present.

3. Exempt corporations from any normal income tax.

4. Repeal the excess profits tax and impose upon corporations a tax in respect to income not distributed in dividends taxable to individual stockholders, but at pro.

gressive rates, as herein set forth, based upon the relation of the undistributed income to the invested capital.

#### OTHER SUBSTITUTES.

Other substitutes which have been offered by those individuals who have alleged to have made a careful study of the situation consist of (a) a sales tax and (b) a tax on undistributed income at a flat rate coupled with a maximum tax on what is referred to as "saved income" or income reinvested in business by the taxpayer receiving the dividend or distribution.

#### GENERAL SALES TAX.

The success of the general sales tax probably depends upon the extent to which it can be shifted to the consumer. If it can not be shifted to the consumer then the general sales tax becomes very inequitable between taxpayers for the reason that two taxpayers doing the same gross business would pay the same tax even though the profits of the two were entirely different and even though one made a profit and the other suffered a loss. If the tax be shifted to the consumer, as would doubtless be the case in a majority of instances, then the tax is not based upon ability to pay but in many cases would probably be imposed upon those least able to bear it. The sales tax, therefore, does not meet the problem of producing a sufficient amount of revenue without shifting the present burden upon those less able to bear it. It is contended by some of the advocates of the sales tax that it would not be shifted to the consumer to any greater extent than the present excess profits tax. Much doubt has been expressed as to the correctness of this contention. Whether this be true or not it is doubtless a fact that a general sales tax would be much more readily shifted to the consumer than the taxes under the system herein proposed. The taxes which it is proposed under this plan shall be paid by the stockholders would not and could not be shifted to anyone else. The tax which is herein proposed to be paid by corporations in respect to undistributed income probably could not be shifted as readily, if at all, to consumers as in the case of a general sales tax. No corporation probably could readily determine in advance what its taxes would be on undistributed income under the proposed plan because before such taxes can be determined not only must the total net income be determined but the amount which the corporation will decide to retain for the needs of the business must also be determined. This probably could not be done in time to shift the tax, as in the case of a general sales tax.

It is submitted that probably no tax imposed could be more easily shifted to the consumer than the general sales tax. If the sales tax were imposed upon all sales regardless of the amount of the sale, it is probable that the administrative difficulties of the law would far exceed the difficulties of administering the present excess-profits tax law. If exemptions were made to the extent necessary to properly relieve the administrative difficulties, then a large number of taxpayers would go untaxed, for no justifiable reason from the standpoint of those taxed.

A general sales tax would be pyramided, because commodities are usually sold several times before they reach the ultimate consumer. Where the several processes of manufacture and distribution were carried on by the same business enterprise, pyramiding would be avoided. It follows that business enterprises situated so as to avoid the pyramiding of the tax would have a decided commercial advantage over business enterprises against which the tax had been pyramided. It must also be contended that the general sales tax would not equalize the taxes between corporations on the one hand and partnerships or sole proprietors on the other. If we are to continue to tax partners of a partnership and sole proprietors in respect to the total net income of the business, whether distributed or not, it would be unfair to impose a general sales tax upon all sales in lieu of the present excess-profits tax. Such an arrangement would give corporations an unfair advantage over the business of a partnership or the business of a sole proprietor. Upon the whole, it would seem that the general sales tax could not logically be substituted to take the place of the present tax imposed upon corporations.

#### INVOLVING TAX ON "SAVED INCOME."

The other plan suggested, and above referred to, was advocated by Hon. David F. Houston, Secretary of the United States Treasury, in letter addressed to Hon. Joseph W. Fordney, as chairman of the Ways and Means Committee of the House of Representatives, under date of March, 1920. This is a proposition to impose a tax upon undistributed income at a flat rate. It has already been pointed out that a flat rate tax upon undistributed income would be inequitable between the corporations

taxed and would result in forcing distribution in cases where the earnings should be retained in the business, but would fail to force distribution where the earnings easily could be distributed without serious effects to the business. A flat rate tax upon the undistributed income of corporations would not logically compare with the progressive surtax rates imposed upon the income of partners of a partnership or sole proprietors under present law in respect to income, whether distributed or not. In order to meet this objection to such flat-rate tax the advocates have coupled with it what might be termed a maximum tax upon "saved income." In other words, any distribution reinvested in any business by either stockholder, sole proprietor, partner, or other individual is not to be subject to taxation to an amount greater than 20 per cent of the total income thus saved. Where the surtaxes, as imposed under the present law, exceed 20 per cent of such saved income the tax is to be arbitrarily reduced to 20 per cent of the saved income. To state the proposition another way, the proponents of this scheme propose not only a flat rate undistributed income tax on corporations but also a flat rate surtax on individuals in respect to income invested in all cases where the income is sufficiently large so as to make the flat rate surtax less than the surtax that would be paid under progressive rates. The plan of differentiating between saved income and other income, when applied to a sole proprietor, will make it necessary to differentiate between the business income and the personal income, a thing which Congress found impracticable to attempt to do in the past. It probably would be extremely difficult, if not impossible, to determine what part of the income of a sole proprietor was retained for business purposes and what part was retained to meet personal requirements. The situation would be slightly less difficult in attempting to differentiate between the personal income and the business income of a partner in a partnership. More than this, the benefit of the reduction of the surtax only applies to wealthy individuals who reinvest their income in business. There is no inducement to save made to individuals with moderate incomes, because in the case of moderate incomes the tax under present surtax rates amounts in the aggregate to less than the tax under the flat rate proposed. It would seem that if any inducement is to be offered under any tax law for saving it ought to apply to all incomes saved regardless of size. It is the individual with small means that requires an inducement to save. The wealthy individual, having more income than he can naturally spend, is bound to invest a part of it. It is contended, however, by the proponents of this scheme that by limiting the exemption to investments in securities or business the income from which is subject to taxation, investments will be diverted from State and municipal securities (the income from which is now exempt) to business securities and the Government would not only receive some tax as a result but a more ready means would be attained for financing business. The amount of municipal securities dealt in in the last few years hardly warrants so favorable an exemption to wealthy individuals for the purpose stated. It would seem that the intended result could best be accomplished by reducing some of the rates under the higher brackets of the surtax, but at the same time keeping the rates progressive (instead of substituting a flat rate) so as to meet the general principle under the income tax law, "that ability to pay taxes increases more than in direct proportion to the increase in the income." The subsidy granted wealthy individuals that would be subject to the flat rate as compared with individuals paying under graduated rates in accordance with ability hardly seems justified or necessary under any properly considered net income tax act.

The administrative difficulties differentiating between income saved and income not saved, especially in the cases of partners in a partnership and sole proprietors, would probably surpass the administrative difficulties heretofore experienced in the administration of the tax law. Furthermore, the scheme would seem to introduce an entirely new and complicated taxation system with which no country heretofore has had experience.

**STATEMENT OF ROBERT N. MILLER, WASHINGTON, D. C., FORMERLY SOLICITOR OF INTERNAL REVENUE.**

Senator SMOOT. Will you give your name and address?

Mr. MILLER. Robert N. Miller, Washington, D. C.

Senator LA FOLLETTE. Mr. Miller, you appear here at my request, I believe, do you not?

Mr. MILLER. Yes, sir.

Senator SMOOT. Whom do you represent?

Mr. MILLER. I am not representing anybody.



**Senator LA FOLLETTE.** You were formerly solicitor of the Internal Revenue Department, I believe?

**Mr. MILLER.** Yes, sir. I came here in the war emergency to help Mr. Ballantine when he was solicitor, and then afterwards I became solicitor myself.

**Senator LA FOLLETTE.** When did you first become connected with the department?

**Mr. MILLER.** I came in just about when the first 1917 returns were being filed; that is, about the middle of March, 1918. I was connected with the department either as assistant or as the solicitor, a good deal of the time from then on to a little over a year ago, when I resigned.

I am at your service. As I understood, what you wanted was some comment, as far as I could make that comment, on the general situation as to excess profits and the sales tax.

**Senator LA FOLLETTE.** Yes, sir. We will be glad to hear you.

**Mr. MILLER.** One thing that seems to me important to consider first is the fact that the excess-profits tax is bound to go.

I believe there is not any question on earth but what the excess-profits tax ought to be changed and done away with, first, because it is not productive, and, second, because of its complexity. It costs too much to get right or try to get right.

The going of the excess-profits tax, which has to go, does not depend, to my mind, at all on the sales tax; that is, we can get rid of the excess-profits tax entirely without using the sales or turnover tax.

**Senator SMOOR.** Nobody questions that.

**Mr. MILLER.** That is perfectly plain.

As a substitute for the excess-profits tax, this increase of 5 per cent, which is recommended by Secretary Mellon, is as good a substitute, probably, as we can get, and it definitely substitutes for the excess-profits tax rather than applying over the whole field of individuals and corporations.

**Senator SMOOR.** You mean an increase to 15 per cent?

**Mr. MILLER.** An increase of 5 per cent, from 10 to 15; yes, sir.

That, of course, is pretty simple. It is just a matter of arithmetic. We have got to calculate the corporation income tax and we just multiply it by the percentage.

**Senator LA FOLLETTE.** What can you say as to the revenue produced by the change?

**Mr. MILLER.** I have nothing except the estimates of the Secretary of the Treasury, which are based on Mr. McCoy's estimates, and I have every reason to believe that those are as good as can be had. It amounts to between three and four hundred million. I am not a statistician, and I am just relying on what I consider as good an estimate as can be had. It might be better still to make this rate 16 per cent and insert a provision for moderating this flat tax in the case of low-return businesses.

I have noticed in a number of letters that people who favor the turnover tax say over and over again that the turnover tax is better than the excess-profits tax, and simpler. Of course, that is really beside the point, and it seems to me that a lot of these people that have voted on that issue have had in mind that in some way the adoption of the turnover tax was a condition precedent to get-

ting rid of the excess-profits tax. We all know that is not so, and yet I believe it is quite widely thought. They all hate the excess-profits tax, and justly, and they have in mind that they have got to suggest something to put in its place, and this is the thing that has been suggested. But it is quite clear that that is not the condition precedent. They are two separate things.

Suppose we carry out approximately what Secretary Mellon has suggested—that is, a modification of the surtax rate, not for the benefit of the rich people but for the good of the Government to produce more revenue. To change the corporation tax, say, by going up to 15 per cent and cutting out this \$2,000 exemption, and then go on down through the list, when you calculate that and use figures just a little bit lower than Mr. McCoy's figures and put in as the customs receipts from tariff three hundred and fifty million, and put in what seems pretty solid to count on, further returns from the old excess-profits tax of \$350,000,000—when we do all that, it adds up to four billion two hundred and twenty-five million.

So that even with those changes we do add up, on Mr. McCoy's estimate, to more than the four billion which is stated as the amount that has to be raised from taxation.

I have a little memorandum and I will leave it with you gentlemen, if I may.

Senator Smoot. That is estimates of the amount to be raised from every source?

Mr. MILLER. Yes, sir; founded on Mr. McCoy's estimates with those two methods, which I think are pretty sound.

As I say, I have put in \$350,000,000 as the amount that can probably be recovered from the excess-profits taxes for 1917, 1918, 1919, and 1920. I believe that is reasonable, but I believe it is quite important, in order to count on those and to get the tax that is still outstanding and which really ought to be paid, to give the Commissioner of Internal Revenue money enough to hold on to the key men in the bureau. The inexperienced men, as I have seen from the inside all the time, however good they are, are liable to tax people that ought not to be taxed and to leave untaxed people that really owe a lot of money to the Government. The only way that the bureau can inspire confidence and get what ought to be gotten from the people that ought to pay it, and not get it from the others, is to retain those key men. You gentlemen have heard that so often that I will not stop on it, but it is utterly true. My notion is not just that Government employees are underpaid. They may be. What I mean especially is that a dozen or 15 real good men can keep things moving straight.

Another thing, on the settlement of these war-time taxes I believe the old suggestion for a final settlement of war-time taxes is good, both for the Government and for the taxpayer. The taxpayer is glad of it, because it lets him know what he has to pay. It is good for the Government financially because it will bring in some money now. If people knew it was the last payment they would be glad to come in and settle on some basis.

Further, it is good for the Government because it gets out of the way the troublesome older audits.

To work that out it will be a very good thing if the commissioner, in carrying that great responsibility of settling war taxes—and I

think it ought to be confined to those four years—could have a body of business men inside his bureau, not outside, who would help on those settlements, to take the technical figures and the technical conditions that ought to be fully worked out with the Government and decide what ought to be done in these settlements. I will not stop any longer on that.

On the sales-tax proposition it impresses me that no change ought to be made at any time in a great matter of this kind, especially when things are so confused and doubtful as they are now, unless the change operates as a very great improvement—a very great one.

Since the sales tax is not a substitute for the excess-profits tax, since we have got to have some other substitute, it really amounts to considering whether we will abandon the miscellaneous taxes we have now, which are expected to yield, according to Mr. McCoy, in the calendar year, about a billion three hundred and fifty millions, and adopt a sales tax.

If we have to raise four billion and the sales tax can only be solidly counted on for a billion or less, it is only useful as a substitute for those general taxes, because with three billion extra to raise we have to hold on to the income taxes and things of that kind.

Senator Smoot. Mr. Miller, I do not know why the papers or so many writers claim that the sales tax is proposed simply as a substitute for the excess-profits tax. No thought of that was ever in my mind, other than the excess-profits tax happens to be included in the other taxes that we can dispense with if a sales tax is adopted. For instance, if the sales tax is adopted the income tax, the normal tax increase on business, the inheritance tax, and the tobacco tax and the revenue from ports of entry would pay all we need, and all of the other taxes, discriminatory as they are, could be done away with.

Mr. MILLER. I think you have stated the issue exactly, Senator Smoot. I think we are in the middle of the stream; and it is a question of whether we ought to change horses now. If I were in the middle of a stream I would like not only as good a horse to change with, but a very much better one; and my observation in our working out of these other sales taxes makes me feel that the sales tax does not offer that advantage, but is really dangerous.

Senator Smoot. You do not believe for a moment that taxes are going to be less than they are this year for many years to come?

Mr. MILLER. I am very much afraid that it can not be done, Senator.

Senator Smoot. Let me say to you frankly that I think they will be increased.

Mr. MILLER. I am sorry to hear that.

Senator Smoot. I am sorry to say it.

Mr. MILLER. I am not so terribly surprised.

Senator Smoot. I speak of it because of taxes that we are not being compelled to pay now that we will have to pay in the future.

Mr. MILLER. Aside from the fact that the sales tax represents a radical change and it would naturally have to be justified, there is a fundamental inequity in it, and that fundamental inequity is readily appreciated by the people that pay it, and it is going to make

them like it very much less than they like these miscellaneous taxes that we have right now. Of course, none of us like these miscellaneous taxes. It is a terrible thing that we have to have them, but there is this big difference when you come to these miscellaneous taxes on jewelry and diamonds and victrolas and automobiles and theater tickets and tobacco, that it is true practically that a man who is determined to cut his living to the bone could get along pretty well without paying a very heavy burden with regard to those taxes. I think, psychologically, the taxpayer, when he does spend money for a theater ticket, is more in the mood to pay the tax, realizing the taxation must happen, than he is when he spends money for absolute necessities. It comes down to ability to pay. To me ability to pay does not seem so very important in a tax raising a small amount, but when you come to raise a tax out in the country of \$1,000,000,000 the ability to pay basis becomes very important.

There is this peculiarity about the sales tax that I have not seen mentioned in these hearings: It is hard to put a turnover tax on turnovers of land or turnovers of securities—

Senator SMOOR. The bill does not provide for that.

Mr. MILLER (continuing). And the reason is that if you had two bonds, one that had been sold often and one sold infrequently, and the tax was really passed on, you would have either a purchaser paying more for the same bond or the thing not being passed on.

As a matter of necessity, I think sales of land and sales of securities have to be omitted from a turnover tax. It nevertheless happens that the people that are best able to pay are the class that have transactions in securities and in land, and you are taking this great big burden and putting it, as it were, on a knife-edge of a particular class of sales—that is, goods, wares, and merchandise. It is true that everybody buys goods, wares, and merchandise, but you are not putting as big a burden on the class that buys securities and land. I will not stop on that point, however.

As between the miscellaneous taxes and the proposed substitute—the turnover tax—it is true that the sales tax may be simpler, but no tax which raises as much as \$1,000,000,000 will be actually simple to administer.

I believe that the virtue of simplicity which is so strongly urged in favor of the sales tax is somewhat exaggerated. The administrative difficulties involved in a turnover tax, or even of a simple retail sales tax, can only be appreciated by those who have had some practical experience with the administration of a tax national in its scope. It is true that the problems of collection would be relatively simple except for their multiplicity as compared, for instance, with the returns made under the income and excess-profits tax provisions. But even with the exemptions of street peddlers, bootblacks, and other small businesses through a minimum exemption of \$500 a month, there would be vast numbers of returns that would require an immense force of field and office auditors to check up, and new and complicated problems would arise not only in the definition of a sale, but in dealing with the many ingenious devices which would be resorted to for evading the law. It would be necessary to tax leases as well as sales, as otherwise a great many sales would take the form of long-time leases or of leases with an option to buy or renew. The practice in some lines of renting and leasing out the

product instead of selling it, such as now prevails in the cases of shoe machinery, adding machines, printing machines, and many other inventions, is capable of being largely expanded.

There would also be the problems of dealing with discounts for cash or discounts made subsequent to sale, with rebates for goods unsold or in case of a decline in the market, with commissions of agents and other expenses of sale, with freight and delivery charges when paid by the seller and when paid by the purchaser, with exchanges of property for property, which it would be almost impossible to check up accurately, with ordinary barter where no entries may appear on the books of the taxpayer, with articles sold and later returned in whole or in part, with articles sold under guarantee as to quality or service, with articles sold and later exchanged for other articles of a higher or lower price, with an infinite variety of colorable sales, loans, pledges, mortgages, conditional sales, etc.; with sales for export, which can not constitutionally be taxed by Congress and must therefore be exempted from any form of sales tax; with the distinction between contracts for sale and contracts for work and labor (the complications of which have become familiar under the old statute of frauds); and where there are exemptions, as every proposed law contemplates, the endless difficulties of distinguishing between sales that come within and those that do not come within the exemptions. And should the law make a distinction between sales for consumption and sales for further sale, the almost hopeless difficulty of determining in many cases how a given sale should be classified; or, where the tax is imposed on retail sales only, of determining what is a retail sale; or where, as in Mr. Smoot's bill, the tax is to be on sales of goods, wares, and merchandise sold or leased, a determination of what sales are included in such a description, and so on, almost ad infinitum.

Any one who may be interested in pursuing an inquiry into some of the difficulties that would arise under even a comparatively simple sales-tax provision might examine the present sales-tax regulations issued by the Treasury Department under the revenue act of 1918, and such as Regulations 47, covering the sales by manufacturers; Regulations 48, covering the tax on works of art, jewelry, etc.; Regulations 54, covering taxes on sales by the dealers of wearing apparel, carpets, lighting fixtures, trunks, etc.; Regulations 56, covering motion-picture films; Regulations 51, covering taxes on toilet and medicinal preparations; Regulations 55, covering stamp taxes on various transfers of real and personal property; Regulations 52 and 53, covering taxes on soft drinks, ice cream, etc.; Regulations 58, on the issuance of insurance policies. I know that it is suggested that a turnover tax would do away with these complications; that is true in part, but any tax on sales involves many of the detailed rulings appearing in the publications. All these classes of sales will have their peculiar problems under any sales tax.

One serious peculiarity of the turnover tax is that its action is least satisfactory in a declining market. Under such conditions, when all business is apprehensive, it tends to increase the anxiety. I say this, because it is at such a time that many business men will be unable to pass on the tax to the consumer. They must sell their older stocks for what they can get, not what they want to get. The result is that the serious additional burden of the tax, normally passed on, is placed

on business at a time when it is least able to bear it. Could we blame a merchant, who realizes that a declining market may throw on him this heavy burden, from increasing his selling price in normal times to make a sinking fund to take care of such a contingency? If he does, we have the same tendency to price increases as appears under the excess-profits tax.

This uncertainty as to whether a business can pass its taxes on or not is especially dangerous to the business which is just getting on its feet or to the business which is barely making money. It is true that such businesses are not as important as the profitable and well established businesses, but it is highly important to keep competition active by making it easy for deserving new enterprises to enter the field. The excess-profits tax discouraged enterprise by heavy levies on success; that is bad, but it is worse to adopt a tax which casts its heaviest burdens on the least successful, which kicks the under dog, so to speak.

Simplicity is an important requirement, but it does not, of course, justify a tax which is otherwise objectionable. The position here taken is that even if the sales or turnover tax were as simple as a poll tax, it is less fair than the taxes it proposes to supplant, and it is more dangerous to business.

Business men universally oppose the excess-profits tax; there is no such general opposition to the miscellaneous taxes which the turnover tax is proposed to replace. Whatever method is chosen, the tax burden is onerous, but a change from the miscellaneous taxes can not be based on popular demand to be freed from the miscellaneous taxes. It is true that the businesses which are affected by the special nonincome taxes found them more burdensome than a 1 per cent general turnover tax would be, and have very properly brought their point of view to your attention. It is unfortunate that these businesses should be under this disadvantage, and we will be glad when the burden of taxation can be lessened. But it is still true that decision must be made with the whole mass of taxpayers in mind, and if it seems wisest to put the heaviest tax burden on the things which can most easily be done without, the dealers in such articles must yield their convenience to the common good.

Another thing in that comparison is that this really is not a small tax. One per cent is spoken of as small. We do not think 1 per cent is always small when it means 1 per cent more interest, for instance; but there is a broader bearing than that in the matter.

This is 1 per cent on gross sales. It is true that many businesses make a big profit on their gross sales. It is also true that there are businesses that make a profit of only 4 per cent or 3 per cent. That means that the money involved, if a business can not pass on its tax, is a third or a fourth of all the money it expected to make in that year. And that is a big matter. And besides, even if it is passed on, if you have one business that has a local branch through which it disposes of things and escapes one turnover as compared with another business, it means that the goods at the time they get to the consumer have an inevitable loading of the amount of one turnover tax, which might be as much as a third or a quarter in the case of some big industries of what they expected to earn for the whole year. That is all. I thank you.

The CHAIRMAN. Mr. Miller, I was called from the hearing room shortly after you appeared. What is your occupation?

Mr. MILLER. I am a practicing lawyer. I have been a lawyer for 15 years.

The CHAIRMAN. Whom do you represent in this connection?

Mr. MILLER. I am not representing anybody. Senator La Follette knew that I had been solicitor in the bureau there, and just asked me to appear.

The CHAIRMAN. Well, we are glad to have your views. I only wanted the record to show your qualifications. You have made a study of this matter, of course, in the department and since then?

Mr. MILLER. Yes, indeed.

The CHAIRMAN. If you have anything to add that bears on what you have already stated, not new matter, you can put that in.

#### **BRIEF OF ROBERT H. MILLER, FORMERLY SOLICITOR OF INTERNAL REVENUE.**

Assuming that \$4,000,000,000 must be raised by taxation, the following analysis seems as reliable as any calculation based on rough estimates is likely to be:

1. In an emergency like this it would seem that the individual income tax and surtax, the yield of which we know more about than any of the other taxes, ought not to be abandoned as a means of raising revenue. Undoubtedly surtaxes must be reduced. Reducing these so that the total of individual income and surtax shall not exceed 40 per cent, and allowing on this amount a loss of about \$100,000,000—Secretary Mellon allows a loss of \$100,000,000—experience makes it reasonably certain that these taxes for the taxable year will yield \$1,200,000,000.

With this reduction in surtaxes induced by necessity rather than a desire to lighten the tax on people with high incomes, this basis for taxing individuals seems eminently fair. It seems clear that it ought not be abandoned for any sales or turnover tax.

2. Assuming that individual taxation is to be on an income and surtax basis, with an aggregate maximum tax of not less than 40 per cent of the individual's income, it is clear that some balancing tax must be put on corporations, so as to avoid forcing all businesses to incorporate. Otherwise the great advantage of the corporate form would compel a general shift in business forms. On this basis, and assuming that the excess-profits tax, because of its complication, ought to be abolished, no one ought seriously contemplate the abolishment of corporation income taxes, which, with the \$2,000 exemption removed—as seems advisable—should produce, at the 10 per cent rate, \$625,000,000.

3. But in order in any degree to balance the individual surtax it seems not unreasonable that the corporation income tax be raised from 10 per cent to, say, 16. Thus the corporation would be paying 8 per cent more income tax than the individual, this differential tending in some degree to offset the surtax on individuals.

This would be a fair rate for all except businesses such as public-service companies and other low-earning businesses which, on the average, earn a very small per cent on their investment, and it would be necessary to provide special relief for the comparatively small class of corporations which can prove to the commissioner that on the average they belong to this low-earning class. It seems probable, in view of the average figures, that the additional 6 per cent income tax, subject to the special relief just mentioned, would produce \$350,000,000.

4. It also seems fairly clear that the old excess-profits tax, gradually audited for the years 1917, 1918, 1919, and 1920, will produce in additional tax at least \$350,000,000. This is the amount mentioned in the estimates by Treasury officials.

5. The internal taxes now on the statute books other than income and excess-profits taxes may be expected to produce \$1,400,000,000. Subtracting from this \$50,000,000—Mr. Mellon's estimate as the amount that would be lost by repealing taxes on soft drinks and the taxes under section 904—it seems reasonable to count on \$1,350,000,000.

6. The total receipts from customs under contemplated changes in tariff laws may be expected to produce at least \$350,000,000. Comparison of this figure with a number of estimates which have been made will show that it is quite conservative.

The sum of these amounts is \$4,225,000,000, which is more than the \$4,000,000,000 deemed necessary to raise by taxation for use of the Federal Government.

This contemplates no additional stamp or other taxes. Such additional taxes could be utilized if any of these figures prove too high.

The new act should, in my opinion, contain a provision allowing a net loss for any taxable year to be used as a deduction in adjacent years; provision for final settlement of taxes, with a board of business men with the bureau, to advise the commissioner as to questions of settlement, after technical questions have been worked out by the auditors; and relief as to extraordinary income realized in a single year but in part referable to other years, this to be worked out substantially as in the bill passed by the House a year ago. The estimated losses through these relief provisions could be made up by additional stamp and excise taxes, if they exceed the \$225,000,000 leeway indicated in the tabulation.

Reverting to item 4 in the tabulation just preceding, the Government will do well to take extraordinary measures in retaining in the bureau the men in authority who have proved their ability. Loss of these key men often results in illegal demands by the bureau for additional tax, and, on the other hand, prevents the Government from getting taxes which are legally due. Confidence plays a large part in the administration of any tax, and under present conditions the confidence of the taxpayer is forfeited by the increasing proportion of inexperienced men. Both the Government and the taxpayer suffer by the present inability of the department to retain good men. Considering this handicap and the difficulty of the problem, the bureau has done and is doing remarkably good work. With full authority to meet this situation through increased pay for key men, the bureau can correct a very serious situation and avert a still more serious one.

It will be noted that once the principle is accepted that income taxes and surtaxes are not to be abandoned, all of the internal-revenue items outlined above except the so-called "other taxes" mentioned in No. 5, follow as a matter of necessity, and the only service a general turnover tax would perform would be as a substitute for these so-called "other taxes."

Looking at it in another way, it hardly seems safe to assume that the sales tax, in view of the various estimates, would produce much more than a billion dollars. A Canadian speaker, quoted with approval in an article in Commerce and Finance by Mr. W. C. Cornwell, of Bache & Co., suggests that the Canadian tax, if applied in the United States, would raise approximately three-fourths of a billion dollars. It is perfectly clear from this that the sales tax can not be offered as a substitute for taxes having an income basis, and the consideration of the turnover tax frequently involves no question except whether it is a better tax than the so-called "other taxes"—the nonincome internal taxes—mentioned above.

It is not a question whether the sales tax is better than the excess-profits tax; the excess-profits tax has to be done away with, whether the turnover tax is adopted or not.

It is not a question whether the sales tax will be substituted for income taxes, because the turnover tax can not be relied on to raise anything like the whole amount needed, and because no one would seriously propose to preserve the so-called "other taxes" and combine them with the turnover tax after elimination of the income taxes.

The turnover tax does not help to preserve the balance between the individual and corporation taxes, disturbed by elimination of the excess-profits tax.

So, as stated above, the real question is whether we ought to change all these so-called "other taxes" and substitute a general turnover tax. The following reasons are suggested, indicating that such a change is not advisable:

(a) The present nonincome taxes have been tried out over a period of several years, and the yield can be estimated with some degree of accuracy. The yield of the turnover tax is somewhat doubtful, in view of the fact that there are so many unknown elements affecting its yield.

(b) It is quite doubtful, in view of Treasury estimates, whether it would actually yield as much as \$1,350,000,000, which the old nonincome taxes may reasonably be expected to produce.



(c) It is highly important that a tax expected to produce as much as a billion dollars be imposed as nearly as possible in proportion to the ability of the taxpayer to pay. The present "other" or nonincome internal taxes, referred to as No. 5, to a considerable extent answer that requirement, because the items taxed are such that a person in planning his personal expenses could, if he would, live with a very considerable degree of comfort and still avoid paying any large amount in respect of these nonincome taxes. This is clearly true, for example, as to taxes in connection with jewelry, automobiles, admissions, and dues, and even transportation taxes, which, while of importance on the business side, do not fall heavily as a matter of strictly necessary personal expenses.

It is to be noted that the proposed turnover tax is strictly limited to a peculiar class of transactions relating to leases and sales affecting the technical classification "goods, wares, and merchandise." No turnover tax is payable on this basis by the individual or corporation which makes a business of selling real estate or by the individual or corporation which makes a business of selling stocks and bonds and commercial paper. Assuming for the moment that the turnover taxes on each transaction are passed on to the purchaser, it obviously is unwise to apply a turnover tax to securities, because, for instance, bonds of the same issue which had often been sold would necessarily bring a higher price than identical bonds which happened to have been infrequently sold. This brings out that it is impossible for the tax always to be passed on, and makes it clear that the law of supply and demand, which can not be repealed, really governs the question whether the tax will be passed on or not.

Assuming that the proposed turnover tax provisions limit the turnover tax to the special class of "goods, wares, and merchandise," and that the turnover tax is reflected in the price paid by the purchaser, it seems clear that any class of the population which purchases land in substantial amount, or which purchases securities in substantial amount, will reap a large advantage from a tax which throws a burden of over a billion dollars on turnovers of "goods, wares, and merchandise" alone, especially omitting to put any part of this burden on turnovers of land or securities. It happens, also, that the particular class of taxpayers who deal most often and in largest amounts in land and securities are the taxpayers who are best able to pay. The result is that the total amount is not to any extent raised from the transactions which are most engaged in by people best able to pay, and is put on that class of transactions which even those least able to pay must engage in. Even the excess-profits tax, when it was passed on to the consumer, was passed on to a much broader class than those who deal in "goods, wares, and merchandise."

(d) A turnover tax tends to upset well established business relationships. It is well known that some industries earn on the average not more than 3 or 4 per cent on their gross sales. A 1 per cent tax in such cases is not a small tax. It is a tax which involves a sum of money equal to one-third or one-fourth of all the business is expected to earn for the year in question. This is relatively a very large amount of money to the business involved. A manufacturing business that sells direct to the consumer could undersell to the extent of one-third or one-fourth of the expected profit, the manufacturer who depended on an independent retail store. The practice of selling through a jobber would introduce still another substantial differential operating against the business which sells through the jobber. The direct effect of such differentials, involving sums of money equal to a substantial proportion of the expected profit, is to put the jobber and the retailer out of business. This is unfortunate, because they perform a useful service. So, also, the fact that sales of service are not taxed, would encourage the rearrangement of businesses so that, if possible, services would be furnished instead of goods being held for sale. The distinction between, for instance, a mill which sells cotton goods which it has printed, and a mill which merely prints such goods for other people, would assume an importance not in accord with the real facts. It has often been stated that the amount involved in a sales tax would be so small as not to induce business changes designed to minimize taxation. This would doubtless be true in the case of many businesses, but since it must be admitted that there are important businesses in which a 1 per cent tax on sales represents a substantial fraction of the expected profit, we should have to expect many radical rearrangements in business, as well as many instances where a falling market caused serious tax burdens by reason of inability to pass the tax to the purchaser.

**STATEMENT OF JOHN G. ROTHFUS, DETROIT, MICH., REPRESENTING DETROIT BUTTER AND EGG BOARD.**

Mr. ROTHFUS. Mr. Chairman, my name is John G. Rothfus, of Detroit, Mich., public accountant, specializing in Federal tax matters, representing the Detroit Butter and Egg Board. I merely want to file a paper.

(The paper referred to is as follows:)

DETROIT, MICH., May 24, 1921.

**FINANCE COMMITTEE,**

*United States Senate, Washington, D. C.*

**GENTLEMEN:** The Detroit Butter and Egg Board respectfully represents that it is composed of a majority of the wholesale dealers and jobbers of butter, eggs, and cheese in the city of Detroit, and that its sales comprise approximately 90 per cent of the supply of these commodities in this city.

It has been called to the attention of this board that your committee is at the present times considering the advisability of levying a tax upon all sales of these commodities.

In order that your committee may be informed of the grave results of a tax so levied, this board would respectfully call your attention to the following facts:

First. For the past four years, which include the area of high prices, the net profits on the sales of these commodities have not been in excess of one-half of 1 per cent of the sales in the case of wholesale dealers and not more than 1 per cent of the sales in the case of jobbers.

Second. In thickly populated centers it is necessary to draw supplies of food-stuffs from distant localities. The available supply varies from day to day in each locality, according to weather conditions, etc. Shippers in these localities collect the products from the small stores, who receive butter and eggs in exchange for merchandise. When a sufficiently large quantity has been accumulated, it is shipped to the wholesaler. The wholesalers deal in large quantities, the jobbers purchasing from them in quantities sufficiently large to supply their trade. The jobbers sell and deliver, eggs, etc., in smaller quantities to the grocers.

Third. Years of experience have proven this method the most economical for the consumer.

Fourth. If a tax was levied at each turnover it would necessitate an increase in the price of these necessities of life entirely out of proportion to the increase of the price in the general commodities, as the successive sales are in such a relatively small increase in price.

Fifth. A method of taxation which would result in the greatest increase in prices on the necessities of life would place the greatest burden upon those least able to bear it, namely, the workingmen.

The members of the board realize their full responsibility as citizens to bear their proportionate shares of the cost of the maintenance of our Government, and if it is found in the judgment of your committee that in order to meet these expenses it is necessary to levy a tax upon the sales price of commodities, we respectfully request that in fairness to all it be levied at a rate necessary to provide sufficient funds upon the sales price to the ultimate consumer. If in the administration of this law it is found necessary to collect part of this tax at each turnover, it would be suggested that in that case the taxpayer return to the Government the tax collected upon his sales after deducting from this tax the amount of tax which he has paid to the previous vendor upon these commodities which were purchased for resale.

If this method of tax collection was used we would respectfully request that the law expressly hold that the wholesale vendor in each case must show separately on his invoice the amount of tax collected on each sale. Whereas it is the desire of this board to go on record as favoring a straight tax on net income as a means of providing funds by taxation, thus placing upon those who earn an income the burden of meeting expenses. It believes that if a tax on sales is found necessary it will, if carried out along the lines suggested in this communication, result in the proper application of the tax, will prevent the assessment of a tax upon those who are conducting business at a loss, and can be carried out with a fuller measure of justice to all than any method known to this board.

Respectfully submitted.

DETROIT BUTTER AND EGG BOARD,  
By A. M. HUMPHREY, President.

**STATEMENT OF PROF. EDWIN R. A. SELIGMAN, LL. D., McVICKAR  
PROFESSOR OF POLITICAL ECONOMY, COLUMBIA UNIVERSITY.**

The CHAIRMAN. Professor, will you state your full name for the record?

Prof. SELIGMAN. My name is Edwin R. A. Seligman.

The CHAIRMAN. You are a professor at Columbia University?

Prof. SELIGMAN. I am the executive head of the department of economics at Columbia University.

The CHAIRMAN. How long have you occupied that position?

Prof. SELIGMAN. I have been professor of economics at Columbia since 1887.

The CHAIRMAN. Do you desire to address the committee on any particular phase of the revenue question?

Prof. SELIGMAN. I am here, Mr. Chairman, at the invitation of several of the Senators, including Mr. La Follette and Mr. McLean, who have asked me to say something about the sales tax and kindred matters. I am especially sorry that Senator McLean is not here to-day. He wanted to hear something about the incidence of the sales tax as compared to that of the excess-profits tax.

Senator LA FOLLETTE. Will you take up first, Prof. Seligman, the sales tax and go to the other matters in order?

The CHAIRMAN. You may proceed in your own way, Professor, to state your views on the sales tax, and after that on any other phases of the revenue revision that you desire to discuss.

Prof. SELIGMAN. Thank you, sir. So far as the history of the sales tax is concerned, there is a great misconception about that in this country. There have been many examples of taxes on the sale of particular commodities; but, with few exceptions, there have been only sporadic efforts made in any country or at any time to levy a tax on all sales in general; and whenever a general tax on sales has been attempted it has met with resistance and consequently with little success.

We hear of a sales tax in ancient Egypt, but do not know much about it. We do know, however, that in Roman times the general sales tax was introduced by Augustus, under the name of the *centesima rerum venalium*; that is, one-hundredth of all things sold or a 1 per cent sales tax. It led to such resistance that Augustus was able to perpetuate it only on the plea that it was necessary for the maintenance of the army. Even then it engendered such objections that Tiberius reduced it one-half in the year 17, but later on restored it, and then, after a while, it was increased to 2 per cent and was called a *ducentesima* instead of a *centesima*. It led to such difficulties that, according to Suetonius, Caligula remitted it in Italy after a few years. Later on, again, we find it reintroduced under another name, *Vectigal rerum venalium*. But it again proved to be so unpopular and unproductive that it was abolished after a few years. So the experiments with the general sales tax in Rome can not be called precisely favorable.

In the Middle Ages, when Europe was split up into a number of principalities, the feudal lords often tried these general sales taxes, but always met with great resistance.

The first time that it was tried as a national tax in any country was in France, when Louis XI made the experiment in 1465 under the name of *sol par livre*. Translated, this means a nickel per dollar; i. e.,

a 5 per cent tax. It was applied first only to all articles sold at wholesale.

I might add that all through the Middle Ages taxes on the sale of particular commodities were very common, and especially upon the necessaries of life. For instance, in France all drinks were subject to a sales tax known as the aides; salt was subject to a sales tax, known as the gabelle. Under various names these and similar taxes persisted down to the revolution, which abolished all sales taxes. But when Louis XI tried a general sales tax, it met with such opposition as almost to create a rebellion, and he accordingly abandoned it after a short time. It was tried again in 1485.

When Henry IV got into trouble over the expenses connected with the war, Sully decided to reintroduce it in 1597 under the name of Pancarte. It lasted for only a few years and was abolished in 1602. It was applied again at various intervals in the seventeenth century not alone to wholesale but also to retail sales. It always met with a great deal of opposition. In fact, we are told by a contemporary writer, whose book I have here—I am translating from the French—that when Louis XIV tried it again in 1642, “the very name of the general sales tax puts the people into a fury” (*Met le peuple en fureur*). Accordingly after three or four years it was abolished. Subsequently, owing to the fact that the French Kings met with such difficulty in making both ends meet, it was tried again in 1681, under the name of subvention du vingtième (subvention of the twentieth, i. e. 5 per cent). But every time that it was imposed it led to great popular discontent and even to local riots until it was soon abolished. So that the French experience with the general sales tax is such as to warrant us in the conclusion that as an effective method of raising public revenues it proved to be a failure. When the French Revolution broke out the first thing the convention did was to abolish all the sales taxes, such as the gabelles and the aides on the necessaries of life.

Outside of one other country, the general sales tax—

Senator SMOOT. Are you going to talk about years and years ago? What about the French sales tax today?

Prof. SELIGMAN. I am coming to that in a moment, Senator. I have been asked to speak first of the history of the sales tax. In the Kingdom of Naples they tried it once in the fifteenth century, but soon abandoned it. The only country where it was tried in all its fullness was Spain. It started there in the early Middle Ages in the communes, and when Spain became a nation it was introduced as a national tax in 1342. It included virtually all articles, first as a 1 per cent tax, then as a 5 per cent tax, and later as a 10 per cent tax on all sales. It was known as the alcavala. It led to a great deal of difficulty but it was forced upon the people by the absolute monarchs who were at their wits' ends to devise some way of making both ends meet.

The CHAIRMAN. Was this system ever tried in England?

Prof. SELIGMAN. No, sir; and I shall later on explain why not. In Spain when Isabella, who, as you know, was Queen when America was discovered, came to the throne she exempted, as a special mark of royal favor, Catalon and Arragon from the sales tax. We are told by various writers that the relative prosperity of these two States was due in large part to immunity from the detested and burden-

some sales tax. Other writers have even gone so far, although I think with some exaggeration, as to contend that one of the chief causes of Spain's economic downfall in the later Middle Ages, as over against Holland and England, was the existence of this general sales tax. The consequences of the Alcavala are explained very fully by the Spanish writers. In those days the large estates were generally entailed and consequently not subject to sale as were the smaller properties. Therefore, the tax fell with crushing severity upon the poor every time the land changed hands, and we are told of peasants being compelled to sacrifice their cattle in order to escape the tax. The Alcavala in short, has been celebrated as an example of mis-directed zeal in public finance.

These are the only important examples of general sales taxes. The one possible exception to this statement is the impost which closely resembled a general sales tax and which was developed in the German Empire in the seventeenth and eighteenth centuries. At that time the wealthy classes managed to evade their share of the direct taxes, such as land taxes and others, and some of the tax reformers said, "If we can only have a tax on all kinds of consumption, then, since a rich man has to consume as well as a poor man, we shall reach them in that way."

Thus there developed the project of what was known in England as the "general excise," or a tax on the sale of practically everything. The tax reformers in England and the Continent advocated the general excise chiefly as a means of securing equality of taxation. In Germany it was actually introduced under the name of "general accise," but it led to so many abuses that it was soon abolished. In England it never had any chance of being adopted because England was always suspicious of continental devices, like the graduated poll tax, which, as you know, led to Jack Cade's rebellion. And England would have none of the French tax on salt, etc. England was always a defender, in theory at least, of equality of taxation.

Senator LA FOLLETTE. Will you define actually how the term was used by them?

Prof. SELIGMAN. Bodin, the great political philosopher in the Middle Ages, was the first protagonist of equality. He defined inequality as the attempt to levy a tax upon one class of the people and not upon another class.

Under the fiscal system in France at first the clergy, then the lawyers, and then other classes, were exempted from the direct taxes. The tax reformers of the seventeenth century contended that if there were a tax from which no one could buy himself free and which would be paid by everyone, it would constitute a step in the direction of equality.

The medieval French writers tell us that the principle of equal taxation is "le fort portant le faible," i. e., "the strong bearing the burdens of the weak." But the sales tax worked out in practice so that the weak bore the burdens of the strong. This was so universally recognized that by the time of the French Revolution there was not a single country which had general sales tax.

In the nineteenth century the nearest approach to the system was that developed in England by Pitt under the stress of the war with France. According to this system well-nigh everything that one can think of was taxed; sometimes when it was sold, but some-

times when it was produced. Gladstone, when he came to the front in the forties addressed himself to that problem, and he always considered it his chief title to fame that he reduced the multiplicity of these taxes, or, as some one has expressed it, the taxes on everything that a man eats, feels, smells, or hears. Gladstone substituted for these a system of what is sometimes called concentrated taxes; i. e., taxes on nonnecessities of wide consumption where the administrative difficulties are minimized and where the yield is greater.

The result is that just as Peel brought about a change in the tariff, reducing it from several thousand to a very few items with a greater total yield, so Gladstone reduced most of the internal revenue taxes, as we should call them, to a very few.

No other country ever discussed a general sales tax until the project arose in France after the Franco-Prussian war. They called it then a *taxe sur le chiffre d'affaires*, just as the present tax is called; literally a tax on the amount of business. We should call it a turnover tax. The leading French economists of that day, like Leroy-Beaulieu and Léon Say, both wrote on the subject. They rejected it for two reasons. And I might add that they were not by any means radicals; they were both very conservative economists and statesmen and not at all in line with what we are accustomed to call social reform. But these authorities objected to the general sales tax for two reasons and for two reasons only—first, that it would be unequal as between different producers because of the fact that, as has been brought out by several speakers during these hearings, it does not distinguish between integrated and nonintegrated or simple production.

They did not use these particular epithets, but they explained that a general turnover tax would give in this way an unfair advantage to the large dealer or manufacturer as compared to the small man. That was the first point, inequality as between producers, even if the tax was shifted. The second point was the administrative difficulty in getting people to keep books showing their turnover and the fear lest the tax might be easily evaded. They did not call attention to the point which some of us like to emphasize as to the inequality from the point of view of the consumers. But the two objections to which they did advert were sufficient to cause them to withhold their approval and to prevent the introduction of the bill in the legislature.

The only examples of general sales taxes that we now have are the result of the Great War. England discussed it fully and turned it down, not alone for the reasons I have mentioned with respect to France, but also because of these wider reasons as to the taxation of necessities.

Even Italy, which at one time thought of imposing a sales tax, rejected it for the same reason. The only leading countries that have adopted a general sales tax are Germany and France. Germany, after trying everything else under the sun, even having a rate in some taxes as high as 100 per cent, in desperation levied a general sales tax, but even then sought to redress the inequality by imposing an additional tax on luxuries. The only important country outside of Germany which has tried it is France. France was led to it because she also was at the end of her rope. She had tried everything

else; she had tried a high income tax, a high excess-profits tax, and a high inheritance tax. The inheritance tax in France runs to-day up to 80 per cent, far higher than anywhere else in the world. They had put their rates so immensely high that in desperation they also resolved upon this general sales or turnover tax.

The CHAIRMAN. Does the French inheritance tax apply to direct inheritances and to collateral as well?

Prof. SELIGMAN. It applies to both and includes both a tax on the estate (taxe sur les successions) and a tax on the shares (droits de mutation). The tax in one case goes up to 39 per cent, and in other cases to 59 per cent. As this might mean a virtual confiscation of the entire property if a distant relative succeeded to the entire estate of over \$100,000,000, a provision was introduced to the effect that in no case shall the combined tax (or total tax successorale) be more than 80 per cent. The rates, in fact, all over Europe are very much higher in all these cases than they are with us.

Senator SIMMONS. Professor, when you said Germany had tried it, did you mean that Germany was trying it now?

Prof. SELIGMAN. The general turnover tax (Reichsumsatzsteuer) was authorized by the law of December 24, 1919, but it is too soon yet to pronounce as to the result. In France the results have been far from satisfactory. In the first place, although it is a general sales tax, certain articles are exempted.

Senator WATSON. Is that tax comparable to the one that is proposed here?

Prof. SELIGMAN. Yes, sir; it is the same kind of a tax—a tax on turnovers.

Senator SMOOT. Now, Professor, you do not want to say that it is a general turnover tax?

Prof. SELIGMAN. I shall be glad to answer the Senator. The exact translation of the French term is the "tax on the amount of business" or "turnover tax." The American Chamber of Commerce in Paris issues a monthly report which I hold in my hands. I read the headline: "The turnover tax disappoints." While the French are, of course, not accustomed, and have not been accustomed for many years, to pay high taxes, while all their taxes have in recent years been enormously increased, and while no one can claim that the taxes are uniformly successful, yet none of them compares in lack of success with the turnover tax. Beginning last July, the first month of its operation, it yielded for that first month only about one-half of what it had been expected to yield.

Excuses were at first made because of the newness of the tax. Unfortunately, however, every month it has yielded less, until for the month of March, the last figures obtainable, instead of the estimated budgetary yield of 416,000,000 francs, it yielded only 147,000,000 francs, or a little more than 35 per cent. The reports that I have from M. Gaston Jèze, who is the financial expert of the Government and who has aided the ministry in much of its fiscal projects, is that it is most unpopular; that it has given rise to all sorts of administrative difficulties; that it is relatively the least lucrative of all the French taxes, and that it is evaded on an immense scale. So great is the dissatisfaction that various chambers of commerce are now petitioning for its repeal. As a confirmation of my

statement, I am submitting herewith a cable report just sent over to the New York Herald. So much for the French tax.

(See Appendix I to this statement.)

Prof. SELIGMAN. There is only one other country of any account where the general sales tax is to be found. I do not speak of Mexico, which still clings to the old Spanish traditions. The Spanish or Latin-American tradition is not the Anglo-Saxon tradition. The first thing, for instance, that the Americans did when they went into Cuba was to abolish the so-called *consumo*, which was a tax on consumption in general.

In all Latin-American countries, including France, Italy, Spain, and South America, there has always been a greater repugnance to direct taxation as we know it in the English and American democracies. The first thing we did in Cuba was to abolish these taxes on consumption and introduce a property tax or a tax on wealth. In Mexico the general sales tax still exists. The only Anglo-Saxon community which has seen fit to adopt something like the sales tax is Canada. But here also there has been a great misconception. The Canadian tax is not a general sales tax; it is a tax on the sale of some commodities. I have here a list of the exemptions from the sales tax, which take in about every important article in a working man's budget. Only a few days ago Mr. Drayton, the Canadian minister of finance, explained in his budget speech the reasons why he would not introduce a general sales or turnover tax. With your permission I shall read his statement. He says:

In addition to the foregoing new provisions, it is proposed to increase the rate of the sales tax. Many submissions have been received in favor of a sales or turnover tax. The principle of either a sales or turnover tax has been strongly advocated by many boards of trade and commercial bodies. The general turnover tax in particular has been strongly supported. This tax would call for the payment of a tax on every transaction taking place on the country. \* \* \* Theoretically, the general turnover tax on commodities and services has much to commend it. In practical administration, though, in view of the fact that after careful survey it has been established that books are not kept in many retail stores, the cost of administration would be unduly great and the difficulties of collection many. Instead of extending the tax, it is proposed to confine its operation to the sales of manufacturers, wholesalers, jobbers, and importers, and to continue a list of special exemptions, which, broadly speaking, will cover foodstuffs in their natural state, all initial sales of farm produce, as well as the first products of the fisheries, mines, and forests.

Thus, in order to avoid a general sales tax, he proposes to increase the rate on what they have to 3 or 4 per cent.

Senator CURTIS. It is 2 per cent now, is it not?

Prof. SELIGMAN. From  $1\frac{1}{2}$  to 2 per cent on domestic transactions and  $2\frac{1}{2}$  per cent on imports.

My conclusion, therefore, is that the general sales tax constitutes the last resort of those countries which find themselves in such fiscal difficulties that they must subordinate all other principles of taxation to the one principle of adequacy.

For, gentlemen, I should say that there exist four principles of taxation which every statesman must observe when he is framing a fiscal system. First and foremost is the principle of adequacy. If a tax does not yield the desired revenue it is a failure. The paramount condition of a tax is that it should raise money. Second, there is what might be called the economic principle of doing as little harm as possible to the community. That is the trouble with our excess-profits tax. Its unlooked-for practical results are such that



despite certain theoretical advantages it really reduces the national dividend instead of increasing it, and, therefore, in its present form it is a bad tax.

Third, you have the administrative principles laid down by Adam Smith. The tax must not be too complicated; it must be certain; it must be convenient. If the tax does not work administratively, no matter how ideal it is otherwise, it is a poor tax. Finally, we come to the principle of equality. All these other considerations being observed, your object must be to frame a system of taxation which will be as nearly equal as possible, not only among the people that pay but among all the classes of the community.

The sales tax, in my opinion, sins against several of these principles. First, as the experience in mediæval times has shown, and as the French system conclusively proves, it does not yield the revenue that is contemplated. Next, the administrative difficulties are great. To create an administrative system which would control the returns of every business that sells anything at all is hopeless. For that reason it has been turned down by the Canadian minister now, as it was turned down a half century ago by Leroy-Beaulieu in France.

The CHAIRMAN. Did I understand you to say that this system was in full force in the Philippine Islands?

Prof. SELIGMAN. The system, Senator, is not in full force in the Philippine Islands, but it is in partial force, for all agricultural products are exempted as well as other things. But, furthermore, the population of the Philippine Islands have been groaning for so many years under the Latin-American-Spanish method of taxes on consumption that the turnover tax is an improvement on the old sales taxes which they had, but which were still worse.

Senator CURTIS. They also had a head tax?

Prof. SELIGMAN. Yes. If we desire to go to the Philippines as a model system to follow, I think that we shall find many things to surprise us.

The CHAIRMAN. Well, there are head hunters there, are they not?

Prof. SELIGMAN. Some of them are. Perhaps they follow the plan of the Irishman at Donnybrook Fair. Mr. David A. Wells said that the creators of our tax system during the war reminded him of the shillalahs at Donnybrook Fair; whenever the Irishman saw a head he hit it. So it was with our Civil War legislator—wherever he saw a head he hit it. I might add, by the way, that when the sales tax was suggested at the end of the Civil War, David A. Wells came out in strong opposition, being influenced by Gladstone's experience with concentrated taxes.

Senator WATSON. If the excess-profits tax and the surtax and the higher brackets of the income tax are to be repealed, and if we are not to have a sales tax, what method do you propose for raising the adequate amount of revenue?

Prof. SELIGMAN. I shall be glad to come to that in a moment, Senator, if you will first permit me to finish the point which I was making about the sales tax.

I said that the objections to the sales tax, in my opinion, were in part administrative and in part fiscal. I now want to add that the tax also sins against the cardinal principle of equality of taxation.

I do not object to all taxes on consumption, for I believe that every well-balanced system of taxation should include indirect as

well as direct taxes. But there is consumption and consumption. There are articles of luxurious consumption; there are articles of convenient consumption; there are articles of necessary consumption. Most of the sales tax, with a few exceptions, that we have in this country to-day and which are found in other Anglo-Saxon countries as well, are taxes on the sale (and sometimes the production) of articles of luxurious consumption or of the widespread consumption of what can not be called really necessaries. Take, as examples, tobacco and whisky before the present dispensation, because they partake partly of wide use, and yet partly of a system of consumption which perhaps it is desirable to diminish. But when you come to a general sales tax you are dealing with a tax on necessaries, inasmuch as the great mass of sales are sales of necessaries. Naturally so, since the great majority of the people are in modest circumstances; the great mass of commodities sold consists of articles used by the people in modest circumstances. Therefore, as the French writers in the Middle Ages pointed out, general sales tax is a sort of upside-down income tax. Instead of taxing the man with a higher income a little more, or much more, as we do, you tax the man with the smaller income not only relatively as much, but relatively more. It is this instinctive reaction of the common man to the proposal of a sales tax which is responsible for the opposition to it manifested from the time of the Romans under Tiberius all the way through the Middle Ages, when the riots took place, down to modern times, as in this very country, where the laboring classes are now up in arms against it.

No civilized country before the Great War has ever succeeded in maintaining a general sales tax. Therefore, it seems to me, that whereas our present revenue system does indeed err on the side of taxing wealth unduly and consumption not enough, if we were to abolish the excess-profits tax and reduce the surtax on income and then substitute a general sales tax, the shoe would pinch on the other foot, and we should have more than 50 per cent of the revenue coming not only from consumption, but from taxes on the necessaries of life.

Senator SIMMONS. Prof. Seligman, nearly all the witnesses in advocacy of the repeal of the excess-profits tax who have been examined here have declared that that part of the income which would have to be paid as taxes was carried to overhead and passed on to the consumer, and in that way became indirect and a consumption tax.

Prof. SELIGMAN. I do not agree with that, Senator.

Senator SIMMONS. You have not classified it as a consumption tax?

Prof. SELIGMAN. No, sir.

Senator SIMMONS. I would like very much to hear you upon that point.

Prof. SELIGMAN. I shall be very glad to attempt to cover that point. I think that most people confuse what is technically known as the incidence of a tax—that is, the question of who bears it—with the final effect of a tax. When we speak of the ultimate effects of a tax we deal with considerations that are often subtle and difficult to figure in advance. For instance, if you have an excess-profits tax on business it is perfectly possible—and I think it is probably true that it so happened in our case—that it may act as a deterrent to incentive and a check to progress, so that it may prevent further pro-

duction and thus really diminish the social dividend, and entail consequences which, among others, might mean lower wages and a general lack of prosperity. When you speak of the final effects of a tax, that calls for a thorough and comprehensive study of the distribution of the national dividend.

A great deal might be said about the effects of almost any tax. Even a tax on land, if it is excessive, might result in preventing the proper growth of cities. But I do not wish to go into that, because that is not the problem before us. The problem that you gentlemen are considering, and the question that was put to me, is whether the tax on excess profits can be shifted to the consumer in the same sense that a tax on sales can be. My answer is clearly no, as the following simple considerations will show: If the tax on profits is a tax on a monopolist there is no possibility of his raising the price because of the tax. For every monopolist, in considering his possible profits, always has to figure how many units he can sell at the greatest possible price.

If he raises the price he will sell less units. He has to find the point where he can sell the greatest number of units at the highest possible price. If a tax is imposed, that will not lead him to increase the price, because if he could have done that advantageously he would have done it before the tax was imposed. Therefore a tax on monopoly profits can never be shifted to the consumer, because the monopolist will always charge the highest price consistent with the greatest profits.

In the second place, when you deal with enterprises like our public utilities, where prices are fixed by statute or public commissions, there is again no possibility of shifting the tax to the consumer. The mere fact that a street car company has to pay excess-profits tax would not enable it to raise the price above that fixed by the commission.

Senator SIMMONS. But you will recall that all those public utilities, such as street car companies, have asked the commissions controlling them to permit them to increase the price in order to enable them to pay the tax.

Prof. SELIGMAN. But they have not always succeeded. In New York City we have been wrestling with that problem for several years and have not by any means solved it. Finally, when it comes to business in general, we have to distinguish between ordinary normal conditions and exceptional conditions, such as existed at the outbreak of the war, with the sudden rise of prices. Under normal conditions a tax on profits, if it is a general tax on all profits and not simply a tax on some one particular occupation, can not be shifted. A tax on a particular occupation can be shifted, because no man will be rash enough to put his money into a business and get less profits than he could if he were to invest it in some nontaxable occupation. The consequent failure of the output to keep pace with the normally increasing demand will engender a rise of price.

But while a tax on particular profits can be shifted to the consumer, a general tax on all profits can not be shifted under normal conditions. Profits are a result of price and not a condition of price. What I mean is that at any given time in an ordinary industry there are all sorts of costs. Some producers make immense profits; some less fortunate individuals make less profits, and some do not make any at all. The price of a commodity in a competitive market is

always at the point of the highest marginal cost. That is to say, if there is enough demand to take off the entire supply, the price is always fixed at the point where the man on the margin of production makes no profit. We know, of course, that in every business there are many individuals every year who make no profits and many who accordingly leave the business to go into another. Since, then, a tax on net profits is a tax on surplus and not on price (which is normally equal to the marginal cost or the cost of the producer who makes no profits), it can not be shifted under ordinary circumstances.

The conditions at the beginning of the war, however, were extraordinary circumstances. There the demand was such and the possibilities of output so restricted that prices went soaring and even the man on the margin, who had previously just been able to make both ends meet, now became somewhat of a profiteer. That is to say, he was now able to make profits. Under such conditions where you have prices rising violently, where there is no equilibrium in the market, and where normal conditions do not apply, it is possible for a tax on profits to be shifted. Even here, however, investigations that have been made in England, as well as in this country, predispose us to the opinion that in most cases the increased tax was the excuse for, rather than the causes of, the high prices, and that the prices would have gone up anyway. But when we come to the present situation where, instead of a seller's market we have a buyer's market, there is no possibility of a general tax on profits being shifted. People with stocks are now, and have been for the last six months, so anxious to get rid of their stocks that the mere existence of the tax is not going to make them increase their price. Under such conditions they have to bear the entire tax. When business picks up again, as we hope it will in a few months, we shall have normal conditions.

Then we shall have neither a buyer's market nor a seller's market, but a normal market where, although an individual may think that he can add the tax to his price, he will find that when he strikes his balance sheet at the end of the year it has by no means always been possible and that the attempt to increase his price has landed him in a loss. In other words, a tax on profits under normal conditions can not be shifted. If it could, the producer would not object to it, as he does.

A tax on sales, on the other hand, is inevitably shifted, because a tax on sales affects the sales of the marginal man as well as of the intramarginal man; whereas a tax on profits affects only the intramarginal producer and not the marginal producer, who makes no profits.

What I have been saying is a platitude of economic and fiscal science, which you will find explained in all books on economics and public finance ever since the time of Adam Smith. There is no doubt about it, either from the point of view of theory or from the point of view of actual practice. The average man in this country is not an educated man; he is not an expert; he does not know much about subtle economic problems. But every time that he has been asked to register his convictions on a great moral problem he has answered it right, from the time of the Revolution down through the Civil War to the present time. Therefore the natural instinct of the average man is to the effect that whereas the tax on profits is borne by the

man who makes the profits, the tax on sales is borne by the consumer of the necessities of life. This instinctive conclusion is, in my opinion, in accord with the general teachings of economics. A general tax on sales is primarily a tax on the small man; a general tax on profits is a tax on the man, large or small, who makes the profits. I do not know, Senator, whether I have answered your question.

Senator SIMMONS. Very fully, sir; and very satisfactorily.

Prof. SELIGMAN. Then, I will come to your question, Senator Watson. You ask what would I do if I had to draw a bill to raise the money that is needed? I may say, sir, that that question is answered more fully in an article which has just appeared by me in the Bankers' Economic Service, on "The fiscal outlook and the program of tax revision." I will leave a copy of that with you. In that article I have gone more fully into that question.

Senator WATSON. Let it go in the record.

Senator LA FOLLETTE. We would like very much to have you submit a copy of that for the record.

(See Appendix II to this statement.)

Prof. SELIGMAN. Taking the estimates of the Secretary of the Treasury, and without going into the details, you will have to raise about \$4,000,000,000 at the least. My impression is that these estimates are conservative.

Senator WATSON. That is exclusive of any bonus?

Prof. SELIGMAN. Surely. I am speaking of the ordinary expenditures. I say that is very moderate, because it presupposes a great slashing of the military and naval expenditures.

You will find that in one part of my paper I have reduced these figures, in order to make it very simple, to billions. We have become accustomed to talk in billions nowadays. The total expenditures for this year, including the Post Office expenditures, are estimated at about six billions, and the total expenditures next year are expected to be five billions. Of this the military and naval expenditures account for about one billion; interest and amortization of debt, one and a quarter billions; insurance and pensions, half a billion; railroad and shipping, three quarters of a billion; retirement of the debt under the sinking-fund law, a quarter of a billion; Post Office, half a billion; leaving for the general Government expenditures three quarters of a billion.

Now, putting the figures in that way, we see that virtually the only chance of reducing taxes is to cut down the military and naval expenditures, with a possible retardation in the tempo of payment of the debt.

As to the last point, first, I believe we might do now what we did after the Civil War. We had during the Civil War a sinking fund provision, and everybody thought it was compulsory just as the present one is. But the Secretaries of the Treasury at that time said, "If we have not enough money to make both ends meet, we shall not put the sinking fund into operation, but when we have more than enough we will retire more than is called for by the sinking fund law." And under that system the sinking-fund requirement was regarded as an optional method, and yet we finally paid off more of the debt than we should have done in any other way.

At the present time we have a sinking-fund requirement which will call next year for \$287,000,000. It seems to me that when we

are wrestling with this problem of tax reform and straining every nerve, because we have to strain every nerve to make both ends meet, we ought to do just as they did after the Civil War and let the Secretary follow the law in spirit and not in letter. In a very few years we shall be on "easy street," and shall then be able to secure a much larger revenue with less of a strain.

But, however that may be, outside of this quarter of a billion the only serious chance of retrenchment is in the military and naval expense, which this year will be one and three-quarters billions.

The Secretary of the Treasury thinks it can be cut down to a billion. It does not look that way now from what is going on in Congress.

Therefore, I say that, compared to the military expenditures, all this talk about possible retrenchment in general is of little consequence, because the total ordinary Government expenditures are only three-quarters of a billion dollars. Even with the most cheese-paring economy we might save a few tens of millions, possibly even a hundred millions, if we indulge in wild or extravagant hopes. But what is that compared with four or four and a half billions?

I do not think that the Secretary has quite adequately estimated the probabilities of increased needs for the other items. I should not be at all surprised if our expenditures that would have to be raised from taxes next year would be not four billion, but four and a quarter, and possibly even four and a half billions.

The question is, What are you going to do to raise this sum? The Secretary estimates that customs duties under the present tariff will yield three hundred millions; that the income tax will yield a little under two billions; that the profits tax, if not repealed, will yield four hundred and fifty millions; while the miscellaneous taxes, meaning by that all the other taxes outside of the income and profits taxes, will yield about the same as they do this year, which is one billion four hundred millions, and next year one billion three hundred and fifty millions.

Senator WALSH. What is that total?

Prof. SELIGMAN. Four billions required to be raised by taxes.

Senator WALSH. How much does the Treasury Department estimate will be received from these various taxes?

Prof. SELIGMAN. \$1,350,000,000 from the so-called miscellaneous taxes.

Senator WALSH. What is the total?

Prof. SELIGMAN. The total of the miscellaneous taxes, outside of income and profits taxes for 1922 will be \$1,350,000,000.

Now, suppose we reduce the surtaxes on the higher rates of income? Even there, however, as I shall be glad to explain later, the real difficulty with the falling off in the revenue is not so much the high surtaxes as it is the iniquitous system of tax exemption. But let us grant that the surtaxes are too high, because on administrative grounds they are beyond the point of maximum possible revenue. Dean Swift said long ago, "In the arithmetic of the customs, two and two do not always make four." So in the same way, by raising the rate of income tax it does not mean you will secure greater revenue. After the maximum revenue point has been passed the higher the rate the less the yield. Granting, then, that in the long run you are not going to lose any money, I think it entirely probable that next

year you will lose money if you reduce the surtax to 40 per cent. My guess is that you will lose over \$50,000,000 this coming year. Then you are going to lose your excess profits, and that means another \$450,000,000. You have, therefore, to raise \$500,000,000. Now, how are you going to do it?

My idea is that you have to consider three points here. The first point is that you may be able to raise somewhat more from the tariff. Not very much more, indeed, if we continue, as no doubt we shall, the principle of a modified protective tariff. We could raise a great deal more if we were to go frankly over to a revenue tariff. England raises far more than we do from a revenue tariff on a very few articles. If we could look upon a tariff simply as a fiscal tariff—

Senator WATSON. We can not do that.

Prof. SELIGMAN. I do not consider that. I simply allow another hundred millions which I think we can raise from a modified protective tariff.

Senator GERRY. If we looked at the tariff as a revenue problem, how much could we raise?

Prof. SELIGMAN. At least double. I think we could solve a good part of our fiscal problem in that way.

I do not wish to be understood, however, as being in favor of that, because I do not think we have gotten to the point where we can frankly go over to a nonprotective basis. The time, however, is coming fast in certain industries which are no longer infant industries. We shall doubtless some day reach the point which England reached in the forties. The English free-trade movement was not so much a reaction of the consumer against the producer, as most people think, as that of certain producers against other producers.

Senator WATSON. If you will pardon me, let us not get into an argument about the tariff.

Prof. SELIGMAN. Well, let us pass that by. From the tariff, at all events, we can get another hundred millions.

Senator SIMMONS. Professor, would that depend upon how high they fixed the rates? They might fix the rates so high that they would reduce the revenue instead of increasing it.

Prof. SELIGMAN. Of course, Senator, the same thing applies to the tariff as to anything else. There is always a point of maximum revenue. If you fix the rates too high you may diminish the revenue. If, then, you do not try to secure anything more from the tariff you will then have to choose between raising your revenue from wealth or from consumption. I think you ought to do it from both. At present we are securing over three-quarters of our revenue from wealth, and most of that from incomes and profits and inheritances and only about one-quarter from consumption. I think that we are trying to raise too much from wealth, and that we are in some danger of restricting the accumulation and investment of wealth which is necessary for the development of our industry and the employment of our people. I believe that we could and should raise more from articles of consumption, but in the Gladstonian sense, not by a general sales tax, but by an increase of some of our existing taxes and an addition to the category of the concentrated kind. Our tax on tobacco, for instance, is not as high as that in England or France or Italy.

Senator SIMMONS. Have you overlooked the contention of a great many gentlemen who have appeared before the committee, and I

think it has appeared also in the press of the country, that a considerable proportion of these so-called miscellaneous taxes ought also to be repealed? Two witnesses who seem to have given considerable consideration to that matter stated that the miscellaneous taxes, they thought, ought to be eliminated altogether, and they were not yielding us, as I remember it, \$900,000,000.

Prof. SELIGMAN. These miscellaneous taxes this year will yield \$1,400,000,000, or if we deduct the estate tax and the capital stock tax as taxes on wealth the miscellaneous taxes on consumption will yield a little under one billion two hundred millions. But some of these taxes are exceptionally lucrative and not unsatisfactory from the administrative point of view. Those which are most to be deprecated are the taxes which also bring in the least revenue. It may be interesting to see where our money comes from. The estimated revenue in millions of dollars for the present year, 1921, classified by sources, is as follows:

Transportation.....	331	Fountain drinks.....	30
Tobacco.....	247	Jewelry.....	35
Automobiles.....	145	Carpets, etc.....	31
Estates.....	130	Candy.....	20
Capital stock.....	100	Pianos, etc.....	12
Admissions and dues.....	96	Articles of fur.....	10
Stamps.....	83	Perfumes, etc.....	6
Nonbeverage alcohol.....	90	Motion-picture films.....	6
Mineral waters, etc.....	45	Miscellaneous.....	10

In other words, most of the so-called "nuisance" taxes, as the Secretary of the Treasury called them, are included in the last miscellaneous item of ten millions. With the possible exception of the tax on fountain drinks, which yields \$30,000,000, none of the other taxes ought really, in my opinion, to be eliminated, as long as we need the revenue, for they are not only lucrative but are imposed on articles either of luxury like carpets or fur or jewelry or on conveniences. Certainly, you can not call candy or perfumes or automobiles or jewelry necessities.

So that I would answer your question, Senator, by saying that I do think that certain changes could be made in these taxes. But the elimination of these "nuisance" taxes would make practically very little difference in the revenue when you are dealing with hundreds of millions. My contention is that you can get another hundred millions from tobacco, and another hundred millions from stamp taxes. Foreign countries get more than we do from stamp taxes.

Senator WATSON. Bank checks, and things of that kind?

Prof. SELIGMAN. You might have that. England has the penny receipt, which brings in an immense amount.

Senator WATSON. Do you calculate on increasing the postage?

Prof. SELIGMAN. No, sir; I should class that among the non-desirable things, because it affects the small man also, whereas stamped paper affects primarily the man in moderate circumstances and the better situated business man.

We must remember that had we not adopted prohibition we should not be in this position at all, because we should be getting at least \$1,000,000,000 that we will not get under the existing law.

Senator WATSON. Do you advocate the repeal of the prohibition law?



Prof. SELIGMAN. No, sir; although I should be glad to see it so interpreted as to permit of the sale and the heavy taxation of beer and light wines. Even that would help us out immensely. But since that revenue is no longer possible we must search for something to take its place. Unfortunately there is nothing which would exactly take its place. The nearest thing we have, which is an article not of prime necessity but of wide use and yet of partly luxurious consumption, and the taxation of which at the same time is not attended with serious administrative difficulties, is gasoline. A small tax on gasoline would bring in from one hundred to two hundred millions.

I should say that I do not think we ought to go any further than stamps, tobacco, and gasoline, because as soon as you do go further you are in danger of trenching upon necessities.

There is a question in my mind, sir, as to sugar. In England they tax sugar, even with their desire not to burden the poor man. So far as sugar may be considered a convenience rather than a necessity, it partakes of the characteristics of these concentrated commodities; a very small tax on sugar would bring in a revenue of a hundred and fifty or two hundred millions. I am a little doubtful about it, however, because in this country the average man has become so accustomed to use sugar that it may almost be considered a necessary.

Senator WATSON. Is there any more reason for taxing sugar than there is for taxing coffee?

Prof. SELIGMAN. The trouble there is that the revenue from coffee would be insignificant as compared with that from sugar.

Senator WATSON. That is true; but we are talking about principles.

Prof. SELIGMAN. Under some of the protective tariffs, for instance, in the early seventies, we taxed coffee, tea, and sugar; and if we get into a parlous situation there are many worse taxes we might have than a small tax on coffee, tea, and sugar. But I do not recommend these, Senator, because there is an easier way. The easier way is, as I see it, after raising a few hundred additional millions from relatively unobjectionable taxes on consumption, to secure the comparatively small remainder from a tax upon wealth in the form of business. If you do away with the excess-profits tax we should replace it in part, at least, with another tax on business. The Secretary of the Treasury recommends a flat tax of 5 or 6 per cent on corporations, which is calculated to bring in four or five hundred millions.

On this point I can, however, not subscribe to some of the suggestions of the Secretary of the Treasury. They are opinions that are shared by my valued friend, Prof. Thomas S. Adams. But I do not think that they are altogether wise.

What are these suggestions? The suggestion is, first, that we should have a tax on the undistributed profits of corporations, for the reason that if a corporation distributes only 50 per cent of its profits in dividends, only that 50 per cent will be taxable to the individual recipient, and the undistributed profits will not be taxed; whereas, in the case of a partnership, the partner has to pay both his normal tax and surtax upon the whole of the profits, distributed or not. Therefore, the suggestion is that we should have a special tax on undistributed profits of corporations.

I think that is both unwise and unnecessary. It is unwise because it will interfere with business. It will tend to bring about an artificial distortion of business practice. It will lead businesses that ought to put 20 or 30 or 40 per cent of their profits back into the business into doing things they ought not to do. It is one of those taxes the effects of which, subtle and far-reaching and unlooked for, may often be very pronounced and very unfortunate.

Another suggestion made by the Secretary of the Treasury subscribed to by Prof. Adams is that we ought to have a lower tax on the income that is saved, whether by the individual or by the corporation, and reinvested.

My objection to that is that while it may be desirable to foster saving you must not go so far as to restrict consumption. In time of war, indeed, everything depends upon the surplus of production over consumption. No method can be too drastic to reduce consumption and to increase the savings which can be put into Liberty bonds. But in time of peace there are two objections to a lower tax on savings. In the first place, the higher you go in the income scale the more automatic do the savings become. If I have an income of \$10,000 I can work hard and save part of that; perhaps, also, with an income of \$20,000, or \$30,000. But when my income is \$100,000 or \$200,000 or \$500,000 or \$1,000,000, I can not help saving most of it. I may buy pearls or pictures, but I can not help saving the greater part of my income; it becomes automatic, and it needs no special stimulus. A lower tax on savings is a lower tax on wealth. If, therefore, you tax savings at a lower rate you are really taxing the rich man at a lower rate, instead of taxing him at a higher rate than the poor man.

The other reason why savings ought not to be exempted is because if you exempt wealth that is saved you must tax wealth that is consumed or spent. Now all business prosperity depends upon demand. Supply is conditioned by demand. We are now suffering from a lack of demand in this country. But demand depends upon consumption. If you tax expenditure you restrict consumption; but if you curtail consumption, you cut down production. All civilization rests upon the rise in the standard of life and the growth of consumption. A tax, therefore, which will exempt savings and thus necessarily burden consumption runs counter to the development of social prosperity.

But if you do not adopt these suggestions of the Secretary, what are you going to do? One great difficulty now is that the man who desires to evade the high income tax can incorporate himself or his family or his partnership; and especially will he do that if you abolish the excess-profits tax.

How will you get over that difficulty? My idea, sir, is that it will be well worth while for the committee to consider whether it is not administratively practicable to apply to certain kinds of corporations the same principle we now apply to so-called personal corporations.

As you all know, we treat personal corporations as we do partnerships, the profits of which are conceived to be not the profits of the association but the profits of the partner or of the stockholder. accordingly they are subject to both the normal tax and the supertax.

You can not apply this method to all corporations, of course, because you can not ascertain who are the several hundred thousand

stockholders of the United States Steel Corporation or the Pennsylvania Railroad Co. But can you not reduce evasion by a very simple device? Suppose we say that all corporations which have less than a certain number of stockholders, say 10 or 20, or all those corporations 75 per cent of whose profits go to a very restricted number of stockholders, shall be treated as personal corporations. In that way the leak in our system due to the incorporation of individuals and of partnerships would be stopped, because they would almost all of them be caught in the mesh. I think, sir, that any other plan to attempt to equalize the tax between corporations and partnerships is illusory. You can not really equalize a tax between a partnership and a corporation. It is said that the tax on excess profits is a substitute for the supertax on individuals; but that is absurd, because a corporation with \$1,000,000 dividends may have 1,000 stockholders each of them getting \$1,000, or it may have 10 stockholders each of them getting \$100,000. The mere fact that you are putting a high tax on a corporation does not mean that you are putting a high tax upon the individual who is subject to the supertax. Whether the burden is high or low depends on the number of the stockholders, and the relative proportion of the dividends to the total income of each stockholder. There can be no equality in such disparate circumstances.

There is no way, rough or otherwise, of bringing about an equality between a tax on partnerships and a tax on corporations, save the way that I have pointed out, which will make impossible all attempts of partnerships or of individuals to evade the tax by incorporating themselves.

Senator WALSH. Could it not be easily evaded by increasing the number of stockholders nominally?

Prof. SELIGMAN. My point is that each stockholder must show that he has a certain proportion of the profits. For instance, you might get your office boy to be a stockholder; but unless he had a certain substantial share of the profits it would not count.

In the next place, Mr. Chairman, I should like to call your attention to two points in connection with which I think you can secure a substantial additional revenue by stopping leaks in your present income tax.

One is the taxation of gifts, and the other is the exemption feature.

It is a notorious fact that our income tax differs from the British income tax in that we count as income accretions to capital, and that we deduct from income depletions of capital or losses. In New York the amount of income tax that is being paid by investors this year is very small, because they legitimately and legally avail themselves of this method of counting off the losses in bona fide sales of investments they have made. The depression has been so marked that the falling off in the tax will probably be very great. When the time comes, however, when stocks and bonds appreciate again, and when these accretions of capital should be normally counted as income, it will be relatively easy to evade the tax legally by simply turning over one's securities to one's wife or son or a friend as a gift.

The English are not confronted by that difficulty, because they do not tax the one and therefore do not deduct the other. But we, under the recent ruling of the Supreme Court, are legally justified, and I think economically justified, in counting accretions as income and

depletions as loss. Unless we stop that gap before business becomes good again we shall lose the hundreds of millions of taxes which we would otherwise get.

Senator WATSON. You mean by a tax on gifts?

Prof. SELIGMAN. I mean what has been done, sir, in the State of New York. In New York, under their income tax law, when a man makes a gift of stock which cost him \$10,000 and is worth \$100,000 when he gives it away the donor is liable to the tax on the difference in the value.

Senator WATSON. The donee or the donor?

Prof. SELIGMAN. The donor. The principle of the House bill was that the donee should be liable, which I consider a very inequitable method. The old saying is that you should not look a gift horse in the mouth; but if that bill should ever become a law we should always be looking a gift horse in the mouth because of the risk of losing pretty much all of our gift.

If you are going to impose a tax on gifts, you should tax the donor, not the donee. If you do that, you will stop the gap.

Senator SIMMONS. You mean we ought to tax a gift just as we tax a sale?

Prof. SELIGMAN. Exactly, sir. Finally, we come to what is the real center of the revenue problem in this country to-day—our system of tax exemptions. I am not opposed to the exemptions of Government bonds when it is a vital matter of maintaining Government credit. If you must keep your Government going, then everything else must be subordinated. But there was no such crying danger of bankruptcy in the war, and there is no such necessity to-day. There is no use, however, of crying over spilt milk, because we can not undo what has been done. Within the next year or two, however, you are going to have your chance.

The CHAIRMAN. You would not exempt anything at all?

Prof. SELIGMAN. I did not say that, Senator. I am talking about the exemption of Federal securities.

The CHAIRMAN. You referred to exemption of gifts, did you not?

Prof. SELIGMAN. No, sir.

The CHAIRMAN. I beg your pardon. I just entered the room, and I thought you were referring to the exemption of gifts.

Prof. SELIGMAN. I had gotten over from the subject of gifts to the subject of exemption of securities, and I am now discussing the subject of exemption of securities.

We see now, from the program of the Treasury, that within a very short time we shall be confronted by the necessity of refunding some of our bonds, including those issued for loans to the Allies and others.

There is a chance when we refund those bonds to abolish this unnecessary and costly system. I say "costly" because I have calculated that the Government loses to-day through the exemption of Federal, State, and local securities about \$600,000,000 a year. It not only loses that amount but it also engenders a growing feeling of dissatisfaction and unrest throughout the community, because these securities are owned mainly by our wealthy citizens. Naturally every man will buy tax-exempt securities if he can; but the result is the division of our population into two classes--the class of taxpayers and the class of nontaxpayers. The nontaxpayers are those who have invested in some thirty and odd billions of tax-exempt securities.

Senator WATSON. Do you think it amounts to that much, Doctor?

Prof. SELIGMAN. The Federal debt, Senator, amounts to 24 billions. We have outstanding of State, county, and local securities probably from 6 to 8 billions. Then we have others, like the farm-loan bonds, etc.

Senator WATSON. Do you think that a Federal law could reach those local securities?

Prof. SELIGMAN. That is another matter. I think that it is open to reasonable doubt whether under present-day conditions the Supreme Court might not decide that a Federal law taxing those local securities is constitutional. Big constitutional lawyers are divided on the point. I myself think that the economic basis of Marshall's opinion has been misinterpreted and that the Supreme Court might distinguish. But even if the Supreme Court holds that it is impossible to tax local securities, we could secure a constitutional amendment, and the sooner we get a movement started to provide for it the better.

There is, in my opinion, no doubt that with the growth of national loyalty and with the disappearance of the old-time extreme State rights feeling this movement would succeed. We see it in the railroad situation. Just as it was possible to relinquish to the Federal Government the complete control of railway securities, so I think that the time has come when the majority of people in this country will be willing in their separate States to approve an amendment making State and local securities taxable. For not only is it just and right but, if it applies to all States alike, it will not put any one State at a disadvantage as compared with another in marketing its securities. They will be on the same basis all the way around and will simply pay 6 or 5½ per cent instead of 5 or 4½ per cent. That becomes of especial importance in those States where the income tax is now spreading so rapidly, as in New York, Massachusetts, Wisconsin, and other States where they are now getting ready to introduce an income tax.

Senator SIMMONS. If we make Federal, State, and municipal bonds subject to tax, have you calculated or considered how much the rate of interest, in order to float those bonds, would have to be increased?

Prof. SELIGMAN. That would depend, sir, of course, entirely upon the rate of tax that is levied; but we find, for instance, that when England issued simultaneously a tax-free and a taxable bond, the difference in the rate of interest was only about 1 per cent. You remember, sir, that they issued alternative bonds, taxable and non-taxable.

Senator SIMMONS. That would nothing like equal the losses you say we are sustaining now by exemption?

Prof. SELIGMAN. Oh, nothing like it. We now lose about \$600,000,000 a year.

Senator SIMMONS. You mean the Government loses that, not the States?

Prof. SELIGMAN. The States also lose.

Senator SIMMONS. That is what I wanted to ask. Do you mean the Government loses \$600,000,000?

Prof. SELIGMAN. That is the loss by the Federal Government on the assumption that the average holder of the Federal securities pays about 20 per cent. A great many of them would pay 30, 40, 50, or 60 per cent surtax, but I have assumed a low average of 20 per cent.

Senator SIMMONS. I have never considered that the holder of a Federal bond with a tax-exempt provision escaped all taxation. He has to take the bond at a very much less rate of interest because of that, and every year he loses the difference between the higher rate and the lower rate. That is tantamount to a tax.

Prof. SELIGMAN. That is no doubt true, sir, and that partly compensates for the inequality which is generally forgotten by those who say it is an absolute difference. I think that is perfectly true, Senator.

Senator SIMMONS. What I was trying to elicit from you was the difference between that kind of a tax which now has to be paid by the holder of tax-exempt securities and the amount that they would pay as interest if the bond were not tax-exempt.

Prof. SELIGMAN. The difficulty about that, Senator, is this, that the amortization or capitalization of the tax to which you very properly refer is generally based upon the normal tax; the bond brokers in New York can not take account of the surtaxes that each individual bondholder is going to pay, because one bond may go to a 10 per cent man and another to a 50 per cent man. Consequently the equalization is not brought about to just the extent that you anticipate. There is always a margin, and while the buyer of that bond will have to pay a little less, if it is tax exempt, he does not pay as much less as would actually equalize the return.

Senator SIMMONS. I agree with you on that, Doctor.

Prof. SELIGMAN. We come now, Mr. Chairman, to a very important point.

I think that when you consider the reform of the whole tax system you ought carefully to look after our corporate income tax. I think that we have gone off on a wrong tangent in this country through no fault of anybody in particular, but through inattention to fundamental principle. The first tax on corporations under the law of 1913 was imposed as a device to reach the stockholder indirectly, and since the corporation pays the tax, the stockholder is exempt from normal taxes. In my opinion it is better, administratively more simple, and fiscally more satisfactory if we were to distinguish frankly between an income tax imposed only on individuals and a business tax imposed not alone on corporations but also upon all businesses, including partnerships and corporations sole. The advantage of limiting an income tax to individuals is that an individual would then pay a tax on his dividends just as everybody else pays. If a man gets dividends from a corporation, why should he be treated differently from a man who gets his income from a piece of land that is taxed? A corporation may be taxed as a mere matter of business, or land may be taxed, as is done by all our States. No man claims, for instance, in New York or Wisconsin, that he should be exempt from a tax on income because he is already paying a tax on land. So, in the same way, no man is right, theoretically speaking, in claiming that he should be exempt even from a normal tax on income simply because it happens to come from a corporation.

Senator WATSON. You want the individual to be the unit of taxation?

Prof. SELIGMAN. Yes, Senator, I want the individual to be the unit of taxation. Then if you need more money, put a tax on business, just as you put a tax on land. Your business tax would not.

need to be a large tax, 5 or 10 per cent of the profits of all businesses, whether in corporate form or in noncorporate form. It would be just as easily administered as our present corporation tax is, and it would meet with the approval, I am inclined to think, of the business community, because it would be a just tax. Being a tax only on profits, if there are no profits there will not be any tax, and if there are small profits there will be only a small tax.

Senator WATSON. I understand you to take the ground against taxation of undistributed profits. Would you then tax that portion of the undistributed profits in the hands of the individual stockholder that would be distributed to him if distributed at all?

Prof. SELIGMAN. I would, if I could, in the way in which I have intimated. I think there are certain corporations as to which it would be impossible to do it, but with all those individuals or businesses which have assumed the corporate form in order to evade taxation it would be possible to do it.

But under my plan the question of undistributed profits would not arise at all. Under the suggested plan of a business-profits tax, the tax would hit all profits, corporate or noncorporate, distributed or undistributed. Partnerships and corporations would then be on an even keel; as would the individual partners and shareholders.

Senator SIMMONS. We impose on corporations a flat income tax. Do I understand you as suggesting that we remit that tax?

Prof. SELIGMAN. My theory would be, sir, that the present existing 10 per cent tax on corporations be remitted and that the individual be taxed on the dividends.

Senator SIMMONS. He is now.

Prof. SELIGMAN. He is taxed now only by the surtax and not by the normal tax.

Senator SIMMONS. That is true.

Prof. SELIGMAN. Thereafter subjecting all shareholders to the income tax on dividends, remitting the corporate income tax, I should impose the new and additional flat tax on business profits. I should not call it a corporation tax—although the name is not very important. What I have in mind is a tax upon the profits of all business of about 5 to 8 per cent, but with this administrative feature added to catch individuals who become corporations. If you put the tax on all business, it would, of course, take in partnerships and personal corporations. But in order to catch the undistributed profits of the corporations which assume the corporate form in order to escape the income tax I would utilize the method of which I have spoken.

The choice therefore is really a simple one: Either continue and increase the present tax on corporate incomes, in which case you will have to employ the administrative device referred to; or abolish the corporate income tax, subject all dividends to taxation, in the hands of the stockholder, and impose a new flat tax on business profits, corporate or noncorporate, which will reach undistributed as well as distributed profits of corporations and partnerships alike. If the latter plan be followed you will kill two birds with one stone; you will secure increased revenue and you will attain equality as between all forms of business enterprise.

Senator WATSON. Of course, there are corporations that have undistributed surplus, and they usually claim they have it for the purpose of having capital. That is to say, they store up in the fat years

to meet the lean years. Therefore you would have to go to a question of intention as to whether or not they were seeking to evade taxation. There may be some corporations where it would be manifest.

Prof. SELIGMAN. Do you not think, Senator, that there would be a great many administrative difficulties in the endeavor to ascertain intent? Would it not be better simply to confine the method of which I have spoken to those corporations with a limited number of stockholders where the intent is obvious? I think that as soon as you attempt to tell a corporation what it should do with its profits you are getting into troubled waters; and would it not be still better to abolish the entire corporate income tax, and, after making stockholders liable as individuals on their dividends, to replace the corporate income tax with a flat-rate tax on all business profits, corporate or partnership.

There is one last point, Mr. Chairman, that I should like to speak of. There is one thing that has been neglected in all our discussion as a possible source of additional revenue, and that is the inheritance tax. I know that I am treading upon dangerous ground because of the opposition of so many of our States to a Federal inheritance tax. But it must be remembered that the entire relation of Federal and State taxation is something you will have to take up very soon. The objection to a Federal inheritance tax because the States already have one is no stronger than would be the objection to a Federal income tax because so many of our States now have one. Eight have it now, and several more I think will soon be added.

The solution of the problem is not to shut our eyes and bury our head in the sand as the ostrich does, and say, "Oh, well, the Federal Government must give way to the States," but rather to adopt some statesmanlike method of utilizing this inheritance tax for two purposes—first, to secure more revenue from it than we do now, and, second, to abolish the evils of double taxation that we now find in our State taxes.

In England they get far more revenue from their "death duties" with half as much wealth as we possess. If we were to have the rates that are applied in England, not to speak of those that are found in Italy or France or Germany, we could easily get another \$100,000,000 or \$200,000,000. We could then divide and apportion the yield, say, fifty or more millions among the States, and could thus avoid this intolerable double taxation.

Senator WATSON. You mean by that that the States are to refrain from taxing inheritances altogether, the whole tax to be a Federal tax and a portion of it distributed among the States?

Prof. SELIGMAN. Yes, sir. We can take a leaf out of the book of German experience. I think we can learn something there—although of late it has been a popular belief that nothing good can come from Germany. The fiscal strain has been so great there that they have devised all sorts of new methods. One of the interesting things they have done very recently has been to nationalize the inheritance tax and to provide that a part should go to the separate States in accordance with definite provisions to avoid double taxation. They have gone still further. They have even gone so far as to abolish all State income taxes and to introduce the same principle there. That, however, I do not think we need. But if we had the rate they have in England, which runs up to a total of 40 per cent



on the highest sums, we should get a revenue in this country so large that we could afford to give to each State more than it is now getting from its own inheritance tax.

Senator LA FOLLETTE. How would you apportion it among the States?

Prof. SELIGMAN. That brings up a very interesting problem, Senator. I should apportion it as nearly as possible in accordance with what I should call relative economic interests; that is to say, if a man dies and a portion of his estate tax is distributed by the Federal Government, the tax ought to go in part to the State where the real property is situated. Furthermore, if the estate consists of railway bonds or stocks, I should say that a part of it ought to go to the State where the railway is situated on which those bonds and stocks are issued—

Senator WATSON. You could not do that as to a railroad. The railroad runs clear across the continent.

Prof. SELIGMAN. I should divide it up according to mileage or trackage. Finally, I should give the largest part of the tax to the State where he has lived and worked and given rise to expenditures. If a man died in New York worth \$4,000,000 and had \$1,000,000 worth of real estate in Chicago and \$1,000,000 worth of stocks and bonds of some of the western railways and the other \$2,000,000 invested in miscellaneous business in the East, I should say one-third of the tax ought to go to Illinois, one-third ought to be divided up among the States where the railway is located and the rest ought to go to the State of New York.

But whether that method or some other be applied, I think the great advantage of a Federal determination is that only in that way can you get a uniform method. It does not make much difference what method you employ as long as it is fairly equitable and uniform.

We have already done that, sir, with the national banks. Our Federal law as to national banks has brought every State into line, and no State to-day can tax a national bank's stockholders except in accordance with the principles laid down by the Federal Government.

My proposition is that we should extend the same principle to the inheritance tax and thus get rid of this interminable and intolerable double taxation.

Senator WATSON. Does Dr. Adams agree with you about that?

Prof. SELIGMAN. I do not know that he does.

Senator WATSON. Have you ever discussed it with him?

Prof. SELIGMAN. I have never discussed it with him. I have maintained it for years in my writings and public addresses. I advanced the proposition long before it was adopted by any of the foreign Governments.

I may add that some of the other Federal Governments of the world have gone far in this direction—not indeed so far as to levy the tax as a Federal tax and then apportion it; but they have gone so far as to lay down the general rules which the States have got to follow. Switzerland has done that; Austria did that; and they are talking about it now in Australia. No American State ought to object to it, because if it is rightly managed each State will get more from its inheritance tax than it gets to-day. It can be easily arranged.

Senator WATSON. Of course that is contingent on making the arrangement, because if a State did not want it there is no way to compel it.

Prof. SELIGMAN. If you provide the apportionment law, the State will be very careful not to levy any additional tax on inheritances.

Senator WATSON. But I mean that a State could levy additional taxes if it wanted to. If they were assured they would get more tax or as much they probably would not. It is all a question of computation.

Prof. SELIGMAN. It is a matter of arrangement. The objection on the part of the States is that they think something is being taken away from them. What you ought to do is what they did in California when they took away the corporation tax from the localities and gave it to the State. There was an immense hubbub, but some ingenious people said, "We will arrange it so that you will get more than before," and since then everybody is happy.

The same could be done in the Federal Government. It is in fact far more important, for with the taxes that some of the States are now levying collateral inheritance taxes running up to 30 per cent, the State taxes with their duplicate and multiple taxation are becoming a grievous burden.

Senator SIMMONS. Doctor, I am very much interested in your suggestion that we remit the 10 per cent income tax now imposed upon corporations, requiring stockholders to pay on their dividends the normal tax in addition to the surtaxes. This is one of the difficulties that troubles me about that suggestion. We have had more trouble about properly taxing the undistributed surplus of corporations than any question we have dealt with. Your proposition, it seems to me, would result in reducing the present tax that we impose upon undistributed surplus one-half. The only way we catch that at all now is by the 10 per cent flat tax. It has been very vigorously contended that that was inadequate taxation with reference to undistributed surplus. Your proposition would reduce that from 10 to 5 per cent, and make that inadequacy much more glaring.

Prof. SELIGMAN. But if it is a good thing in general for the up-building of the country to have business enterprises put back into business a large part of their profits, why should we be so concerned about putting a special tax on undistributed profits. As long as we apply the profits tax all the way around on all kinds of business, it would be a business tax. Such a flat tax would be a sensible tax. But if you make it too high it will interfere with the growth of business. In a country like ours, sir, where new ventures are being started all the time and when we have not begun, yet, to exhaust all of our economic possibilities, it seems to me of dubious advisability to attempt to force corporations to distribute their profits.

Senator SIMMONS. But we do tax them now 10 per cent. Your proposition would reduce the tax to 5 per cent.

Prof. SELIGMAN. My proposition would be to reduce to whatever point is needed for revenue purposes. It probably could not be so low as 5 per cent. For if dividends are taxable to the stockholders the revenue will suffer instead of all corporate profits paying 10 per cent, only the profits distributed as dividends will pay, then only 8 per cent. But on the assumption that on the average three-fourths of the profits are distributed, a 4 per cent tax on corporate profits will make good that deficit. Adding, say another 4 per cent for a new tax would make the total probable rate about 8 per cent.

Senator SIMMONS. If we are going to get more money from that source, would it be advisable, in view of the fact that the profits, if distributed, must pay a higher additional income tax and surtax. to make a differential between the flat tax imposed upon the undistributed surplus and the flat tax imposed upon that part which would be distributed and which had to pay an additional tax on what is in the hands of the stockholders?

Prof. SELIGMAN. That is a very interesting suggestion, Senator. I confess I have not given that any thought. I should like to think about it a bit before giving any definite opinion.

Senator SIMMONS. We would have immense trouble on the floor of the Senate and in this committee in reducing any further the tax on undistributed surplus.

Senator WATSON. Only as he suggested, that it would make the individual the unit of taxation.

Prof. SELIGMAN. If, for instance, a corporation of \$1,000,000 has only 10 stockholders, a principal and nine office boys, you can catch him on the undistributed profits through the device mentioned.

Senator SIMMONS. Yes; I understand you suggested a difference between the small or the close corporation and the large corporation.

Senator LA FOLLETTE. If the professor should care to extend his remarks when he comes to look over the proof of his statement before the committee, he would have every opportunity to do it?

The CHAIRMAN. Yes.

Prof. SELIGMAN. Thank you, Senator, but I do not think that I have either the time or the inclination at present to add anything to what I have said.

Senator SIMMONS. No question has given me more trouble—and I think the other members of the committee are in the same fix—than the question of the satisfactory taxation of the undistributed income of corporations.

The CHAIRMAN. The committee is very much obliged to you for your illuminating discourse.

(The papers previously referred to are as follows:)

#### APPENDIX I.

**FRENCH SALES TAX HAS A DISASTROUS BUSINESS EFFECT—DISAPPOINTING IN ITS RESULTS AND REPEAL CONSIDERED ALMOST CERTAIN—PASSED ON TO CONSUMER—BUYERS STRUCK AND RECEIPTS FELL TO THIRD OF GOVERNMENT ESTIMATES.**

[Special cable to the New York Herald. Copyright, 1921, by the New York Herald.]

NEW YORK HERALD BUREAU,

Paris, May 28.

France being one of the two countries which has experimented with a sales tax such as has been under discussion in the United States, the American people might be interested to know the result of the French experience in this connection. The tax has worked badly here, according to both the Government and the man who pays the tax, but how much this is due to the inefficiency of the French tax machinery, which is notorious, is a question.

"The French sales tax has shown itself as exerting a disastrous and paralyzing effect on business generally, and it is only a question of time until it will have to be superseded by a more rational method of raising money, such as an increased levy on salaries and other incomes."

This statement was made to a correspondent of the New York Herald to-day by Guillaume de Tarde, State counsellor and adviser to Lucian Dior, minister of commerce. M. de Tarde is considered one of the best tax experts in France. As he

indicated, the tax is so disappointing in results here that its repeal is almost certain as soon as the Government experts determine on an alternative policy.

#### AMENDMENTS PROPOSED.

Meanwhile Parliament is considering for the fourth time a new series of amendments to the measures which are designed to stop the gap until another tax system is devised. Regarding the operation of the tax M. de Tarde said:

"Never before has France devised a tax which was received so badly by both business firms and the public, the former because of the inquisitorial inspection methods which are necessary to prevent wholesale dissimulation in accounts and the public because of the tendency of the business men to throw the burden, wherever possible, on the purchasers rather than on their own business profits. It is impossible to collect the tax without having Government agents making the closest scrutiny of business records. It is also impossible for French finances to support such an army of functionaries as this would require, and as the tax therefore is left to the honesty of merchants and producers, who merely sign monthly statements of their sales total and pay to collectors, there is consequently much danger of the records being arranged to suit the taxpayers' purposes. It is unquestionable that the tax is passed on to the consumer in a majority of cases.

"This was particularly true recently when the public expected prices to fall and found that their failure to do so was partly due to the fact that the prices asked in many cases, as was frankly explained, were maintained by the sales tax. The result was that the buyers' strike became worse than ever, reducing greatly the amount of business done and producing a great diminution in the tax returns, as compared with the estimates. It is certain that a less intricate and more collectible method must be found. The only solution of the problem now presenting itself is the increasing of the tax on incomes, although this would affect the public just as visibly as does the present tax, and because of the present high rates on incomes an increased levy probably would arouse great opposition. But France must have money, and as the sales tax system has not satisfied any one the law will have to be changed."

#### RECEIPTS BELOW ESTIMATES.

The sales tax was the pet project of Frederic Francois-Marsal when he was minister of finance, the Government then drawing up a careful estimate for each month of what the tax ought to yield and calculating the budget accordingly. The result has been appalling, considering France's budget difficulties and need of money. Instead of yielding 3,300,000,000 francs, roughly, since its imposition, it has yielded only 1,400,000,000. February's receipts amounted to only one-third the estimates.

The French system gives the widest opportunities for dishonesty, especially in taxing so-called "de luxe" articles, the law providing a 10 per cent levy instead of 3 per cent on articles such as dresses, mantles, hats, etc., costing more than 600 francs each. But by changing the bill to show two dresses, for instance, at 500 francs each, instead of one bill for 1,000 francs, the French treasury immediately loses 7 per cent, the tax on an article costing 500 francs being only 3 per cent. At the same time prices of these articles are based on the highest tax rate, thus increasing rather than decreasing the public's burden.

Then there is a constant duplication of the tax, each middleman adding the percentage demanded by the Government, so that in many cases the tax will have been paid four or five times on the same article before it reaches the consumer's hands, each levy adding to the public's dissatisfaction and increasing the ire of the merchants when the Government, seeking a solution of the problem, orders the taxpayers to open their books.

Some merchants have estimated that the cost of living here, especially in so far as clothing and household necessities are concerned, would have dropped more than 25 per cent had the sales tax never existed, and naturally the public, realizing they have been imposed on, will welcome a workable method of meeting France's financial difficulties.

#### APPENDIX II.

##### THE FISCAL OUTLOOK AND THE PROGRAM OF TAX REVISION.

[By Edwin R. A. Seligman, LL. D., McViekar Professor of Political Economy, Columbia University. Copyright, 1921, by Bankers Economic Service (Inc.)]

##### THE GENERAL PROBLEM.

The recent letter of Secretary Mellon to the chairman of the Committee on Ways and Means brings up afresh the entire problem of the fiscal situation. The subject falls naturally into two parts. The one side includes the treatment of the debt, the question of the sinking fund, the refunding of the floating debt, the repayment of

the debt from the Allies and the rapidity of debt payment. The other and, for the moment, the more insistent problem is the provision of revenues to meet the current expenditures. In this article we shall consider the latter topic alone.

## EUROPE AND AMERICA COMPARED.

Secretary Mellon estimates that the expenditures for the fiscal year 1921 will be a little over five and one-half billions and for 1922 a little over four and one-half billions. He does not, however, include in these estimates the postal expenditures which, roughly speaking, amount to about another half billion. Our probable total expenditures may therefore be put at about six billions for 1921 and at about five billions for 1922. In view of the fact that our prewar expenditures were about one billion (983 millions in 1914), we may agree with the Secretary in characterizing the outlook as "shocking." Bad as our situation is, however, it must not be forgotten that it is less unsatisfactory than that of the other participants in the war, with the sole exception of Japan. In Great Britain, where the prewar expenditures in 1914 were smaller than ours, the expenditures for the fiscal year 1921 amounted to about seven billions (£1,425,934,666). Of the other countries, like France, Italy, and Germany, which have not succeeded in coming within measurable distance of balancing their budgets, we need not speak at all. And on the revenue side, we are equally fortunate when we compare the burdens resting upon us with the crushing load that is borne abroad. In Great Britain, even neglecting the far heavier imposts on transactions and consumption, the normal income tax on moderate incomes is six to seven times as high as with us, while the death duties are considerably higher. In the continental countries, such as France, Italy, and Germany, not only are there far heavier taxes on transactions and consumption, but in addition to the income tax, which runs up to 55 per cent and 60 per cent, we find the inheritance tax which runs up to 70 per cent and (in France) to 80 per cent; a capital levy or property tax which in Italy and Germany reaches 50 per cent and 65 per cent; and a property increment tax which in those two countries runs up to 80 per cent and 100 per cent, respectively.

## AN UNSATISFACTORY SITUATION.

In all this, however, there is but little comfort for us. While it is true that our burdens are lighter than those in any other country, they are sufficiently grievous to warrant the most careful attention.

## THE ESTIMATED EXPENDITURES.

This is all the more obvious as the Secretary's figures represent only the probable minimum of expenditures. Unless the very greatest care is exercised, the expenditures will be considerably larger. It may be interesting to rearrange and complete the estimates in the Secretary's table in order to see at a glance where any important retrenchment is possible.

## SUMMARY.

The following table tells the story:

(In millions.)

	1921		1922	
	Amount.	Total.	Amount.	Total.
Military.....	\$1,028	\$1,735	\$568	\$1,111
Naval.....	697		543	
Interest.....	975	1,258	975	1,240
Sinking fund.....	253		265	
War Risk Insurance.....	233	505	262	527
Pensions.....	272		265	
Railroads.....	801	907	545	669
Shipping Board.....	103		124	
				3,447
Post office.....		407		495
Public debt redemption (excluding sinking fund, as above).....		343		285
Miscellaneous expenditures.....		854		834
Total.....		6,069		5,060

Reducing the above table to rough figures in billions, it would come out something like this:

	1921	1922
Military and naval expenditures.....	1 1/2	1
Interest and amortization of debt.....	1 1/2	1 1/2
Insurance and pensions.....	1 1/2	1 1/2
Railroad and shipping.....	1 1/2	1 1/2
Retirement of the debt.....	1 1/2	1 1/2
Post office.....	1 1/2	1 1/2
General governmental expenditures.....	1 1/2	1 1/2
<b>Total.....</b>	<b>6</b>	<b>5</b>

#### POSSIBLE RETRENCHMENT.

In other words, virtually the entire increase of the budget, as will be evident from the first five items, is due to the war; and whereas in future years we may expect a diminution in the expenditures for railroads and shipping, it is obvious that the only possible retrenchment of any serious consequence is in the military and naval rubric. Unless a policy of ruthless reduction in the appropriations for these purposes is followed by the present Congress, we must even be prepared for an additional half billion outlay. Only to the extent that future years will bring our military and naval expenditures down to the prewar figures of about half a billion will any notable reduction in taxation be at all possible. Compared with the huge figures that will surely be needed for interest and amortization, for insurance and pensions, and for the War and Navy Departments, the amount of possible savings in the ordinary expenses of Government is insignificant. The two immediate problems of policy which loom large from the fiscal point of view are thus a retardation in the tempo of debt payment, and a slashing of the Army and Navy expenses.

#### THE ESTIMATED REVENUES.

We come then to the problem of how to meet this expenditure of what may be regarded as a minimum of five billions for the year 1922. The Secretary estimates the miscellaneous revenue (which includes 60 millions from the Federal Reserve Board franchise tax and 225 millions from interest on foreign obligations) at 548 millions. Adding this to the postal revenues makes approximately one billion. This leaves four billions to be raised by taxation, as over against almost five billions during the present year. On the basis of the present legislation the taxes are estimated to yield the following revenues:

[In millions.]

	1921	1922
Customs.....	\$300	\$300
Income and profits taxes:		
Income tax.....	2,700	1,900
Profits tax.....	450	450
Miscellaneous taxes.....	1,400	1,350
<b>Total.....</b>	<b>4,850</b>	<b>4,000</b>

#### POSSIBLE CHANGES.

The question thus arises as to what changes should be made in the present laws to secure this revenue of four billions. On one point virtually everyone is agreed, namely, that the excess-profits tax must go. In the merits of this proposition it is needless to enter. Most people, furthermore, will agree as to the advisability of reducing the excessive surtaxes in the personal income tax, for the simple reason that they now exceed the limit of what may be called the maximum revenue point. A reduction of these surtaxes to an outside limit of 40 per cent will ultimately, in all probability, entail no diminution in revenue, although for the coming year it may mean a loss of some 50 millions. We must then provide in the coming year for a deficiency of about half a billion.

## TAX EXEMPTIONS.

This could be easily done if the present exemptions of Federal and local governmental securities were abolished. It can not be too often repeated that the very heart of our tax problem consists in this indefensible exemption. If we add to our total Federal debt of 24 billions some 8 or 10 billions of outstanding State and local securities and if we assume that an average tax of about 20 per cent would be paid by the holders of these securities, we find that the Government is now losing about 600 millions a year, a sum larger than the deficiency caused by the contemplated changes. While our system of tax exemption is reprehensible not only from the point of revenue, but also from that of fiscal justice, and while the attempt to abolish local exemptions by constitutional amendment and Federal exemption by refunding operations must be characterized as perhaps the most important matters before the country, the results, even if successful, will not be available in the immediate future.

## THE ALTERNATIVES.

We have therefore only two alternatives—to raise the needed half billion by a tax on wealth or by a tax on consumption. A tax on wealth would mean some modification of the corporation tax; a tax on consumption implies the sales tax. The important point to be remembered here is that we are not comparing the sales tax with the tax on excess profits. The problem is to find a substitute for the excess-profits tax; the comparison must be between the suggested substitutes: not between the original and a particular substitute. For everyone will concede that either substitute is preferable to the original. It is accordingly not a question as between the sales tax and the excess-profits tax, but between the sales tax and the additional tax on corporate profits.

## THE SALES TAX.

When this comparison is made, it is clear that both the administrative and the equitable considerations fall against the sales tax. Without repeating here the arguments that have been frequently advanced as to what is precisely meant by a sales tax (for the term covers a multitude of sins), there can be little question but that on purely administrative grounds the extension of the present corporate income tax from 10 to about 15 per cent is a far simpler proposition than to create the entirely new administrative machinery which would be needed to deal with all the complexities of the proposed sales tax. But on the second count, that of equality, the conclusion must be similar. Without entering upon the disputed question of what actually occurred in the excess profits tax, it is scarcely open to doubt that a flat tax on corporate profits is not susceptible of being shifted in the same sense that a tax on sales can be shifted. The incidence of the profits tax is on wealth, that of the sales tax is on consumption.

## THE PRESENT BALANCE.

Under our present system, as we have seen, well-nigh three-quarters of the Federal tax revenue comes from wealth and a little more than one-quarter from consumption. Under the new proposed dispensation of the sales tax, the only taxes on wealth will be the income tax, yielding about one thousand nine hundred millions, and the estate tax of about one hundred thirty millions, or a total of about two billions. That is to say, even if the expenditures can be held down to the contemplated figures, about one-half of the entire Federal tax burden will fall upon consumption; and in the not improbable event that the expenditures will go above the estimated figures, the burden on consumption will be still greater.

## THE TAX ON CONSUMPTION.

It is unnecessary here to repeat the arguments why in democratic countries, like Great Britain and the United States, it has always been the endeavor to burden wealth rather than consumption except when, as in the case of our tariff, the tax on consumption is supposed to react favorably on the national dividend by increasing production. For not only is it undesirable in times of peace to check consumption, which is the very cornerstone of all economic progress, but it is also true that in a community where the mass of the people must consume all their income, whereas the wealthier classes consume a continually diminishing proportion of theirs, a tax on consumption is an inverted or upside-down graduated tax on wealth. The sales tax is for this reason an antidemocratic measure. It has always been an outstanding feature of the less democratic Latin-American civilizations as over against the Anglo-Saxon Commonwealths. It is characteristic to-day of France, of Mexico, and of some of the South American Republics, as it was characteristic in the middle ages of entirely undemocratic countries.

## THE PRESENT SYSTEM.

The second argument frequently advanced in favor of the sales tax is that its yield will be so abundant as to render possible the abolition of some of the existing taxes on consumption. It may be interesting to note what these are. We subjoin in the following table (not included in the Secretary's report) the estimated revenue, in millions of dollars, for the present year, 1921, classified by sources:

Transportation.....	331	Fountain drinks.....	30
Tobacco.....	247	Jewelry.....	35
Automobiles.....	145	Carpets.....	31
Estates.....	130	Candy.....	20
Capital stock.....	100	Pianos.....	12
Admissions and dues.....	96	Articles of fur.....	10
Stamps.....	83	Perfumes.....	6
Nonbeverage alcohol.....	90	Motion-picture films.....	6
Mineral waters.....	45	Miscellaneous.....	10

## ADMINISTRATIVE REASONS.

It will be noticed that all of the items in the above list consist, with a very few exceptions, such as fountain drinks and some of the fiscally insignificant miscellaneous excises which are correctly described by the Secretary as "nuisance taxes," of articles not of necessity, but of convenience and of luxury. Moreover, the revenue is derived for the most part from a comparatively small number of selected sources. The proposal to replace these taxes with a general sales tax runs counter to two fundamental principles of taxation, the one administrative, the other ethical. A general sales tax is akin to the system of what was known as the "general excise" in the later middle ages. The work of the French Revolution, as it was the self-imposed task of Gladstone half a century later, was to substitute for a heterogeneous mass of taxes burdening everybody and everything, a system of very lucrative taxes on a very few commodities which should, as far as possible, combine the characteristics of wide use and yet of non-necessary consumption. Just as the British tariff reform substituted a few items for the complexity of the old customs, so the British internal revenue reform substituted a very few lucrative excises for the old taxes on everything "that a man hears, feels, smells, or tastes." To return to the general sales tax is to invert administrative progress.

## ETHICAL CONSIDERATIONS.

From the ethical point of view, the objection is still stronger. Most of the lucrative imposts on particular commodities are taxes on conveniences and luxuries; the bulk of the sales tax revenue will have to be raised from a tax on necessities, because the great majority of all sales obviously deals with necessities. To tax necessities is not only to render impossible a progressively greater yield from those that can better afford to pay, but, since the poor man must consume as many necessities as the rich man, it involves the imposition of a relatively greater burden on him. Modern democratic tax reform is supposed to mean taxation according to ability; a tax on necessities is a tax on disability. It not only prevents a man with more ability from paying higher taxes; it actually imposes a greater relative burden on those least able to pay. The general sales tax, like the general excise, in the Middle Ages, is an inversion of the principle "Le fort portant le faible"—the slogan of those that desire to correct tax abuses in the Middle Ages.

## ADDITIONAL SUGGESTIONS

If, however, the sales tax is eliminated and the increase of the corporation tax will not suffice to yield the desired revenue, what additional taxes will comport with the principles of equity and economy? The suggested tax on the undistributed profits of corporations seems undesirable because of its complexity and because of its probably unfortunate results on business practice. On the other hand, there seems to be no reason why the flat tax on corporate profits should not be extended to all business profits, including partnerships and personal corporations. It may, in that case, become desirable to exempt partnership incomes from the normal personal income tax, while subjecting the, as we now do corporate dividends, to the surtax. Such a general tax on business profits, which would be in the direction of equity, would yield from one hundred to one hundred and fifty millions additional. Again, if it were desired to make good the loss due to a lowering of the surtax income rates by some tax on wealth rather than on consumption, it would be possible to raise another



hundred millions from an increase of the estate tax. For the rate of this, on higher estates, even counting in all our State inheritance taxes, is as we have seen lower than in Great Britain and much lower than in the other European countries. Finally, if it seems wise not to overstrain the system of taxes on wealth and if it therefore becomes desirable to raise a somewhat greater share from consumption, we could secure another one hundred millions from stamps and the same amount from either gasoline or tobacco. For such taxes on transactions or on consumption would not be open to the administrative and ethical objections which attach to a tax on necessities like the sales tax.

#### THE ECONOMIC CONSIDERATIONS.

In framing any revenue system we must bear in mind two fundamental considerations—economic and ethical. The paramount economic consideration is to interfere as little as possible with the creation of the social income. To maintain the social dividend, it is necessary to refrain from killing the goose that lays the golden eggs. Our excess-profits tax is open to this objection. A reasonable tax on personal incomes, coupled with a comparatively light tax on business profits ought not to interfere with the possibility of turning back into the enterprise an adequate share of business profits and thus to insure the steady growth of capital and prosperity. On the other hand, an exaggerated tax on consumption not only sins against a cardinal ethical postulate by imposing a greater relative burden on those least able to pay, but it also runs counter to the interests of the business man and to the welfare of the community as a whole by restricting the consumption which is the very foundation of all production and social prosperity. Especially in times like these where the effort of the world is centered upon the endeavor to restore the consuming powers of the community to the prewar standard, any revenue system which is calculated to curtail consumption will carry with it its own nemesis in cutting down production. Where there is no demand there can be no profitable supply. In the interests of the business world as well as of the community as a whole, a proper balance must be struck between taxes on wealth and taxes on consumption; and in the scheme of consumption taxes, care must be taken to restrict to a minimum taxes on necessities.

#### CONCLUSION.

If Congress will observe the above general principles, if it will not be too precipitate in seeking to reduce the public debt in times of depression, and if it will bend all its energies to the reduction of expenditures for purely unproductive purposes, we may look forward with confidence and with hopeful anticipation to the beginning of a new era in our fiscal history.

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## SPENDINGS TAX.

### STATEMENT OF CHESTER A. JORDAN, REPRESENTING JORDAN & JORDAN, PUBLIC ACCOUNTANTS, OF PORTLAND, ME.

Senator McCUMBER. Mr. Jordan, will you state your full name and whom you represent?

Mr. JORDAN. Chester A. Jordan, of Portland, Me.; public accountant; representing my firm of Jordan & Jordan.

Mr. Chairman and Senators, I have stated that I am a public accountant. I should prefer, really, to feel that I am representing the bookkeepers of the country, if there were any way that they could be so represented—those who have had the burden in great measure of undertaking to figure out the income and excess-profits tax returns and sending them into the Treasury Department throughout the years in which those taxes have been in operation.

My practice was founded in the eighties by John O. Rice, who had served during the Civil War in an accounting capacity, and I believe had acquired knowledge at that period, about the close of the Civil War, when, perhaps, the greatest degree of efficiency had been attained. He taught me as a young man starting in under him about

20 years ago, before there were any income taxes, that if I had worked out an accounting proposition and it was simple I was likely to be right, and if it was complicated and I had to make all sorts of forms and all kinds of modifications of my plans, there was apt to be something wrong with it.

Since these income-tax laws have come into effect I, as has been the case with other public accountants who practiced before that era, have naturally had a good deal of this tax work to do, until I think I am right in saying that I have become somewhat expert in so far as a knowledge of the intricacies and impossibilities of those excess-profits tax and income-tax and surtax laws is concerned. Before we had this tax work I was perfectly happy with a good accountancy practice and doing constructive work in helping my clients.

Senator JONES. If we were to simplify these laws, would not a lot of accountants go out of business?

Mr. JORDAN. I think a lot of them would. I am very sure that I would not go out of business. I am very sure that there is a great deal more good sound constructive work that accountants could be paying their attention to for the benefit of the country now than ever before.

Senator JONES. Do you not think this complex law gives business to accountants and lawyers and a lot of other people who without it would have to hunt some other employment?

Mr. JORDAN. Before this law came into effect I had three or four men in my employ. Since being obliged to undertake all of these problems for my clients I am obliged to employ seven or eight men and three women. Those men are college graduates and they are employed about six months of the year on tax work. I believe that if the tax law were simplified as it should be I might not be obliged to employ more than half that number.

Senator JONES. That gives employment to the people at a time when there are a lot of people out of employment, does it not?

Mr. JORDAN. That is about all the good that can be said of it.

Senator SMOOT. I wish there were a different kind of employment.

Mr. JORDAN. I do not doubt that you have been worried, as all the business men of the country have, by discussion of the iniquities, injustices, and complexities of the income-tax and the excess-profits tax laws. I do not believe there is anybody on earth who understands them.

The problems of depreciation, of invested capital, etc., and of what really constitutes profit. Profit has always been the most difficult thing to determine in accounting, because it is of necessity based upon forecast or conjecture, estimates of values and inventories, etc.

I might say that those complexities have resulted in a situation where the larger taxpayers are at a very great advantage over the smaller taxpayers in accomplishing the reduction to a minimum of their tax liability to the Government. They are in a position to employ men on salaries or on a percentage basis, men who have had terms in the Federal employ over here in the Treasury Department and who are familiar with all that is published and all that is not published concerning the developing processes within the department and the personalities of the people employed there.

The complexities and iniquities of this income and profits tax law, as I have observed its workings in connection with my service to my

clients, has stirred me to attempt to think of some plan whereby the whole rotten mess could be sometime swept aside, and at the same time all of this useless accounting service eliminated and the field left for the constructive accountants to serve the purposes which they, I know, would like to do. I believe that the best accountants and the best lawyers of the country are against the income and excess profits law.

In endeavoring to find a solution I have hit upon a plan which I have called the spendings tax. The spendings tax would do away with the tax exempt securities problem. It would do away with the situation where the wealthy invest in tax-exempt securities and thereby avoid paying their taxes, which results in the necessity which now faces the Treasury Department of raising the rates on the middle-class and lower incomes. The spendings tax is the only tax that so far has been thought of, I believe, which would remedy that situation.

Senator McCUMBER. You admit, of course, that under the Constitution Congress has not authority to tax the income arising from State bonds, etc.?

Mr. JORDAN. Yes, sir; positively.

Senator McCUMBER. You could not tax an income when it comes to the individual?

Mr. JORDAN. No, sir.

Senator McCUMBER. But your belief is that you would not violate the law if it taxed it provided he spent it?

Mr. JORDAN. If you taxed his expenditure, I believe that would not be a violation of the law.

Senator McCUMBER. You can not tax his receipts of that money, but you can immediately tax it if he spends it? Do you think that would be constitutional?

Mr. JORDAN. I have submitted that to minds in which I have greater confidence than I have in my own on such questions, and there seems to be no doubt that it is proper to tax spendings wherever the money is received from. Money has no earmark, and if a tax upon expenditures of any sort or a tax upon sales or a tax upon purchases is constitutional, it would seem that such taxation, whether money were received from tax-exempt securities or otherwise, would be constitutional.

Senator McCUMBER. You have a publication entitled "Spendings Tax," have you not?

Mr. JORDAN. Yes, sir; I have.

Senator McCUMBER. Would you mind furnishing 25 copies of that publication for the use of the members of the committee?

Senator CURTIS. You have mailed one to each member of the committee, have you not?

Mr. JORDAN. I did that yesterday. However, I have 20 copies at my hotel, and I shall be glad to leave them with Mr. Stewart to-day.

Senator McCUMBER. Thank you. I would especially like to be enlightened upon the constitutionality of your proposed plan as applied to the spending of money received from municipal bonds of the States, etc.

Mr. JORDAN. I can do no more than repeat my former statement, that, as I understand it, money has no earmark, and whether the yield of income were from money invested in real estate or tax-exempt securities, it is sufficiently remote from its source so that

there is no identity with that source that would result in any possibility of claim that it could be picked over and one dollar picked out as having come from tax-exempt securities and another dollar from another source and the taxes differentiated to correspond.

Senator McCUMBER. I think there have been some recent decisions upon the questions of moneys received and taxable as income when received from the export of goods which export is nontaxable. Possibly that might throw some light on the subject.

Mr. JORDAN. There would be a very close association between the source of the yield and the receipt there.

I am told by economists that the tax upon the spendings of the individual for living, comfort, luxuries, pleasure, etc., or all that he benefits by under the protection and fostering influence of Government, corresponds with the income tax as it was conceived by John Stewart Mills and other economists of past generations; that the income tax as they conceived it finds its true culminative objective in a tax on what the individual consumes and benefits by, that is, his spendings. Therefore, it appears that the spendings tax rests upon an entirely sound foundation of theory and is merely an income tax simplified and brought into accord with sound theory and practice.

I have had the good fortune to have the very generous assistance of one whom I believe to be the greatest living economist and in the greatest position of practical responsibility, and he agrees that it is sound in theory.

Senator JONES. Who is he?

Mr. JORDAN. I am not at liberty to say. I do not doubt that he would permit me to do so, but as I have not asked him for such permission I would prefer not to give his name.

The spendings tax effects all that the advocates of the sales tax aim at. It accomplishes the result equitably. It is also a luxury tax because it is very plain that what is spent in excess of necessity must include the luxuries.

I would be very rash to offer any novel tax plan, any new tax plan, as a complete and immediate substitute for the present tax system. I do think that the spendings tax could be safely made an immediate substitute for the surtax and excess profits tax. It is so similar to the income tax, being merely a tax upon income set ahead to the point where it becomes a benefit to the possessor, that the Treasury Department I think could figure quite accurately what its yield would be at any specified rates.

Senator JONES. The tax to which you refer you think would be very much more equitable than the sales tax, do you not?

Mr. JORDAN. It is as much more so as can be imagined. It is the opposite of the sales tax in its effect. The sales tax rests more heavily upon the poor than it does upon the rich, because it is perfectly evident that especially in the case of the turnover sales tax, for instance, there would be an accumulation of tax on shoe leather, whereas in the case of the tax on gasoline burned in a limousine there would be only two taxes or less as it is taken from the oil fields through the great corporations to the consumer.

Senator McCUMBER. I suppose you have discussed in your pamphlet this feature of that case: Take a man, we will say, of ten thousand to twenty thousand dollars income. He may have sickness in his family; he may have necessary expenses that would take

that full ten or twenty thousand dollars a year in order to take care of sick members of his family. He would, of course, have to spend it. Would you make no exceptions and penalize him in addition because he was compelled to spend money for such purposes, and make a very much heavier tax than the fellow who had none of those expenses and who could save his money?

Mr. JORDAN. The spendings tax I believe to be the one system under which relief could be granted to such cases, and in my sketch of the provisions of the law I have provided—which I think is right and just—that sickness bills, nursing, doctors, and death bills, as well as insurance premiums, donations, etc., should be exempt.

Senator JONES. As compared with the sales tax there would be a tax on just such expenditures as Senator McCumber refers to, unless you want to exempt drugs and everything that goes along in caring for the sick.

Mr. JORDAN. That is true under the sales tax and it is true under the income and excess-profits taxes. Continuously there are things of that sort that need correcting, that result in any honest advocate of those taxes endeavoring to patch something else onto that system to bring about such correction, and the result is that the thing is spreading out and growing.

The spendings tax, as it affects only the spendings of the individual, effects that desirable object—the exemption of savings and reinvested savings from taxation.

I have mentioned its simplicity. Every accountant and business man realizes how much easier it is to figure gross receipts or gross expenses than it is to figure net profits.

Senator JONES. Would you apply this to business in general or just to individual expenses?

Mr. JORDAN. It would absolutely divorce taxation from business, except as to the taxes on real estate, etc. It is useless to tax business; it is useless to tax the yield for money at interest. It is paid by the Nation or its people in the long run and it simply operates to make interest rates higher.

Senator McCUMBER. Under your theory if a person had an income of \$100,000 and he invested that income in stock of an industrial concern, that would be spending \$100,000, would it not?

Mr. JORDAN. It would not, sir. That money would be invested in the service of the public and he would not have it. It is just as though he left money in a business.

Senator McCUMBER. I wanted to ascertain what came under your definition of spendings. Then, there is another feature of it which, of course, you have probably considered, and that is whether or not it would tend to such a degree of penurious conduct in order to save taxes as would withhold considerable money from circulation that would tend to make business. These thoughts just occur to me as you are discussing the matter. I have not read your pamphlet.

Mr. JORDAN. Such penurious conduct would carry its own penalty in reduction of interest rates. If sufficient money were saved rapidly because of the penuriousness of all of us—and I would risk that for a little while—it would suffer its own penalty by reason of there being a greater amount of supply capital seeking the demand, and, therefore, a reduction of interest rates. You can not penalize the saving of money and putting it out at interest in any other way.

If you undertake to penalize it by taxation, you are simply taking money out of one pocket and putting it in another.

Senator McCUMBER. Of course, if I should be the happy possessor of \$4,000 and wanted to purchase an auto and there were an expense tax, a spendings tax, as you call it, attached to it of \$200 or \$300, it might induce me to keep that money in my pocket or in the bank where it would be drawing a little interest rather than spending it; but, at the same time, the auto dealer would lose one customer at least.

Mr. JORDAN. He might lose a present customer, but if the spendings tax had been in operation for a number of years there would have been successors to many persons of thrifty life habit that would be spending money for autos now, regardless of taxes.

Senator JONES. It would not be any more a deterrent than a direct tax on the sales of autos, anyway, would it?

Mr. JORDAN. No, sir.

Senator McCUMBER. The Senator hangs closely to that sales tax.

Senator JONES. Mr. Jordan, does your plan cover an expenditure for improvements? Suppose a man has a house and wants to build a garage. Would your expenditure tax cover that case?

Mr. JORDAN. That would be regarded as an investment, Senator.

The matter of real estate, I think, should be kept separate from the spending tax, but that is a rather long story that I shall not take your time on now. But that will be regarded as an investment just as life insurance premiums, I think, should be regarded as an investment.

Senator JONES. A great many people regard the purchase of diamonds as an investment.

Mr. JORDAN. That would not be so considered, I think, under the spendings tax. There would be no reason for it. If there were a good reason for it, the spendings tax, because it affects each individual, could be analyzed readily and a remedy could be made for it, but it is not necessary.

Senator JONES. I read your pamphlet. I did not read it carefully, because I did not have sufficient time, but I was very much interested in it.

Mr. JORDAN. I thank you. There really is not much more for me to say if you have read the pamphlet, but perhaps I might touch on some things that I have not covered there, or you may wish to ask me some questions.

Senator JONES. I would prefer to have you bring out the points you have in mind.

Mr. JORDAN. Your questions brought out the matter of encouraging thrift. I can not tell you how deeply I feel that that encouragement of thrift is of the greatest possible importance and constitutes one of the great merits of the spendings tax.

When my folks were going to sea down in Portland, as tradition has handed down, there was not then the demand for capital and such varied uses as there is to-day. I have heard it said that a young man of character, if he were diligent at his trade or whatever it happened to be, would be sought out by people who had money to invest, and they would make a stake on his character. I know of many instances where that was done. I think to-day where there is so much greater use for capital and so much has been destroyed by the war that,

perhaps, we are suffering from an undersupply of capital seeking investment.

Most all the capital that would be really hunting for opportunity of investment in progressive enterprise is drifting into tax-exempt securities, and men who might better be watching their money in the hands of young men are just putting it into these securities and going to Florida for pleasure and to other places and losing their interest in active business.

Senator McCUMBER. This spendings tax has never been put into operation in any country or State, so far as you know?

Mr. JORDAN. I am told by economists that it is entirely novel; but they do say that it is foreshadowed by the thought of economists in times past. They had practically described it, but had not made any definite picture of it.

Senator JONES. Have you made any estimate as to the amount of the revenue that would be derived from your plan?

Mr. JORDAN. I feel that any estimate I could make could be better made by the Treasury Department and could be easily made if they were interested in the subject, that really it is perhaps best for me not to try to guess. But I think you could raise all from the spendings tax that you could raise from any tax, because almost all of the money that is earned or all of the income is in the course of time spent. Very little is permanently added to the wealth of the world. Otherwise, there would be a colossal accumulation of wealth. They say that three hundred billions would cover the valuation of real estate and everything else in the country, and, of course, if there were many billions saved out of the total spendings each year—well, there would be no end to it.

Senator JONES. It would certainly be a great help to the committee in considering your plan to have some idea as to the amount of revenue it would probably raise.

Mr. JORDAN. So far as I have been able to gather information, I believe that the annual spendings perhaps amount to \$50,000,000,000 a year.

Senator JONES. That would be my guess at it also, about that.

Mr. JORDAN. If your tax were graduated so that it averaged a certain rate, you could readily deduce the amount of yield, depending upon what you exempt, of course. There should be an exemption. My belief is that the exemption should cover bare subsistence alone. I do not believe that any real American desires any favors from his Government. He wants to pay his share. I believe the exemption should be no more than the necessary amount to support life without charitable aid.

Senator McCUMBER. Then, you would exempt about what we now exempt under the income-tax law?

Mr. JORDAN. I think that, generally speaking, a man if he should confine himself to the coarsest fare and the cheapest living would get along on less than the present income-tax exemptions amount to; that is, exemptions of \$1,000 for an unmarried man and \$2,000 for a married man. I know of men who are getting along on less than that.

Senator JONES. A great many of us have gotten along on less.

Mr. JORDAN. I have. I got along on \$4 a week when I started in and maintained myself in New York City when prices were very much lower, of course, on \$10 a week.

Senator DILLINGHAM. Mr. Jordan, under what clause or amendment of the Constitution do you find an authorization for a tax of this character?

Mr. JORDAN. I am not an attorney, and I am not prepared to say more than that I have taken this up with attorneys, and whereas they have not informed me just how or why it would be constitutional, I have heard of no objections.

Senator DILLINGHAM. But in our income tax we have to amend our Constitution to specifically authorize the tax on incomes from whatever source they are derived.

Mr. JORDAN. I think that amendment would cover a spendings tax.

Senator DILLINGHAM. I do not see how it could. That amendment specifically mentions income tax and refers to the sources from which it is derived, but in no way does it authorize a laying of tax upon the expenditures of individuals.

Mr. JORDAN. If you can tax ice-cream cones, you can tax the total spendings of an individual.

Senator DILLINGHAM. What I am trying to find out is upon what provision of the Constitution you base your claim that this would be constitutional.

Senator JONES. Mr. Jordan evidently has in mind that it would be levied as excise tax just the same as we levy the tax upon sales of ice-cream cones.

Mr. JORDAN. The total sales to the individual amount exactly to his spendings. If you can tax any part of these sales to the individual you can tax them all.

Senator DILLINGHAM. It would have to come under that if at all, I think.

Mr. JORDAN. The simplicity of the spendings tax as contrasted to the present forms of taxation would permit of distributing the administrative force over the country, and permit them to work in cooperation with the taxpayers in such simple questions as would arise under a spendings tax, instead of the individual being obliged to depend upon private assistance or travel from one end of the country to come down here to Washington to work out his problems.

The spendings tax, because it would be paid direct in money and would not be painful taxation as compared with painful taxation, would bring home to the individual the real effect of Government expenditure. It would bring him closer to his Government, and I think that is a very desirable thing and altogether wholesome.

There would be evasions of a spendings tax, but I have worked out simple plans that would enable detecting the major part of those evasions quite readily.

I think the eminent fairness of the spendings tax as affecting the rich and the poor would be so apparent to those of ordinary intelligence as to greatly offset and counteract the trend of communistic and radical socialistic thought.

The spendings tax law could be made effective if each individual, excepting dependent persons, who would be reported in returns of the persons upon whom they depend, should answer seven questions. Those questions are as follows:

What is your name?



What was your occupation and by whom were you last employed prior to January 1 of this year?

What were your total spendings aside from business or investment but not including spendings taxes, donations, life insurance premiums, doctors, nursing and death bills?

Then, I should propose that further questions should be asked to assist the department in checking up the returns, as follows:

State the names and residences of your dependents.

State the names and time employed of servants employed by or for you or your family and dependents during all or any portion of the year.

State the make and present value of automobiles maintained in whole or in part for other than business purposes during all or any portion of the past year.

What rent, if any, did you pay for your home or rooms occupied permanently or temporarily during all or any part of the past year?

What is the total value of the home or homes owned and permanently or temporarily occupied by yourself and dependents during all or any part of the year?

I shall not take your time to describe how those could be used by the department officials in determining the living-scale positions of individuals regardless of what they might report as their spendings. If such living-scale position appeared as inconsistent, then there would be opportunity for the revenue official to undertake the matter of checking up that individual.

Senator JONES. You would not estimate the rental value of a residence which is owned as an expenditure?

Mr. JORDAN. I believe the revenue to Government from real estate ownership should come through the present simple methods of direct levy.

Senator JONES. Well, a person who did not own a residence would have to pay rent?

Mr. JORDAN. Yes, sir.

Senator JONES. And you would tax him on that?

Mr. JORDAN. Yes, sir.

Senator JONES. But a man who owned his home and did not pay any rent would escape that as a tax on expenditures?

Mr. JORDAN. No, sir; he would pay the tax upon every bit of expense that went into the maintenance of that home, so that his tax for the occupancy of his own property should approximate that of the rental property, except the amount that was paid as profit to the landlord.

Senator McCUMBER. In other words, it costs about as much to maintain a home as it does to rent one?

Mr. JORDAN. Yes; excepting the profit that the landlord receives as compensation for his service and risk, and, therefore, that should not be exempted from the spendings tax.

I shall sum up in five minutes all that I have to tax your patience with. The spendings tax simply eliminates the harassing tax accounting and expert accountancy services, leaving accountants free to devote their talent to the sadly needed solution of problems of reconstruction. There is a little personal ambition for myself here. It absolutely eliminates the tax-exempt securities problem. It is a form of income tax toward which the great economists have been

working. It may be considered as an income tax which exempts savings but taxes the spendthrift, whether his spendings are from interest or principal or earnings. It accomplishes all that a sales or turnover tax could accomplish, but places the burden correctly and in greater degree upon the wealthy, whereas the sales tax would not adjust the burden of taxation correctly or justly.

If its every other virtue were eliminated, the stimulation of thrift expected from it would warrant its adoption at this time. It is the only effective luxury tax, because there is no way of determining what is a luxury except by the test of the use to which the individual puts it.

Senator JONES. Have you made any suggestion as to the graduation of this tax?

Mr. JORDAN. I have not. I feel that I am not competent, that my field of vision is not broad enough. I think that the Treasury Department and you gentlemen are in a much better position to do that than I.

Senator McCUMBER. But your scheme carried with it the idea of a graduated spendings tax and not a flat tax, did it not?

Mr. JORDAN. Yes, sir. I am going to venture the suggestion that if the spendings tax has appealed to you who have the responsibilities of the formulation of new measures, it would be well to enact it so that it would be effective, not this year, but in the ensuing year 1922.

In closing, I would say that I have had no support of a financial nature to the extent of one penny in carrying this so far as I have. I have been unable to obtain publicity for it through publishers. Therefore, I have printed this at my own expense and have supplied them to the Senators and to the Members of the House of Representatives. I think it is unfortunate for any plan of taxation to be advocated by one group of interests. I think the spendings tax as I have analyzed it and have discussed it with practical men, such as farmers, barbers, working men, financiers, and lawyers, appealed to all, although they saw that it affected their own pocketbooks directly, that it would have a direct bearing on the individual, and each would know how much he had to pay. That seems desirable to them. All people are beginning to realize that concealed taxation is not a good thing. It would seem to me—and I offer this as a suggestion—that possibly this and other suggested forms of taxation that appeal to the people in general might be given publicity, if they are of interest and in your judgment worth while, through the medium of the Departments of Agriculture, Labor, and Commerce, so that the people generally could be informed and there would be opportunity of learning their opinions.

Senator McCUMBER. I think you stated that the spendings in the United States that would come under your definition of spendings would be about fifty billion dollars a year?

Mr. JORDAN. The best information that I have been able to gather leads me to form that opinion.

Senator McCUMBER. That would include spendings by everyone?

Mr. JORDAN. Yes, sir.

Senator McCUMBER. Suppose you exempted \$2,000 for a married man, \$1,000 for an unmarried man, and, say, \$200 for each child, as under the present law. That would deduct from the fifty billion

about how much upon which you could make your estimation as a basis of revenue?

Mr. JORDAN. The present income-tax exemptions from dependents would, I think, cut it in half, at least.

Senator McCUMBER. That would leave, then, about twenty-five billion?

Mr. JORDAN. It would leave not more than that. I think that the idea of exempting independent individuals or the heads of families in greater amount than dependents may be wrong. I think the greater exemption should be for the dependents and less for the unmarried individuals or those without responsibility of dependents.

Senator JONES. Could we not ascertain that for all practical purposes by finding out the number of people who make income tax returns under the present law?

Mr. JORDAN. The Treasury Department, I am informed, could, if they felt warranted in making the expenditure for the investigation, supply very accurate data concerning a spendings tax.

Senator McCUMBER. The committee is very much obliged to you, Mr. Jordan.

Senator JONES. I would like to say to you, Mr. Jordan, that I was very much interested in reading your pamphlet. I did not have time to study it with care, but I was certainly attracted with the thought that you presented, and I think it is worthy of careful consideration.

Mr. JORDAN. I worry about obtaining publicity for it. Of course, my own private resources will go but a very little way in pushing it.

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## INCOME TAX.

### STATEMENT OF EDWARD A. BRAND, REPRESENTING TANNERS' COUNCIL OF THE UNITED STATES OF AMERICA.

The CHAIRMAN. Mr. Brand, will you state your full name for the record?

Mr. BRAND. Edward A. Brand.

The CHAIRMAN. What is your occupation?

Mr. BRAND. Secretary of the Tanners' Council of the United States of America.

The CHAIRMAN. You reside in New York City?

Mr. BRAND. In New York City.

The CHAIRMAN. Are you in the tanning business yourself?

Mr. BRAND. No, sir; I am not.

The CHAIRMAN. You are an official of the association?

Mr. BRAND. Yes, sir.

The CHAIRMAN. What is your position?

Mr. BRAND. Secretary.

The CHAIRMAN. Do you desire to file a brief with the committee?

Mr. BRAND. Yes, Mr. Chairman. I have a brief that relates to net and inventory loss provisions which we are petitioning you to amend, and the message is from the president of the Tanners' Council.

That constitutes all I have to say or all we have to say on the subject.

**BRIEF OF EDWARD A. BRAND, REPRESENTING TANNERS' COUNCIL OF UNITED STATES OF AMERICA.**

NEW YORK, N. Y., May 16, 1921.

Hon. BOIES PENROSE,  
*Chairman Committee on Finance,  
 United States Senate, Washington, D. C.*

DEAR SIR: On behalf of the tanning industry of the United States we respectfully urge that Congress make a slight amendment to sections 204, 214, and 234 of the income and excess-profits tax law relating to net losses. These sections were designed to afford relief on account of losses in business, but were restricted to the year 1918, and consequently Treasury officials have had no authority to apply this principle to any other year or period. An examination of the sections referred to shows that it was clearly the intention of Congress to afford taxpayers relief at the time when readjustment of prices actually took place, and to enable them to file claims in abatement based on a substantial loss sustained by them, whether actually realized by sale or other disposition of this merchandise, resulting from a general net loss in business or a material reduction in value of inventory.

As is well known, reduction in prices did not occur in the year anticipated by Congress when making the above-named provision in the tax law, but started in a general readjustment early in 1920 and has continued up to the present time. Quantities in inventories at the close of 1919 were very high—representing the highest priced raw material and manufacturing cost. With sales dropping to almost nil it was impossible to liquidate on a declining market, which consequently has caused severe losses in industry during the past year. For example, 10 tanners producing calf and cattle upper shoe leather sustained losses in 1920 amounting to about \$9,499,992 as against profits in 1919 of about \$5,960,849; five glazed kid firms suffered losses of approximately \$3,439,882 against profits of the preceding year of about \$3,945,231; and five sole-leather tanners lost approximately \$734,883, while the preceding year's profits were about \$588,195.

Heavy taxes were accordingly levied and paid for the year 1919 on paper profits which, in the final analysis, were never actually received by the taxpayer.

We therefore earnestly hope that Congress will amend the law in question so that its original intention may be carried out and relieve taxpayers in a serious situation.

Respectfully submitted.

HARRY I. THAYER, *President.*

**STATEMENT OF H. ARCHIBALD HARRIS, REPRESENTING INDIANA ASSOCIATION OF CERTIFIED PUBLIC ACCOUNTANTS AND THE HAMILTON CLUB.**

The CHAIRMAN. You reside in Chicago?

Mr. HARRIS. Yes, sir.

The CHAIRMAN. Do you desire to speak on the excess-profits taxes on corporations?

Mr. HARRIS. Well, on corporation taxes in general.

The CHAIRMAN. What is your business?

Mr. HARRIS. Certified public accountant; president of the Indiana Association of Certified Public Accountants, who have asked me to represent them; counselor on Federal taxation and accountancy for probably 250 associations of commerce and industrial bodies in the United States, among them the Hamilton Club, and associations strung from coast to coast and from Canada down to the Gulf, which have asked us to appear on various matters.

The CHAIRMAN. Do you represent any one particular association?

Mr. HARRIS. The Indiana Association of Certified Public Accountants on general tax matters, and the Hamilton Club, with reference to the deduction by corporations of charitable gifts.

The CHAIRMAN. The Hamilton Club of Chicago?

Mr. HARRIS. Yes, sir.

The CHAIRMAN. I thought that was a political organization.

Mr. HARRIS. It is a civic organization also, Senator, which is interested in better taxes.

The CHAIRMAN. Go on, Mr. Harris.

Mr. HARRIS. I have a brief here of important points that I would like to file with the committee, and there are copies of it if you would care to have them.

The CHAIRMAN. If you will leave a number of copies with the clerk of the committee they will be distributed.

Mr. HARRIS. I will be very glad to. If you care to have me, I am going to make comments on this as I go along.

The CHAIRMAN. Are you going to read a paper?

Mr. HARRIS. No, sir. I am going to make comments on it as I go along.

The first recommendation that I have to offer is that section 211 of the revenue act of 1918 be amended to include contributions and gifts by individuals to certain associations in addition to those already provided by law.

In that I think we should include patriotic and memorial purposes of chambers of commerce and civic bodies, in addition to those that have already been stipulated.

The same thing should be done as to corporations. Corporations are not allowed to deduct anything for contributions.

I want to say to the committee right now that there are several thorns that are in the sides of the taxpaying public. They are minor and do not amount to a great deal, but if those little thorns are removed or extracted there will be less opposition to the present methods of taxation—

The CHAIRMAN. I want to tell you right here that gifts by corporations led to the gravest abuses and frequently to scandals, and the committee deliberately declined to exempt gifts from corporations for that reason.

Mr. HARRIS. I appreciate that, Senator.

The CHAIRMAN. And I doubt very much whether Congress could ever be induced to permit them to be tax-free.

I wish you would explain to this committee why a copper company, for instance—

Mr. HARRIS. What kind of a company, Senator?

The CHAIRMAN. Any industrial concern; an automobile company, for instance. Why should the board of directors of that company make a contribution to the starving people of Poland, for instance, or of Hungary? I do not pick out those nationalities in an invidious sense. What right have they to use my money or your money invested in the corporation for purposes that, in the estimation of twelve men, are philanthropic?

Mr. HARRIS. Gentlemen, there is a condition back of all this that I think is necessary. The Middletown Association of Commerce, representing about 20,000 people in the city of Middletown, raised \$1,000,000 for a civic fund. Any corporation that refused to contribute to that fund would be ostracised. If there had been a shoe store or a clothing store, for instance, that did not contribute, I presume that not a person in Middletown would go inside the doors of that store.

The CHAIRMAN. The answer to that is that the stockholders can contribute individually. They have that right.

Mr. HARRIS. How about a large corporation such as the American T. & T. that have about 140,000 stockholders?

The CHAIRMAN. I am only telling you before you go along—

Mr. HARRIS. I appreciate that; I know just exactly what the reason was. I was in the revenue service in Washington and also in Chicago. I was the only certified public accountant in the division here and in the division in Chicago and I know this great discomfiture which causes a great deal of antagonism toward the law with reference to these donations. They pay a tax upon a gift. A donation to a policemen's benefit is a business expense. You have to give it. A man comes into your office, or a woman comes into your office, and you have to give them \$5 or \$10 or \$25. If you do not you are discriminated against by those people. You have to give it. It is a necessary expense.

I suggest and I recommend that that matter be seriously considered.

I recommend that you allow deductions the same as on individuals, up to 10 per cent on corporation incomes.

Take the flood conditions. It was considered a necessary expense to contribute in that case; and then they were not allowed to deduct that, and it was put back into their income and a tax paid upon it.

The same with the Salvation Army in Chicago and the Young Men's Christian Association. I give in my brief a list of corporations who contributed to our association during the war work campaign.

Senator SIMMONS. If the witness will pardon me, I think the committee gets his point and I suggest that he go on to the enumeration of some other objection.

Mr. HARRIS. All right.

Senator SIMMONS. Some of us can not remain and hear you indefinitely, and we want to get the substance of what you have to say without any elaboration or argument. We get your point.

Mr. HARRIS. I want to bring out just one point, and that is that the Salvation Army says that corporations have fallen off in their contributions to this organization from 600 to 2,000 per cent since the year 1918.

I have another recommendation, and that is that section 204 of the revenue act of 1918 be amended to extend to any taxable year beginning on or after February 1, 1919, but that the net loss be always carried forward, never backward. That is, if a corporation has lost this year it can take that loss and offset the profit of the following year, so that if the corporation is not earning and the capital stock is impaired the loss can be offset against subsequent profit and the capital restored before there is any tax. Otherwise you are taxing the capital of your organization and your tax is solely upon income.

Senator SIMMONS. In other words, you mean that if you sustain a loss one year and it is not taken up that year you should pay no more tax until it is taken up?

Mr. HARRIS. Not exactly, Senator; No. Limit that to two years. Deduct it only for the next two years. You can not have an indefinite deduction, but allow the corporation two years in which to make that loss good.

Senator SIMMONS. I think I understand it.

Mr. HARRIS. The next recommendation is that corporate dividends be exempted from surtax in the hands of the recipient shareholders.

Senator SIMMONS. Corporate dividends?

Mr. HARRIS. Be exempted from surtax in the hands of the recipient shareholders.

I understand that there has been presented in the House a bill which will result in an amendment to the Constitution which will make the States give up their sovereign rights and allow their securities to be taxed. I do not think it will ever go through, and the only thing is to make your tax-free securities in some way negligible and undesirable. The average business man to-day, when he begins to draw heavily on his income from dividends and other sources, gets tired of paying a heavy tax and he withdraws from business. Successful men are withdrawing from business, and we need them in the financial and industrial world to-day.

If you will withdraw the tax on dividends in the hands of the recipients—in other words, if you will put a heavier tax upon the corporation, upon the net income of the corporation—and allow the dividends when they are received by the recipients to be tax free, a larger part of those dividends fall into the hands of people that are exempt entirely. They practically fall into the hands of thousands that do not pay very much surtax, so that when you get through there is not very much that results in the way of revenue to the Government.

There are a great many close corporations. The majority of them are close corporations. You will find that a man's main objection is, "I do not like to pay these Government taxes and then turn around and pay a tax when I get dividends from that corporation. I do not believe in that kind of taxation."

That is what the average man says. If you will relieve that tax on the dividends and increase it on the corporation, the tendency will be to revert into the common stock or the active capital of the business and you will not need to pass any amendment to the Constitution. A man is perfectly willing to pay an additional tax on the corporation, but he does not like this reaction on his own personal income.

Senator WATSON. We understand that.

Mr. HARRIS. I recommend that the law should specifically provide that, for the purpose of computing invested capital, depreciation should be charged off ratably from the date of acquisition of the assets.

This is recommendation No. 6. There is a provision in the regulations that provides for the manner in which depreciation shall be computed, but there is nothing in the law that requires it. I presume that there are 98 per cent of our corporate returns filed that are erroneous. I made that statement in a speech not long ago before a certain association of commerce, and a man said, "I object to that." I said, "Why?" He said, "I was two years in the bureau and I never found a return correct."

If 100 per cent are erroneous, I believe there are 75 per cent that are erroneous because of depreciation. There is nothing in the law that tells a man how to figure his depreciation, and he has never accrued it.

Therefore I think that the law should set it out clearly just how to figure it out, and embody a provision in the law that it should be figured from the date of acquisition of the assets.

Senator WATSON. Does that make very much difference?

Mr. HARRIS. It is the practice of the department. The department is working on that. They are correcting every return that

comes in to them. The average man has not figured that. When you come back and ask for an additional assessment he goes straight up in the air and says, "Where do you find it in the law"? He says, "What am I going to do? If they tell me how they want it, I am willing to do it, but, great heavens, I do not know how to do it." If you make an amendment to that effect you are going to eliminate one of the greatest objections there is to the tax conditions to-day, because I maintain that 75 per cent of the erroneous corporation returns are due entirely to depreciation.

The courts have ruled on it in that manner, the department is basing its returns in that manner, and the accountants are agreed on it, but still it has never been in the law. The law is 90 per cent administration, anyway.

Senator WATSON. Yes; you are right about that.

Mr. HARRIS. I recommend that the prohibition enforcement division be taken from the Internal Revenue Bureau.

Senator WATSON. What difference does that make on a question of taxation?

Mr. HARRIS. It is taking the time of the commissioner from his duty in administering the other portions of the law—

Senator WATSON. We are all in favor of that.

Mr. HARRIS. That is very good.

Senator WATSON. So far as the tax is concerned I do not think it makes any difference.

Mr. HARRIS. I recommend that the law be specific in taxing the dues and fees of clubs and societies, and that the amount of any money paid by the members of any such organization for permanent improvements should not be taxed, because of its nature as a capital expenditure.

Gentlemen, how many of you belong to clubs that have put in a new golf link or made any other permanent improvement and been assessed and have had to pay \$500 or \$1,000 and had to pay 10 per cent for a tax upon that due? That is administration. It is not in the law. The department has administered it in that manner.

What I am saying is this, that the Hamilton Club, or a dozen other clubs around Chicago, have all been in that same category.

I know of one or two clubs that have never assessed that 10 per cent tax, and now they have got to go back and pay it. Some of them have sold their holdings in the meantime.

There should be something in the law to exempt a capital expenditure, because the income tax is not based on capital but on income; and for permanent improvements, whether there are additional assessments or dues in the nature of an assessment of the members, it does not make any difference, it is capital and should be exempted. It is a capital expenditure.

Is there anything that you want to ask?

Senator WATSON. No. I see that your recommendation No. 5 is against the repeal of the excess-profits tax. I wish you would give your reasons why the excess-profits tax should not be repealed. That seems to me to be the most important of your propositions as they are laid down in your book.

Mr. HARRIS. I think one of the most important is that dividend situation, too, Senator.

The excess-profits tax, I believe to be perfectly fair and just, and I think that the excess-profits tax is going to die out. It is going



to become smaller and smaller. The excess-profits tax of the ordinary corporation is dwindling, because the corporation is building up its investment, and it is building up its investment no matter how it increases its earnings. The excess-profits tax is not going to be of much value. It is going to be more and more negligible, as to the older corporations. I say, pay an excess tax based on the privilege and the support and the protection that is given them by their Government, and pay in proportion to their excess earnings. I am a firm supporter of the excess-profits tax.

Senator WATSON. What advantage is it if it is not going to provide any revenue? You say we will not get any revenue from it.

Mr. HARRIS. We are going to get the revenue from the newer corporations. From the old ones you will not. For the next two years you can get more revenue than out of a sales tax, and that is by going down to the Bureau of Internal Revenue and getting those returns adjusted, audited, and passed. There are to-day in the bureau here over 4,000,000 1918 returns upon which the bureau is assessing about \$50,000,000 a month, or will assess that when they strike the 1918 returns. In three years you are going to collect between \$2,300,000,000 and \$3,300,000,000 over and above the amount originally paid. If you increase the force, give them an appropriation to let them get those returns out of their system and get them through with, you are going to bring that money right back in and at a lower cost of operation than if you string it out. By so doing you are also going to relieve the credit situation of the country.

There is not a bank that will to-day loan money and there is not a large credit company that will loan credit unless there is something done to estimate the Federal taxes for 1918, 1919, and 1920. When they do that it means that they must go back and pay large fees to get those cases adjusted. The bankers tell me, "We do not know where we stand to-day, and when we loan money we do not know whether we are loaning it on a bankruptcy or not, because the 1918, 1919, and 1920 returns have not yet been reviewed."

Senator WATSON. We understand that thoroughly. What I am trying to get at is, what has that got to do with the excess-profits tax?

Mr. HARRIS. It has this, that they are talking about sales tax, unrestricted earnings tax, and other taxes to take the place of excess profits. If you will allow the excess-profits tax to remain as it is and put in the department more money to collect the tax, you are going to make up the deficit right there for the next two years; and then by that time let us hope that the Government's expenditures will drop a little bit, so that the excess-profits tax as then administered, as now on the books, will go ahead and provide sufficient revenue to run the Government.

Senator McCUMBER. What have you to say with reference to the inducement of a new corporation to enter into business, which is always uncertain where anything above 15 per cent of profit will be excessively taxed? Will it tend to induce people to go into new business if you retain this excess-profits tax, or will it exclude a great many that otherwise would take the chance?

Mr. HARRIS. Senator, it is not a question of chance; it is a question of necessity, and a question of continuing and working that out in practice. A man came into my office the other day and said, "Mr. Harris, I have a problem now. Shall I incorporate my partnership or let it remain as it is?" I said, "What are your conditions?" He

said, "We are making \$160,000 a year on about \$60,000 investment. But, here is my condition: If I pay that money out and am taxed upon it as a partnership, I am going to be taxed heavier than if I am taxed as a corporation, because I want to accumulate my money in that business."

Senator McCUMBER. I do not believe you understood at least the purport of my question. It is not a question of a business in existence already, whether it be a partnership or otherwise. But here I am contemplating going into business. I have my entire capital in that business. I may make quite a little above the 8 per cent; I may lose; and unless there is an inducement to make more than the 8 per cent, I would never think of going into that business at all. You say there is no element of chance. But it is a chance of placing my entire capital that I invest as against a possibility of entire loss or against making the promise of at least making more than the 8 per cent. What effect would it have upon new business, upon people who want to go into business in retaining this excess-profits tax?

Mr. HARRIS. I can not see that it makes a bit of difference, if a man is going into business and the opportunities are there, the excess-profits tax gives you the privilege of fair return upon the capital invested; and with that in view he knows that the amount of money he makes over and above that is taxed at a graduated rate, not a rate that is taking everything, but simply a graduated rate that is based on the difference, and I can not see that it will make a bit of difference.

I have had that put before me several times in just about that way, and men will say, "Shall we go into a partnership, or shall we go into a corporation?" I have replied, "If you are going to retain your money in the corporation to build up capital, go into a corporation; if you are going to distribute your earnings to a great extent, go into a partnership." But it is not going to have any retarding effect upon business in general, and none upon business embarking.

Senator McCUMBER. Of course, if it was true that any person contemplating organizing a business would be assured he would make 8 per cent, it would not make any difference. But when he places the possibility of loss of his capital entirely, and his placing it against a possibility also of a gain much in excess of 8 per cent, that is a real question that confronts the average man when he goes into business, it seems to me.

Mr. HARRIS. The average man will tell you, Senator, when he contemplates entering business, "If I can make enough to pay excess-profits tax I am tickled to death, and I will go ahead and do it"; and that is the idea of the average man to-day, and I want to tell this committee, too, that as far as the idea of handing down to excess profits is concerned, I have never known where it could be handed down, except in one or two instances, in all the experience we have had. And your sales tax, I am afraid, is going to be handed down, and I do not believe in taking the taxes off of a corporation where the excess earnings are taxed and pulling that off and distributing it over to individuals and corporations to-day, and making the individual pay more than he is already paying.

Senator McCUMBER. You do not think there is anything in the proposition which has been put up to us by several witnesses and those claiming to be competent to testify, that the excess-profits taxes are handed down to us and pyramided until they add about 20 or 23 per cent?

Mr. HARRIS. If they could, why does a concern like Sears-Roebuck make a loss. If they could have recovered excess profits they would not have made a loss, and other concerns are in that same condition. You will find the average man will tell you, "I do not know what the taxes are going to be. But I am going to figure on it and I am going to set aside a half million dollars and let it go at that, because in many an industry they can only get so much for their goods, and it is a case of sale and producing for that sale, and it is not a question of price, except in a monopoly, and there they are going to put the price on, whether it is the excess-profits or sale tax. I do, however, want to voice the objection and my protest about undistributed earnings tax on corporations, because I do think that that will put a penalty on conservatism; and I believe you know what I mean—the undistributed earnings?"

**STATEMENT OF FRANK E. SEIDMAN, OF SEIDMAN & SEIDMAN, CERTIFIED PUBLIC ACCOUNTANTS AND TAX EXPERTS, OF NEW YORK, CHICAGO, WASHINGTON, AND GRAND RAPIDS.**

Mr. SEIDMAN. I am a certified public accountant of New York and Michigan.

Senator McCUMBER. And you want to discuss the tax on undistributed earnings of corporations particularly?

Mr. SEIDMAN. Yes, sir.

Senator McCUMBER. Very well, the committee will be very glad to hear you.

Mr. SEIDMAN. It is becoming apparent that sentiment is definitely against the continuation of the excess-profits tax. President Harding, Secretary Mellon, and many of the leaders of the Senate and House have publicly announced their attitude in this respect. I will not at present hold a brief for or against the excess-profits tax, but I will assume in the course of my discussion that the excess-profits tax will be eliminated.

One of the main objections to the excess-profits tax law is the artificial method used in taxing different forms of organizations. The present law taxes one form of organization on one basis and another form on another basis; as a result, two business institutions may have the same profit for a year, the same capital invested for a year, and yet one may be taxed ten times as much as the other, just because one is organized as a corporation and the other is organized as a partnership or as an individual. This inequity is largely brought about by the fact that the individual as a taxable unit is not definitely established.

The present law taxes, in cases of individuals and partnerships, the individual as a unit, whereas in the case of corporations, which are nothing but an aggregation or association of individuals, it taxes the business as a unit. It is obvious that no matter under what form business is carried on it is the individual and not the business that makes the profit or the loss. While a corporation consisting of a thousand stockholders may make a million dollars in profit, the corporation, as such, makes nothing for itself, but all of its earnings go directly or indirectly to its owners. If, therefore, we desire to get the most equitable results in the prospective taxation program, it is my opinion that the individual should throughout be the taxable unit. It is only in this way that we will overcome the one great inequality of the present revenue law.

Senator WATSON. Do you object to all tax on corporation income?  
Mr. SEIDMAN. No, sir. I will come to that, Senator.

It is apparent that if the excess-profits tax is removed some method must be devised for taxing corporate profits. If no substitute is provided for the taxation of corporate profits, and the income tax on individuals and partnership continues, as it surely will and ought to, an inequality will result even more flagrant than under the present taxation scheme.

Furthermore, it will be but a very short time before the income tax would lose its productivity, for everybody in the position to do so would incorporate, and thus escape income tax liability.

Not only must corporations be taxed, but they must be taxed at approximately the same rates as the individuals owning the corporations would be taxed on their proportionate shares of the profits of the business.

Two plans for taxing corporate profits have been suggested: First, a straight income tax of from 10 to 16 per cent on the total net income of corporations; second, a tax on the profits made by the corporation and undistributed to its stockholders.

The straight income tax on corporations is conclusively open to both objections stated before: First, that of taxing the business as a unit without relation to the incomes of the individuals for whom the corporate earnings are made; and, second, that it will place an arbitrary tax rate on corporate profits not commensurate with the tax rates applicable to businesses conducted as partnerships or individuals.

Senator WATSON. Your theory is, then, broadly speaking, that the individual should be made the unit of taxation?

Mr. SEIDMAN. Absolutely, throughout, because it is the individual only that makes profit or loss, no matter what form of organization you run your business under.

Senator McCUMBER. You are getting a double taxation: First, taxing the corporation and then taxing what is left in the hands of the individual in his income tax, of course.

Mr. SEIDMAN. No; if you will allow me, Senator, you will find it will be equitably washed out.

The present law taxes individuals and members of partnerships on their total income, whether or not such income is withdrawn from the business. If this principle could be extended to apply to corporate profits made for shareholders, full equality would be realized. To accomplish that end, I propose the following taxation plan:

Corporations shall not be required to pay any income tax whatsoever as such on profits made and distributed to its shareholders out of current profits. On all such profits distributed the individual should be required to include the total dividends in his income and pay the full normal tax and surtaxes, thus paying in full for the corporate profits by the individual stockholder for that proportion which has been distributed to him.

If the corporation distributes all the current profits in dividends, then the corporation will pay no tax whatsoever on income.

Senator WATSON. What do you do with the undistributed profits?

Mr. SEIDMAN. I am coming to that, Senator.

If the individual will have received his full proportion of the total profits made for by him by the corporation, and therefore the

Government will have received the full tax on account of the profits made for him by the corporation. then the corporation pays no tax; on the other hand, if the corporation retains any of its profits, and as a result withholds the income from the individual, thus withholding the tax from the Government, then the corporation shall be required to pay a tax on such undistributed profits at rates approximately equivalent to the rates that the individual stockholders would have had to pay if they had received the income.

Senator McCUMBER. How on earth will you get at that, because if a very small stockholder with a very small income, he pays nothing; and if he is a very large stockholder with a very large income, he pays both the regular income tax and the surtax.

Mr. SEIDMAN. Senator, our firm has tried to give thorough consideration to just that element, because it is the mainstay of the undistributed tax program. The only way that that can be accomplished is to arrive at averages, from studies of the present-income tax reports to determine, first, the proportion of corporate income so distributed; second, what is the average income of the average of all stockholders in all stock corporations. From such a study we have constructed a rate schedule.

Senator REED. Let me ask you this: We will take a corporation that has \$10,000,000 capital and I own it all, except one or two shares that are parceled out for the purpose of preserving the corporation. In that event, if you took the average of all corporations, I could make a great deal of money, could I not, by the process?

Mr. SEIDMAN. No, sir.

Senator REED. I could not in that case, because I would have to pay it on my income. However, suppose there were a very large number of stockholders, and I was still the principal stockholder?

Mr. SEIDMAN. I have a plan whereby you will pay your full taxes before we get through with you.

Senator REED. All right. I did not want to interrupt you.

Mr. SEIDMAN. We have prepared a rate schedule, based upon the average corporation—the average individual income, and the average portion of undistributed profits in the past retained by corporations. I will just hand you one of these schedules so that you can follow me in your computations.

Mr. SEIDMAN. I will submit a copy of my brief, which contains the schedule.

We will assume that a corporation makes a profit of \$100,000 and distributes during the year 1921 \$75,000 of that profit. I would construct a rate schedule based upon what the tax would be if no profit was distributed at all, on this basis: The first 5 per cent of the total profit would bear 4 per cent tax, which is the minimum under the present income-tax schedule; the next 10 per cent possibly a 6 per cent rate, the next 15 per cent of the total corporate profits 9 per cent, etc., as shown by the schedule. That simply means this: That if a corporation distributes none of its income it will have to pay a tax based upon these rates, which are equivalent to the average tax that the individual stockholders would have had to pay if they had received this income.

I do not submit this schedule as definite or final; it can be constructed scientifically by the Treasury Department, which has plenty of records to develop a proper rate schedule from. The theory,

however, is this, that the proportion of corporate profits retained in the corporation shall pay a tax on the same basis as the individual who received that income would have paid; so that if a corporation made \$100,000 a year and paid out \$75,000 a year, that \$75,000 should be applied against the lowest rates first; that is, the first bracket shall absorb the first 5 per cent, because if the individual gets that it comes in on his lowest bracket; the next 10 per cent shall absorb the next highest bracket, etc., so that what remains of corporate undistributed profits is taxed at the maximum brackets, because if the individual had received it it would come on top of all his other income.

So that the basic principle in this rate schedule is, first, that the tax rates are progressive in proportion to the individual tax rates; second, that the first earnings are applied against dividends, so that the balance of the earnings are taxed at the higher rates.

Even at that stage, you might say, an individual owning a corporation entirely under this scheme would be taxed about 20 per cent, yet if he conducted it as a partnership or individual he might be taxed as high as 40 or 50 per cent. What then? My method of taking care of that inequality is as follows—and I will exemplify that by continuing the example which I have given before:

Suppose in 1922 this corporation that had retained this \$25,000 of income decides to distribute the balance of that \$25,000. Now, the corporation has already paid an undistributed profits tax on that at an average of about 28 per cent of that portion of the income which has been withheld. If the individual receiving that has to put that into his tax return and compute the tax all over again, there would be double taxation.

My plan, then, for taking care of that inequality is this: To include all corporate dividends received by individuals upon which an undistributed profits tax had heretofore been paid as income taxable both for normal taxes and surtax purposes, but to allow individuals to deduct from their total tax due as a credit the average percentage of tax paid for them on such undistributed profits by the corporation. In that way any corporation that retains part of the profit because of the fact that some individual controlling that corporation might get a benefit will not get very far, for the individual will have to pay his additional surtaxes when he withdraws those dividends, because of the fact that he will have to include all of his dividends as taxable income and only be allowed whatever percentage the corporation paid for him on that income.

Does that answer your question, Senator?

Senator REED. It is too complicated for me to follow in that way.

Mr. SEIDMAN. While it may sound complicated, Senator, when put down in black and white it is very simple. It certainly will be vastly simpler than the excess-profits tax or the determination of invested capital under the present law.

So that by this method the individual taxpayer will automatically adjust the tax paid for him by the corporation to the actual taxes due from him based upon his own income and his own tax class.

Senator McCUMBER. Suppose that \$25,000 is not drawn in the next five years?

Mr. SEIDMAN. I have a limitation on that.

For the practical application of the tax credit principle suggested, it will be necessary to limit the period within which individuals will be entitled to take credit for undistributed taxes paid for them. If credit were allowed for an indefinite period, too many complications and uncertainties would result.

It is suggested, therefore, that stockholders be allowed to credit undistributed profits taxes paid for them by corporations only if the corporation distributed such profits within three years after the close of the year during which such profits were earned.

Senator McCUMBER. Assuming that this corporation after paying the \$75,000 in the first year it earned it, and the \$25,000 in the subsequent year; assuming it pays an additional amount over and above those earnings; in other words, earnings that come out of a year prior to the establishment of the proposed undistributed profits tax, what then?

Mr. SEIDMAN. Any tax paid out of earnings from years prior to the establishment of the undistributed profits tax should be taxed exactly the same way as they are at present; that is, for surtax purposes only; in other words, they should be taxed in the same way as when the existing law at the time the profits were earned required it to be taxed. In this way it will not allow taxpayers to get advantage at the present time because of change in the laws. Certain taxpayers or certain corporations have withheld the distribution of profits in order that the individuals shall save taxes. There ought to be nothing done under the proposed laws to give those corporations an advantage by excluding or diminishing any tax that the individuals would have to pay on such distribution.

In the determination of the order in which earnings are distributed, the law should provide that dividends be distributed out of the earliest profits first; also all dividends distributed within four months after the close of any taxable year shall be treated as if the distribution took place during the previous taxable year.

By this principle a corporation will have three years in which to distribute any one year's earnings before the tax credit right elapses. In that way it will give corporations, first, an incentive to distribute profits as high as they can; and, second, it will give them time enough to distribute all their profits without forcing undue distribution. That is based on the principle of distributing at least 33½ per cent of the total profits each year, which statistics show is certainly the minimum distribution.

In the same way individuals reporting profits for any given year shall be required to include all dividends received by them within four months after the close of their taxable year as income for the prior taxable year. This four-month's provision is put in so that a corporation will have time to determine what its earnings were for the year, what the proportion of profits they wish to distribute in dividends, and to decide the entire stockholders distribution policy before the stockholder is estopped from taking whatever dividend the company may make, in the year in which the earnings were made.

There are a number of questions that come up in connection with this plan:

First, what to do with tax-exempt income. The corporation making \$100,000 a year, \$10,000 of that amount might be income

from Liberty bonds or from municipal bonds. That is a necessary evil which has got to be contended with. The present law is notoriously inconsistent in this regard: It recognizes tax-exempt corporate income, but only while that income remains in the corporation. As soon as distributions of corporate profits are made, however, it deems the tax-exempt income to have been merged with the taxable income. It then taxes the stockholders on the total distribution, even though originally tax exempt. Thus the stockholders are required to pay a tax, as such, on tax-exempt income, notwithstanding the fact that the income was originally nontaxable to the corporation.

In order to eliminate this inequity, I propose that corporations be required to distribute the tax-exempt income first, and that individuals receiving such tax-exempt income exclude it from their taxable income. In this way the inequity now existing in the treatment of tax-exempt income will be eliminated.

It should be noted that the rate schedule submitted by me is based on taxable income only; hence, the undistributed profits tax calculation will not be affected by this question of tax-exempt income.

Now, from my plan so far explained, it is apparent that what I am trying to accomplish is to tax corporations in exactly the same manner, with exactly the same results as if the business was carried on by an individual or by a partnership. The intent of the plan is to equalize the tax on profits so that there will be no advantage or disadvantage of one form of organization as compared with another in so far as the taxation of profits is concerned.

Now, in order to bring that about, an important point must be taken into consideration, in addition to those that I have mentioned, and that is, how corporate losses shall be treated in relation to the individual stockholders.

Under the income-tax law individuals incurring losses from one source may deduct them from profits derived from other sources, and report the net difference between such profits and losses in taxable incomes.

Since corporations can not declare negative dividends, a method must be found to allow corporate stockholders the equivalent benefit on account of losses incurred by corporations in which they are stockholders. Otherwise, we will again have the inequality of taxing income to individuals and members of partnerships on a different basis than individuals participating in corporate profits.

To accomplish this end, I suggest that corporate losses during any year be applied against the corporate profits of the immediately previous year upon which an undistributed profits tax has been paid.

Senator McCUMBER. That the losses of one year should be applied to the previous year's profits?

Mr. SEIDMAN. Yes; and, further, if such losses do not absorb the entire profits, they shall be applied to the immediately succeeding year on which an undistributed profits tax is paid. By this method corporations will be permitted to apply losses against previous and subsequent taxable profits. Thus, in effect, the stockholders will be given credit for such losses, by having refunded to them taxes paid on profits, or having abated subsequent taxes payable on profits.



Another very important factor to determine in connection with any undistributed profits tax is, what constitutes distribution? In order to give corporations a wide latitude in the method of distributing their profits, it is suggested that all forms of distribution made to stockholders, whether they be through paid-in surplus, preferred stock, interest or noninterest bearing indebtedness, or any other form of distribution which will be recognized by the law and held by the courts to be taxable to the individual, be treated as a distribution of corporate income. In this way corporations will be given credit in the computation of the undistributed profits tax, for all distributions on which individuals will be taxed.

Before leaving the subject of corporate taxation, it should be emphasized that the Federal Government ought to obtain a larger revenue from corporations, as such, merely for the privilege of doing business as a corporation. That is an advantage which a corporation has over a partnership or individual, and that advantage ought to be taxed. That advantage is taxed now, but in my opinion at an insufficient rate to yield the Government sufficient revenue for the advantage gained by the corporation. This can best be done, perhaps, by increasing the capital-stock tax. In this connection, however, a more definite method should be laid down for the determination of "fair value of capital stock."

The capital-stock tax is based upon the fair value of the capital stock as of a given date. Fair value is not defined by the law. It is left to administration. The method of arriving at fair value as laid down by the Treasury Department regulations is open to serious objection.

I have written an article on this subject a short while ago, of which I have a reprint here, which points out the shortcomings of the present capital-stock tax law and provides for certain remedies to be included. I recommend a change in the revenue act to eliminate such inconsistencies and inequalities as now exist in the law, and suggest the recommendations made in this article as a guide for the new law.

Senator McCUMBER. It will be inserted.

Mr. SEIDMAN. To summarize, then, in a few words, my proposed plan provides:

First. That corporations pay no taxes whatsoever on profits made during any taxable year and distributed within four months thereafter.

Second. That for all current profits remaining undistributed, the corporation pay a tax at rates approximating the rates which the individual stockholders would have had to pay if they had received the profits undistributed. Such rates I have calculated roughly in the schedule submitted.

Third. That individuals receiving corporate dividends include the entire amount as taxable income, and that they be allowed to deduct from their total tax paid by them that proportion of taxes which the corporation has paid on the income which they would have received.

Fourth. In the determination of the order in which earnings are distributed the law should provide that dividends be distributed out

of the earliest profits first; also, all dividends distributed within four months after the close of any taxable year shall be treated as if distributions took place during the previous taxable year.

Fifth. That a time limit of three years be placed on the right to take the undistributed profits credit by the stockholders.

Sixth. That all dividends paid out of profits prior to the inauguration of the undistributed profits tax law be included as taxable income for surtax purposes only, which would be in accord with the law as existing when the profits were made.

Seventh. That corporations be required to advise stockholders as to which year's earnings are distributed and the average undistributed profits tax rate, if any, paid on such earnings by the corporation.

Eighth. That stockholders include in income for their previous taxable year all dividends received from corporations within four months after the close of such taxable year.

Ninth. That all tax-exempt corporate income be deemed to be distributed first and that individuals receiving such tax-exempt income exclude it from their taxable income.

Tenth. That corporate losses during any year be applied to corporate profits of the year immediately preceding, upon which an undistributed profits tax has been paid, and that losses in any one year over and above the undistributed profits of the immediately previous year be applied against undistributed profits of the immediate succeeding year.

Eleventh. For the purpose of determining distributed profits, there shall be construed as a distribution of earnings all dividends, in whatever form made, which shall be defined by the law and sustained by the courts as taxable to the individual.

Twelfth. That corporations be required to file undistributed profits tax returns within six months after the close of their taxable years, reporting in conformity with the proposed plan, and that individuals be required to file their individual income-tax returns within six months after the close of their taxable year.

It is necessary to shift that tax date to six months instead of the present 75 days, in order to be able to take in these dividends that would be distributed subsequent to the close of the year out of the previous year's earnings, within four months of the close of the year.

Thirteenth. That the capital stock tax provision of the revenue act be remodeled, and that the rate be increased in order to produce additional revenue for the Government.

I have made an estimate of the revenue that this plan will produce, in so far as the undistributed profits tax is concerned. It has been estimated that the total corporate income in the year 1919 was \$10,000,000,000. For the purpose of arriving at this year's probable corporation profits I have assumed a decrease of \$2,000,000,000 in the net profits, leaving \$8,000,000,000 as probable profits. It is estimated that corporations declare in dividends on an average 65 per cent of their net profits, thus leaving 35 per cent of \$8,000,000,000 taxable to the corporation under the proposed undistributed-profits tax. Such 35 per cent would be taxed at the rate, as shown in my schedule, ranging from 23 per cent to 30 per cent, or an average of approximately 27 per cent. Twenty-seven per cent of the 35 per cent of \$8,000,000,000 income will yield a revenue of about \$750,000,000.

Now, the question might arise that in the face of having to pay an undistributed-profits tax the corporations would distribute all their income and pay no tax. Then the Government would get the equivalent revenue from the individual, because the individual would have to include it on top of his other income, and therefore pay approximately the same rate as the corporation would have had to pay.

I believe that is all, Mr. Chairman. I should like to insert this brief in the record.

**BRIEF OF FRANK E. SEIDMAN, OF SEIDMAN & SEIDMAN, CERTIFIED PUBLIC ACCOUNTANTS.**

**CAPITAL-STOCK TAX SHORTCOMINGS—SOME PROPOSED REMEDIES.**

**THE CAPITAL-STOCK TAX.**

Considerable has been written in the last few years on the question of taxation. Discussion has centered largely, however, on the income and excess-profits taxes apparently because of their high rates and the fact that they come closer to the general public. As a result, the so-called minor methods of taxation have received very little analysis or publicity. One of the important taxes affecting corporations that have been so overlooked is the capital-stock tax.

While the amount of this tax is comparatively small, in the light of present day taxes, yet, in many cases, the tax is levied out of proportion to the corporation's ability to pay it.

The question is of especial interest at this time, for the law requires all corporations to file their tax reports, valuing their capital stock, in the coming month.

Section 1000 of the revenue act of 1918 provides that:

"Every domestic corporation shall pay annually a special excise tax with respect to carrying on or doing business, equivalent to \$1 for each \$1,000 of so much of the fair average value of its capital stock for the preceding year, ended June 30 as in excess of \$5,000."

Business men will readily recognize that in the three words "Fair average value" (not the par value) of stock is tied up an interpretation of our entire economic and financial laws. The determination of fair value has been the subject of more controversy than almost any other factor in business life. Our courts, public utilities commissions, and stock markets are continually attempting to determine fair value.

**THE PROBLEM OF "FAIR VALUE."**

Before the fair value of a share of stock can be determined many factors must be analyzed: The asset value, earning power, dividends paid, the value of money, the local political situation, the foreign situation as related to the general economic structure and as related to the particular business of the company in question, the question of supply and demand of the particular product, past history of the business and future prospects, the liquidity of its assets, the amount it has expended to create good will for the future at the expense of the past, the history of its growth of sales, and the personal equation of the organization. These are a few of the general factors which, in all cases, must be thoroughly gone into before any idea can be gained as to the fair value of a given security.

The complexity of the determination of fair value is apparent when one considers that all the above factors must be studied, analyzed, developed, and weighted so that they will be reflected in the value arrived at. Yet, the Treasury regulations ask corporations to place a value on their securities by rule of thumb methods.

In attempting to administer the law, the Internal Revenue Department has issued the following regulation:

"ART. 102. *Fair value of capital stock.*—The fair average value of capital stock for the purpose of determining the amount of the capital stock tax must not be confused with the market value of the shares of stock where it may be necessary to determine such value under other provisions of the revenue laws. The fair average value of capital stock, the statutory basis of the tax, is not necessarily the book value, or a value based on prices realized in current sales of shares of stock, or even the earning value, although it is often more directly dependent upon the last. It should usually be capable of appraisal by officers of the corporation having special knowledge of the affairs of the corporation and general knowledge of the line of business in which it is engaged.

"Provision is accordingly made in Exhibit C of Form 707 (revised) for the tentative determination of the fair value of the capital stock by capitalizing the net earnings of the corporation on a percentage basis fixed by its officers as fairly representing the conditions obtaining in the trade and in the locality. If possible, illustrations drawn from similar corporations should be cited in support of the percentage adopted. But such fair value, except in the case of insurance companies, must not be set at a sum less than the reconstructed book value shown by Exhibit A unless the corporation is materially affected by extraordinary conditions which support a lower figure, which, however, under any conditions could only be slightly less than such reconstructed book value. In any case a full explanation must accompany the return. The commissioner will estimate the fair value of the capital stock in cases regarded as involving any understatement or undervaluation."

To determine the book value, earning value, or market value the department requests three exhibits, known as Exhibits A, B, and C.

Under Exhibit A the department requires a balance sheet of the company, as shown by the books at the end of the year, and provides for the reconstruction of all items of asset and liability, so as to reflect their true value if these values differ from that shown by the books.

Exhibit B provides for a record of market value of the company's securities if they were listed on an exchange or traded in during the year.

Exhibit C provides for a 5-year history of the net profits of the company immediately prior to the date of the return. A valuation is then required to be placed upon the earnings so determined by capitalizing the average earnings so shown by this exhibit at such a rate as will, under the conditions existing at the time the report is made, command par for the securities on which these earnings are applicable.

#### GOVERNMENTAL INCONSISTENCIES.

Let us analyze just what these comparative bases mean. It will be noted that in reporting the balance sheet (Exhibit A) the tax form and regulations require a balance sheet as at the end of the year, yet the law specifically requires that the tax be assessed upon the "fair average value" during the year. If, for instance, a corporation has not distributed its profits during the year, or if it has acquired additional capital during the year, it will be taxed on the basis of its status at the end of the year. Thus the regulations entirely ignore the fact that the corporation's status during the year may have been considerably different from that at the close of the year.

In determining the value of the stock based upon the earning power of the company the department goes to the other extreme. It determines the fair average value of stock for the year upon the basis of the average earnings of the company during the last five years. Further, it does not require that the five years' earnings be analyzed in order to note whether the earnings of the company are declining or increasing, whether they are fluctuating or constant, whether they are due to abnormal conditions at one period or normal at another, but merely requires an arithmetical average. It is obvious that a material difference in valuation will result where the factors enumerated above vary, notwithstanding that the average earnings for five years are the same.

When the result of capitalizing the average five years' earnings as outlined above is arrived at, the department asks that this result be compared with the asset value as shown by Exhibit A, and unless extraordinary conditions prevail, the higher of these two valuations must be taken as a basis for taxation.

We see, therefore, that, on the one hand, the net asset value on a given date is used, and, on the other hand, the earning value as reflected by a 5-year history. Yet a comparison is made between these two results and a basis of "fair average value" for the year arrived at. The inconsistency is obvious.

In addition to the comparison of these two factors (the asset value and the earning value) the department prescribes a third method for determining fair average value, i. e., the market value. In this case the average selling price of a corporation's securities during the preceding year must be determined and this value used as the fair value of its stock.

Unquestionably, this method of valuation is the most direct and practical way of determining "fair average value." It is on an open market that every factor of valuation finds effect. So, unquestionably, as a general rule, market value reflects fair value. The department has, in most cases, recognized this fact, as it seldom takes exception to fair value determined through a real market value, even though such value is below either the asset or the earning value.

## WIDE VARIANCE OF VALUES.

A study of market values compared with asset values shows conclusively that in nearly all cases stock prices are largely below asset values, unless earnings support the assets. The present stock market quotations of public utility and railroad securities are excellent illustrations. Railroad and utility securities to-day are selling at from 40 to 60 per cent of their asset values. Yet, under the department's rulings, a railroad or public utility that does not have the benefit of having its securities on a market is taxed on the basis of its full asset value, notwithstanding that this is far above the fair value.

Even in cases where earnings are very large we find that rarely, if ever, will "fair value" as reflected by market prices approach asset values. The following comparison of stock market prices (New York Stock Exchange) and asset values of representative successful industrial companies brings out this fact:

	Net assets per share at Dec. 31, 1919.	Market value June 7.
American Agricultural Chemical.....	273	\$85
American Car and Foundry.....	135	135
American Locomotive.....	95	95
American Sugar Refining.....	125	125
American Woolen.....	100	100
Atlantic Gulf & West Indies.....	270	165
Central Leather.....	176	65
General Electric.....	165	144
International Harvester.....	215	123
National Biscuit.....	175	110
Pressed Steel Car.....	215	95
Railway Steel Spring.....	185	95
Republic Iron & Steel.....	212	90
United States Rubber.....	167	95
United States Steel.....	210	92
Virginia-Carolina Chemical.....	186	75

Unfortunately, only a small proportion of our corporations have securities listed or traded in. As a result, every close corporation in this country that has not the benefit of a market for its securities is taxed on the basis of its asset value if in excess of earning value, notwithstanding the fact that this asset value may not in any way reflect the fair average value of the stock as would be interpreted by a true market.

As provided by the law the tax is imposed upon every corporation that is "carrying on or doing business." In interpreting which corporations are carrying on or doing business the department holds that practically every corporation is doing business unless its activities are reduced to the holding and owning of property, the distribution of its avails, and the performance of only the acts necessary to continue that status.

While this interpretation is fair where a corporation either is or is not active, yet, where a corporation is but "partially" doing business a very grave injustice results. A case came to the attention of the writer recently which brings out forcefully the injustice of this interpretation of the law. A large timber-holding corporation owning millions of dollars of timber lands all over the country began operations on a very small tract, possibly not more than 1 per cent of its entire timber holdings. As a result of this minor operation of the company it laid itself open to taxation as an operating company based upon the entire valuation of its property, in spite of the fact that it really was only 1 per cent an operating company and 99 per cent a non-operating company. In valuing the stock for tax purposes the department insisted that present value of timber lands be used as a basis for arriving at its fair value, even though the company had neither real nor potential earnings to justify such a valuation. As a result this company was required to pay a very large tax for the privilege of operating a very small proportion of its assets.

This factor also exists in the case of partial holding companies. The department rules that where a company does nothing but hold the stock of another company it is not an operating company. Where, however, the holding company is partially operating, the entire corporate value is taxed as an operating company, notwithstanding the fact that only a portion of its assets are operating assets. The subsidiary

companies are taxed on the basis of their earning power and their assets. The holding company whose income in part consists of the income of subsidiary company and whose assets in part reflect the assets of the subsidiary through its stock ownership is also taxed, thus causing a duplication in tax.

#### SOME CHANGES PROPOSED.

How then, in face of the above difficulties, should the capital stock tax be determined?

As indicated heretofore, it is impossible to establish an absolute method. The following suggestions are made in an attempt to come as close to an equitable tax as possible without making the process impracticable:

First, that the various corporations reporting under the capital stock tax law be classified by trades or industries.

Second, that the Internal Revenue Department study the financial statements of all companies whose securities are listed on any stock exchange for the purpose of making comparisons of market price, asset value, and earning value of representative securities in each industry. This relation between earning value, asset value, and prices commanded by the securities of these representative corporations should be determined annually.

Third, that all close corporations whose securities are not sold on any exchange receive the benefit of being taxed on the basis of these representative corporations wherever it is apparent that it is unfair or impractical to base the value of a given corporation upon its own financial statements or operating history.

Fourth, in all cases where the asset value and earning value are widely apart that the remedy suggested under the above paragraph be applied in order to determine the true tax liability of the corporation. By asset value as used in this paragraph is meant the average value during the year and not the value at the end of the year. By earning value is meant the true earning value based upon the result of operations of a corporation as it reflects present or future conditions rather than past conditions.

The writer has found that in a good many cases a close approximation of true value (as reflected by market value) is arrived at by taking the average between the asset value and the earning value, where the asset value is considerably higher than the earning value. In other words, where a corporation has a large asset value and a consistently small earning power, it has been found that the market valuation of such a security will closely approach the average between the asset and the earning valuation.

Fifth, with respect to corporations that are only partially doing business it is suggested that where a corporation uses only a small portion of its capital investment in its business operations, such corporation should be taxed as doing business only on that portion of its plant or property which is being used for operating purposes. In other words, if a corporation owns \$100,000 of timber lands, and operates only \$1,000 of it, the corporation should be taxed on only 1 per cent of its valuation arrived at on the basis outlined above and not on the entire 100 per cent.

Sixth, in the case of partial holding companies it is suggested that stocks held in other corporations, and dividends received from such stocks (which are themselves subject to tax) should be excluded in determining the fair value of its outstanding stock.

If these methods were embodied in clear-cut regulations, it is the writer's opinion that taxation of capital stock would be put on a sounder base.

The above suggestions are made with the knowledge that they are not a "cure-all" for the entire shortcomings of the present capital stock taxation methods, but with the belief that they will help lessen the existing inequity in the assessment of the tax.

#### A PLAN FOR TAXATION OF CORPORATE PROFITS.

It is apparent that sentiment is definitely against a continuation of the excess-profits tax on corporations. President Harding, Secretary Mellon, and a number of the leaders of the Senate and House have publicly announced that they are in favor of the repeal of the excess-profits tax.

We may take it for granted, therefore, that the tax will be eliminated. A question arises as to what substitute should be provided.

One of the main objections to the present income and excess-profits tax law is the artificial method used in taxing different forms of business organizations. The present law taxes one form of organization on one basis and another form on another basis. As

a result two business institutions may have the same profit for a year and the same capital employed in the business; yet one may have to pay ten times as much in taxes as the other, depending wholly upon whether the business is carried on as an individual, a partnership, or a corporation.

This inequity is brought about largely by the fact that the individual as a taxable unit is not definitely established. The present law taxes, in the case of individuals and partnerships, the individual as the unit, whereas in the case of a corporation, which is nothing more than an association of individuals, it taxes the business as the unit.

It is obvious that no matter under what form a business is carried on, it is the individual and not the business as a unit that makes the profit or loss. While a corporation consisting of a thousand stockholders may earn a million dollars, the corporation as such earns nothing for itself, but all of its earnings go directly or indirectly to the owners of the corporation. If, therefore, we desire to get the most equitable results in the prospective taxation program, it is my opinion that the individual should throughout be the taxable unit. It is only in this way that we will overcome the one great inequality in the present taxation scheme.

#### SUGGESTED TAX CHANGES.

It is apparent that if the excess-profits tax is removed some method must be devised for taxing corporate profits. If no substitute is provided for the taxation of corporate profits and yet the income tax on individuals and partnership continues, as it surely will, an inequality will result, even more flagrant than under the present taxation scheme. Furthermore, it would be but a very short time before the income tax would lose its productivity, for everybody in a position to do so would incorporate, and thus escape income-tax liability. Not only must corporate profits be taxed, therefore, but they must be taxed at approximately the same rates as the individuals owning the corporations would be taxed on their proportionate share of the corporate income.

Two plans for taxing corporate profits have been suggested:

1. A straight income tax of from 10 per cent to 16 per cent on the total net income of corporations.

2. A tax on all profits made by the corporation and undistributed to its stockholders.

The straight income tax on corporations is conclusively open to both objections noted above; i. e.—

First, that of taxing the business as a unit without relation to the income of the individuals for whom the corporate earnings are made, and

Second, that it will be placing an arbitrary tax rate on corporate profits not commensurate with the tax rates applicable to businesses conducted as partnerships or individuals.

#### THE UNDISTRIBUTED PROFITS TAX.

The present law taxes individuals and members of partnerships on their total income whether or not such income is withdrawn from the business. If this principle could be extended to apply to corporate profits made for shareholders, full equality would be realized in the taxation of income from various forms of business organizations.

To accomplish that end, I propose the following taxation plan:

Corporations shall not be required to pay any income tax whatsoever, as such, on profits made and distributed to its stockholders out of current profits. On all such profits distributed, the individual should be required to include the total dividends in his income and pay the full normal and surtaxes.

If the corporation distributes all of its current profits in dividends, then the corporation will pay no tax whatsoever. On the other hand, if the corporation retains any of its profits and as a result withholds the income from the individual, thus withholding the tax from the Government, then the corporation shall be required to pay a tax. The tax on such undistributed profit should be at rates approximately equivalent to the rates that the individual stockholders would pay if they had received the balance of the profits.

#### UNDISTRIBUTED TAX RATES AS APPLIED TO THE CORPORATION.

The best method of arriving at rates to be imposed against the corporation, in order to make them closely approximate to those applying against the individuals, is a debatable matter. I give below a suggested tax-rate schedule which I applied to a

corporation that made a taxable income of \$100,000 for the year 1921 and distributed \$75,000 in dividends.

	Per cent of total taxable income.	Amount.	Tax rate.	Amount of tax on total in- come.	Dedu- tion of tax on account of amount distribu- ted.	Balance of tax due on undis- tributed profits.
	<i>Per cent.</i>		<i>Per cent.</i>			
First.....	5	\$5,000	4	\$200	\$200	None.
Next.....	10	10,000	6	600	600	None.
Next.....	15	15,000	9	1,350	1,350	None.
Next.....	15	15,000	12	1,800	1,800	None.
Next.....	15	15,000	17	2,550	2,550	None.
Next.....	20	20,000	23	4,600	3,450	\$1,150
Next.....	20	20,000	30	6,000	None.	6,000
Total.....	100	100,000				17,150

<sup>1</sup> Total undistributed profits tax payable by corporation.

The above method of computation of the undistributed profits tax accomplishes two things:

First: The tax rates increase progressively similar to the increase in rates on individual incomes, and

Second: The lowest rates are applied against the distributed portion of the profits of the corporation since that portion of the profits which remain undistributed would come on top of the distributed income if received by the individuals and, therefore, would bear the increased surtax rates.

While the suggested rates and method of computation are not presented as absolute yet I believe they contain the basis for the development of a tax schedule which will accomplish equitable results.

For the purpose of establishing equitable rates, it may be advisable that a study be made to ascertain the proportion of total corporate earnings usually distributed in dividends and what, on the average, the tax rates would be on profits undistributed, if the individuals had received them. Such a study should yield a fairly definite check on the rate schedule submitted.

It should be noted that the rates suggested above take into consideration the approximate personal income tax rate schedule suggested in Secretary Mellon's letter on this matter. Any revision in income tax rates would necessarily mean a change in the corporate tax rate schedule.

#### EFFECT ON STOCKHOLDERS.

Assuming that in the example heretofore given at the end of 1922 the corporation distributes its 1922 earnings and in addition distributes the remaining 1921 earnings of \$17,850 (which is the \$25,000 less tax paid of \$7,150) the question arises as to how the stockholder receiving such 1921 earnings would treat them in his income tax report for the year 1922.

Since the corporation has already paid a tax on the \$25,000 of income undistributed in the year 1921, the individual taxpayer receiving his proportion of the balance of distributable profit should be allowed to deduct his portion of the tax paid for him by the corporation. In other words, the corporation in 1921 paid a tax of \$7,150 on undistributed profits of \$25,000 or an average rate of approximately 28 per cent. The individual taxpayer should, therefore, be required to include in his taxable income for the year, for both normal and surtax calculation, the total amount of the dividend received on account of 1921 undistributed earnings, (plus his proportion of tax paid for him by the corporation,) but on the other hand he should be allowed to deduct as a credit from the total tax due from him for the year 1922, 28 per cent on the dividends included in his taxable income on account of which the corporation had previously paid a tax. By this method the individual taxpayer will automatically adjust the tax paid for him by the corporation, to the actual taxes due from him, based upon his own income and his own tax class.



## LIMITATION OF TAX CREDIT.

For the practical application of the tax credit principle here suggested it will be necessary to limit the period within which individuals will be entitled to take credit for undistributed taxes paid for them. If credit were allowed for an indefinite period, too many complications and uncertainties would result. It is suggested, therefore, that stockholders be allowed to credit undistributed profits taxes paid for them by corporations only if the corporation distributes such profits within three years after the close of the year during which such profits were earned.

## TAXES PAID FROM INCOME PRIOR TO 1921.

If the corporation previously referred to distributed an additional \$25,000 from profits of a period prior to the inauguration of the undistributed profits taxes, what then? In that case the individual taxpayer receiving such dividend should be required to include it in his taxable income for surtax purposes only—that is, he would be allowed an exemption in the computation of his normal taxes in exactly the same manner as is required under the present law.

The law should specifically provide that corporations officially advise all stockholders when paying dividends as to the year out of which dividends are paid and the average undistributed profits tax, if any, paid on such dividends by the corporation

## EARLIEST PROFITS DISTRIBUTED FIRST.

In the determination of the order in which earnings are distributed the law should provide that dividends be distributed out of the earliest profits first. Also, all dividends distributed within four months after the close of any taxable year (fiscal or calendar) shall be treated as if distribution took place during the previous taxable year.

In this way corporations will be given four months in which to determine the profits of any taxable year and make such distributions within that time as it desires.

In the same way individuals in reporting profits for any given year shall be required to include all dividends received by them within four months after the close of their taxable year, as income for the prior taxable year.

## TREATMENT OF TAX-EXEMPT INCOME.

A question arises as to the method of treating corporate tax-exempt income. The present law is notoriously inconsistent in this regard. It recognizes tax exempt corporate income but only while that income remains in the corporation. As soon as distributions of corporate profits are made, however, it deems the tax-exempt income to have been merged with the taxable income and unidentifiable. It then taxes the stockholders on the total distribution even though originally tax-exempt income is part of what he is receiving. Thus the stockholders are required to pay a tax on such income notwithstanding the fact that the income was originally not taxable.

In order to eliminate this inequity I propose that corporations be required to distribute all tax-exempt income first and that individuals receiving such tax-exempt income exclude it from their taxable income. In this way the inequity now existent in the treatment of tax-exempt income will be eliminated.

It should be noted that the tax rate schedule herein submitted is based on taxable income to corporations. Hence the undistributed profits tax calculation will not be affected by this question of tax-exempt income.

## UNALLOWABLE DEDUCTIONS.

The present corporate tax law does not permit the deduction for tax calculation, of certain classes of expenses and reserves, prominent among which are donations, arbitrary reserves for future contingencies and future depreciation, etc.

It is my opinion that in so far as donations and similar expenses—unallowable under the present law—are concerned, they should be allowable as deductions in the computation of taxable income under the undistributed profits tax.

Such items as reserves for contingencies, reserve for bad debts, excessive depreciation, and the like are really nothing but allocations of surplus and as such should be included in income, subject to the undistributed profits tax.

## CORPORATE LOSSES.

Under the individual income tax law taxpayers incurring losses from one source may deduct them from profits derived from other sources and report the net difference between such profits and losses as taxable income.

Since corporations can not declare negative dividends, a method must be found to allow corporate stockholders the equivalent benefit on account of losses incurred by corporations in which they are stockholders. Otherwise, we will again have the inequality of taxing income to individuals and members of partnerships on a different basis than individuals participating in corporate profits.

To accomplish this end I suggest that corporate losses during any year be applied against corporate profits of the immediately previous year upon which an undistributed profits tax has been paid, and further, that losses in any one year over and above the undistributed profits of the previous year be applied against undistributed profits of the immediately subsequent year. By this method corporation will be permitted to apply losses against previous and subsequent taxable profits. Thus in effect the stockholders will be given credit for such losses.

## WHAT CONSTITUTES DISTRIBUTION.

Distributions of corporations need not necessarily be made in cash and thus deplete working capital. In order to give corporations a wide latitude in the method of distributing their profits it is suggested that all forms of distribution made to stockholder, whether they be through paid-in surplus, preferred stock, interest or non-interest bearing indebtedness, or any other form of distribution which will be recognized by the law and held by the courts to be taxable to the individual, be treated as a distribution of corporate income. In this way corporations will be given credit in the computation of the undistributed profits tax for all distributions on which individuals will be taxed.

## CORPORATION EXCISE TAX.

Before leaving the subject of corporate taxation it should be emphasized that the Federal Government ought to obtain a larger revenue from corporations, as such, merely for the privilege of doing business as a corporation. This can be done best perhaps by increasing the capital stock tax. In this connection, however, a more definite method should be laid down for the determination of "fair value of capital stock." The method of arriving at fair value as laid down by the Treasury Department regulations is open to serious objection. I have here a reprint of an article on this subject written by me sometime ago pointing out the shortcomings of the present capital stock tax provision and some proposed remedies.

## SUMMARY.

To summarize, my proposed plan provides:

1. That corporations pay no taxes whatsoever on profits made during any taxable year and distributed within four months thereafter.
2. That for all current profits remaining undistributed the corporation pay a tax at rates approximating the rates which the individual stockholders would have had to pay if they had received the remaining profits.
3. That individuals receiving corporate dividends include the entire amount as taxable income (except as hereinafter noted) and that they deduct from their total tax the amount of taxes paid for them by the corporation for profits that were previously subject to an undistributed profits tax. In this way there will be adjusted the difference between the tax paid for them by the corporation and the tax that they should pay based on their individual incomes.
4. In the determination of the order in which earnings are distributed, the law should provide that dividends be distributed out of the earliest profits first; also, all dividends distributed within four months after the close of any taxable year shall be treated as if distributions took place during the previous taxable year.
5. That a time limit of three years be placed on the right to take the undistributed profits credit by the stockholders.
6. That all dividends paid out of profits prior to the inauguration of the undistributed profits tax law (except dividends from earnings prior to Mar. 1, 1913), be included in taxable income for surtax purposes only.
7. That corporations be required to advise stockholders as to which year's earnings are distributed and the average undistributed profits tax rate, if any, paid on such earnings by the corporation.

8. That stockholders include in income for their previous taxable year all dividends received from corporations within four months after the close of such taxable year.

9. That all tax-exempt corporate income be deemed to be distributed first and that individuals receiving such tax-exempt income exclude it from their taxable income.

10. That corporate losses during any year be applied to corporate profits of the year immediately preceding upon which an undistributed profits tax has been paid, and that losses in any one year over and above the undistributed profits of the immediately previous year be applied against undistributed profits of the immediate succeeding year.

11. For the purpose of determining distributed profits there shall be construed as a distribution of earnings all dividends, in whatever form made which shall be defined by the law and sustained by the courts as taxable to the individual.

12. That corporations be required to file undistributed profits-tax returns within six months after the close of their taxable years, reporting in conformity with the proposed plan, and that individuals be required to file their individual income-tax returns within six months after the close of their taxable year, and include the elements as herein outlined.

By the adoption of the above method of taxation, the inequalities and inconsistencies of the present tax laws will be largely overcome. The tax will be levied in proportion to the taxpayer's ability to pay and the desired revenue will be produced for the Government.

**STATEMENT OF HON. JAMES R. GARFIELD, REPRESENTING CLEVELAND FOUNDATION COMMITTEE, CLEVELAND, OHIO.**

Mr. GARFIELD. Mr. William Greenough, of New York (120 Broadway), represents with me 35 foundations or community trusts scattered from Maine to Honolulu. These various foundations have been created for the purpose of administering funds given to these foundations, either by direct gift inter vivos or by will. We will leave with the committee a list of those foundations.

Mr. Greenough particularly represents the New York Community Trust and I particularly the Cleveland Foundation, and because of the questions that have arisen regarding the interpretations of the statutes having to do with gifts for charity, education, and other purposes of that character, these foundations are presenting to you a request for a clarification of the four sections of the act having to do with charitable bequests.

The purpose of our amendments is to clarify these four sections and make them harmonious, and to make perfectly clear the definition of the organizations coming within the provisions of those sections. The sections of the statute to which we call attention—section 214 (a), subdivision (11), section 219 (b), and section 231, subdivision (6), of the Federal revenue act of 1918, and section 403 (a), subdivision (3), and section 403 (b), subdivision (3)—having to do with estates tax.

Under these sections as they now stand contributions made to charitable corporations organized exclusively for charity and other purposes defined in the statute are entitled to certain exemptions.

Senator REED. Have you a copy of the act?

Mr. GARFIELD. I have a copy of these proposed amendments.

Senator REED. I would like to see that, and I would like to see the act.

Mr. GARFIELD. Under the statute as it stands to-day it has been held by the Internal Revenue office that donations inter vivos to foundations as such are not to be included in the 15 per cent exemption to which donors are entitled.

Now, for a moment, to explain the foundation. The Cleveland Foundation was organized some years ago by Mr. Goff, the president of the Cleveland Trust Co. Its purpose is to afford a means by which individuals may give, in small amounts or in large amounts, funds for charitable, educational, scientific, and other similar purposes, to a permanent committee called the "Foundation." The foundation committee is created by a resolution of the board of directors of a trust company. Under the terms of that resolution, the members of the committee for the distribution of income are appointed, one by the Federal court in the district, one by the mayor, one by the probate court of the county and two by the trust company which acts as custodian for the funds that will be given.

Senator REED. Are you speaking of any particular foundation now, or of all foundations?

Mr. GARFIELD. I am speaking now of the original foundation, the Cleveland Foundation, which uses the Cleveland Trust Co. as its trustee.

The members of this committee are appointed for five years each. They administer the funds.

Senator SMOOT. By whom appointed?

Mr. GARFIELD. One by the Federal judge of the district, one by the mayor of the city, one by the probate court of the county, and two by the trust company which acts as custodian and which holds the funds.

The trustee has no power whatever other than to hold, invest, and reinvest the principal and turn over either to the committee, or upon orders of the committee, the entire net income derived from those funds, and the committee expends the income each year for charitable, educational, scientific, literary, and other purposes known as social purposes coming within the definitions laid down in the internal revenue act.

Senator WATSON. Have you a list of its benefactions?

Mr. GARFIELD. We have. We can submit to the committee the complete reports of what has been done by these various organizations.

The principal of the fund may likewise be used upon the vote of the committee and the trustee. So that it avoids any question of perpetuity, and avoids the accumulation of great funds in the hands of the foundation. The purpose is to enable men of small means, as well as large, to have an available instrument for the distribution of their excess wealth or funds that they desire to give to charity. They may, if they desire, designate particular sureties; if they do not designate them, then the committee exercises its discretion as to distribution among the charitable organizations of the community.

Senator SMOOT. Does the foundation make any examinations as to scientific problems and questions?

Mr. GARFIELD. I will come to that point—it does. It likewise conducts such examinations in order to be sure that the expenditures of these funds are made for worthy purposes and for purposes that will meet the social welfare and needs of the community which they serve.

Senator REED. But these gentlemen determine what, in their discretion, are worthy purposes?

Mr. GARFIELD. They do; yes.

Senator REED. What happens if they determine wrongly?

Mr. GARFIELD. If they determine wrongly, their reports are subject to public inspection. They must be filed periodically with the proper public authorities, and either the attorney general of the State or the law officer of the municipality is authorized to institute action at any time to correct any maladministration, if there be any, of the funds in the hands of this committee.

Senator REED. I will ask you further about that. I do not want to interrupt the thread of your discourse.

Senator SMOOT. Then, as I understand it, the foundation wants the expenditure for the money for the investigation of scientific questions and problems to be considered as charitable expenditures?

Mr. GARFIELD. As coming under the definition of either charity, if it be an investigation of charitable matters, of scientific or literary if coming within the general definition of such charitable and other uses.

Senator WATSON. Mr. Garfield, what amount of money do they distribute in the course of a year?

Mr. GARFIELD. It is a new thing, Senator. The Cleveland Foundation has, so far distributed only about \$17,000 in a year, at the most. The Boston Foundation, a very much larger sum, because they have had larger bequests that have fallen due; the Chicago Foundation in the neighborhood of \$100,000.

The matter is comparatively new.

Senator REED. How about the Carnegie Foundation?

Mr. GARFIELD. We have nothing to do with the Carnegie Foundation; it is entirely outside.

Senator REED. Are these other foundations associated with the Carnegie?

Mr. GARFIELD. Not at all. As a result of the Cleveland Foundation organization, various communities, now numbering 35, have adopted the same method, and certain trust companies in those communities have adopted resolutions similar to that adopted by the Cleveland Trust Co. in Cleveland for the organization of the Cleveland Foundation. There are variations, of course, in the different communities to meet the special needs of those communities. For example, in New York there was organized the New York Community Trust, with several trust companies as trustees. There are how many trust companies, Mr. Greenough?

Mr. GREENOUGH. Fourteen trust companies, three national banks, and two State banks.

Mr. GARFIELD. They have organized so that an individual may select any one of those companies as the trustee to administer the fund. In Harrisburg they have a multiple trustee; in Indianapolis they have multiple trustees. In other words, each community has taken the method that was best suited to the needs and conditions in that community. They are known either as foundations or as community trusts, using different language in accordance with the habit of thought of the people in those communities.

Of course, much the larger amount of money will come to these foundations from bequests rather than gifts inter vivos. There have been some instances of the latter, however.

Senator WATSON. Then your theory is that these funds should not be taxed?

Mr. GARFIELD. That they should not be taxed; that a gift to a foundation should be considered the same as a gift to an associated charity organization, a gift to a humane society, a gift to a specific college, for example; anything of that character. In other words, this money, while given to the foundation, is held by the trust company as trustee, and each year the entire net income is distributed by the foundation committee for charitable and other social uses, thus making it possible for the donor to be assured that his gifts will, in the years to come, be wisely distributed in accordance with the then existing needs of each community.

One of the reasons for this form of gift is that in so many instances special charitable and similar organizations, in the course of a few years, have either gone out of existence or their funds have been maladministered, and it is believed that by this method of creating a committee and having it under constant public supervision and having its membership changed periodically by the selection of men and women in each community who are thoroughly conversant with the social needs of that community, that there will be a wiser distribution of the funds donated for these purposes.

The point where we found difficulty under the present statute was that the Internal Revenue Office held that a foundation did not come within the definition of a corporation or association organized and operated exclusively for charity, for the reason that a trust company was nominated as the trustee to hold the title. However, the trust company, as trustee, simply holds these funds and derives no pecuniary advantage other than the charge made for the actual handling of the funds; it is merely the custodian for investment and reinvestment; it derives no pecuniary advantage by reason of such relationship. It is in exactly the same situation that a trust company would be in if a college turns over to that trust company its funds for investment and handling, which is often done. It does not change the character of the fund, but the college employs a certain bank or trust company to administer and hold its funds subject to the orders of its officers.

Senator REED. Allow me to interrupt, for my information?

Mr. GARFIELD. Yes.

Senator REED. Your suggested amendment is the part in italics, representing the new matter?

Mr. GARFIELD. The part in italics is the new matter and the parts in brackets are the parts to be omitted. The balance is as the sections now stand.

Section 403 of the present law, which is the statute governing estates, does permit the deduction of gifts to trustees. Now, therefore, we have used section 403, which is the last one on this memorandum, and which already has in it words "to trustee or trustees," as the basis of the proposed amendments. The change we ask in that is in the fifth line; it definitely includes "community chest, fund or foundation," so that there may be no misunderstanding that that character of organization is included, and that the words "to be used" be inserted after the word "trustees" in order to clarify the language.

Senator McCUMBER. I wish you would explain a little more definitely the reasons for the holding of the department that a gift

made to an organization for charitable and educational purposes is taxable if the organization deposit the proceeds of that gift to a certain bank or employs that bank to invest it for them, or that trust company to invest it for them. I can not quite understand the basis of their holding.

Mr. GARFIELD. The case arose in this manner, Senator: The Detroit Trust Co. had offered it a sum of money for the Detroit Foundation, to be given during the life of the individual offering it, providing, he said, he could deduct that gift as part of his 15 per cent deduction.

Senator McCUMBER. That gift did not go to the organization but went to the trust company?

Mr. GARFIELD. It went to the organization, but the title of the property would vest in the trust company as the trustee. The Internal Revenue Office held that because the word "trustee" was not in section 214 (a) subdivision (11), therefore a gift to the trustee for the use of the foundation was not deductible. That matter was taken up on appeal, but it is still held that, because the word "trustee" is not in that section, although it is in the estate section, the gift to the foundation is not deductible, even though the purpose is wholly charitable. Therefore, we want to meet that lack of harmony, between the two sections of the statute. If the gift had come under a will to the foundation, there would have been no question.

Then there are other points in connection with his holding which are still uncertain, and we want to have those uncertainties cleared up.

Then the other sections, 214, 219, and 231—

Senator SMOOT (interposing). Is this the usual phrase used in relation to these community centers? In your suggested amendment you say "including any community chest, fund, or foundation."

Mr. GARFIELD. We used those words to cover the various names used in different communities.

Senator SMOOT. Then the real reason for the ruling of the department was that the trust company had two of the members of the board of the foundation?

Mr. GARFIELD. No, not that they had two members of the board, but that the title of the property was held in the trust company for the benefit of the organization.

Senator CURTIS. Organized for profit?

Mr. GARFIELD. As the trust company was organized for profit it, therefore, could not come within the exception of the statute, although they admit that all the funds were to be used for charitable purposes.

We have suggested that the same wording be used in all four sections, so that the interpretation will be the same in all sections.

Senator SMOOT. Why did you include literary organizations?

Mr. GARFIELD. Because that was included in the original section 403 and was not included in the other sections.

Senator McCUMBER. "Literary" must be education; is supposed to be, at least.

Mr. GARFIELD. The language of section 403, which we have used as the basis, is "organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals."

That is the original section, and we have simply used that language throughout the other sections. My understanding is that these two sections of the statute were drafted at different times.

I will ask Mr. Greenough to speak on that question, as he has some particular points that he will present to you.

*Suggested amendments to section 214 (a), subdivision (11), section 219 (b), and section 231, subdivision (6), of the Federal revenue act of 1918, which will harmonize the sections cited with section 403 (a), subdivision (3), and 403 (b), subdivision (3), with amendments suggested.*

[New matter in italics, matter to be omitted in [ ] brackets.]

Section 214 (a), subdivision (11), refers to allowable deductions from net income. It should be amended so as to read as follows:

(11) Contributions or gifts made within the taxable year to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any corporation [a], including any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and [or for] the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to a trustee or trustees to be used exclusively or such religious, charitable, scientific, literary, or educational purposes, or to the special fund for vocational rehabilitation authorized by section 7 of the vocational rehabilitation act, to an amount not in excess of 15 per centum of the taxpayer's net income as computed without the benefit of this paragraph. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the commissioner, with the approval of the Secretary. In case of a nonresident alien individual this deduction shall be allowed only as to contributions or gifts made to domestic corporations, or to domestic trustees, or to such vocational rehabilitation fund;

Section 231 refers to conditional and other exemptions and should be amended so as to read as follows:

SEC. 231. That the following organizations shall be exempt from taxation under this title:

\* \* \* \* \*

(6) Corporations, including any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and [or for] the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual or a trustee or trustees of funds to be used exclusively for such religious, charitable, scientific, literary, or educational purposes;

Section 219 refers to estates and trusts and subdivision (b), which provides for the deduction of income paid to or permanently set aside for charitable corporations or associations, should be amended so as to read as follows:

(b) The fiduciary shall be responsible for making the return of income for the estate or trust for which he acts. The net income of the estate or trust shall be computed in the same manner and on the same basis as provided in section 212, except that there shall also be allowed as a deduction (in lieu of the deduction authorized by paragraph (11) of subdivision (a) of section 214) any part of the gross income which, pursuant to the terms of the will or deed creating the trust, is during the taxable year paid to or permanently set aside for the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any corporation, including any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual; and in cases under paragraph (4) of subdivision (a) of this section the fiduciary shall include in the return a statement of each beneficiary's distributive share of such net income, whether or not distributed before the close of the taxable year for which the return is made.



Amendments to section 403 are as follows:

Sec. 403. That for the purpose of the tax the value of the net estate shall be determined—

(a) In the case of a resident, by deducting from the value of the gross estate—

(3) The amount of all bequests, legacies, devises, or gifts, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any corporation, including any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to a trustee or trustees to be used exclusively for such religious, charitable, scientific, literary, or educational purposes. This deduction shall be made in case of the estates of all decedents who have died since December 31, 1917; and

(Remainder of section unchanged.)

(Sec. 403. That for the purpose of the tax the value of the net estate shall be determined—

(b) In the case of a nonresident, by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States—

(3) The amount of all bequests, legacies, devises, or gifts, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any domestic corporation, including any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to a trustee or trustees to be used exclusively for such religious, charitable, scientific, literary, or educational purposes within the United States. This deduction shall be made in case of the estates of all decedents who have died since December 31, 1917; and

(Remainder of section unchanged.)

*Treasurer's report of Permanent Charity Fund, Boston Safe Deposit & Trust Co., trustee,  
July 1, 1919, to June 30, 1920.*

[Charles M. Rogerson, treasurer.]

RECEIPTS.

Balance on hand July 1, 1919.....	\$48,428.93
From Boston Safe Deposit & Trust Co., trustee of Permanent Charity Fund.....	216,251.38
Interest upon deposit.....	633.67
	265,313.98

EXPENDITURES.

<b>Administrative expenses:</b>	
Salaries.....	\$6,431.64
Office supplies and postage.....	155.47
Equipment.....	144.00
Annual report.....	165.25
Miscellaneous.....	204.46
	7,100.82
<b>Charity expenses:</b>	
Associated Charities of Boston.....	3,500.00
Baby Hygiene Association.....	3,250.00
Bates College, Maine.....	500.00
Bethesda Society.....	1,050.00
Boston Association for the Relief and Control of Tuberculosis (now Boston Tuberculosis Association).....	1,500.00
Boston Children's Aid Society.....	6,250.00

## Charity expenses—Continued.

Boston Children's Friend Society.....	\$1,000.00
Boston City Hospital, Pathological Laboratory.....	500.00
Boston City Hospital, Social Service Department.....	5,000.00
Boston Dispensary.....	3,500.00
Boston Industrial Home.....	1,000.00
Boston Legal Aid Society.....	1,500.00
Boston Lying-in Hospital.....	3,375.00
Boston Provident Association.....	4,500.00
Boston Society for the Care of Girls.....	1,000.00
Boston Young Men's Christian Association.....	1,500.00
Boston Young Men's Christian Union.....	750.00
Bunker Hill Boys' Club.....	5,750.00
Bureau on Illegitimacy.....	4,494.64
Cambridge Country week.....	200.00
Cambridge Hospital.....	2,500.00
Children's Hospital.....	5,000.00
Children's Hospital, Social Service Department.....	2,250.00
Children's Island Sanitarium.....	1,000.00
Children's Mission to Children.....	1,000.00
Children's Museum of Boston.....	400.00
Church Home Society for the Care of Children of the Protestant Episcopal Church.....	3,000.00
Collis P. Huntington Memorial Hospital.....	1,000.00
Cooperative Workrooms.....	500.00
Dedham Temporary Home for Women and Children... Denison House.....	1,000.00 2,250.00
Dorchester House.....	500.00
East End Christian Union.....	780.00
Elizabeth Peabody House Association.....	1,000.00
Ellis Memorial and Eldredge House (Inc.).....	2,750.00
Farm and Trades School.....	3,375.00
Frances E. Willard Settlement.....	4,250.00
General Theological Library.....	750.00
Hale House Association.....	3,000.00
Harvard Infantile Paralysis Commission.....	3,000.00
Harvard Medical School.....	10,000.00
Harvard Medical School (for Dr. Porter's statistical report).....	1,000.00
Hawthorne Club.....	375.00
Hillside School.....	1,000.00
House of the Good Samaritan.....	1,500.00
House of Mercy (Association for the Work of Mercy)... Household Nursing Association.....	2,000.00 1,500.00
Industrial Aid Society.....	875.00
Infants' Hospital.....	2,000.00
Instructive District Nursing Association.....	6,720.00
International Young Men's Christian Association Col- lege.....	750.00
Jamaica Plain Neighborhood House Association.....	937.50
King's Daughters' and Sons' Home for the Aged in Nor- folk County.....	582.50
League for Preventive Work—Dietetic Bureau.....	6,500.00
Lincoln House Association.....	1,000.00
Little House.....	750.00
Massachusetts Association for Promoting the Interests of the Adult Blind.....	1,500.00
Massachusetts Charitable Eye and Ear Infirmary.....	3,000.00
Massachusetts Charitable Eye and Ear Infirmary, Social Service Department.....	2,075.00
Massachusetts Council of Girl Scouts.....	500.00
Massachusetts General Hospital.....	3,750.00
Massachusetts General Hospital, Social Service De- partment—In-Patient.....	1,500.00
Massachusetts General Hospital, Social Service De- partment—Out-Patient.....	3,250.00
Massachusetts General Hospital, Social Service De- partments.....	1,500.00

Charity expenses—Continued.

Massachusetts Home and Hospital.....	\$812.50
Maverick Dispensary.....	1,600.00
Mental Hygiene in Industry.....	1,000.00
New England Deaconess Association.....	1,000.00
New England Hospital for Women and Children.....	3,000.00
New England Moral Reform Society.....	2,000.00
Norfolk House Centre.....	1,875.00
North Bennet Street Industrial School.....	1,875.00
North End Diet Kitchen.....	500.00
North End Union.....	375.00
Paine Fund of the First Parish in Cambridge.....	1,000.00
Perkins Institution and Massachusetts School for the Blind.....	4,000.00
Peter Bent Brigham Hospital, Social Service Depart- ment.....	2,500.00
Psychopathic Hospital, Social Service Department....	2,000.00
Robert Gould Shaw House (Inc.).....	750.00
Roxbury Boys' Club and Institute of Industry.....	4,000.00
Roxbury Neighborhood House Association.....	1,000.00
Rutland Private Sanatorium Association.....	500.00
Saint Monica's Home.....	1,000.00
Sharon Sanatorium.....	3,000.00
Simmons College.....	2,750.00
Smith College Training School for Social Work.....	1,500.00
South End Day Nursery.....	300.00
South End Diet Kitchen.....	200.00
South End Music School.....	125.00
Sunnyside Day Nursery.....	1,000.00
Teacher's Division, United States Employ- ment Service, Professional and Special Section.....	\$500.00
Unexpended balance refunded.....	31.84

Tide-Over League.....	468.16
Travelers' Aid Society of Boston.....	2,000.00
First Unitarian Church of Winthrop.....	1,750.00
Welcome House.....	50.00
Woman's Seaman's Friend Society.....	750.00
Women's Educational and Industrial Union.....	750.00
	500.00

Relief funds:

Associated Charities of Boston... \$7,023.79
Less refunds..... 412.31
<u>\$6,611.48</u>

Boston City Hospital, Social Serv- ice Department..... 454.28
Less refunds..... 41.20
<u>413.08</u>

Boston Legal Aid Society.....	66.36
Children's Hospital, Social Service De- partment.....	309.70
Collis P. Huntington Memorial Hospital, Social Service Department.....	200.00
Dorchester Relief Society.....	705.50
Home for Aged Colored Women.....	500.00
Instructive District Nursing Association, from Fanny Wharton Helping Fund.....	100.00
Lend a Hand Society.....	200.00
Massachusetts Commission for the Blind....	53.15
Massachusetts General Hospital, Social Serv- ice Department—Out-Patient.....	135.00
Massachusetts General Hospital, Social Serv- ice Departments.....	103.83
Temporary Home for Working Women.....	175.00

9,573.10

## War or emergency relief fund:

Boston City Hospital, Social Service Department.....	\$200.00	
East End Christian Union.....	100.00	
Harvard Medical School, for Dr. Porter's statistical report.....	300.00	
Interdepartmental Social Hygiene Board...	1,000.00	
Psychopathic Hospital, Social Service Department.....	500.00	
		\$2,100.00
Balance on hand.....		\$206,573.40
		51,639.76
		265,313.98

**STATEMENT OF WILLIAM GREENOUGH, REPRESENTING NEW YORK COMMUNITY TRUST, NEW YORK, N. Y.**

Mr. GREENOUGH. Section 403 (a) and (b), which is a part of the estate tax, was passed in 1916; sections 214 (a), subdivision (11), section 219 (b), and section 231, were part of the income tax, and they were passed originally in 1913 and remain substantially unchanged.

There is a difference, which is what we are dealing with now—

Senator GERRY (interposing). Section 403 is the first tax amendment relating to exemption of bequests to charitable organizations, passed in 1918.

Mr. GREENOUGH. Was it amended in 1918?

Senator GERRY. Amended in 1918. That was not in the original 1916 bill.

Mr. GREENOUGH. You will correct me. I thought the original part of it was put in in 1916.

Senator GERRY. It went in in 1918.

Mr. GREENOUGH. Then, it was passed after the sections which are in the income part of the act.

Senator GERRY. The other section was a Senate amendment, the section in regard to the exemption to the income tax. My recollection is that the amendment was introduced and went in in 1917.

Mr. GREENOUGH. I think I am correct in saying that the income-tax sections were not made to conform with the estate tax section.

Senator GERRY. They went in before.

Mr. GREENOUGH. My thought is that section 403 provides that for the purpose of the estate tax the value of the net estate shall be determined, first, in the case of a resident, and, second, in the case of a nonresident, and that in each case under subdivision 3 "the amount is determined by deducting from the value of the gross estate the amount of all bequests, legacies, devises, or gifts, etc., to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any domestic corporation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals," etc.

Then it goes on "or to a trustee or trustees exclusively for such religious, charitable, scientific, literary, or educational purposes," etc.

Our whole request here is that the sections of the income tax be made harmonious with this provision. There seems to be no reason in the nature of things, if a gift to a corporation organized exclusively for religious, charitable, scientific, and these other related purposes

should be exempt from the estate tax, why a gift to trustees, either individual or corporate, for precisely similar purposes should not also be exempt.

That in itself is absolutely all we are asking for, and we have made the language of section 214, subdivision 11, which refers to allowable deductions from net income, identical; that is to say, where a donor during his life time wants to make a charitable gift either to an individual who is trustee for some charitable purpose or to a trust company which is trustee for a charitable purpose, he may do so and the deduction will be allowed. Under the existing law as it stands no such deduction can be made, because the law says that the only charitable deductions are contributions or gifts made within the taxable year to a corporation organized and operated exclusively for religious, charitable, scientific, or educational purposes.

Now there the word "literary," which occurs in connection with 403, does not appear, and neither do the words "including the encouragement of art." It is simply a matter of reconciling the language of these sections so as to provide in the case—I will not particularize, because I think it is hardly necessary. It shows on the face of it by a comparison of these sections.

Senator SMOOR. All that you intend to do is to amend section 403: "That for the purpose of the tax the value of the net estate shall be determined" including "any community chest, fund, or foundation?"

Mr. GREENOUGH. Yes, sir.

Senator SMOOR. And then making the same amendment in sections 214, 219, and 231 of the income tax, using the exact words to conform to section 403?

Mr. GREENOUGH. Yes, sir; that is exactly it. We want to amend section 214 so that a contribution or gift not only to a corporation which is a charitable corporation but to trustees for charitable purposes shall be exempt.

Senator SMOOR. You use the words here "or to domestic trustees," in section 214?

Mr. GREENOUGH. Yes; that is for the reason that the end of that section reads "in case of a nonresident alien individual this deduction shall be allowed only as to contributions made to domestic corporations."

We think that necessarily it must be the same with a gift to domestic trustees. That is assimilated to what goes before.

In addition to that, I simply want to say that these community trusts or foundations or chests which we represent are all of them common law trusts. They consist first of a trustee; second, of what is generally known as a distribution committee, which has the exclusive right of disposition, and selection of the object of the bounty of the donor in each case, and the form which the resolutions and declarations in each case have taken is unimportant; they are all common law trusts, and for that reason, and rather than because they are trust companies or corporations and because they are trustees is why we come here. The Commissioner of Internal Revenue has held in each case that because these sections limit the gifts to corporations, that the exemptions are not applicable to trustees for similar purposes.

Senator SMOOR. The Cleveland Foundation has been paying taxes, has it, on all gifts?

Mr. GREENOUGH. I do not think they have yet, because bequests and gifts have not materialized to an extent where it has been necessary, and that is so generally with all of these foundations.

Senator SMOOT. Is there a dispute now about the tax?

Mr. GARFIELD. No returns have been made.

Senator SMOOT. Has there been any claim on the part of the Government for the back taxes?

Mr. GARFIELD. No, there has not; and the matter came up by reason of the request of the Detroit Foundation to receive this direct gift.

Senator SMOOT. Do you know how much would be involved in this principle in the United States?

Mr. GREENOUGH. We do not ask that this be made retroactive.

Mr. GARFIELD. Not at all. We can not tell, Senator. It depends upon how widely gifts are made to these foundations.

Senator SMOOT. I thought maybe you had some idea?

Mr. GARFIELD. We have no idea, because it is all so new. For instance, in Cleveland, we anticipate from what we know at present of wills that have been made, somewhere from \$30,000,000 to \$40,000,000, unless those wills be changed, and, of course, it would be very difficult to find out just what there is ahead of us on those foundations. But it is supposed it would amount to a large amount in each community. It will not take property that otherwise would be subject to taxation away from the taxable possibilities, but will enable donors to give to this general fund to be utilized in this fashion instead of particular charities.

Mr. GREENOUGH. I would like to say just one thing more, if I may, Senator. We appear here—Mr. Garfield and I primarily—representing, he the Cleveland Foundation, I the New York Community Trust, which consists of some 18 banks and trust companies which are contained in this pamphlet which I would like to file.

We also represent the other community trusts throughout the United States, which have been formed in more than 38 cities, and we have the authority to speak for the trust-company section of the American Bankers' Association, which gave its approval to the presentation of this request at the last convention; and I have been asked by Mr. Thomas B. Paton, the general counsel of the American Bankers' Association, to state that he would have come here with us to urge this amendment, but he was prevented by other matters.

Mr. GARFIELD. Mr. Chairman, I want to leave this statement of the Cleveland Foundation, which gives the history of this organization, the exact language of the resolution, and a list of all the foundations throughout the country.

Senator McCUMBER (presiding). Do you wish that printed as a part of your testimony? If not, you can mark such portions as you would like to go into the record.

Mr. GARFIELD. I would ask, then, that there be printed in the record only the list of foundations, unless the committee desires the full resolution under which these organizations are created.

Senator McCUMBER. I do not think that is necessary.

Senator SMOOT. I suggest that you send about 25 copies of that down to the committee, and then if any members of the committee want them they can get copies from the clerk of the committee.

(The matter referred to by Mr. Garfield is as follows:)

## OTHER COMMUNITY FOUNDATIONS.

The vitality of the community trust idea is indicated by the number of similar trusts organized since the establishment of the Cleveland Foundation in 1914. So far as is known the following list is complete up to March 1, 1920. In every case the name of the trust, the date of its establishment, the home city; and the trustee are set forth:

The Cleveland Foundation, Cleveland, Ohio January 2, 1914; The Cleveland Trust Co. trustee.

St. Louis Community Trust, St. Louis, Mo., January 21, 1915; St. Louis Union Trust Co., trustee.

Spokane Foundation, Spokane, Wash., March 23, 1915; Union Trust & Savings Bank. trustee.

Chicago Community Trust, Chicago, Ill., May 12, 1915; Harris Trust & Savings Bank. trustee.

Milwaukee Foundation, Milwaukee, Wis., May 24, 1915; First Wisconsin Trust Co., trustee.

Los Angeles Community Trust, Los Angeles, Calif., June 1, 1915; Security Trust & Savings Bank, trustee.

Attleboro Foundation, Attleboro, Mass., June 15, 1915; Attleboro Trust Co., trustee.

Minneapolis Foundation, Minneapolis, Minn., June 25, 1915; Minneapolis Trust Co., trustee.

Permanent Charity Fund, Boston, Mass., September 7, 1915; Boston Safe Deposit & Trust Co., trustee.

Houston Foundation, Houston, Tex., October 5, 1915; Department of City established by Ordinance.

Detroit Community Foundation, Detroit, Mich., December 7, 1915; Detroit Trust Co., trustee.

The Seattle Foundation, Seattle, Wash., December 20, 1915; Seattle Trust Co., trustee.

Sioux City Common Fund, Sioux City, Iowa., December 28, 1915; Farmers Loan & Trust Co., trustee.

Indianapolis Foundation, Indianapolis, Ind., January 5, 1916; Fletcher Savings & Trust Co., Indiana Trust Co., Union Trust Co., trustees.

The Louisville Foundation, Louisville, Ky., May 10, 1916; The Louisville Trust Co., trustee.

Rhode Island Foundation, Providence, R. I., June 13, 1916; Rhode Island Hospital Trust Co., trustee.

The Williamsport Foundation, Williamsport, Pa., November 20, 1916; Northern Central Trust Co., trustee.

The Hawaiian Foundation, Honolulu, Hawaii, December 29, 1916; The Hawaiian Trust Co., trustee.

Peoria Community Trust, Peoria, Ill., February 6, 1918; Dime Savings & Trust Co., trustee.

New Orleans Community Trust, New Orleans, La., June 13, 1918; Interstate Trust & Banking Co., trustee.

Worcester County Charitable Foundation, Worcester, Mass., October 26, 1918; Worcester Bank & Trust Co., trustee.

Philadelphia Foundation, Philadelphia, Pa., December 20, 1918; Fidelity Trust Co., trustee.

Pittsburgh Community Foundation, Pittsburgh, Pa., August 22, 1919; Commonwealth Trust Co., trustee.

The Buffalo Foundation, Buffalo, N. Y., September 30, 1919; The Marine Trust Co., trustee.

The Winston-Salem Foundation, Winston-Salem, N. C., Asheville, N. C., Salisbury, N. C., High Point, N. C., October 14, 1919; Wachovia Bank & Trust Co., trustee.

The Richmond Foundation, Richmond, Va., October 23, 1919; Virginia Trust Co., trustee.

Community Trust for Newark and Essex County, Newark, N. J., November, 1919; Fidelity Trust Co., trustee.

Washington Foundation, Washington, D. C., December, 1919; The Washington Loan & Trust Co., trustee.

Cincinnati Foundation, Cincinnati, Ohio, Union Savings Bank & Trust Co., trustee.

New York Community Trust, New York City, February, 1920; Equitable Trust Co., Columbia Trust Co., New York Trust Co., United States Mortgage & Trust Co., Irving Trust Co., Title Guarantee & Trust Co., Hudson Trust Co., Metropolitan Trust Co., Manufacturers' Trust Co., Franklin Trust Co., Kings County Trust Co.,

Mercantile Trust Co., Fidelity Trust Co., American Trust Co., Hamilton Trust Co., Commercial Trust Co., trustees.

Delaware Equitable Trust Co., of Wilmington.

Harrisburg Foundation, Harrisburg Trust Co. Pennsylvania.

Permanent Commercial Trust Fund, Exchange Trust Co., of Tulsa, Okla.

Plainfield Foundation, Plainfield Trust Co., New Jersey.

The Youngstown Foundation, Dollar Savings Bank, Ohio.

(Mr. Greenough also submitted the following:)

THE NEW YORK COMMUNITY TRUST.

Alvin W. Krech, chairman trustee' committee.

*Trustees.*—The Equitable Trust Co. of New York, Columbia Trust Co., The New York Trust Co., United States Mortgage & Trust Co., Metropolitan Trust Co., Title Guarantee & Trust Co., Manufacturers Trust Co., Kings County Trust Co., Lawyers Title & Trust Co., Mercantile Trust Co., Fidelity-International Trust Co., American Trust Co., The Commercial Trust Co. of New York, Hudson Trust Co., Irving National Bank, The American Exchange National Bank, Harriman National Bank, The Bank of America, Metropolitan Bank.

Frank J. Parsons, director, 55 Cedar Street, New York.

STATEMENT OF FREDERICK R. KELLOGG, ATTORNEY AT LAW,  
NEW YORK, N. Y.

Senator McCUMBER. Give your name, address, your business, and whom you represent.

Mr. KELLOGG. My name is Frederick R. Kellogg; lawyer; 52 Broadway, New York; appearing personally. I do not represent any organization or individual in this matter, but I did represent a number who were affected by the point I want to raise.

Senator McCUMBER. We will be glad to hear from you, Mr. Kellogg.

Mr. KELLOGG. The question to which I would like to ask the attention of the committee is as to the way in which profits derived from the sale or exchange of capital assets—a term which I want to define in just a moment—ought to be treated.

The present method, of course, taxes any profit derived from the sale of a capital asset by anyone, or an exchange of it, just as though it were from an ordinary earning or an ordinary day-by-day transaction in a man's business. I want to state baldly the points I desire to make and afterwards elaborate them slightly, if I may.

Very briefly, the points that I want to make are these: First, the present method of taxation of such profits is injurious to the Treasury of the United States because it kills transactions which would be made if the taxation were reasonable. In a great many cases the people who would make those transactions can not stand the burden of the tax which would be imposed upon the profits resulting from them in addition to such taxes as are leviable upon their ordinary income; hence the Treasury receives no income. That is the first point. I want to elaborate that in a moment.

The second point is that the present method is bad for the country, economically considered, because it tends to augment the condition of what I may call frozen capital which, it seems to me, is one of the serious things with which we have to contend in our economic condition.

In the third place, it is an injustice to the taxpayer to tax him upon such transactions in the way in which he is now taxed.



In the next place, the general thesis that I want to urge is, I think, recognized by the House, because they have passed two bills which show that they think something should be done. I am wrong in saying they have passed two bills. One was passed two sessions ago, H. R. 14198, and one was submitted at the last session, known as H. R. 16146, showing that there was a recognition of the fact that something ought to be done. It seems to me that those two bills are inadequate for reasons that I will state in just a moment.

I want to come now to the point that I want to make, so that you will see what I am trying to direct my argument to before I indulge in the slight argument that I want to make.

My proposition is that the way to treat those transactions in the interest of the Nation, of the Treasury Department, and of the taxpayer is to segregate them, set them apart, in a way of which I will speak in just a moment, and to submit those profits to a straight flat tax of a small amount, comparatively speaking. In other words, I think that if Mr. A sells a hundred shares of stock of a certain concern he ought to pay just the same tax as Mr. B will pay, even though his income might be much larger than Mr. B's. I think there should be a definite knowledge on the part of every man who deals in property as to just what he has got to pay out of additional profits he makes, in case he makes profits as the result of such transactions.

Senator CURTIS. He should not be subject to the surtax provision?

Mr. KELLOGG. No; I think there should be a straight, flat tax on these transactions.

Senator McCUMBER. What transactions especially do you refer to?

Mr. KELLOGG. What I will call capital transactions, and I am now going to define to you what I mean by capital transactions.

First, I would like to allude to the fact that in England and, I think, still in Canada, there never has been, despite their income-tax provisions, a tax upon the profits derived from the sale of capital assets, and there they do not draw any distinction at all. If a man who is an investor, who is not in the business of buying and selling stock, buys 100 shares of stock to-day, or a piece of property, and sells it to-morrow, he is not taxed on his profit as he would be if it were in connection with ordinary business or earnings.

That doctrine in the case of the United States does not seem to me to be fair to the Government. I do not think it would produce a good effect. I do not advocate it at all, but I do want to advocate this, that you should call capital transactions a certain arbitrarily defined class of cases which I would limit by considerations of time. To illustrate: I would say that if a piece of property or an asset has been held by a man longer than blank months, leaving a blank to be filled in later, it should be considered as an investment and should be considered as an extraordinary case which should be set aside and subjected to a flat tax instead of being included in the general taxes, both normal and surtax, as provided by the present law.

That general view I first suggested some years ago in correspondence with the Treasury officials, and it has been adopted in both these House resolutions; but they take the period of three years. In other words, a man must have owned a piece of property and held it for three years continuously. I believe this period is too long.

I want to illustrate to you cases that have come within my personal experience and show you how I came into this matter and got very interested in it. During the years 1917, 1918, 1919, and 1920 there came to me in my professional capacity a number of cases of different clients who wanted to make deals of one sort or another. Some were corporations and some were individuals. I refused to allow those deals because the taxation would have been so prohibitive that they simply could not have stood it. In certain cases not a dollar of cash would have been realized. In all cases they would have had to pay actual money in taxes to the United States Government, although frequently they did not receive any cash as the result of the transaction itself.

In the course of those years, in my own personal experience, there would have been taxes amounting to a great deal of money, I do not know how much, which would have been paid to the United States Government if there had been a reasonable straight, flat tax imposed upon the profit derived from those transactions; but as a matter of fact not a dollar was paid, because the clients could not stand the burden of taxation which otherwise would have been payable.

Take this case: A man invents something. He spends years perhaps in working it out, and suddenly comes to the realization of his quest, and he wants to sell it out for a large price. He would have to pay something like 75 per cent of his profits to the United States Government. He does not sell.

Take the case of the farmer who in war times saw the values of his lands increase. He does not sell.

Take the case of a man who owns a house. I heard of this case: It is not anything with which I was personally connected. A salesman in New York had a house for which he had paid, I think, about three or four thousand dollars, and during the time of the house scarcity two or three years ago it rose to a value of something like \$7,500. He was transferred to New England. He wanted to sell his house. He got what he thought was a good figure for it, \$7,500, I believe the figure was. He went to New England and found he could not get another house of anywhere near the same kind for that amount, and he had to pay the Government the difference between the original cost of the house and what he had sold it for.

Those things are simply unfair to the individual, and in many cases—not in this particular case—prevent transactions from going through and result in no revenue to the Government, which is certainly harmful to the Treasury as well as to the individual.

Here is a case in which I am now actually professionally concerned and which is pending before the Treasury Department to-day. A man had some properties costing about \$1,800,000. He bought them, let us say, in November. In June of the next year he organized a \$4,000,000 corporation and took those properties in without paying any attention to it, as a matter of fact, without consulting counsel who had made any study of the situation. He took all the stock himself. He did not sell a share; and when the transaction was over he had exactly what he had before, only the piece of paper held by him read a little differently and perhaps was of a different color, but his actual interest was identical. He had a bill from the Treasury for a tax of \$1,600,000 for that transaction. I have been fighting it for 11 or 12 months and I have a promise of a report in my favor.

The report was based on other grounds than those which I am arguing now.

Senator McLEAN. Would the decision of the Supreme Court go as far as to cover a transaction of that kind?

Mr. KELLOGG. The decision of the Supreme Court I think is not on this particular question.

Senator McLEAN. It would not go as far as to cover that question?

Mr. KELLOGG. You mean the decision by which they upheld the validity of the tax?

Senator McLEAN. Yes.

Mr. KELLOGG. That decision nominally would permit such taxation, because, under the rulings of the Treasury Department, if you transmute the assets you have into something else, even though you own 100 per cent of the something else, you are considered as having participated in a closed transaction and you are subject to a tax.

That tax of \$1,600,000 was recommended to be assessed upon my client. I have been fighting it for months, and though I have no doubt I shall get it eliminated finally, it shows you into what traps a client may fall under the operation of the present law.

Let me give you another instance. This is a case which I knew about though I was not counsel in it. A partnership had been organized for many years and they had a reasonable amount of money in their business and were doing an enormous business on a comparatively small capital. They wanted to incorporate and were just on the point of doing it when they learned that there was a point which they had better stop and look into. Their good will would have been considered, under the rulings as they now stand, as a part of the assets of the partnership which had been acquired and which had grown up through their course of dealing and which, of course, was of much more value than the original amount of money they had put into the business. If they turned that over to that corporation and took 100 per cent of the stock they would have found themselves in identically the same position as my client was in when he turned over his property to the \$4,000,000 corporation.

That thing has been held up for 14 months. It is a perfectly legitimate transaction. Why should they not be allowed to incorporate if they want to?

Those are the excrescences of the main point that I want to make. I want to show you, first, that the general policy was vicious, and, in the second place, that these regulations of the Treasury Department lend additional horrors to life.

I claim, and I believe that I am sound in saying so, gentlemen, that when a tax law ceases to produce revenue, when it operates as a full stop to business and not as a revenue producer, there must be things in it that have no business in any tax law that the United States of America should pass; and I know from my personal experience in the cases I have already mentioned to you, and many others, that this law has operated to kill transactions which, in themselves, are perfectly laudable and perfectly worthy and ought to go on and are in line with the general policy of business and which, if regulated by a real tax law, would have gone on and would have produced revenue for the United States Government which has been entirely

lost in those cases and which never will be produced in any similar set of cases.

I want to come now to the remedy which is suggested by these two House bills. I do not know whether they have had any consideration by this committee. The theory on which these two House bills go is this: First, that there is something which must be remedied. On that point I wholly uphold these proposed pieces of legislation because they show a recognition by the other branch of the Congress that there is an evil that must be corrected. They propose to correct it in this way: They say that when a man has held property for three years and sells it or exchanges it and whenever the profits which he derives from that transaction are at least 20 per cent of the total net revenue that he has during a whole year—those are the conditions, all of which are restrictive and, it seems to me, useless—then he can have a certain right. What is that right? That he may take the profit he makes from this transaction and apportion it back during the years when he has held this property, which must be more than three years.

The gentleman that drew that bill did not know, because the facts had not then come into existence, that the United States was going into a period of comparatively low incomes after the middle of the year 1920 as compared with the period of high incomes during 1917, 1918, 1919, and the first half of 1920. If this apportionment plan had been suggested in 1917, following four years of low Federal taxation and coming into a year of higher Federal taxation, the apportionment would have been a benefit, because a man would have put part of his profit into the years of lower taxation and lower incomes, too.

Senator JONES. You are assuming that taxation is going to be lower in the next year or two?

Mr. KELLOGG. No, sir; incomes. I am speaking of incomes during this year, not only my own but those of many people with whom I come in contact.

Let us suppose that a man has owned property for three years past and has had an income in 1918, 1919, and 1920 of say \$300,000, each of those years. Let us suppose that in this year, 1921, his general income is \$200,000, but that in this year he makes a sale of some assets which give him a profit of \$100,000, so that his gross income is the same as it was in the four years previous.

Let us suppose he seeks to take advantage of this apportionment plan and to take that \$100,000 and put it back through the years 1917, 1918, 1919, and 1920. He actually will have to pay \$1,900 more taxes by the apportionment plan because he puts his profits of 1921 back into his returns on which the taxation was high for those previous years, and he not only gets no advantage, but actually sustains, in the hypothetical case, a loss of nearly \$2,000 in taxes by doing it.

Manifestly, that is no relief. It is just a paper relief. It is merely a plan that has not been carefully worked out; and as long as incomes are lower than in the years into which a part of your profit is put back, so long, in many cases, will you have exactly the same phenomena. If the taxation had been lower in the previous years, or if the incomes were higher now, which they are not, a different situation would result. Under the conditions as we find them to-day this apportion-

ment plan will not give the relief which the situation requires from the three standpoints of more revenue to the Treasury, more release of frozen capital, and more justice to the taxpayer.

That can easily be demonstrated in a number of hypothetical cases. Of course you can shift your figures as to hypothetical incomes so as to make it, in some instances, give relief; but under the facts as we find them to-day it does not give general relief and therefore is not the kind of tax that the situation demands.

In the alternative I ask this committee to consider what I have called the segregation plan which I have already briefly explained.

Fix a time which seems to you reasonable as distinguishing between ordinary transactions and real investment transactions. It seems to me a short time is ample for that—six months, for instance, but call it a year—and say that if a man has held property or has rendered service—services probably ought to go into it and have been so treated in this proposed bill—if a man has held property for more than a year and sells or exchanges it, that shall be called an extraordinary transaction or a capital transaction, or whatever name you please to give it, so long as it is segregated. Put that transaction in one column and put any other similar transaction in the same column. Do not subject it to the normal tax or surtax, but a flat tax. It must be a small tax. I do not think it ought to be more than 10 per cent at the outside. A great many people say it should be less than that, but I will say 10 per cent. Make everybody pay identically the same tax on the same class of transactions. Put all the rest of your income into the general return, and add this 10 per cent tax on this special transaction to the total amount derived from the other taxation branches of income, and the total will represent the tax obligations to the Federal Government for that taxable year.

If you do that even in the present depressed condition of the market—which is not going to last long, I believe, for I am a hearty optimist on conditions—I personally know, and from having talked with other people, of a number of different kinds of transactions that would be taken up again and go through, doubtless.

Senator JONES. We limit the tax now on oil wells to 20 per cent.

Mr. KELLOGG. But that is only in case the thing is not incorporated. That is another one of these ostensible reliefs which do not relieve. I happen to be very familiar with the oil business, because I represent a number of oil companies. One was affected by just such an operation as I have explained to you. That limitation applies only to the particular individual who makes the discovery himself. That is one of those things that is hedged about with so many restrictions that it does not amount to anything. I have never heard of a man going into a wildcatting operation without incorporating his concern. He puts up \$50,000, say. His drilling and his equipment are going to cost him that. He will incorporate a company and put in the money that he intends to put into the company and he puts his leases into the company. Then he can not sell his stock and get relief under that provision.

Senator CURTIS. I had a letter from a man in Butler County, who refused to sell his property because of the amount of income taxes he would have to pay.

Mr. KELLOGG. To corroborate your case I know of at least four transactions of importance in the oil business which have come to

my personal knowledge during the last four years because of just that situation. They were all cases where people held corporate stock of oil companies.

One of those cases was a case where the corporation held oil properties which it concluded to sell but would not sell because the value of the oil property increased so much above the price paid for it that the tax was prohibitive.

Senator JONES. The reason I mentioned the oil situation was because of the 20 per cent. I just wondered whether or not 20 per cent might be considered in the case you have mentioned rather than 10 per cent.

Senator CURTIS. Making it a general proposition instead of limiting it, you mean?

Senator JONES. Yes.

Mr. KELLOGG. It seems to me, if I may say so—of course this is only the opinion of one man after consultation and talk with many other men—the general feeling I find is that if you want to stimulate these transactions you will get more revenue from a low tax than a high tax.

Senator SMOOT. There are thousands of other cases in which they make regular profits and make them within a short time and they have paid the tax. But I know what you say is true as to many, many special cases. In fact, I know one that is in my own family.

But do you think we ought to impose a different tax upon a man who is doing a general business from that which would be imposed upon him if he should own real estate and sell it, or purchase real estate and dispose of it?

Mr. KELLOGG. I think that is the only solution, Senator. Suppose a real estate operating firm are buying and selling real estate. Their regular income is derived from those transactions. In England they would make no distinction between real estate and other transactions.

Senator SMOOT. I am perfectly aware that it would release a good many transactions in real estate. In fact, there is not a month, I think, but that I get letters calling attention to just such cases as you refer to now. I know they exist and everybody else knows they exist, but I have had a doubt in my mind whether we could go to work and begin to segregate business and impose different rates of taxation upon different businesses.

Mr. KELLOGG. You would not need to do that, if you will pardon me—

Senator SMOOT. We would have to do it if we followed out your suggestions.

Mr. KELLOGG. No; it is only a question of time. It applies to all businesses alike.

Senator SMOOT. Oh; your recommendation is that it applies to all businesses?

Mr. KELLOGG. Oh, absolutely. Take a case where a partnership, a corporation, or an individual has held property of any kind you can mention for whatever number of months you decide to put in that blank—a year if you want to. I think a year is too long, but that covers every possible business. I want to make that plain.

Senator SMOOT. Then, of course, we would lose the revenue from the income tax upon all that business.

**Mr. KELLOGG.** I have talked this over with Mr. McCoy, because his knowledge of the situation is so profound. I am not authorized to quote him, and I wish he were here now. The impression I had from him from the long and very interesting talk I had with him was that he felt the apportionment plan suggested by these two House bills did not apply to present conditions and he felt that the segregation plan would offer some relief, and he was not prepared to say but what the relief would be greater and the income to the Treasury greater than under present conditions.

**Senator SMOOT.** I had not given it any thought, so I would not want to express a definite opinion, but it seems to me, just offhand, that the Treasury would lose more in dollars and cents than it is realizing to-day. I do not say that positively, but these are special cases and they are cases that come to light where there is a great profit involved, and I do not believe they run into the hundreds in the United States; they may. Evidently they do not run into the thousands.

**Mr. KELLOGG.** I think they run into the hundreds of thousands. If you will pardon me, I was recently a delegate to the United States Chamber of Commerce convention at Atlantic City, and I did not meet a man there that I talked to—and I talked to a great many men—who did not know of a number of transactions of that nature that had been killed. I believe they run into hundreds of thousands every year, and especially such years as the good years of 1918 and 1919 and the good years that are going to come, because this country is not going to be a bear country. We are not going to stay at the bottom of the financial depression. We are going to have a period of rising values. That is United States history, and we are going to have that situation again, and the minute it comes the condition that I have attempted to explain will be emphasized continuously.

With the greatest respect to you, sir, I want to disagree very earnestly with the thought that it only applies in special cases. When a man in his own practice—and I am just one of some 10,000 New York City lawyers and one of some 200,000 United States lawyers—finds as many cases of that sort that come to his personal knowledge as I have found, and when he compares notes with his friends, members of the bar, and people in commercial life, and finds indications of so many more, it must be true that the transactions which have been actually killed in the last few years are enormous in their number and should have produced an enormous revenue and have produced none at all.

**Senator SMOOT.** Perhaps I ought to have qualified what I said, in this way, that if the individual himself had no other income and this was the only income that he received, then I think it would be a special case; but the individual holding these properties, having a large income from some other source and being compelled to pay an income tax on the exceedingly high profit made upon this one transaction, will throw it all into the higher brackets of the income-tax law.

**Mr. KELLOGG.** It does.

**Senator SMOOT.** I imagine that perhaps the cases would be multiplied in that way.

**Mr. KELLOGG.** That happens very frequently, sir.

**Senator SMOOT.** More than likely most of them are that way.

**Mr. KELLOGG.** A number of them unquestionably are.

But take the man that I spoke of, the New York salesman. He did not have a high bracket—and see the situation he was in. It is a matter that I am not personally familiar with. It was told me by a friend of mine who knew the situation. He had sold his house and made a profit and he had to pay tax. He could not buy a new house with the proceeds he had left. That man was more seriously hurt than your multimillionaire who makes a million-dollar transaction.

Senator JONES. He should have looked around.

Mr. KELLOGG. He should, sir; but what would he have done? He was transferred by his business into New England. He had been in New York. What was he to do? He had no more use for his house.

Senator SMOOT. Could he not rent the house on the interest?

Mr. KELLOGG. I am not familiar with his personal affairs, but I can easily assume that he had a mortgage coming due that made it necessary to sell. Those, of course, are merely hypotheses. The actual fact was that the man was hurt, and that there was not any reason for his being hurt, in the justice of the situation or in the advantage to the Treasury, because it never does the Government any good to pass an unjust law.

I believe as firmly as I can believe anything that the United States has lost millions of dollars of revenue above what it got from the people that did sell and did pay the tax, because of the transactions that never went through.

Senator JONES. I imagine that we are all practically agreed on the evil that you have pointed out. It is a question of the remedy. I do not think there is any doubt in the world but what your general position is verified by the facts in the country.

Mr. KELLOGG. Thank you, sir.

Senator JONES. For one, at least, I think we should find some remedy for the situation. It is a question of what the remedy should be, so far as I am concerned.

Mr. KELLOGG. May I allude to another point? I was talking with one of my friends who was a dollar-a-year man in the Internal Revenue Commissioner's office, with reference to this House bill which doubtless will come before you after it passes the House in this present session. He said, "My God! The thing is utterly impossible. Those men are driven to death. Think of their having to revise all these income-tax returns for previous years. It would stop the business of the Treasury."

Of course that is an exaggeration, but he said that administratively the plan is impossible.

Senator JONES. Take the property which has been held since March, 1913. Does the House bill propose to distribute that over all of the years since 1913?

Mr. KELLOGG. Yes; and as to that there would be some relief in the years of low taxes, 1913, 1914, 1915 and 1916: There would be some relief.

Senator JONES. Would you think of equalizing the income for the various years with this special income?

Mr. KELLOGG. I am not sure that I quite grasp your point, sir.

Senator JONES. Assuming, of course, that the income of the individual has varied during different years, how would it do to let him apply that income to the income of the lean years until it reaches the maximum income of any given year and makes the amount of his



income as nearly as possible equal during each of the years during which he has held the property?

Senator McLEAN. It would not do him much good.

Mr. KELLOGG. I do not think that that would relieve him very much.

Senator SMOOT. If we undertake to do it we would have to have 10,000,000 lawyers in every section of the country and about a hundred million more auditors.

Senator JONES. What I had in mind was this: You mentioned a case a while ago, where, in 1918, an individual had a high income and he had a low income last year—

Mr. KELLOGG. Or this year.

Senator JONES. Yes; this year. Apply his income to the income of this year until it equalizes his income for 1918.

Mr. KELLOGG. Would that, sir, give him the relief desired, or would it not involve the Treasury in an administrative difficulty? At first thought it would seem to me that it would bring about the latter.

Senator JONES. I am suggesting it to get your view about it.

Mr. KELLOGG. I did not grasp your point at first. It is a very interesting point. I think it would require the analysis of a number of hypothetical sets of figures to show how it would work out, and also very careful consideration of the administrative difficulties with which the Treasury Department is now confronted. All of us who have business there know that they are four years behind. They have not settled a number of cases back that long ago in which I am interested. I have tried to get a matter of the 1917 tax worked out. It seems to me, if I may venture to say so, that there is one cardinal point which the new revenue law has got to keep in mind throughout. If we do not simplify the thing the United States Treasury Department and the Income Tax Bureau are going to be swamped. They are swamped to-day, gentlemen.

Senator SMOOT. They have said so.

Mr. KELLOGG. Anything that adds to its complexities will not work out any practical relief to the Treasury or practical justice to the individual.

Senator CURTIS. If there were more common sense there it would be a good thing.

Mr. KELLOGG. A good many thousand men have had those positions. They are most earnest and conscientious.

Senator CURTIS. They add thousands of men and make it more intricate and cumbersome.

Senator McCUMBER. You have got to apply a very complex law to a still more complex character of business in the United States.

Mr. KELLOGG. That is true, sir.

Senator McCUMBER. I think that is some excuse for the many rulings.

Mr. KELLOGG. It is; and please do not misinterpret what I was saying, sir. Nothing is further from my thought than to criticize the Treasury Department, because those men are conscientious and hard workers, but they have felt themselves compelled always to protect the side of the Government, and in their effort to do so they have made rulings which simply are technical and which do not get

to the merits. They are not the rulings of men that have discretion. They feel that they are bound by the law.

If the Members of Congress can simplify the law so that there will be no doubt they will wonderfully assist the operation of the Treasury Department.

But I am intruding too much on your time—

Senator McCUMBER. You are giving us very interesting testimony, sir.

Mr. KELLOGG. I have only a little more to say. I would like to answer further the Senator's inquiry.

I was about to summarize. The first remedy is to adopt the English view and cancel all taxation on such profit. This I do not advocate, because I believe the Treasury of the United States needs more money, not less money; and I believe that if the proposition urged here to-day has any merit it will give the Treasury much more money. But we will put that to one side for a moment.

The second remedy is the apportionment plan, which bristles with practical difficulties of administration and also with difficulties in the way of actual relief, as I have attempted to show.

The third remedy is the segregation plan which I have attempted to specify as the one on which my mind runs most strongly. I believe that is the solution. While, of course, many variations can be mentioned in connection with these three theoretical remedies, I do not know of any other broad alternative than those three that I have stated.

The subject I am discussing, Senator Calder, is the subject of the sale of capital proceeds and the sale of capital assets, and I have attempted to maintain the thesis that those transactions should be segregated from general taxation and subjected to a flat tax of not more than 10 per cent.

When I appeared before the House committee they asked me to submit my views in writing, and I drew a proposed bill with comments, at the request of the committee, and I am going to ask leave to file it with this committee.

Senator McCUMBER. Yes. You may insert it at the close of your testimony.

Mr. KELLOGG. I am asking leave to insert in the record my testimony before the House Ways and Means Committee, pages 127 to 140, inclusive, from the document known as part 5 of the Hearings before the Committee on Ways and Means on the subject of revenue revision, December, 1920.

I took as a fair measure of elimination the \$2,000 exemption which is now recognized by the existing law. Why not say that all such transactions, if they do not involve a profit of more than \$2,000, should be treated as ordinary transactions, but if they involve more than \$2,000—if they amount to more than that they should be considered as extraordinary transactions or capital transactions which should be bracketed separately and subjected to this flat tax?

Senator JONES. Would you apply it to a transaction on stock?

Mr. KELLOGG. I would apply it to every kind of a transaction on earth, if the man has held the property longer than the time which Congress may fix as the dividing line between day-by-day transactions and investment transactions. In my mind, we should classify these things as investments on the one hand, and casual day-by-

day transactions on the other. The day-by-day transaction could be taxed in the ordinary way. The investment transaction should be taxed in some other way.

It seems to me that if there is any other alternative whatsoever than those three general ones, aside, of course, from variations in each of those three, nobody with whom I have talked has been able to suggest it, and my own ingenuity, such as I possess, has not been able to formulate it.

In this proposed bill, which I drew for the House committee, I outlined in detail what I have attempted to explain in general language to-day and which, if anyone is interested to read it, will show those processes which were in my mind at the time I used the particular language in the bill.

I believe that if this thing is cleared up there will be an immediate revival of interest in a number of perfectly legitimate and worthy business transactions which to-day are dead, or perhaps moribund, and which will always be so unless a remedy is applied. In my opinion, I believe that if Congress should establish 20 per cent as the tax, they would be just as dead as they are to-day. I believe that from the result of my own investigation of the subject. I believe that if you put in anything more than a moderate tax, which I say should be limited to 10 per cent, you will simply perpetuate the present conditions.

Mr. Chairman, I thank you very much for your courtesy. That is all I have to say, but I shall be more than happy, if any question exists in the mind of any member of the committee, to endeavor to answer it, because I have given the question special study.

Senator McCUMBER. Suppose property was purchased in 1914 and held until 1921 and it has increased in value 100 per cent. A dollar has decreased 50 per cent. The property has increased mainly because of the inflation and the cheaper dollar rather than from any more income that you could get out of it. Is it not unjust to say that a person, because he sells it for the same number of dollars that he purchased it for in the general market, has got to pay the Government some money?

Mr. KELLOGG. I think you have touched the most vital point in the whole matter.

Senator McCUMBER. The fact is that he has not made a cent if those figures are correct.

Mr. KELLOGG. I believe that is one of the strongest reasons. I am very sorry that I did not think of it myself. But it is absolutely sound, as it appeals to me now.

Senator CALDER. I know of a transaction where a man bought a piece of property that cost him \$140,000 in 1913. In 1920 it would have cost him \$290,000. He was offered \$210,000 for the property, and he was disposed to sell it, but he discovered he would have to pay \$30,000 of that profit in taxes to the Government, and he did not sell the property. He could not afford to sell it.

Mr. KELLOGG. That is another experience of exactly the same kind that I have given before you came in. I had given a number of similar illustrations from my own personal experience, and I believe that they can be duplicated by nearly everybody you come in contact with.

**Senator SMOOT.** In many, many cases the real estate does not bring in a single cent. The owner pays taxes on those taxes, and if it is 8 or 10 years at the rate of interest we have been applying, for that length of time the interest in the compounding of it would amount almost to the principal, and then he would have to pay taxes upon that.

**Mr. KELLOGG.** There is a little side consideration of this general topic which I have not taken your time to mention this morning, but it was alluded to in the second bill which I mentioned. It has to do with corporation reorganizations.

One of the companies which I represent has some oil property. It is an isolated property which they bought at  $x$  dollars. It is to-day worth about twenty- $x$  dollars. They wanted to organize a special corporation to handle that, taking in with them some other interests who were going to contribute some money and develop the thing as a joint affair under the ownership and management of this new corporation. I had to kill it. They would have paid a tax of something over a million dollars. I can not guarantee the figures, but it was up in six or seven figures. They would have had to pay a tax for the privilege of organizing a new corporation. It simply ended the business. What good did that do the United States?

In connection with the House resolution 16146, my objection to the clause that relates to corporate reorganizations is just the same as my objections to the other. It ostensibly gives relief, but it does not practically give it. In the case I had in mind there would have been under this proposed law a large tax payable unless a 95 per cent interest were retained.

A Treasury ruling promulgated in 1918 and repealed in 1919 hit it, as it seemed to me, fairly well. They said that where there is a reorganization or transfer of property in which the owners of the property retain more than 50 per cent interest, it shall not be deemed a closed transaction and no tax shall be imposed in respect of it.

Such a clause as that is the one I have mentioned in my proposed bill. That would stimulate a number of transactions which to-day are held up simply because of taxation. There is no other reason in the world for holding them up. It would stimulate general business and thus stimulate the total volume of revenue.

**Senator JONES.** Have you considered the point raised by the Senator from Utah? It is a matter that I have thought about somewhat—allowing an exemption equal to a reasonable return on the investment for the period that the property has been held.

**Mr. KELLOGG.** I have not considered that particular thing; but all of those provisions which involve a judicial determination by the Treasury Department are, to my mind, objectionable. I do not think it is possible to apply them practically.

**Senator JONES.** I do not think this would necessarily involve a judicial determination by the department. Where a person has held property for a number of years without any income from it, and then he sells at a high price, would it not remedy the situation, at least partially, if you allowed him an exemption equal to a reasonable rate of interest on this first investment, and should not that be done? Because there must be a vast difference between the transaction which amounts to a turnover within 1 or 2 years and a turnover within 5 or 6 or 8 or 10 years. There must be a vast difference in the equities of the parties there.

**Mr. KELLOGG.** There might not be, Senator. Take the case of an inventor who has been working for years—

**Senator JONES.** I have in mind real estate transactions, now.

**Mr. KELLOGG.** Oh, real estate only. No, sir; I had not in my mind drawn any distinction between real estate and anything else. I have been trying to work out a general rule.

**Senator JONES.** Can you not see that there would be a difference where a man had his property in 1913—it is a vacant town lot, we will call it—and he holds it until 1921 and then sells it for a profit. Should not the fact that he has held it for such a long period of time be taken into consideration and should the man who only holds it for a year, reaping the same profit, be taxed a little differently from the man who held it for six or eight years?

**Mr. KELLOGG.** There is certainly an equitable point in what you say, sir, without any question. Whether it would be administratively practical I am not quite prepared to say. I think really the point which the Senator made would be a point, if I understood it correctly, in addition to the point I have been making, because whatever the tax was, whatever your eventual determination is as to the basis on which those transactions shall be taxed, this point that you have just made and the other Senator made can be taken into consideration as an additional measure of relief to the individual.

**Senator JONES.** Take a man who bought a farm in 1913 and that farm, in all probability, has not brought in much of an income. He sells it for a profit, we will say, of 100 per cent. Another man buys the farm a year ago. He sells it for approximately 100 per cent. Should not the man who held it for those years be treated a little differently from the one who makes his profit all within a year?

**Mr. KELLOGG.** I should be glad to see that done if it were practicable, sir. The point of equity is entirely well taken.

**Senator McLEAN.** That is not the thing that really determines the matter—the fact that somebody else may make more or less money than you in dealing with a particular property. The thing that interests you is how much have you got to pay on your property? There is where the deterrent comes in. You are not worried about the injustice that may be done somebody else. You are not comparing your bill with that of somebody else; but if the tax is so high that you say, "I can not afford to sell this property," the sale is not made. The witness is unquestionably right, to my mind. There are undoubtedly hundreds of thousands of transactions which, if they had been permitted to be made on a small flat tax, would have resulted in returning to the Treasury much more money than has been collected under the existing law.

**Senator JONES.** Are there not two points involved? Are there not the point just suggested regarding the individual transaction, regardless of the length of time the property is held, and the further point where the property has been held for a long time?

**Senator McLEAN.** Yes, Senator; but in the case which you mentioned where it would be an injustice to sell, if the tax was not high enough to interfere with that particular transaction it would be paid and the Government would get the benefit of it.

**Senator JONES.** It is not a question, it seems to me, of payment entirely. The question of payment is equally important, but the question of justice to the taxpayer is another.

Senator McLEAN. I realize that; but I do not think it is directly involved in the proposition of the witness.

Mr. KELLOGG. That would be an additional proposition, sir, right in the same line. It is a supplement to what I have attempted to urge. I entirely agree, sir, that there is a point of equity there. If it were practical to add that, it would be in the line of justice, without any question. That is a point to be desired.

Senator McCUMBER. Senator Jones, could not your proposition be supplemented by a case like this: Here are two men who, say, buy timberland in 1913 or before that time. One of them pays a million dollars cash and he holds it, say, for 10 or 15 years. The other makes a similar purchase for a million dollars, but he buys it all on time and pays 6 per cent interest. His interest money he can deduct each year from his taxes. At the end of the time they both still have the same price, but while one has had the benefit of all of that interest, the fellow who has paid cash is laboring under the disadvantage that he has had nothing that he can set off. It seems to me that the Government in a case of that kind might allow what would be a reasonable interest upon the investment, including taxes, etc., during those years.

Senator JONES. I think that illustration goes right to the point.

Mr. KELLOGG. I want to illustrate the last point that I have to suggest. I know of a man who prior to 1914 bought some stock in a certain company. That stock went up colossally. It is one of those things you read about in story books. The profits were so tremendous that they looked unbelievable. That man would not sell at the top of the market because of this tax law, and the stock has gone down practically to the point where he got it.

Senator JONES. He is in a better position to lose than the other fellow would have been.

Mr. KELLOGG. He is not entitled to any defense. But it is human nature. That man, because of the motives that actuate most men, lost a gigantic opportunity and the Government lost a tax.

Senator McCUMBER. That is a question of who holds the bag, the original purchaser or his consignee.

Mr. KELLOGG. Yes; but the Treasury would have made more revenue. We must take human nature as we find it. People just will not sell under those circumstances and you can not make them sell. What I want to do is to make it easy for them to sell and thus to stimulate the direct revenue of the Treasury and the general revival of the business. If I have made those points plain to you, I think I have done all that I contemplate doing this morning.

(The testimony and the proposed draft of revenue legislation referred to are as follows:)

**STATEMENT OF FREDERICK R. KELLOGG, NEW YORK, N. Y., BEFORE THE HOUSE WAYS AND MEANS COMMITTEE, DECEMBER, 1920.**

Mr. KELLOGG. I should like to make a few points plain, Mr. Chairman. In the first place, I am not here representing any client, although I am a lawyer. I am here because of a number of experiences that I have had in my professional relations within the last three or four years bearing upon this point, and which have made me believe that the situation exists where different measures from those heretofore suggested should be adopted both in the interest of the Nation and of the individual taxpayer. I am referring to the question of the treatment of profits which are derived from the sale of so-called capital assets, a term which I will define in just a moment.

Last spring this committee had before it H. R. 14198, which was passed and which is now, as I understand it, upon the desk of the Finance Committee of the Senate. But my object in asking your attention for just a few moments to-day was to point out, if I am able so to do, that H. R. 14198 does not seem to me to meet a very real situation which I know to exist, or at least, to be more accurate, which I know to have existed and which I believe will exist again. It is needless, of course, to trouble members of this committee by a reference to the law, because you are all thoroughly aware of the fact that any profit derivable from the sale of an asset, no matter how long it has been held, whether it is a piece of land, a mine or oil well, a house, or anything else, is taxed now on practically the same basis as if it came from one's daily labor or from an investment on which you collect coupons.

The same rule applies under section 202 to exchanges of one kind of property for another kind of property, as to which I wish to make a particular note in just a moment.

At first thought it would strike any man, I take it, that when a man sells a piece of property and gets a profit, what reason is there why he should not be taxed on that just the same as he would be if he had received a fee as a lawyer or made a substantial profit in the course of a brokerage business or anything of that sort? Put the thing that I want to ask your attention to for a moment particularly is the way that it has worked in my own experience, and I am not purporting to give you any more than my own personal experience, corroborated by a number of comparisons and notes with other men in New York City.

It has so happened that within the last three years in matters that have come to my desk involving sales, transfers, reorganizations, and various activities, both of a corporate and an individual nature, there have been a great many millions of dollars of proposed transactions which I have had to kill absolutely, simply because of the fact that the people who were going to make those transactions would have had to pay anywhere from forty to seventy odd per cent to the Government in taxes, and they simply would not; the business could not stand it. Therefore the transactions were absolutely abandoned.

These experiences are not confined to any one class of cases. They have been in mercantile matters and reorganizations of corporations in the sale of oil properties. I have quite a number of clients who are interested in those various matters and otherwise. A situation of this sort came to my desk the other day incidentally and not professionally. This case is that of a corporation with a sales department in the center of New York State. They had a man in charge of it who had been there for several years. He thought he was going to be there permanently and he bought a house that cost him about \$7,500. The management in New York thought that man should be transferred to some place in New England because he had made good in New York and they wanted him to enter a new field. He sold his house, for which he had paid about \$7,500, and in view of the increased price of real estate it brought something like \$12,000. When he went to New England and tried to buy another house of about the same type he found that he could not get anything that even resembled it for anything like that price, and also he then became aware of the fact that he would have to pay a tax, the exact amount of which I do not know, because it depended on his salary and other things in respect of the profits he had received on the sale of his original house in central New York. He then became very keenly alive to the fact that the purchasing power of a dollar had lessened so much that his supposed profit was largely stage money. It did not amount to anything, but the Government nevertheless, under the present law, had no alternative but to require him to pay a tax on that amount.

Now, take the suppositious case of a workman, who, for example, has been living in some manufacturing center like Akron, Ohio. Perhaps the industry with which he has been connected is discharging men; he has been a thrifty man, and he owns a little home that cost him three or four thousand dollars. Suppose he goes elsewhere in search of work and finds it; then he has to sell his house and establish himself somewhere else, and he will have the same experience with respect to the sale of that house.

Another incident that I am personally familiar with was the case of an oil property which was an incorporated concern, and therefore did not come within the provisions of the exemption clause in the present statute, where sudden developments made the stock worth very much more than it had been worth for two or three years previously, during which the owner had held it. He wanted to sell out at the price he could have gotten. He would have been very glad to sell and reinvest his money in some other form of investment, but when he found the tax that he would have to pay if he sold out, he just held on to it. The total of those cases in my own experience has run to a great many millions of dollars, I would not dare to say how much, of things that did not actually go through.

Mr. LONGWORTH. Is there any difference in the case of oil lands and other things?

Mr. KELLOGG. Yes; but that amounts to almost nothing in practice, because the average man incorporates his company in the oil industry. There are very few cases, although I do not doubt there are some, where the industry is not incorporated.

Mr. LONGWORTH. How about the wildcatter?

Mr. KELLOGG. The wildcatter frequently wants to incorporate and sell stock. And there is another thing that seems to me unnecessary and unwise. If he takes a property that he believes to be good and incorporates it on the basis of whatever the law of the State permits, and he takes more stock than the amount he paid for it, he has got to pay an enormous tax on just the transfer of one piece of paper for another. He hasn't had a cent in his pocket, but he has got to pay an enormous tax just the same. That is the Treasury ruling to-day, despite decisions in the Supreme Court in the Gulf Refining case, the Southern Pacific case, and the decision of the Circuit Court of Appeals in the Atlas Portland Cement case. But the Treasury Department to-day, gentlemen—at least very recently, for I have had a matter up where they recently did it—are ruling that you have got to pay a tax for a change of form without a dollar coming to the owner through the transfer. That is simply a statute in restraint of trade, because it results in transactions not being made that would be made if it were not for the statute.

I do not desire to take up too much of your time with analyses of these cases, the case of the inventor, of the oil man, of the farmer whose values went up during the great demand for wheat, etc., but I do desire to allude very briefly to the legislation on this difficulty proposed by H. R. 14198. That bill contains three important elements, and only three, which I desire to call to your attention.

In the first place the only relief suggested is that the profits in the year in which the transaction takes place may, at the option of the holder, be apportioned back during the number of years, not earlier than 1913, during which he has held this property. In the second place, in order to get any advantage from the operation of the law at all he has to own the property for the three years preceding its disposition. In the third place, in order that he may come under the provisions of this section the profits which he derives from this must equal at least 20 per cent of his income during that particular year.

Now, I wonder if the mathematicians of the Treasury, by whom these various points have frequently been considered—and perhaps were suggested in this case—had in mind the precise situation that exists to-day, where for three years past, notably 1918 and 1919 and 1920, to a less extent, but nevertheless substantially, incomes have been large, but where during 1921 they are going to drop like a plummet in many lines of industry. Let us suppose, for instance, that a man has had an income of \$300,000 in 1919 and 1920, those two years. Just take that as the simplest possible form of an illustration. Let us suppose—and we perhaps will not be far wrong—that he has an ordinary income of, say, \$200,000 in 1921 from the regular business that he is in, but that he has a chance to make another \$100,000 profit from the sale of some capital asset, defined in the way that I want to allude to in just a moment. If this man apportions his capital profit between the years 1919, 1920, and 1921, as he would be allowed to do by H. R. 14198, he would not only fail to obtain relief but would actually be compelled to pay greater surtaxes than if he had paid all his taxes on that profit in one year.

Now, of course, the answer may be made to that. Why shouldn't he pay it all in one year? But the answer to that again is, that he will not make that sale if he has got to pay that tax. That is the way human nature is constituted. That will operate in many instances—universalities are, of course, ridiculous and dangerous—but in many cases it will stop the transaction and no tax is collected at all. I know that to be the fact in my own practice, because I have had many cases where I have had to kill the transaction. Now, what is the result? The Nation gets no income and it loses the chance of getting an income that it would have gotten if it had made a reasonably small tax upon those particular kinds of transactions as distinguished from the ordinary income transactions which compose the great bulk of every-day business.

In the next place, if the Nation did get an income out of that profit, if the man did make the deal, if he swallowed his dislike to paying that tax and made the transaction, it would not be fair to him in many cases. You have all recognized that, as shown by your adoption of H. R. 14198. So, not going back to discuss the underlying causes which influence the taxpayer, I want to point out that this tax law as it now stands, even with the so-called alleviation given by H. R. 14198, remains a statute in restraint of trade or in restraint of alienation at any rate, and is not a tax statute at all, because transactions do not exist in a great many cases where they ought to exist.

Of course, I am not going to commit the folly of trying to prophesy what the results in dollars and cents would be of changing the law, but I do want to say that I know in



the years that have gone by, where I have been personally familiar with such transactions, a great many hundreds of thousands of dollars would have been paid to this Government which have not been paid and never will be paid because the transaction did not go through; and I want also to say that while things are on the down grade now, so far as stock market quotations are concerned, yet this is a bull country, in my opinion, and is never going to cease to be during my lifetime; and we are going to have an increase of values by and by which will make this matter a living issue again, just as it was in the boom years of 1919 and 1918. In the meantime individual transactions show the same situation from time to time as in the case of mines and oil wells and other cases where developments create values which a man can cash in if he is able to do so without giving too much money to the Government of the United States for that privilege.

One other bad result from the present tax law is that it increases the amount of so-called frozen capital throughout the country. There can be no question, I think, as to the harm which flows from causes which, during a period of enormous demand for fluid capital for many reconstruction purposes, tends to keep money enchained in existing forms of investment.

Mr. TREADWAY. A few weeks ago we had the argument presented here that the higher revenues from surtaxes drove the richer people from usual forms of investment into tax-exemption securities, and that therefore the Government got no taxes from those higher schedules, practically. That is the same line of argument that you are making, is it not?

Mr. KELLOGG. To a certain extent. I know that to be true in the instance you just mentioned, because a number of my clients have consulted me about that.

Mr. TREADWAY. Your theory is that in the same way the method of taxation of capital assets to which you refer, these sales of real estate, etc., do not take place, and therefore the Government does not get the money that they otherwise would get if there was a lower scale of taxation for that class of transaction.

Mr. KELLOGG. I know that is true of the cases coming to my personal knowledge.

Mr. TREADWAY. Those are corollaries, are they not?

Mr. KELLOGG. Yes; in a general way. In any case, I would submit as a general principle that when a tax law ceases to produce revenue and becomes simply a statute which cuts off a great many transactions which it is in the interest of the Nation to encourage, it should not be called a tax statute at all.

Mr. LONGWORTH. Your theory is that the sale of capital assets and the profits resulting therefrom is not the same as the ordinary course of business which produces a profit?

Mr. KELLOGG. That theory is recognized in England, and, I believe in Canada to-day. They have no such tax in England.

Mr. LONGWORTH. That there is no just reason why a profit that was realized by the sale of capital assets should pay a different rate of income tax in the hands of one man rather than another?

Mr. KELLOGG. As it does in these cases.

Mr. LONGWORTH. As it does in these cases. Of course, the tax will depend on each individual case as to what other income the man has.

Mr. KELLOGG. You have seen what I was going to suggest as one thing subject to the approval of the committee as a way of dealing with this situation, that all of those things should be segregated into one item and subjected to a flat tax. You have foreseen exactly what was in my mind.

Mr. LONGWORTH. I have thought a good deal along those lines.

Mr. DICKINSON. But I understand also that the owners of lands in many instances are refraining from selling their property where they desire to do so, because of the imposition of this tax.

Mr. KELLOGG. That very thing did happen last fall in New York City, where for a time, before these rent restriction laws were passed real estate was on a tremendous boom.

Mr. DICKINSON. I have heard that in the case of farm lands out in my district.

Mr. GARNER. Mr. Kellogg, as one member of the committee, I agree with you with reference to the change in this tax if it could be made without any great loss of revenue to the Government. May I suggest that you get from the Treasury Department, if you can, the amount of revenue that is now being obtained under the present law and that you put into the record a provision of the statute such as you suggest would bring an equal amount of revenue into the Treasury.

Mr. KELLOGG. Nothing would give me greater pleasure except that I do not believe the figures are available.

Mr. GARNER. Here would be the situation that the Ways and Means Committee would find ourselves in, if I understand it, if we came to this provision in the law.

We are having hearings now with the proposition to revise the law. We would come to that provision and say, "Well, how much are we getting from that now?" You would have the figure in the record as from the Treasury.

Mr. KELLOGG. If you will pardon me, I am afraid those figures do not exist.

Mr. GARNER. Well, you have to have some one to guess it, and the Treasury Department is the guesser, as near as anybody can guess, so we will have a Treasury official here that does the guessing for us. Now, if we could get his guess as to how much we are getting now, and then his guess as to how much we would get under your proposed statute, and if they were about the same, it seems to me that we could get along better.

Mr. KELLOGG. If I might illustrate, Mr. Garner, how would the Treasury official know how many deals I have killed personally in my practice during the last four years?

Mr. GARNER. He wouldn't know and you wouldn't know, but somebody has got to guess.

Mr. KELLOGG. Now, may I make another suggestion? I may be wrong about this, and I realize that it is perhaps presumptuous for me to make these suggestions to gentlemen of your experience; I would, however, ask attention to this possible alternative, that this is one of the things that could be tried out for a year, and then you could see what it is worth. I have compared notes on this matter with firms in New York, who, I should suppose, have some of the largest practices in the United States, and with a number of other friends of mine—personal and close friends. One man said, "Why, good gracious, I have known over \$500,000,000 of transactions in the last two years that my office has killed." Well, that was a general sweeping statement. He could not tell you if he was on oath as to just how he got the figures, because he would not know just what the amount of the profits were. It doesn't get as far as that.

Mr. GARNER. Now, you can get at this, Mr. Kellogg, with at least an estimate of how much money we are now receiving in the Treasury by virtue of the tax levied on these various transactions.

Mr. KELLOGG. With deference, I do not believe I can get that.

Mr. GARNER. Well, anyhow, we could get a guess. Now, then, if we undertook to adopt your statute and you have a certain per cent in there, Mr. Longworth might say, "Well, that is the per cent we ought to have, and we will try to get the same amount of money out of it," and I would say, "No; Mr. Longworth, that is not enough. Let us make it two or three times that," and we could try the experiment for a year. Now, what I want to try to find out is what rate and what provision and what rate of taxation you would apply to the substitute that you have suggested.

Mr. KELLOGG. I was thinking of the normal tax.

Mr. LONGWORTH. It would be conceivable to my mind that a tax as low as 10 or 15 per cent would raise more revenue on these transactions than we are getting now, simply from your statement, which is corroborated in many quarters.

Mr. KELLOGG. I can testify, gentlemen, that it would have raised many hundreds of thousands of revenue simply from the transactions that have come into my office, and I am only one member of the New York bar.

Mr. GREEN. Permit me to suggest, Mr. Kellogg, that when we were going over this matter I, at least, found it one of the most difficult propositions in connection with the income tax. There is no doubt but what this portion of our law has operated as a restraint on transactions, but here was the difficulty, in principle at least, that has troubled me—this tax is not a sales tax but an income tax.

Mr. KELLOGG. Precisely.

Mr. GREEN. If we would put it on a percentage basis, however, in many cases it would be altogether too high, because it would operate simply as a sales tax. In other cases it would be too low.

Mr. KELLOGG. It would not if you adopt the suggestion that Mr. Longworth and I were mentioning a moment ago—if you segregated all those things, whether they amounted to \$1,000 profit or \$1,000,000 profit, and fixed a flat percentage of that particular profit as the tax which should be payable by the taxpayer.

Mr. LONGWORTH. That would not be a sales tax; that would be a modification of the amount of income tax as applied to capital.

Mr. GREEN. Now, just let me suggest there, I do not think that you or Mr. Longworth quite understood my point. Suppose you put a 10 per cent tax on it. Now, how are you going to segregate those who should pay only this 10 per cent tax? In a large majority of cases 10 per cent would be an enormous tax, while in other cases it would be very small.

Mr. LONGWORTH. He is going to define that later.

Mr. KELLOGG. I was going to define that. In the first place, as I had some correspondence with Dr. Adams before that first bill was introduced in the House—H. R.

14198—I think it possible that the suggestion that I made at that time as to how I would distinguish between capital transactions and ordinary business transactions was the basis of the clause that was afterwards put in the bill. I wrote a brief on it at that time and corresponded with him, and got a favorable reply, and when that original draft was framed it may be that my thought was reflected there. I came to the conclusion that you could not draw a logical distinction between capital assets and business transactions; that you would have to cut across lots arbitrarily in point of time. That was the thing that I asked him to consider, and it was the basis on which the new bill was framed. But in drawing the bill you have made it very much less effective than it otherwise would be, because you have fixed three years, which is a long period of time, as the basis of distribution between capital and other transactions, and any number of these transactions represent the disposition of assets which have been held perhaps a year, perhaps a year and a half, perhaps six months.

Now, I take it that what you would want to do, if you would consider this matter further, would be to fix some time which would be reasonably sufficient to distinguish between ordinary day by day transactions of the speculator on one side, and the more deliberate and more long continued transactions which characterize the investor on the other side, because it is the investor really who, speaking from the taxpayers' standpoint, you would be trying to protect; therefore it seems to me that three years is very much too long and that at the outside a period of one year would be amply long enough. That is a suggestion which I think would bear examination. Then leave out entirely the further limitation to the effect that the profits must equal 20 per cent of the gross income of the taxpayer. I would levy the flat tax on any profits from the sale of capital assets, defined by a time limit.

Now, I have taken up your time too long, and I only want to call your attention to one more thing. Here is a case that I had to argue last summer before the Treasury Department. A client of mine had some oil properties for which he paid \$1,900,000, and he took them just as they were without any evidence of their being worth a cent more than he paid for them—he couldn't have sold them in cash for that amount—and he turned them over, not having consulted counsel, to a corporation that he organized, and he wrote the nominal capital of that corporation as being \$4,000,000, when he might just as well have written it \$1,000,000 or \$20,000,000, because he did not intend to sell this stock. He turned over his properties to that corporation and took the \$4,000,000 himself. He owned just as much as he had before, except the stock issued to dummy directors, whose stock was indorsed and handed back to him. He never made a cent of profit; he never sold a share of stock, yet the Treasury assessed him for \$1,600,000 in cash on that transaction.

That, gentlemen, is the record of a case that is now pending before the department, that I argued last July, and I got a report in my favor on what grounds? Not on the ground of the absurdity of the legal end of it. They said to me, "We can not change our ruling on that point." But they saw the absurdity of laying such a tax when they could not prove the addition of a cent of value to the lands as compared with the price he had paid for them, so the section which had charge of that particular matter recommended that the tax assessment be disallowed on that ground. They would not even admit that the point of law was well founded, although it shrieked to heaven.

Now, I want to tell you another story. Here is a case upon which I was consulted. A firm had been in business for 20 years. They had a moderate capital but enormous earning power because of the good will which they had established. They wanted to become a corporation and they consulted attorneys who said there was no objection at all; and they were just on the point of turning over all their assets—they did not get exactly to it—to this corporation of which they were to take all the stock. Then somebody suggested to them, "What about the value of that stock, in the light of your good will? The Treasury is going to tax you on the earning power of the business you have developed, although you are going to run the same business in a different form." That transaction has been hanging for over a year, trying to get a ruling from somebody that has power to bind the Treasury, but it has not gone through yet. Now, that is absurd, considering making a man pay that tax, which might run to \$2,000,000 in this particular case.

Take another case: I represent a corporation that has a number of different items of property all over this country and Mexico. For administrative reasons we want to organize a number of subcompanies holding, respectively, property A, property B, property C, and property D, and we want to interest some other people with us in each property to a limited extent. In order to do that, since those properties have each increased in value above the price that we paid for them, we would have to pay a tax running into millions, although we take 100 per cent of that stock at the time we organize the corporation. Now, why allow things to remain that way? There is no

sense in it at all. It is just an arbitrary ruling of the Treasury Department in opposition to the trend of decisions of the courts, as far as the decisions have gone, which could easily be cleared up by a few words in your bill.

Mr. GREEN. I think that ought to be cleared up. That is not the fault of the statute, though, in my opinion.

Mr. KELLOGG. It operates in practice that way at the present time.

Mr. GREEN. That is due to the Treasury regulations.

Mr. KELLOGG. Yes. Now I am going to try to do some guessing in response to Mr. Garner's suggestion, but I don't believe there is any living man or combination of men who could do much accurate guessing on that subject. I think it has got to be tried. I don't think the results of guessing will illuminate your minds, except as to the figures they are getting now. Nobody will know what Jones and Smith and other members of the bar killed upon grounds of prospective taxation.

Mr. CRISP. I hope, anyway, you will put in your remarks a draft of your idea of the statute to take the place of the tax on the sale of capital.

Mr. KELLOGG. I would do that in this way: I would make a segregated flat tax on the amount of profits derived from the transactions—only make it just as low as your experience and your technical advisers think it is proper to make it, because the lower you make it the more transactions you will encourage. That is the only thing I would suggest.

Mr. TILSON. Mr. Kellogg, we have had Treasury experts here to help us sometimes in the framing of a bill. Don't you think that we ought to have the benefit of the help which the taxpayers themselves might give us? Don't you think we should have that help in the framing of these intricate and difficult laws?

Mr. CRISP. That is what I want—to have him give us his ideas of how he would draft a bill covering those features.

Mr. KELLOGG. I should consider it an honor to be allowed to do it, if you will permit. I should consider that I have been more than repaid for the time spent in coming here.

Mr. GREEN. We will be glad to have you present, Mr. Kellogg, in addition to your remarks, to be incorporated in the record, a formal draft of the changes you suggest.

Mr. KELLOGG. I will do so with the greatest pleasure.

Mr. GREEN. And we are greatly obliged to you.

Mr. KELLOGG. I am under obligations to you, and I will get Mr. McCoy to see if he can do some guessing on this matter, and see how far we can go.

#### PROPOSED NEW SECTION 207 OF THE REVENUE ACT OF 1918.

Title II of the revenue act of 1918 is amended by adding at the end of Part I thereof the following new section:

"Sec. 207. (a) Compensation received in any taxable year beginning after December 31, 1920, for personal service rendered by the taxpayer during a period of more than one year, and gain derived in any such year from the sale or other disposition of capital assets acquired by the vendor (or in case of gift, by the last preceding owner by whom it was not acquired by gift) more than one year prior to the date of sale, shall be deemed to be extraordinary income, and such income less losses in connection with personal services rendered during the period aforesaid or upon the same or other disposition of capital assets acquired as aforesaid, and less the expenses or other deductions properly chargeable thereto, shall be deemed to be extraordinary net income: *Provided, however,* That the net amount of such compensation and/or gain, as the case may be (after deductions made as aforesaid) received in any one taxable year, up to the sum of \$2,000, shall not be considered or treated as extraordinary net income.

"(b) The term 'capital assets' as used in this section includes (but is not limited to) property held by the taxpayer for consumption or use, but does not include any property, whether real, personal, or mixed, held by a producer, manufacturer, or dealer for sale.

"(c) The extraordinary net income of any taxpayer for any taxable year shall be exempt from all normal taxes and surtaxes which were leviable prior to the passage of this act, and all such extraordinary net income shall be returned separately by the taxpayer and shall be subject to a flat tax equal to 10 per cent of the amount of such extraordinary net income, this to be in lieu of all other taxation thereon. The amount of tax thus ascertained shall be added to the amount of such other taxes as the taxpayer may be required to pay in respect of the same taxable year.

"If the net amount of the compensation or gain of the nature specified in subdivision (a) hereof received by any taxpayer during any taxable year shall be less than

the sum of \$2,000, such compensation or gain shall be returned in the ordinary way and shall be subject to the ordinary normal taxes and surtaxes effective in respect of such taxable year."

## COMMENT.

In reading the accompanying sketch of a proposed bill the following points should be noted:

1. The general framework of H. R. 14198, section 3, has been followed as far as possible.

2. The general theory of differentiating between "capital" transactions and "income" transactions is the arbitrary one of applying a standard of time. It is admitted that this method of saving the difficulty can be attacked upon the ground of lack of logic; but the practical difficulties involved in attempting to give a definition of capital transactions as compared with income transactions, which will be reasonable and just in its application to all of the thousands of different conditions by which the Government and taxpayers are confronted, seems to make it desirable to simplify the matter by adopting a time standard.

It may be added that this theory was perhaps first suggested by the writer in prior correspondence which he had some years ago with Dr. Adams.

3. On page 1, lines 4 and 5, after the words "the sale" and before the words "of capital assets," are inserted the words "or other disposition."

This is done so as to make it correspond with the language of the existing section 202, subdivision A, of the income-tax laws, which contains the words "or other disposition."

4. Immediately following the word "acquired," on page 1, line 5, will be found the words "by the vendor (or in case of gift, by the last preceding owner by whom it was not acquired by gift)."

This language is inserted for the purpose of carrying out the thought expressed in lines 5 to 8 on page 2 of H. R. 14198, where the intention is clearly expressed to treat a donee of property acquired by gift on "the same basis" as "the donor or the last preceding owner by whom it was not acquired by gift."

In the absence of these words, and assuming that the other portions of H. R. 14198 were enacted into law, there might be some uncertainty as to whether the theory of lines 5, 6, 7, and 8 of page 2 were to be carried out in the enactment now under consideration.

5. Page 1, lines 9 to 11, the right to deduct losses from extraordinary income is limited to losses which might result in connection with personal services or sales or other dispositions of the same character as those previously defined. In this way all transactions of this nature, whether resulting in gains or losses, are segregated from other items of the taxpayer's return and treated upon the same theory.

6. The period of three years specified in lines 15 and 16, on page 3 of H. R. 14198, has been changed to one year.

The reasons for this were given in the argument of Mr. F. R. Kellogg on December 20 before the House Ways and Means Committee, and are, briefly, that the effect of requiring such a long period as three years to elapse before the remedial effect of the statutes should be operative would undoubtedly be to defeat the intent of the act in a large proportion of cases to which it otherwise would apply.

The only essential point, it is submitted, is to draw a line between the ordinary day-by-day transactions and the class of what might be called investment transactions.

In the opinion of the undersigned, the period even of one year is much longer than is necessary for that purpose—six months would seem to be amply sufficient; but whatever views may be entertained upon this comparison, it is thought that no reasonable objection can be taken to not requiring this period to be longer than one year.

7. In lines 18 and 19, page 1, an exemption of \$2,000 is provided.

The idea of this is to eliminate small transactions and to adopt as the basis for such elimination the same figures that regulate exemption from taxation allowed to any taxpayer.

This takes the place of the provisions of lines 9 and 10 of page 4 of H. R. 14198, which further tend to render nugatory the relief there provided, by placing a limitation upon its operation which would be so substantial in its effect as to deny justice in a large number of cases.

8. Page 2, lines 22 to 24, excludes property held by producers, manufacturers, or dealers for sale.

The wisdom of this exemption would seem to be open to some doubt. But for purposes of discussion the theory of H. R. 14198, page 3, lines 24 and 25, is adopted, although the draft has additional provisions affecting producers and manufacturers.

9. Lines 1 to 8, inclusive, of page 4 of H. R. 14198 have been left out. This is possibly due to the ignorance of the writer as to the precise effect which they would have if they remained; but at first sight it would seem that such provisions are unnecessary and might lead to the misconstruction of the statute.

10. Page 2, lines 25 to 35, provide for the segregation of all items of extraordinary income as defined and for their taxation upon the basis of a flat tax in lieu of all other normal taxes and surtaxes.

This is submitted to be the only tenable theory upon which the matter can be treated, for it would seem to be unjust to tax two men different amounts for the sale of the same identical quantity of assets of the same identical kind merely because one man has a larger income than another.

Moreover, this method enables an intending vendor to know exactly, prior to sale, what tax will be payable by him in respect thereof.

11. One of the greatest questions in the entire matter would seem to be the rate at which this flat tax should be imposed.

Naturally this will depend to some extent upon the views of the Treasury experts, with which the writer is endeavoring to familiarize himself.

But, as indicated at the argument, the utmost which the Treasury experts would seem likely to be able to do would be to tell the committee how much in the way of taxation upon sales of such capital assets, and the profits of sales and services of the character defined, had been received by the Government in past years. The writer is uncertain as to whether even this information can be furnished by the Treasury, for it would have to be limited to services rendered or assets held during or through a period of more than one year.

But in any event it is difficult for the writer to believe that the Treasury experts would have any certain means in their power of determining how many transactions have been prevented from consummation by reason of the tax burden which they would have involved. In order to make any such figures, the experiences of every lawyer, of every business man—indeed, of every taxpayer—in the United States would have to be given by the respective taxpayers personally if they are not matters of record; and even the taxpayers themselves, in most instances, would not be able to give exact figures because their respective transactions would have been terminated upon advice from counsel before they did assume definite form in many cases.

The writer does not believe that the special tax imposed upon these transactions should exceed the amount of the normal tax applicable in the case of individuals; but as the law will affect both corporations and individuals, the figure of 10 per cent is suggested for the consideration of the committee as one which will cover both classes of cases.

PROPOSED AMENDMENT TO SECTION 202, SUBDIVISION (B), OF THE REVENUE ACT OF 1918.

Section 202, subdivision (b), of the revenue law of 1918 is hereby amended to read as follows:

"1. When property is exchanged for other property, the property received in exchange shall, for the purpose of determining gain or loss, be treated as the equivalent of the amount of cash which was at the time of the exchange obtainable for such property in an actual and ready market, the existence of which was generally known among persons dealing in similar property, if any; but if no such market exists at the time in which such property could then be disposed of without substantial sacrifice, the transaction shall not be deemed to be a closed one and no tax shall be imposed until such property or some part thereof be actually sold or otherwise disposed of for cash or its equivalent as above defined.

"2. When, in connection with the reorganization, merger, or consolidation of a corporation, or any internal readjustment of the affairs of a corporation, a person receives, in place of stock or securities owned by him, new stock or securities, whether or not of the same par value, no gain or loss shall be deemed to occur from the exchange, and the new stock or securities received shall be treated as taking the place of the stock, securities, or property exchanged.

"3. Where property is transferred to a corporation in exchange for such securities or other considerations that the previous owner or owners of the property, through the ownership of such securities or other consideration, retain either jointly or severally an interest equal to 50 per cent or more in such property, no gain or loss shall be held to be realized by such owner or owners from the transaction, whether or not an actual, ready, and known market existed for the securities or other considerations received as a result of such exchange, unless and until the same or some part thereof are sold or disposed of. For the purpose of ascertaining the gain or loss from the subsequent sale by such owner or owners of any securities or other considerations.

so received for such property, the same shall be considered as substituted for the property; and the cost of the property or (if acquired prior thereto) its fair market value as of March 1, 1913, is the basis of determining the amount of such gain or loss."

## COMMENT.

Regarding the proposed modification of section 202, subdivision (b), of the revenue act of 1918, the following points should be noted:

1. The tendency of the Treasury Department for several years past had been to insist that whenever a transfer of title takes place of property which has increased in value since the owner acquired it, the transaction must be deemed a closed one and a profit must be deemed to have accrued whether or not the transferer received cash or some other form of property in exchange for the property transferred. And if he received property other than cash, the tendency was to hold that a profit was realized even though it was not shown that the property received in exchange could be immediately disposed of for the equivalent in cash of the value of the property which the transferer had parted with.

This tendency was modified somewhat on February 4, 1920, by T. D. 2971, in which it was held that—

"Property received in exchange for other property has no fair market value for the purpose of determining gain or loss resulting from such exchange when, owing to the condition of the market, there can be no reasonable expectation that the owner of the property though wishing to sell and any person wishing to buy will agree upon a price at which to trade unless one or the other is under some peculiar compulsion."

In view of the difference of opinion of the Treasury officials at different times upon this most important point, and the very harmful effect which this has produced upon business generally, it is submitted that the law should be amended so as to make it perfectly clear that unless a known and ready market actually exists at the time of the transaction in which the property received in exchange can be disposed of for cash without sacrifice, the transaction should not be considered as closed until a sale is actually made and property received in exchange.

To illustrate, if a vender of a house sells it and takes Pennsylvania Railroad stock in exchange, manifestly this stock can be sold on the very day when it is acquired, and hence there can be no reason for denying that the owner has received the equivalent of cash for his property.

But if he transfers his house in exchange for another house the property thus acquired may or may not be capable of an immediate sale for cash, and in the absence of proof of such an immediate and ready market it is unjust to the taxpayer to compel him to pay a tax on a hypothetical profit not actually received and which may never be received by him owing to future changes in the real estate market.

2. In paragraph 2 of the proposed amendment the existing law is changed by providing that whenever a person in connection with a reorganization, merger, consolidation of a corporation, or any internal reorganization of its affairs, receives other stock or securities in place of those which he previously had held, the transaction shall not be deemed to involve the realization of income whether or not the par value of the securities received is or is not greater than that of the securities surrendered.

There is, it is submitted, much injustice in the continuance of such limitations as had existed upon reorganization of corporate affairs. The par value of securities of a corporation is no indication whatsoever of their real value under present conditions—the truth of which is admitted even by the existing law where stock having no par value is not attempted to be valued unless the statute under which it is issued fixes a minimum value for it.

Statutes of this description do not operate to increase the taxation received by the Government, for the taxed transactions are simply not made, and inasmuch as there is no good reason why they should not be allowed to be made, it is submitted that such artificial limitation should be ended.

3. Paragraph 3 of the proposed law suggests the enactment of the substance of the provisions of former article 1566 of regulation 45.

As matters now stand, despite a number of dicta and one decision of the courts to the contrary, the Treasury Department is inclined to rule that when a man transfers property which he owns to a corporation which he organizes, and of which he takes 100 per cent of the stock, he must be deemed to have realized a taxable profit in case the value of the property at the time of the transfer has increased above the price which he paid for it. The writer has to-day one very important case pending before the Treasury Department of a client in which an additional assessment was recommended of \$1,600,000 arising out of just this sort of transaction.

It is needless to say that there is nothing in logic or justice upon which such a tax can be defended.

Another class of cases is that in which partnerships or individuals desire to incorporate their business, which, as a going concern, may have a value very much greater than the amount invested in it.

In any such case there is serious danger, as shown by actual experience of the writer, that the stock of the new corporation will be valued at the going concern value of the partnership, good will included, and that a serious tax may be imposed upon this theory.

All such crudities should be eliminated from the law; and the enactment into law of the provisions of former article 1566, regulation 45, with certain changes which will readily appear by comparison, would seem to be a desirable way of accomplishing the result.

**STATEMENT OF JULIAN H. HARRIS, DETROIT, MICH., CHAIRMAN  
TAXATION COMMITTEE OF THE INVESTMENT BANKERS' ASSO-  
CIATION OF AMERICA.**

Senator McCUMBER. Mr. Harris, will you kindly state your full name, your business, and whom you represent.

Mr. HARRIS. Julian H. Harris. My business is that of an investment banker, and I represent the Investment Bankers' Association of America, being the chairman of their committee on taxation.

We are originators and distributors of investment securities. I think it is proper to state that the membership, which constitutes about four hundred and odd banking houses, representing practically all of the reputable banking houses of the country, do the long-time financing of the country. We deal in securities which are designed to produce secure incomes, and I want to make this statement on the record as an evidence of our sincerity: We believe that the principle of taxation by graduated ascending surtaxes should be confined as much as may be to the taxation of secure incomes; that is, the incomes resulting from the very source of securities in which we deal, and should be avoided, as nearly as may be, upon those incomes which are the result of business risks.

We take that position because we feel that we are in very much the same position as the Treasury. Under our present system of taxation we depend for 75 per cent of the internal revenue of this country upon the taxation of profits and incomes. Unless the general business prosperity of the country is assured profits disappear and taxable incomes are curtailed. So that it becomes, in our opinion, good business policy for the Government to promote the possibility of profits and to promote the possibility of taxable incomes if we are to retain the present system of taxation.

Unless business profits are assured and unless incomes are promoted, the possibility of distributing investment securities, of course, is diminished. So that the very sources from which the Government is now obtaining, to a degree of 75 per cent, the internal revenue, namely, incomes and profits, are the same sources upon which we draw in the matter of distribution of securities.

We believe that the long-time finance of the country can not be sound unless the general prosperity of the country is promoted. In other words, we submit that our position must necessarily be a sincere position in looking to the general business prosperity of the country; that we can not represent any one interest in that regard; and that our position and the Government's position is analogous—the desire to promote the general prosperity.



I have listened this morning to proposals for the sales tax. Of course, if a sales tax were adopted, much that I might have to say about profits and incomes, profits particularly, would not be applicable. We believe, however, that for some time to come at least the Government must depend upon the taxation of incomes on an ascending scale, and probably will depend upon the taxation of profits. We recognize in our business, Mr. Chairman, that there are three kinds of money for investment; the money which should properly flow into the most secure kind of investment; that is, Government bonds, including State and municipal securities. We think that normally the kind of money that should go into those sorts of securities should be trust money, either in the hands of institutions, such as insurance companies and fraternal societies, and so forth, or trusts in the hands of private individuals, and, in my opinion, the savings of the relatively poor man should flow into the most secure sort of investment. Now, it so happens, and, as a matter of fact, purely by accident, that those kinds of securities, in very large measure, are tax exempt.

There is another sort of money which is investment money that should properly go into the long-time financing of productive industry—that is, into the bonds of public utilities, railroads, and industrial enterprises. That is purely investment money.

There is a third sort of money which should properly be used in the promotion and carrying on of purely business enterprise—the money which takes the business risks.

We believe that the business progress of the country can only be assured when business can call upon large accumulations of wealth for this last sort of money—that is, the money that goes into business in new enterprise and can afford the risks incident to productive business.

Now, we know, and I think, Mr. Chairman, that no one knows better than we do, that what is taking place to-day is the exact opposite of this situation. The high surtaxes and the excess-profits taxes are forcing larger accumulations of wealth into tax-exempt bonds. They are withdrawing that wealth from productive enterprise. We believe that that situation is largely due to our present system of taxation. The excess-profits tax, we believe, should be repealed. Your committee has heard the argument upon it at length; that it falls unequally on competing businesses due entirely to the accidents of incorporation. It puts a premium on over-capitalization and penalizes conservative finance. However, we believe that the greatest evil of the excess-profits tax is to be found in the complexity of its provisions and the regulations necessary for its administration.

Questions of depreciation, questions of amount of invested capital, are difficult questions and they are involved in the administration of this tax. They create doubt and uncertainty both to the taxpayer and to the Treasury. It is stated that there are potential back taxes for the years 1917, 1918, and 1919 running into the billions of dollars. I think that this is a very severe indictment of the excess-profits tax.

Prof. Adams has stated that these billions of dollars of back taxes are due almost entirely to mistaken and not to fraudulent returns.

In these days of falling inventory values the potential liability is very often not realized either by the corporation or by its bankers and it may very well spell the difference between solvency and insolvency. The banker who is conscientiously trying to extend credits is put into an appalling situation. That situation we believe to be due almost entirely to the complexity of the excess-profits tax.

We suggest that the only remedy for this situation is, in the first place, as has been stated by the Secretary of the Treasury and by the President, a rigid economy in appropriation and expenditure. We believe that the constitutional amendment prohibiting the issuance of tax-exempt bonds by municipalities and States and their municipal subdivisions, properly safeguarded, should be passed.

Senator McCUMBER. What do you mean by "properly safeguarded"?

Mr. HARRIS. I mean by properly safeguarded that there must be a reciprocal right to tax Federal bonds in the States.

Senator McCUMBER. Would not that immediately result in very much higher interests on all municipal bonds?

Mr. HARRIS. It would, Senator.

Senator McCUMBER. There would be nothing to be gained by it particularly, so far as the public paying the interest is concerned. They would still have to pay the interest on the bonds.

Mr. HARRIS. They would still have to pay the interest, and I was about to say that we did not believe that this would cure the situation by any manner of means. There is a feeling in the country that tax exemptions are unfair; and we feel that to remove tax exemptions does not cure the evil. What has happened here is that the normal flow of capital has been diverted by the high surtaxes and by the excess-profits taxes, which have taken away the insurance against risk, which alone will induce capital to go into productive enterprise; that to stop issuing tax-exempt bonds is merely putting up a dam after the flow of capital has left the normal course; that what should really be done is to take away the obstruction from the normal flow of capital; in other words, to take off tax on business profits, as far as may be, and retain the tax on secure income, so as to allow capital to flow back into the normal channels of business.

We think that in order to do that the excess-profits tax should be repealed and the higher brackets and surtaxes on incomes should be reduced. If we are to continue our present system of taxation of profits and incomes, then we should substitute for the excess-profits tax a flat tax on business profits.

The present proposed tax of 15 per cent will not give any relief to a corporation earning under 11 and a fraction per cent on their capital. It will give some relief to those earning above that. The flat tax of 15 per cent, in other words, gives practically no relief from the amount of tax but it will give a great relief from the complexity of the present tax; it will make the tax more certain, relieve the Treasury from a great deal of the burden of administration, and in that regard will be a decided relief to business. We hope that that tax can be very much less than 15 per cent and, if not for the present, that it may be shortly reduced in the future.

I would like, Mr. Chairman, to put in the record a statement and also the resolution adopted with regard to the taxation of income from municipal bonds by the association in 1920.

**Senator McCUMBER.** Very well; that will be done.  
(The statement and resolution are as follows:)

**STATEMENT ON FEDERAL TAX REVISION MADE ON BEHALF OF THE INVESTMENT BANKERS' ASSOCIATION OF AMERICA.**

There are two major problems that must be discussed in any consideration of Federal tax revision at this time.

First. Are there economic disturbances resulting from our present methods of taxation of so grave a character as tend to destroy the prosperity of the country and reduce taxable profits and incomes to the point where they will not produce the needed revenue? And, if so, how can these disturbing factors be removed?

Second. If the excess-profits tax is repealed, the higher surtaxes modified, and certain unsuccessful consumption taxes abandoned, then what tax is to be substituted for the excess-profits tax on corporate incomes and can the fiscal needs of the Government be met without making this substituted tax a greater burden on business than the present period of depression can bear?

In discussing the first of these, we submit that it is a fundamental principle that the purpose of taxation should be solely to provide revenue and should not be an attempt to control the flow of capital or to work economic reforms however desirable. Any system the result of which is to divert capital from normal channels is unsound. It disturbs the credit structure and in the end becomes unproductive.

Seventy-five per cent of our internal revenue results from the taxation of profits and incomes. These are in a very large measure the product of the employment of capital. Profits disappear and taxable incomes are curtailed when the flow of capital is diverted from productive enterprise. This is precisely what is taking place to-day. Municipal bonds should properly be absorbed by institutional buying and for the investment of trust funds. The smaller investors should not trust their savings except to the most secure investments, while business enterprises should rightfully be able to draw upon the larger accumulations of capital which should be encouraged to take the risks incident to business progress. We all know, and none better than the investment banker and the distributors of securities, that precisely the opposite situation obtains to-day. The high surtaxes are forcing large investors into tax-exempt bonds, while the excess profits tax has taxed to the vanishing point the possibility of profit which alone justifies to capital the risk incident to normal enterprise. Capital will not flow uphill. We may not like it, but such is the fact as unalterable as the law of gravity.

The excess-profits tax should be repealed. As a war-time measure, it served a useful purpose and its burden was borne as a patriotic duty. It falls unequally on competing corporations who happen to have been differently capitalized. It puts a premium on overcapitalization and penalizes conservative finance. However, the greatest defect is found in the complexity of its provisions and the regulations necessary to its administration, creating doubt and uncertainty both to the Treasury and to the taxpayer. It is a sad commentary on this tax when the statement is made that there are "potential back taxes" running into billions of dollars admittedly due not to fraudulent but to mistaken returns.

The gravity of this situation can hardly be overestimated. To quote Prof. Adams from his very able Needed Tax Reform in the United States, "Additional taxes and penalties of \$10,500,000 were imposed a few months ago upon a single corporation; the treatment of a particular 'loss' in another case changed the taxes of another corporation by more than \$15,000,000. It is a common thing for a million dollars or more in taxes to turn on some accident of organization or some finespun distinction about which nearly as much can be said upon one side as upon the other." Many corporations do not know what their potential liabilities are for the year 1918, and it is safe to say that many have large potential liabilities for 1918, 1919, and 1920, who do not realize and whose bankers do not realize that they exist. Such contingent liabilities in these days of depleted inventory values may spell the difference between solvency and insolvency. If present conditions continue and the existing burden of administration has to be continuously borne by the Treasury, these contingent liabilities may not be finally settled for 25 years from the time of their accrual. The situation to the banker who is conscientiously trying to extend credits is appalling.

It must be remembered that in addition to the trend of strictly investment capital into tax-free securities there is a noticeable tendency of successful business men to liquidate and withdraw their formerly active capital into investment. They are unwilling to take the business risk when an undue portion of the profits are taken in taxes. The tax loss resulting is increased by the fact that it comes off the higher

brackets. To quote Prof. Adams again, from 1916 to 1918 the number of taxable incomes over \$300,000 fell off 53 per cent, and the actual income represented by these returns decreased in even greater proportion from \$992,972,985 to \$392,847,329.

We have already arrived at the point where corporation profits and taxable incomes will not produce the required revenue at the present rates. It is quite obvious that we must answer the first of our questions in the affirmative.

How, then, can these disturbing factors be removed? It will not be sufficient to stop issuing tax-free bonds, even if the consent of the States can be obtained. This is merely trying to dam the stream after it has left the normal channel. The problem is to remove the original obstruction which diverted it. This can be done in part by repealing the excess profits tax and by reducing the higher surtaxes, at least to the point recently recommended by the Secretary of the Treasury, namely, to a maximum combined normal and surtax of 40 per cent for 1921 and 33 per cent thereafter. In addition there might be considered by Congress that during the short further period in which it may be conceived necessary to retain high surtax rates, and by way of relief from the effect of the high surtax rates upon business enterprise, the inclusion of an optional limitation of surtaxes based upon their relation to the total capital of the taxpayer. This would work somewhat as follows: By permitting the taxpayer at his option to declare his total capital as of the beginning of the taxable period, and his total net income, including both nontaxable capital and income, confine his surtaxes in that event to a certain per cent, for illustration 3 per cent of his capital, plus a certain per cent, for illustration 3 per cent of his income. For example, say that a man with a capital of \$500,000 desired to risk the same in business enterprise and that he made a profit of \$100,000. In that case his tax would be 3 per cent of his capital, equal to \$15,000, plus 3 per cent of his income, equal to \$3,000, making a total tax of \$18,000, as against a present maximum tax of approximately \$23,510. It must be remembered that to-day this man may either put his \$500,000 in tax-exempt bonds from which no taxable income is available to the Government or seek conservative investment which would produce a tax of approximately \$3,600.

We believe that the main difficulty at present is that the principle of ascending graduated taxes is being applied in too great a measure to income which is the result of business risks. Although the business in which we are engaged is principally originating and selling securities from which secure income is derived, nevertheless, we realize that the general prosperity of the country can alone make its long-time finance sound, and we advocate the principle that if ascending surtaxes must be retained they be confined as much as possible to secure income and that the burden on business profits, at least before distribution, be minimized as far as possible.

It is obvious, however, that the excess-profits tax must be replaced with some other tax on corporate profits both to produce the required revenue and to equalize the burden between corporate and noncorporate incomes. This brings us fairly to our second question, and we are not unaware of the great difficulties it presents. We believe that it can be met by rigid economy in appropriations and expenditures and a flat tax on business profits, treating corporate and noncorporate business alike up to the point of property distribution. The proposed flat tax of 15 per cent on corporate profits recommended by the Treasury equals the present excess-profits tax on an income approximately 11 per cent of the invested capital. It therefore increases the burden on corporations earning under that rate and reduces it on corporations earning over that rate. This affords little relief from the actual amount of the tax, but does do away with much of the doubt and uncertainty and many of the administrative evils of the present law. It is to be hoped that this rate need not be as high as 15 per cent and will be reduced as rapidly as possible.

We believe that a tax on undistributed incomes will lead to extravagances and is by all means to be avoided.

Dated Washington, D. C., May 20, 1921.

JULIAN H. HARRIS,

*Chairman Taxation Committee, the Investment Bankers' Association of America.*

#### TAXATION OF MUNICIPAL BOND INCOME.

"Whereas the necessities of war financing and the consequent high taxation have caused to be questioned the policy of exempting from Federal taxation income derived from obligations of the States and their political subdivisions and have caused some advocacy of Federal legislation to tax the income from such obligations; and

"Whereas in the opinion of the board of governors of the Investment Bankers' Association of America, which is supported by the opinion of eminent counsel, the Federal Government has no power under the United States Constitution to impose a

tax on such obligations or the income derived therefrom without a further constitutional amendment; and

"Whereas even if it should be decided by the United States Supreme Court that the power to tax such obligations is vested in Congress under the Constitution as now framed, the imposition of a tax on the income from such obligations now outstanding would be considered a breach of faith by the investing public who in reliance upon the existing exemption from such taxation have paid for such exemption in the purchase price of such obligations; and

"Whereas in the opinion of the board, tax exemptions lead toward unsound public policy and the exemption from taxation by the United States of future obligations of States and their political subdivisions should be abolished and the exemption from taxation by the States of future obligations of the United States should likewise be abolished; and

"Whereas in the opinion of the board, it would be dangerous to both the Federal and State Governments to empower either to tax the obligations of the other without limiting such power by proper safeguards:

*Resolved*, That it is the sense of this board that the Investment Bankers' Association of America advocate the adoption of an amendment to the Constitution of the United States empowering on the one hand the Federal taxation of the income from future obligations of the States and their political subdivisions and on the other hand the taxation of future obligations of the United States by the States and their political subdivisions, in both cases with proper safeguards limiting such taxation."

I, Frederick R. Fenton, secretary of the Investment Bankers' Association of America, certify that the above and foregoing is a true and correct copy of the resolution adopted at the convention of the association in session at Boston, October 4, 5, and 6, 1920.

[SEAL.]

F. R. FENTON.

**STATEMENT OF DWIGHT BRAMAN, NEW YORK, N. Y., PRESIDENT OF THE LAW AND ORDER UNION OF NEW YORK STATE.**

Senator McCUMBER. Please state your name for the record.

Mr. BRAMAN. Dwight Braman. I am president of the Law and Order Union of New York State, which is an organization organized in 1902 to uphold the Constitution of the United States and to carry on a campaign of education on various questions, among others being the income tax.

I think you are all pretty well informed that you are up against a very serious proposition; and it is a proposition which was caused by the adoption of the sixteenth amendment to the Constitution of the United States, which has created chaos in the receipts of the United States Government.

Before going on I am going to explain in a few words how the sixteenth amendment of the Constitution of the United States was put through.

It is proper at this time to first show and recall to the minds of the Senators the method by which this amendment was adopted. It was drawn up and introduced by Senator Brown, of Nebraska, who had but a short career in the Senate, and adopted after the amended Payne-Aldrich tariff bill had reached a deadlock in the Senate. This amendment to the Constitution was hardly taken seriously at first, as it was passed by the Senate without debate.

According to the Record of June 28, 1909, Senator Aldrich states:

If there is no objection, I should be glad to have this disposed of without debate. I give notice that I shall call it up at the first convenient period and ask to have it disposed of without debate.

On July 3, Senator Brown, of Nebraska, said, "I ask unanimous consent that the joint resolution be laid before the Senate and that a vote be had thereon immediately," to which Senator Aldrich replied: "I have no objection, with the understanding that there is

to be no discussion, or the discussion must be limited. Of course, that must be understood." And it was passed without debate. What a contrast to other proposed amendments to the Constitution, taking years of discussion, debate in press and on platform, in political campaigns—

Senator SIMMONS. Do you know that probably one of the reasons why there was no extended discussion at that time was the fact that we had passed an income-tax law that we supposed would accomplish about the same purposes before that, and the Supreme Court had held it unconstitutional, and the question had been pretty well thrashed out?

Mr. BRAMAN. It had only been thrashed out on certain points. But this amendment was simply an amendment to utterly change the question of apportionment and uniformity in the Constitution of the United States.

Senator SIMMONS. It was to enable us to pass laws similar to the ones we were passing under the present Constitution.

Mr. BRAMAN. Exactly.

Senator SIMMONS. The Supreme Court would hold it unconstitutional unless we changed the Constitution; and after the country had discussed that question it probably did not like the decision of the Supreme Court and decided to amend the Constitution in order to do what they had attempted to do without success.

Mr. BRAMAN. Well, sir, it was only a trade at the time. It was a trade that was made by the advocates of the Payne-Aldrich bill, who could not pass the bill, with a few representative Senators from the West, who had an idea of an income tax. It was passed, as I say, without debate.

Senator SIMMONS. I think you are mistaken that there was a trade about it.

Senator CURTIS. There was no trade about it whatever. It had been advocated for years, and it was a copy of a resolution that had been offered before.

Senator Brown wanted to offer it as an amendment to the bill, and it was offered by him as a separate instrument.

Mr. BRAMAN. I am going to show you, gentlemen, that under that it gave the Federal Government the power to tax men, as Senator Bailey, of Texas, said, "according to the color of their hair."

Senator CURTIS. I do not want to interrupt your argument, but I will suggest that instead of discussing the origin of it, which you can not know anything about, you discuss the merits of the case.

Mr. BRAMAN. I will, sir; I am leading up to that.

Senator SIMMONS. I beg your pardon for interrupting you.

Mr. BRAMAN. I have only a word or two more.

It amazed some of the thoughtful and serious-minded men of the country, as it abrogated the great principle of apportionment in the Constitution of the United States. It is the only great principle considered of sufficient importance to be enunciated twice in that wonderful document. In other words, in simple language, it conferred on the Congress of the United States unlimited power of taxation from whatever source derived without apportionment among the States according to their population.

In time of peace the Democratic Congress framed the first income-tax bill, taxing incomes of \$4,000 and upward, and it was so drawn

as to make the principal source of revenue from the active, thrifty people of the North; that is, 1 State could pay the amount of taxes of 32 other States combined. It was adopted by a Democratic Congress and drawn up by a gentleman by the name of Hull, from the mountains of Tennessee, at the request of Senator Underwood, who, I understand, took an English text-book on income-tax laws used in the Civil War and drew up the first income tax out of which these taxes have come.

Senator SIMMONS. You do not mean to say that the people of the State pay all these income taxes that the Government collected. Take my State, for example. It has come to be a great manufacturing State. We paid last year to the Government tobacco taxes amounting to somewhere near \$100,000,000. The people of North Carolina paid a small portion of it. The people of the whole Union paid the tax.

Mr. BRAMAN. Exactly.

Senator SIMMONS. We have an enormous amount of cotton mills which have paid some forty and odd millions of income tax. The bulk of that was paid by manufacturers. They passed it on. The people of North Carolina did not pay that tax. The people of the Union paid the tax.

Mr. BRAMAN. I understand that, perfectly.

Senator SIMMONS. That is also true of the rich States that you talk about paying more than the poorer States. The people of the States do not pay it; the people of the Union pay it.

Mr. BRAMAN. It is the income tax that I refer to. It is the United States Federal income tax which I am discussing here, gentlemen.

Senator SIMMONS. Go ahead.

Mr. BRAMAN. This amendment was defeated in 17 States for three and one-half years, representing a population of 33,000,000 people. When Roosevelt split the Republican Party, defeating Taft, a large number of new men were elected to the legislature on the Democratic ticket, many of them unexpectedly, and enough States were secured to rescind the vote by which this measure was adopted after first defeating it, and then in times of peace a measure was passed called the "income-tax bill," which was drawn up by Mr. Hull, of Tennessee, I understand, at the request of Senator Underwood, and is one of the most chaotic measures ever passed by any Congress in the history of the Government of the United States.

That is to say, if there are 10 men in a place there are no two men who agree with any other man how it should be enforced and impounded, and a great many of the Members of Congress themselves do not know how to make up their own income tax. You are up against a proposition that has been drawn up on that basis, and that is the only reason I mention it. This measure is the basis of our income tax law now requiring revision.

How to cure this evil: The income tax requires revision, of course. I think most people agree on that, and I am not going to waste any words about the excess-profits tax, but I will say a few words about the surtaxes.

In answer to the question of your chairman, which he asked another gentleman previously here, How can you gauge the amount of bonds that have been bought by investors to escape the surtaxes; or, rather, not perhaps to escape the surtaxes, but to increase the receipts from

the larger and excess incomes? You can easily ascertain that to a nicety by taking the income-tax returns for the year 1914, say, on incomes of \$30,000 and upward and see what they have done with their funds, how many bonds they have acquired up to their 1920 tax.

I thought that might be of service to you.

A brief review of income taxes since the first days of their adoption, as a war measure shows conclusively that they always seek lower exemptions to provide more revenue. Starting with Greece, 2,400 years ago, the people were divided into four classes, but the tax was soon abolished. In Italy the exemption is \$77.20, in Prussia \$225, in Saxony \$100, in Bavaria \$187.50, in Denmark \$120. In Germany, however, the States get 40 per cent of the revenue, the municipalities get 10 per cent, and the central Government 50 per cent. Here the Government gets it all, or what is left over after the enormous expense has been paid for its collection. That is, on the part of the people in compiling their tax and the employees of the Government, for in fixing a tax the expense to the people in compiling their account books, etc., must be gauged and estimated as never has been done before, in comparison with a stamp tax the expense of which is really nothing to the Government save printing them.

What, then, is the best form of taxation for getting revenue at the least expense? I would suggest that the most scientific form of taxation is the "spender tax." That is to say, the person who spends his money pays the tax, as they have it in France and England. The purchaser in the retail store has a stamp added to his purchase and canceled in the presence of both buyer and seller. Also in the purchases of luxuries, paintings, automobiles, and in hotel bills, as is done in France and in England.

Senator SIMMONS. Why do you not call it a purchaser tax, then?

Mr. BRAMAN. You can call it anything.

Senator SIMMONS. I think it is a purchasers' tax.

Mr. BRAMAN. It is.

Senator SIMMONS. You agree that the purchaser pays it. Why not call it a purchaser's tax?

Mr. BRAMAN. I simply call it a spender tax because that is the usual name by which it is known. They call it also a luxury tax. In France and England it is called that. If a man buys a picture and pays 100,000 francs for it in France, he pays 3,000 francs to the French treasury. He does not feel the tax and the French Government gets it.

This tax differs from the so-called sales tax advocated by some, as the weakness in that tax is their desire to tax the producer of raw material, the manufacturer, and the wholesale dealer, as well as the retailer, which would have the same ratio of effect on the consumer as the present income tax, which is the principal cause of the present high price of the necessities of life. For instance, the producer of the raw material adds his income tax and a little more, too, on his prices to the manufacturer. The manufacturer adds his income tax and a little more, too, to the wholesale dealer. So, in turn, his income tax and more is added to the retail dealer, and the retailer his income tax and often double his prices to the consumer, who pays it all and the profits as well.



There is more profiteering by retailers than by wholesalers or by any other branch of business.

It creates a spirit of recklessness, as the retailer will say: "If the Government is going to take it all, I will do one-half the business and make twice as much." That is what they are doing. They are doing half the business and charging just as much. There is no perceptible reduction in the price of retail goods, but there is in the wholesale prices. This profiteering is being carried on on an enormous scale, and the working classes, which make up 75 per cent of our population, are the sufferers. Consumption will fall off, mills close, and a large number will be without employment now and in the next few years unless a remedy be found.

The excess-profits tax is such an economic monstrosity as to be not debatable and must be abolished. The excessive surtaxes have halted the development in industries of the country to an extent most appalling, driving liquid capital, as heretofore employed, to nontaxable permanent investments. This will in turn add to the unemployed.

If any of you have been in the lower House of Congress you will realize that there were always a few men in the town you came from to whom the people always applied when they wanted to start a bank, trust company, waterworks, gas or electric light, street railway companies, mills, to develop the resources of that particular section.

Now this can not be found. It is the same all through every State. Enterprise and development have ceased, for the money can not be secured, the surtaxes having absorbed all the liquid cash, or it has been driven to nontaxable fields. The community, the State, and the Nation at large suffer in this stagnation. No railroads can or will be built. It also adds to the unemployment in all these towns and hamlets and cities and counties where you gentlemen have lived. It is going to add to the winter unemployment, because a great many of the unemployed in winter among the farming sections are used in the building of various enterprises. It is the same all through every State. It is not only one in section; it is uniform throughout the United States.

Income taxes are the cause of further unrest and depression by driving liquid capital into long-time instrumentalities of States and cities, free from taxation. This enormous fund is lost for the useful needs of the community in the establishment of which the State and city are prohibited, such as banks, trust companies, mills, gas and electric lighting companies, street railway companies, etc., besides the certain and freer sale of securities of States and cities which obviously encourage extravagance, while economy should now be the watchword of all cities and States.

Senator SIMMONS. Some capital has to go into those instrumentalities or they can not be sold. I confess to you that I do not appreciate that argument, that money invested is in any way withdrawn from trade. It is true now that a very few people buy those bonds, and they buy them to escape Government tax. If it were not for the Government tax, probably the whole mass of the people would buy those bonds in small quantities, but the money, when they buy the bonds, goes to the Government Treasury or goes into the State

treasury. It is at once paid out to labor in the construction of some internal improvement, and it goes back into circulation. It is not withdrawn because it is invested in these bonds. That is a mere conduit for its investment by the recipients of this money.

Mr. BRAMAN. The cash is withdrawn by the one who pays the surtaxes and put into instrumentalities of the State, town, and county, which are nontaxable, for the reason that those bonds heretofore have found their entire market in the savings banks. But these enormous surtaxes, running up to 65 and 70 per cent, make those bonds so attractive to the investor that they bring him in a return of 8, 10, 12, or 14 per cent. That is the reason his capital is locked up in them instead of in the savings banks.

Is that clear, sir?

Senator SIMMONS. Yes; I understand you.

Mr. BRAMAN. I would like to answer any questions, because I am here for that purpose. I want to treat you all like a family gathering, if I may, for it is a great question to be solved, and I have had experience in those things.

Money is but a token. It can be used by heedless lawmakers for tyranny or liberty, for prosperity or disaster; and to direct it from the sources to which the Nation has applied it means, in its continuance, but ruin.

Lecky, one of the greatest political economists of England, speaking of highly graduated taxation, says:

The belief is no doubt very fallacious, but it lends itself most easily to the clap-trap of diabolical politicians. Such men will have no difficulty in drawing impressive contrasts between the luxury of the rich and the necessities of the poor and in persuading ignorant men that there can be no harm in throwing great burdens of exceptional taxation on a few men, who will still remain immeasurably richer than themselves. Yet no truth of political economy is more certain than that a heavy taxation of capital which starves industry and employment will fall most severely on the poor.

The first effect of the application of the income tax in 1914 has shown that when taxation at its source tied up the credit of all the railroads one sixth of the mileage of the United States went into the hands of receivers. The railroads require one billion to one billion one hundred million dollars of capital yearly to keep them in safe and efficient condition. To tax all these bonds at their source, when the bonds were placed among the people on a basis ranging from 3½ to 5½ per cent, makes their issue no longer possible, if at all, and at such ruinous rates the roads have been crippled at 8 per cent, and competing with foreign loans at that.

Our railroads can not sell any railroad bonds. There is a very simple remedy for that, which you gentlemen of clear vision will see is absolutely vital to the existence of the commercial interests of the country, farms included. I am a farmer, too, and I can speak from experience.

Taxation at its source on railroad bonds can be quickly and readily removed by taking it off altogether, and the same revenue obtained without taking it from the investors by an added corporation tax. The burden of compilation and collection will be practically removed.

The cost of collecting the first income tax being carefully estimated by me in 1914 was 56 per cent on the sum of \$29,300,000, being collected at a cost of \$13,000,000. A blanket income tax over a whole nation of 105,000,000 souls of one flat rate is an economic

monstrosity, and is very little credit to those who framed it. For instance, in the Kingdom of Saxony, with but 4,000,000 souls, there are 118 different classes of income taxes. Our tax law has not been given the scientific treatment it should have been given at all, and the country is suffering from it.

Let me illustrate. Take a man residing in Oklahoma with an income of \$3,000 a year, having five children, and his brother in New York State with five children. The former has coal, oil, gas flour, corn, and supplies at his door. The latter has to pay \$13 to \$22 per ton for his coal, \$24 a cord for his wood, and 18 other forms of taxes. The one in Oklahoma has but five forms of taxes to pay.

Denmark has made such a distinction as those who live in the cities, in the thickly-populated sections, and those in the rural districts; and it is a recognized fact that the minimum for existence should be placed higher for persons residing in large cities. In Copenhagen, Fredericksberg, 800 kronen (\$214); in market towns, 700 kronen (\$187.50); and in rural districts, \$160.84.

Another instance: There are 9,800,000 automobiles in the United States with about 6,000,000 chauffeurs. They are consumers and nonproducers. Each should be made to pay a license tax to the Federal Government of \$10, and in cases where they receive \$150 per month and the employers clothe and feed them, they should pay an income tax. A license tax would, if attended by proper qualifications and sponsors of good character, do away with much of the lawlessness passing from State to State of armed bandits in holdups and robberies of banks now so common, and in which the States are themselves so helpless against this invisible invasion.

If these gentlemen know that they have a Government to support it would make them more patriotic and would teach them thrift. That is the thing that we have got to teach our people.

In New York many of the chauffeurs have so much leisure that they do not even wash their own cars, and their constant shifting of addresses from State to State would be covered by this Federal-license tax. In France they are about to use an identification card for everyone. Germany has always had this form of identification and a courtax on all nonresidents.

That is to say, when a stranger comes into a State the tax authorities will go right after him and he must pay a tax for residing there.

Masons are receiving \$20 a day. I live in New York and that is what I am paying. I paid a mason's bill the other day, amounting to \$20 a day. Painters receive \$10 a day and plumbers \$12.50 for eight hours' work, five days a week, and four hours on Saturday, while learned professors, scholars, and teachers who are training the minds of our young men and women receive but \$4 a day for working, studying, and teaching sometimes morning, afternoon, and night, and oftentimes working 12 to 15 hours a day.

Senator CALDER. Mr. Witness, I do not think you mean to let the impression go out here that we are paying \$20 a day for masons in New York generally?

Mr. BRAMAN. I am paying that.

Senator CALDER. I just let a contract this morning for a row of buildings in New York City, and the masons are to get \$10 a day.

Mr. BRAMAN. That is on contract.

Senator CALDER. It is the union rate of wages.

Mr. BRAMAN. I have been paying, in Newburgh, \$20 a day. I have been paying too much, you think?

Senator CALDER. Yes.

Mr. BRAMAN. I think so, too.

This is manifestly most unjust, as they are taxed at the source of their salaries, and there is not even a license tax on masons, plumbers, and painters.

Senator SIMMONS. Maybe the masons charged you according to your ability to pay? [Laughter.]

Mr. BRAMAN. Oh, no. This ought to have been a very philanthropic job, because it was to repair the chimney of a church. I am glad to learn the prices are coming down in New York. I paid that rate within the last three months.

Gentlemen, you have no conception of how much income this license tax would bring the Government. In the District of Columbia some of you may be familiar, or not, with the fact that each hotel has to pay a license tax, and then to pay into the treasury of the District of Columbia each year a dollar for every room. Brokers on the New York Stock Exchange, members, pay a license tax, and I do not see why the lawyers do not pay a license tax. We have 19,000 lawyers on the Island of Manhattan, and they are drawing handsome incomes from advising citizens in the intricacies of the income-tax regulations.

A mason and a plumber, at the rates they are getting, receive more salary, gentlemen, than a judge of the United States court, who gets \$5,000 a year. These gentlemen are getting it. Why not put a license tax on them? You need the revenue, and it would teach them that they have a Government to support, that they are a part of the Government.

I do not see why, as in a great many cases, they are practically exempt from supervision and taxation. The plumber receives \$1.56 an hour, and if the mason receives now \$10 a day he gets \$1.25 an hour, where the teachers and professors get about 33 cents to 53 cents an hour.

Senator CALDER. We have just increased the pay of teachers in New York City, and we now pay the teachers of the primary department \$125 a month; they enter the service at that figure.

Mr. BRAMAN. This is before that.

Senator CALDER. And a year ago we raised the pay of all our teachers in New York City 35 per cent.

Mr. BRAMAN. It is high time they should be raised, but I mean these college professors.

The war debt now amounts to about \$27,000,000,000 to meet the most expensive war in our history. In 1864 we had a population of 45,000,000. Now we have 105,000,000 people. The tax should, to secure greater revenue, therefore be lowered to include most of our citizens who can share it. It is well to teach all of our people thrift, that they are a part of the Government, and aid in supporting it.

Taxes thus can be more evenly distributed and felt less, which, according to the greatest authority of England—and I am very glad that our friend quoted Adam Smith, as all statesmen in England

study the *Wealth of Nations*; nearly all of the great statesmen of England since the days of William Pitt to Gladstone studied a great deal the maxims of Adam Smith, and most of the writers on economics all over the world since have laid down these four basic principles of taxation: First, equality; second, certainty as to your income; third, convenience; and fourth, economy.

A spender's tax answers those four maxims exactly. There is no economist in the world can dispute that a spender's tax, where a man comes into a store and puts a tax stamp on an article hits it exactly; there is no waste, and it is pretty certain. Adam Smith's principle has been followed by most of the economic writers. I can quote 30 of them here, but I am not going to waste your time unless you ask me questions about it. Adam Smith said of indirect taxes, "Because the consumer pays them little by little as he buys goods," and "it must be his own fault if he ever suffers any considerable inconveniences from such taxes."

Mr. Chairman, if any of the Senators would like to ask questions I would be very glad to answer them.

Senator SIMMONS. What tax do you want us to repeal and what tax do you want us to impose?

Mr. BRAMAN. I think you have got in your mind's eye what should be done. I do not think there is any argument produced that would make you favorable to the excess-profits tax. I think you will drop that, and I think for the reasons, some of which I have mentioned, you will reduce surtaxes.

Then, I would tax the chauffeur \$10 a man, which would give you \$60,000,000. I would tax checks in New York and all over the country, and that will give you \$80,000,000 to \$100,000,000, as you did in McKinley's administration. It necessitates no expense in putting them on, and if the Government prints them there is no evasion. A great many taxes are evaded. The income tax is being evaded.

What has happened is that a great many people who are doing business as individuals have organized corporations, and 200,000 or 300,000 corporations have been organized to escape individual income tax. Therefore I would recommend just to put a tax on corporations again.

Then, I would put on a license tax. Nobody would feel it. It is not felt by the hotels of the District of Columbia.

Senator SIMMONS. Are you advocating a sales tax for the purpose of getting rid of the surtaxes and excess-profits tax?

Mr. BRAMAN. Not at all. The surtaxes have been tried and failed. The report of the Secretary of the Treasury shows that it has proved an economic failure.

What I want to do is to help you gentlemen get more revenue. How is the simplest way? Distributing taxes. These chauffeurs do not know they have a Government, many of them.

Senator SIMMONS. I notice that nearly everybody who has come to advocate the sales tax at the same time advocated the repeal of the surtax and excess-profits tax, and I was wondering whether they were advocating the sales tax because they believed in it per se, or because they wanted to get rid of some other tax.

Mr. BRAMAN. No, sir. These taxes have been tried. Take the report of the Secretary of the Treasury; he says—both parties will admit—that they are mistaken in the excess-profits tax. It is so difficult to compute it.

I have no interest in anything except the welfare of the people and the welfare of the Nation. I have always studied these questions, and I took up this campaign because these gentlemen all asked me to, and I led off, and I simply mentioned defeating the sixteenth amendment of the Constitution of the United States.

Senator SIMMONS. You do not believe in that, then?

Mr. BRAMAN. I think it is the cause of all this chaos, and, as I speak of it, if my friends were alive they would concur in everything I have said in this chamber.

Senator SIMMONS. Are you advocating the sales tax in order to get rid of that amendment?

Mr. BRAMAN. The amendment is part of the Constitution.

Senator SIMMONS. If you do not impose any income tax under your amendment, of course, it is innocuous. Are you advocating the sales tax to make it innocuous?

Mr. BRAMAN. Not at all. You have to impose an income tax. You can not get revenue enough without it. You are in the stream; you have got to go across. You have got to get revenue taxes in order to get more revenue.

Senator SIMMONS. But you are recommending a radical reduction in those taxes.

Mr. BRAMAN. Not at all.

Senator SIMMONS. In the surtax?

Mr. BRAMAN. Yes; absolutely.

Senator SIMMONS. That is part of the income tax.

Mr. BRAMAN. Yes; because it is not profitable to the Government, and it is driving us away from the development of all industries.

Senator SIMMONS. The office of the surtax is only to equalize income taxes?

Mr. BRAMAN. It has not accomplished that. It has been tried and failed.

Senator SIMMONS. I do not know. That is one of the questions that we have got for consideration here, whether it has failed or not.

Senator CALDER. May I ask the witness a question before he leaves? Mr. Braman, have you every thought of increasing the tax on whisky and alcohol as used for medicinal purposes?

Mr. BRAMAN. No.

Senator CALDER. Do you know we tax that liquor taken out of bond \$2 a gallon. Years ago for beverage purposes we charged \$6 a gallon. You and I live in a State where we consume for medicinal purposes a great deal of liquor. I wonder if it would not be a good idea to increase the tax on that liquor taken out of bond to \$6 a gallon?

Mr. BRAMAN. You need the money. This country is facing a grave crisis. The situation is very serious.

Senator McCUMBER. It might decrease sickness if you increase the tax on whisky.

Senator CALDER. It might.

(The following paper was presented:)

## TO REVISE THE TAXES AND LESSEN THE BURDEN.

First. Cut down appropriations to the utmost.

Second. Adopt a budget of necessity.

Third. Abolish the excess-profits tax for this year, estimated as \$450,000,000.

(a) Reduce the surtaxes to about 30 per cent, causing a loss of \$100,000,000 in revenue; but this large amount now tied up in nontaxable securities will be released for trade and development and add largely to the taxable wealth of the Nation.

(b) Abolish the tax on all railroad bonds at their source, so the investors will draw net what the face of the bond calls for, and substitute an increased corporation tax, removing the \$2,000 exemption, to reach those corporations organized since 1914 to reduce their individual income tax. There are from 200,000 to 300,000 corporations organized since 1914.

Fourth. Place a spender or stamp tax on all spenders or purchasers, to be known as the spender or purchase tax by the consumer, of 3 per cent on \$25,000,000,000. It will give the Government \$750,000 additional revenue and avoids all the objections of the farmers and labor organizations to the sales tax on raw materials, on the manufacturer, the wholesale dealer, and the retail dealer, which would add largely the overhead charges to the consumer by the same principles as does the present income tax. The producer of the raw material adds his income tax on when he supplies the manufacturer, the manufacturer his income tax and more too added to the wholesale dealer, and the wholesale dealer his income tax and a little more to the retail dealer, and he in turn to the consumer, which is the principal cause of the high price of living. If a four-ply sales tax were now added to the present income tax the result would be most disastrous, and if the sale tax were substituted for the present income taxes the result would force large aggregations of capital to manufacture on large scales with an incentive to lessen the quality again which the consumer would ultimately pay.

Neither the income tax nor the sales tax fulfills the four great qualities to be attained, equality, certainty, convenience, and economy. The spender or purchase tax will conform to all these four maxims laid down by Adam Smith and followed by all great economists since.

There are 9,800,000 automobiles in the United States with 6,000,000 chauffeurs. The Government should levy a license tax of \$10 on each, or \$60,000,000, also a tax on horsepower, as recommended by the Secretary of the Treasury, which is a point well taken, as the Treasury aids the States in the construction of roads.

I do not agree with the Secretary of the Treasury in his letter dated April 30, 1921, to Chairman Fordney, of the Committee of Ways and Means, where he states as follows: "It is important that future issues be controlled or prohibited by mutual consent of the State and Federal Governments," referring to the instrumentalities of the State and municipalities free of taxes. The sovereign States, which themselves created the Federal Government, will never consent to their bonds being taxed as an invasion of their States rights and will never consent to their cities being taxed by an act of Congress nor a constitutional amendment. The moral effect is for the Federal Government to economize and abolish the wild extravagance and duplication of bureaus; then the States and municipalities will do likewise.

By abolishing these heavy surtaxes over 30 per cent of the taxpayers will find it no longer profitable to invest in 5½ per cent bonds, exempted from taxes, which will net here from 8 to 24 per cent, according to the surtax.

A Federal tax on the income of United States bonds made by the former administration is an economic blunder and has injured the credit of the United States. Italy tried this to tax her own instrumentalities, issuing them at 80 cents on the dollar and paying them off at par, but it proved such a burden she removed the tax nine years ago, else she would have faced bankruptcy. Removing the tax on United States Government bonds, as is now proposed in the certificates of indebtedness, will stabilize their credit and place them on a parity with the instrumentalities of other States, and it will doubtless be followed by other issues of governmental securities, but the release of capital when surtaxes are reduced will aid in stabilizing the market for governmental and railroad bonds.

To sum up, a spender tax or purchase tax of 3 per cent will bring in additional revenue of \$750,000,000; a stamp tax on checks \$80,000,000; a license tax on chauffeurs of \$60,000,000; a license tax on professions, business, and hotels, \$150,000,000; to be added to an increased corporation tax, with the removal of the exemption of \$2,000 per annum on the 200,000 to 300,000 corporations organized since 1914, which will be affected by this tax and the surplus revenue can be used to reduce the floating debt of the United States, estimated to be about \$2,400,000,000.

These figures are conservative, and possibly the Treasury experts will increase them from the data which they have in their possession.

**STATEMENT OF SHELDEN E. WARDWELL, BOSTON, MASS., REPRESENTING VARIOUS PAPER COMPANIES AND OWNERS OF TIMBERLANDS.**

The CHAIRMAN. Mr. Wardwell, will you state your full name, your residence, and whom you represent?

Mr. WARDWELL. Sheldon E. Wardwell, Boston, Mass., representing the Great Northern Paper Co., the St. Croix Paper Co., and various other owners of timberlands in New England.

The purpose of my appearance, Mr. Chairman, is to ask for an amendment to the income-tax act, and I think that reading the amendment will explain it better than I can in any other way. We ask for the following amendment as a new paragraph at the end of section 214, which is the deduction section in the income-tax act:

In the case of standing timber a reasonable allowance for accumulation of an insurance reserve against losses from fire, insect or other cause, such allowance to be made under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary, and to cease when the accumulated reserve is adequate to protect against future loss.

The CHAIRMAN. This proposition is a very old one down here, Mr. Wardwell.

Mr. WARDWELL. I did not know that it had been before the committee at this session.

The CHAIRMAN. It has been before the committee at most every opportunity.

Mr. WARDWELL. I am sorry that I had not known of it and that my people had not been informed about it.

The CHAIRMAN. Of course, that is no reason why the attention of the committee should not be again called to it.

Mr. WARDWELL. If my statement could be printed in the record I shall have no occasion to take up the time of the committee, because I am sure if I could not agree with the department on what would be a proper amendment it would not receive attention anyway.

The CHAIRMAN. The statement will be printed as a part of your remarks, Mr. Wardwell.

(The statement is as follows:)

**PROPOSED AMENDMENTS TO SECTIONS 214 AND 234 OF REVENUE ACT OF 1918.**

The undersigned owners of standing timber respectfully request the following amendment to the revenue act of 1918:

(1) Add the following new paragraph at the end of section 214:

"13. In the case of standing timber a reasonable allowance for accumulation of an insurance reserve against losses from fire, insect or other cause, such allowance to be made under rules and regulations to be prescribed by the commissioner with the approval of the Secretary, and to cease when the accumulated reserve is adequate to protect against future loss."

Amend section 234 by adding a similar paragraph as paragraph 15 thereof.

(2) The necessity for asking for some amendment of this nature arises from the fact that owners of standing timber are as a practical matter unable to place insurance against loss. Investigation has demonstrated that even under favorable conditions insurance companies would quote a rate for fire loss alone of at least 1½ or 2 per cent, and under unfavorable conditions would not accept the risk. A rate of one and a half to 2 per cent is considered prohibitive and at the present time owners of standing timber are as a rule uninsured.

While fire is generally assumed to be the greatest risk, experience has shown that in some sections of the country the destruction by insect is more serious than the destruction by fire. In the New England States the balsam was nearly all destroyed a number of years ago by insect. In the last two or three years the forests of Maine and New



Brunswick have suffered very material damage from the spruce bud worm, a conservative estimate for some localities being a destruction of 50 per cent of the fir and 5 to 10 per cent of the spruce. At the present time a great deal of standing timber in Southern New England is being destroyed by the gypsy moth. This pest for a number of years has confined itself to the less valuable hardwoods, but recently our attention has been called to cases where it has worked considerable destruction in growths of pine and hemlock, and it is to be feared that with the spread of this insect into more heavily forested areas in northern New England the loss may be severe.

Generally speaking, losses from fire and insect are not distributed evenly over a period of years. Heavy losses from fire occur in periods of extraordinary drought and insect losses are in nature epidemic and the result is that the owner of standing timber, even if he be an operating owner with a more or less constant income, may not have sufficient income to meet the loss when it occurs. The purpose of the proposed amendment is to allow the owner of standing timber to anticipate and spread his loss over a number of years by creation of an insurance reserve. It allows the taxpayer who is unable to insure himself otherwise to provide self-insurance.

The creation of a reserve is in line with the recommendations of the officials of the United States Forestry Service and others who are interested in the subject of conservation of forest resources. It has frequently been pointed out that the timber owner in this country is handicapped in any attempt to adopt measures of conservation by the carrying charges on his investment which include not only interest and taxes but also the risk of destruction. To the extent that the timber owner can eliminate the danger of loss of his investment from the carrying charge factor, he is assisted in conserving his holdings.

(3) There should be no objection to this amendment on the ground of difficulty of administration. The Internal Revenue Department, through its timber section, is accumulating data as to the holdings of all owners and through questionnaires submitted annually with tax returns intends to keep this data up to date. In the process of valuing the individual ownerships and finding the proper depletion rate, the timber section will acquire all the information necessary to determine what a reasonable annual charge for creation of a reserve will be.

(4) The allowance of a deduction for creation of a reserve will make little difference in the amount of taxes to be collected. The fortunate owner who suffers no loss will receive no ultimate benefit from the reserve. The proposed amendment operates only to put the timber owner in the same position as owners of other kinds of property who can insure their property and deduct the cost of insurance as an operating charge.

Respectfully submitted.

GREAT NORTHERN PAPER CO.,

*Millinocket, Me.*

ST. CROIX PAPER CO., *Woodland, Me.*

PENOBSCOT CHEMICAL FIBRE CO.,

*Great Works, Me.*

GEORGE B. DUNN, *Houlton, Me.*

FREDERICK A. POWERS, *Houlton, Me.*

By SHELDON E. WARDWELL,

*Their Attorney.*

#### STATEMENT OF ELWOOD G. GODMAN, CHICAGO, ILL., REPRESENTING THE NATIONAL LIVE STOCK EXCHANGE.

I am appearing on behalf of the National Live Stock Exchange, which comprises in its membership practically all of the live-stock commission merchants of the United States. It is also the national organization of the local exchanges located at the following cities: Baltimore, Chicago, Cincinnati, Cleveland, Denver, Detroit, East Buffalo, Indianapolis, Jacksonville, Kansas City, Louisville, Milwaukee, Montgomery, Nashville, New York (Jersey City), Oklahoma City, Omaha, Peoria, Pittsburgh, Portland, Sioux City, Sioux Falls, St. Joseph, St. Louis, St. Paul, and Wichita.

The business of the live-stock commission merchant is to receive from shippers of live stock in various parts of the country consignments of cattle, sheep, and hogs, which are sold by the commission merchant on the open market at stockyards at the highest bidders for cash. The size of the business done by each live-stock commission merchant depends almost entirely upon his ability as a salesman in disposing of the live stock of his shippers to the best advantage on the market. This means necessarily that the successful live-stock commission merchant must be one who is a thoroughly good salesman, familiar in all its details with the business of selling live stock and with the ability to shrewdly and carefully estimate and grade the values of the live stock consigned to him for sale.

The clientele of each live stock commission merchant is therefore necessarily composed of shippers who repose in him trust and confidence, not only in his honesty and integrity in business dealings, but also in his ability as a salesman to dispose of the live stock consigned to him to the best advantage. Thus a personal relationship between the shipper and the live stock commission merchant is established, dependent upon the strength of which is the business success of each particular live stock commission merchant. From the nature of the business it will therefore be apparent that the service performed is of a personal nature. The live stock commission merchants do not buy or sell upon their own account or for their own account at any time. The service of buying and selling performed by them is always for a customer. For the service thus performed a commission is paid by the customer. This commission is not at all dependent upon the price at which the live stock is bought or sold, but is a per head charge fixed for all customers alike. The various live stock exchanges do not buy or sell but are organizations to which the various commission merchants belong, which have for their object the promotion of fair dealing between live stock commission merchants and between live stock commission merchants and their customers.

A large percentage of the live-stock commission merchants do business as partnerships. As such partnerships they are not required to pay any income tax. Some of them, however, have organized their business into corporate form. These corporate organizations are formed solely as a matter of convenience and not for the purpose or with the intent of securing invested capital for income-producing purposes. In practically all instances the invested capital is very small compared with the income derived from the live-stock commission business. Corporations of the character described are in every sense of the word personal-service corporations and perform no different service than does a partnership. In the case of personal-service corporations the tax should be assessed upon the income of the stockholders, just as in a partnership the tax is assessed upon the distributive shares of the partners. All of the corporations engaged in the live-stock commission business have but a very few stockholders, who are in all cases actively engaged in the conduct of the business and not devoting any part of their time to any outside endeavors. Thus the income derived by such corporations is the result of the personal efforts of the stockholders and not the result in any appreciable degree of the use of the invested capital. About the only purpose for which invested capital is employed is in the making of loans, in some instances to customers for their accommodation. The only income thus derived from the actual use of the capital would be the interest upon the loan, and this, according to the information at hand, would be infinitesimally small as compared with the aggregate. Assuming that customers favored with such loans would be thereby influenced to ship live stock to the commission house making the loan, statistics show that the commissions derived from sales for customers thus persuaded to ship to such customhouse, plus the interest derived from the loan of the money, would be less than 2 per cent of the aggregate income derived from the business of such commission house.

Personal-service corporations under the existing revenue law are declared to be exempt from taxation. There is, however, some language employed in the section which has given to the Commissioner of Internal Revenue opportunity to classify live-stock commission corporations, which are, in fact, personal-service corporations, as above described, as corporations whose income is produced from the employment of capital and not from personal service. The result of this has been that corporations engaged in the live-stock commission business have been taxed unjustly and have been deprived of the specific exemption in the law of personal-service corporations. The section of the revenue law of 1918 defining personal-service corporations reads as follows:

"The term 'personal-service corporation' means a corporation whose income is to be ascribed primarily to the activities of the principal owners or stockholders who are themselves regularly engaged in the active conduct of the affairs of the corporation and in which capital (whether invested or borrowed) is not a material income producing factor; \* \* \*"

The language in the statute from which the Commissioner of Internal Revenue assumes to derive authority to take live-stock commission corporations out of the classification of personal-service corporations is found in the words "in which capital (whether invested or borrowed) is not a material income-producing factor." The employment of money or capital by the corporations is for the same purpose as is money used by the partnerships engaged in the same business; yet partnerships are not subject to any tax, and neither should a corporation whose business is of exactly the same character be subjected to tax merely because of the form of its organization.

The injustice of the arbitrary action of the commissioner is seen when it is considered that the stockholders of these live-stock commission corporations who are all actively engaged in the business of buying and selling live stock on commission, have also to pay a tax upon the income derived by them as stockholders from such corporation and the corporation itself also subject to tax, whereas in the case of partnerships doing exactly the same business in exactly the same way, the partners pay only upon the distributive shares of the profits. In one instance, by virtue of the action of the Commissioner of Internal Revenue in depriving a live-stock commission corporation of the benefits of a classification as a personal service corporation, a tax of 55 per cent of the net profits was assessed. The invested capital of this concern was but \$6,000, and the net profits of the business amounted to about \$7,500. The salaries of the officers of the corporation were very small. It will be seen that in that case the tax assessed amounted almost to confiscation. Live-stock commission corporations will be unable to continue in business if such discrimination is permitted by law.

To overcome the injustices and inequities thus possible through departmental construction and interpretation of the law it is suggested that language be employed which will be so clear as to not permit of any doubt as to its meaning. If the words "and in which capital (whether invested or borrowed) is not a material income-producing factor," were omitted there could be no doubt that all live-stock commission concerns who do business in a corporate form of organization would be exempted from taxation as personal service corporations. If the language should be permitted to remain as it is, a proviso should be inserted excepting live-stock commission concerns from those in whose business capital is employed as an income-producing factor.

To make the language very clear and to avoid all necessity for departmental interpretation, the following definition of a personal service corporation is suggested in lieu of the one now existing in the revenue law of 1918:

"The term 'personal-service corporation' means a corporation (1) whose principal stockholders (a) regularly devote their chief time and attention to the active conduct of the affairs of the corporation, and (b) own not less than 85 per cent of the capital stock of the corporation, and (2) in which the number of stockholders not regularly devoting their chief time and attention to the active conduct of its affairs does not exceed 10."

It is not thought that the mere holding of qualifying shares in a corporate organization by one or two or more persons not actually engaged in the conduct of the business should of itself deprive a corporation otherwise entitled thereto of the benefit of a classification as a personal-service corporation.

In closing, a striking illustration of the unfairness and discrimination permissible under the existing statute through departmental interpretation of its meaning is found in the case hereinabove cited, where a tax of 55 per cent of the net income of a live-stock commission concern was assessed. In addition to the corporation tax of 55 per cent the stockholders of the corporation, who are all actively engaged in its business, were all required to pay a tax upon their respective incomes as shareholders. In the case of a partnership doing precisely the same business the tax assessed would be merely upon the distributive shares of the partners and there would be no partnership tax. The result of this unjust departmental construction was to tax this particular concern at least four or five times as heavily as its members would have been taxed if they had not adopted a corporate form of organization, and at least four or five times as heavily as the competitors of the concern engaged in exactly the same business conducted in exactly the same way.

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## EXCESS-PROFITS TAX.

### STATEMENT OF E. H. JAYNES, CLEVELAND, OHIO, REPRESENTING NATIONAL ASSOCIATION OF CREDIT MEN.

Mr. JAYNES. My name is E. H. Jaynes, of Cleveland, Ohio; and I am here representing the National Association of Credit Men in place of Mr. Elliott, who appeared before you in connection with the sales tax. Mr. Elliott, who was here a week or so ago, is unable to be present this morning.

The substitute which we desire to present to you for the present excess-profits tax consists in what we call making the individual the source of income taxation. We look at it in this manner: There are three ways of acquiring money or income in the country: first, by engaging in business as a sole trader; second, by engaging in business as a partner; and, third, as a stockholder in a corporation.

If we could devise some way by which we could tax each of those in exactly the same manner, we feel we would have a very good system. We are in favor of income taxation; we are in favor of making the individual the sole basis of income taxation. If you could tax the stockholder of a corporation on his proportionate share of the earnings of that corporation in exactly the same manner that you tax the partner of a partnership to-day—that is, whether it is distributed to him or not—you would have the income of the country all taxed in the hands of the individual; and by taxing the income in the hands of the individual it would be taxed once and once only, and it would be taxed further in proportion to ability to pay.

A corporation is nothing more nor less than the collection of individuals, and if we could segregate the individuals in that corporation and tax them singly in exactly the same manner as individuals are taxed, we would have an absolutely equitable basis of taxation. So our proposition is to remove, if you please, the corporation-income tax as such and place it upon the individual to the extent that the corporation distributes dividends to the individual.

The Macomber case presents the taxing of a corporation stockholder on his undistributed share of the earnings. That can not be done. So, in order to surmount that difficulty we believe that the undistributed earnings of a corporation should be taxed in much the same manner and at rates comparable to the individual rates, and that later those earnings should be distributed tax free.

Senator WATSON. What would be the difference in the amount of revenue derived from that kind of taxation? Have you made any calculations as to that?

Mr. JAYNES. I do not believe any calculations have been made. It seems to us that if we could tax all the individuals and use the individual as a sole basis of our income tax, it would be a mathematical calculation as to how much tax you would want to raise and the rates could be made accordingly, because the Treasury Department must have full information as to the individual income. If the corporation were given the privilege, or option, if you please, under the law of paying income taxes in exactly the same manner as partnerships do to-day—that is, given a voluntary option whereby the stockholders could return for assessment their proportionate share of the total earnings of the corporation—we would then have the individuals, partner and corporate shareholders, all taxed alike, and we would have an absolutely equitable basis of taxation. There would be no necessity, whenever a change in revenue requirements was made, of doing anything but changing the rates. In the last analysis the individual is the source of all income tax of the Government.

Senator SIMMONS. You mean that you would raise your total revenue in that way?

Mr. JAYNES. Yes, sir; that is, the great bulk of the revenue. In other words, the basis or foundation of your taxation system would

be income taxes. I do not mean to say that you should do away with all your business taxes or things of that kind; I am not here to advocate that idea; but simply that the basis of your revenue should be this income-tax principle.

Senator SIMMONS. And the surplus of the corporation, the undistributed portion of the corporation's earnings, you say you would tax in the hands of the corporation?

Mr. JAYNES. Yes. The Macomber case drives you to that position, Senator. You can not under that decision levy a tax on the corporate earnings in the hands of the individual until it has been distributed to him. Of course, you understand, sir, that that applies only to the current year's earnings. We are not advocating taxing undistributed earnings of a corporation accumulated through a period of years; but simply the undistributed earnings of the current year.

Senator SIMMONS. Then, you said that when that was actually distributed it would be free of tax?

Mr. JAYNES. Yes; having paid the tax once, it should not be taxed again.

Senator SIMMONS. But would not that bring about a palpable inequality in the amount of the tax that this undistributed surplus would have to pay as compared to the part that is distributed, especially if you have a graduated system?

Mr. JAYNES. Not if the rates were comparable.

Senator SIMMONS. The undistributed earnings would pay in bulk, and it might be a large bulk. The part that goes to the stockholders would be paid in small quantities. If they had a graduated system they would have to pay a much heavier tax.

Mr. JAYNES. Not if the rates were scaled down at the proper place, or placed at the proper point. We do not know where those rates should be placed. We have not the information at our command that the Treasury Department has, but we believe that the Treasury Department could readily place those rates at such a place that injustice would be, perhaps, not completely wiped out, but it would be to all intents and purposes overcome. The situation to-day is simply that the corporation is made a collection-at-the-source proposition, so far as taxation on dividends is concerned. Dividends are exempt from the normal tax, but the corporation pays a 10 per cent tax on those earnings, and that compels the individual to pay 10 per cent on that portion of his income, whether his own rates would equal 10 per cent or not. To that extent there is an injustice. He has not the advantage of the 8 per cent normal tax on the individual rates; he has not the advantage of the 4 per cent on the first \$4,000 over and above his exemption, because the corporation pays 10 per cent. Now, if the tax were removed from the corporation and placed on the individual, he would get the full benefit of that.

Senator WARSON. Do you make any distinction between earned and unearned income?

Mr. JAYNES. No; we consider income as income. That is the substance of our proposition, and I thank you for the opportunity of presenting it.

Senator LA FOLLETTE. Have you elaborated upon that proposition in the pamphlet you have here?

Mr. JAYNES. Yes, sir; we have.

Senator LA FOLLETTE. Will you kindly submit that to the committee in order that it may be incorporated in the record?

(The data referred to are as follows:)

#### A SUBSTITUTE FOR THE EXCESS-PROFITS TAX.

The repeal of the excess-profits tax will necessitate the passing of a new tax measure. This new measure should meet two requirements: (1) It should raise a substantial portion of the revenue formerly derived from the excess-profits tax; (2) it should approximate closely an equal distribution of the tax burden.

Merely to repeal the excess-profits tax in the hope of abolishing the gross inequities that have resulted from it is not sufficient. In addition to causing a serious loss in revenue, abolishing this tax without providing a satisfactory substitute would at the same time that it eliminated gross injustices introduce others. The excess-profits tax, with all its evils, was at least an attempt to equalize the surtaxes paid by sole proprietors and partners on the one hand and the taxes paid by the corporations and borne by the corporate shareholders on the other. The repeal of this tax by freeing the corporate shareholders from a large share of their taxes would discriminate unfairly against the sole proprietors and the partners who are subject to surtaxes. A substitute tax measure must therefore be enacted that will insure substantial equality as between individuals in all groups—individuals not in business, individuals in sole proprietorships, individuals in partnerships, and individuals in corporations.

#### THE INDIVIDUAL MUST BE THE TAX-PAYING UNIT.

In order to achieve this equality, the individual must be the tax-paying unit. It is only the individual that has real ability to pay. Therefore it is only by measuring ability to pay where it actually exists—namely, with the individual—that a fair tax system can be established.

#### TAXING INDIVIDUAL INCOME IN ACCORDANCE WITH ABILITY TO PAY.

Such a tax system (one that taxes individual income on ability to pay) is now in operation for a large number of individuals. Individuals in single proprietorships, individuals in partnerships, and individuals not in business who derive their income from sources other than corporations, in fact all individuals in the business, professional, salary, or wage-earning groups who are not corporate shareholders are now taxed as individuals on their individual income and on the principle of their ability to pay. Equality of taxation exists, therefore, as between the individuals in all these different groups. Extending to the individual shareholders of corporations this principle of taxing the individual income in accordance with ability to pay would therefore equalize taxation as between all the individuals of the country.

#### APPLYING THIS PRINCIPLE TO THE INCOME OF CORPORATE SHAREHOLDERS.

Under the present law a tax at approximately the full normal rate on individual income is levied on the net income of corporations, and the shareholders are then exempted from the normal tax on the dividends they receive. This flat rate income tax on corporate net income, however, violates the principle of taxing the individual in accordance with ability to pay. Taxing as it does all shareholders alike, it penalizes the small shareholder whose entire income from all sources may be so small as to be wholly exempt from tax, or to be subject to only the half rate of normal tax. He is compelled to pay the full normal rate upon that part of his income which he receives from dividends (the distributed corporate earnings). It is therefore recommended that each individual shareholder pay his own normal tax upon dividends instead of having it withheld and paid by the corporation.

With the elimination of the corporate income tax, equality of taxation with regard to distributed earnings is achieved as between corporate shareholders, sole proprietors, and partners.

#### THE POSSIBILITY OF EXTENDING THIS PRINCIPLE.

If corporate earnings were all distributed, the individual shareholders would then be taxed just as sole proprietors and partners and all individuals who are not corporate shareholders are taxed. All these groups are taxed on their total earnings, but all the income of corporations is not distributed. Industry has always financed a part of its growth through retention of a portion of its earnings as working capital, and

this practice, which is dictated by sound business judgment, should not be relinquished. To tax corporate shareholders only on the earnings of their investments actually received by them, and to tax individuals who are not corporate shareholders on their total earnings, is obviously an unfair discrimination in favor of the corporate shareholders. There are, theoretically, three possible ways of equalizing the tax as between these groups of individuals:

1. To exempt from taxation such income of individuals who are not corporate shareholders, as is reinvested, which would be the equivalent of exempting undistributing earnings of corporations reinvested in the business.

2. To tax shareholders of corporations on the full earnings of their investments, whether or not they are distributed to them, thus taxing the shareholders on their full earnings exactly as other individuals are taxed.

3. To tax the undistributed income of corporations in order to equalize the tax borne by the corporate shareholders with that borne by other individuals.

However desirable the total exemption of saved or reinvested income of individuals who are not corporate shareholders is in theory, such an exemption is at present impracticable. It would cause a considerable reduction in the Government's revenue and can not therefore be seriously entertained at this time.

The second possibility, that of taxing shareholders on the full earnings, distributed and undistributed, of their investments, meets with many difficulties. The decision in the United States Supreme Court in the case of *Eisner v. Macomber* (252 U. S., 180), holding that stock dividends can not be made taxable to the shareholders as income, as well as other practical difficulties, utterly preclude this possibility.

#### TAXING THE UNDISTRIBUTED EARNINGS OF CORPORATIONS.

There remains only the alternative of taxing the saved income of the corporate shareholder (which is the current net income of the corporation which remains undistributed) at rates substantially equivalent to those that would be applied if this income were assessable in the hands of the shareholder. We have under the present law the individual paying a tax on his total income, the partner paying on his total income, whether distributed to him or not, and the corporate shareholder paying on the income actually received—all at the same rate—and under the proposed law the corporate shareholder having paid for him a tax on the income undistributed to him at substantially the rate that would apply to this income if it were distributed to him. It is therefore recommended that a graduated tax at rates comparable with the normal and surtax rates paid by individuals and partners on the earnings of their business which are reinvested or remain undistributed, should be paid by corporations upon the current net income not distributed in dividends or made subject in the hands of the shareholders to the individual income tax.

#### OPTIONS WHICH WOULD EQUALIZE THE TAX BURDEN.

Coupled with the above, there should be an option which would permit corporation shareholders by unanimous agreement to elect to pay taxes as partners do or just the same as partners pay, namely, on all the earnings of the business whether distributed or not. When they so elected, the corporation, of course, would not be subject to the undistributed earnings tax, because the individual shareholders would have paid their tax on all of the earnings irrespective of whether they have been withdrawn from the business or not, and under this provision they would have placed themselves on a basis of absolute equality with sole traders or partners enjoying the same measure of prosperity.

If an option of this sort were provided, it would mean absolute equality for all that large class of individuals engaged in business in corporate form, in corporations which are closely held, and it is safe to say that the volume of such business is a substantial portion of the country's turnover.

There are other plans which might serve the same end and which, while they should not be made mandatory, would be highly beneficial in accomplishing equality if corporations were permitted to avail themselves of them.

#### CONSTRUCTIVE DISTRIBUTION.

Prominent among such possible equalizing options is that of constructive distribution, or the payment of dividends in interest-bearing obligations of the corporation, such scrip dividends to be considered as taxable income in the hands of the individual shareholder. When current earnings are paid out in this form earnings would not be subjected to the undistributed earnings tax in the hands of the corporation, for the

very obvious reason that these earnings are bearing their just tax burden in the hands of the individual shareholder.

The payment of dividends in scrip is not new. A number of corporations have been paying dividends in this form for many years and while the committee does not recommend that corporations be forced to pay dividends in this form, it does most strongly recommend for the consideration of the tax legislators that a provision of this sort be made and the use of it be optional in the hands of the corporation.

From the Government's standpoint such an option should be in accord with the intent of Congress to obtain equality to the greatest possible degree, for in no case can such a provision be used as a device to avoid just tax liability; because when it is availed of the shareholders of such a corporation will be in a position of absolute equality with other individuals enjoying the same measure of prosperity.

Either of the above-mentioned plans will permit of absolute equality for all of the shareholders in the smaller business units and for certain other corporate shareholders—as compared with individuals carrying on business as sole traders or in partnerships.

#### THE NECESSITY OF CONSIDERING THE INDIVIDUAL AS THE TAX-BEARING UNIT.

Each individual, irrespective of the nature of his investment or source of his income, should pay the same amount of tax as every other individual enjoying the same measure of prosperity. To accomplish this he should be permitted, in so far as possible, to pay his own taxes rather than have them withheld at the source or paid in his behalf by some one else.

In other words, the Government should abandon as far as possible the taxation of individuals en masse, for such taxation is productive of inequities.

The reason why a tax on undistributed corporate net income is necessary is because the taxing of shareholders direct on these undistributed earnings seems to be legally and physically impossible, as heretofore pointed out.

#### WHY UNDISTRIBUTED CORPORATE EARNINGS SHOULD BE TAXED.

With respect to corporate earnings which are distributed no difficulty presents itself, as under the present system those earnings are taxed in identically the same way as similar earnings arising from business conducted in partnership form. Just as long as we do tax the undistributed partnership earnings, as at present, a compensating tax must be placed on the undistributed corporate earnings which correspond: a tax must be placed on those earnings which will practically equalize the tax borne by the shareholder and that borne by the sole trader or partner when each enjoys the same measure of prosperity.

This tax on the current net income of corporations is simply a tax applied to that portion of the earnings of the investment of the individual shareholder which, assuming the repeal of the corporation income and excess-profits tax, otherwise entirely escapes taxation by reason of not being distributed. This tax should be so levied as to be free from any punitive element and from any attempt to force the distribution of dividends which should, for sound business reasons, be retained as working capital.

The law should prevent the use of the corporate form of organization as a vehicle for shifting a just proportion of tax liability, or escaping a proportionate burden of taxation by the device of allowing earnings to accumulate undistributed.

This undistributed earnings tax is urged for two reasons:

1. It will substantially equalize the tax burden of the individual shareholder with the tax burden of the sole trader or partner enjoying the same measure of prosperity.
2. It will raise revenue for the Government in a manner substantially fair and equitable.

#### BASIS OF APPLYING A TAX ON UNDISTRIBUTED CORPORATE EARNINGS.

There are so many different elements involved in the conduct of corporate business that the basis on which the rates of this undistributed earnings tax are to be applied is of the greatest importance.

Corporations are managed with different degrees of efficiency; are engaged in business where the elements of hazard vary in the extreme; earn various rates of return on the money invested and on the value of the assets; are engaged in business in which the opportunities for expansion vary greatly; finance their operations in different ways; and finally distribute in dividends to their shareholders a vastly different percentage of current net income.

Probably the fairest and most equitable basis of constructing and applying the rates determined upon under this recommendation would be a combination of two



factors: The value of the assets which are the basis of the current earnings, and the percentage of those earnings remaining undistributed and therefore free from income tax in the hands of the individual shareholders.

#### VALUATION OF ASSETS.

The valuation of assets leads to tremendous complications, and would require an appraisal by the Government of the property of every corporation in the country. The determination of invested capital as defined in the present law has consumed endless time, labor, and expense on the part of both Government and the taxpayer.

The use of the present definition of invested capital as one of the factors in applying this tax would be entirely inadequate. This definition is so restricted as to establish an arbitrary amount, in many cases far above and in many other cases far below the real value of the assets.

While there is considerable merit to the use of the present value of assets as a factor in applying this equalizing tax on the income of the corporation which, by reason of being undistributed, is not made subject to the tax in the hands of the individual, still the committee has reached the conclusion that the difficulties of determining in a fair and equitable manner the value of the assets of a large number of corporations far outweighs the benefits to be derived from using such valuation as a factor.

#### A TAX ON UNDISTRIBUTED EARNINGS BASED ON THE PERCENTAGE UNDISTRIBUTED.

The committee feels, giving weight to both the considerations of equity and simplicity, that the most desirable factor on which to base this undistributed earnings tax would be the percentage of the total current net income which remains undistributed, and considers this factor as being of the greatest importance in seeking equality as between different individuals who prosper equally.

To illustrate, take the case of an individual who has a \$40,000 share in the current income of a corporation. If the corporation were to distribute 25 per cent of its current net income in dividends, this individual would pay an individual income tax on \$10,000. If the corporation were to distribute 75 per cent of its net income, this shareholder would pay individual income tax on \$30,000 and on the difference of \$20,000 received under the last example he would be paying a gradually increasing rate.

The tax on undistributed earnings is recommended for the purpose of equalizing, as far as possible, the tax borne by this man when the corporation distributes but 25 per cent, and pays on his behalf taxes on the 75 per cent remaining. It is obvious, since the individual would pay at a gradually increasing rate, if he pays his own taxes, that when the corporation pays his tax for him (by paying a tax on earnings undistributed to him) the rates should be such as to be in a measure comparable. The rates should aim to produce the proper revenue but not at a sacrifice of substantial equality.

The recommendation therefore is that the application of the undistributed earnings tax be based on the percentage of the total net income which remains undistributed and therefore free from income tax in the hands of the individual.

#### RATES.

This tax on undistributed earnings being in lieu of taxes which would be paid on similar income by an individual receiving such income from a source other than corporate investment, should in its lowest bracket be equal to the lowest bracket of the individual income tax (4 per cent under the present law). The fixing of its highest bracket should be governed by two considerations:

1. The greatest measure of equity to the shareholders as compared with other individuals.

2. Productivity from a revenue standpoint.

The Secretary of the Treasury, the Hon. David F. Houston, in his annual report dated November 30, 1920, suggests that the rates of surtax on that part of the net income which is saved and reinvested in business be reduced by one-fifth and in no instance exceed 20 per cent.

The recommendation heretofore made provides that the individual shareholder should pay his own normal tax. Should that be enacted into law, it would mean that the maximum rate of this proposed undistributed earnings tax would be 28 per cent; namely, the equalizing 8 per cent normal tax, plus 20 per cent maximum surtax which would be the tax maximum paid by the individual if the earnings were distributed to him and reinvested in securities the income of which is subject to tax.

Therefore, we give for purposes of illustration, a tentative basis on which we may erect a schedule of rates. The making of rates, however, being a function of Congress, this committee does not presume to suggest what the rates should be, but above they have endeavored to set out the best thought on the subject and the following tabulation is submitted for the sole purpose of illustrating the manner in which whatever rates might be determined on would be applied.

With the foregoing in mind, the rates might, for example, be as follows:

For the sake of simplicity in figures, the example is based on a corporation with a net income, of \$100,000, making no distribution. The undistributed earnings tax in this case would be as follows:

	Amount taxed.	Tax rate.	Amount of tax.	Cumulative total.
On the first 10 per cent of the total net income which remains undistributed.....	\$10,000	<i>Per cent.</i> 4	\$400	\$400
On the next 10 per cent.....	10,000	8	800	1,200
Do.....	10,000	12	1,200	2,400
Do.....	10,000	16	1,600	4,000
Do.....	10,000	20	2,000	6,000
Do.....	10,000	24	2,400	8,400
All over 60 per cent.....	40,000	28	11,200	19,600

The rates might be subjected to either more or less graduation than shown above, as the graduations above were made few and simple for the purpose of clarity. Also the point at which the maximum rate is made to apply might be shifted either up or down, as necessities seemed to warrant.

#### THE UNDISTRIBUTED EARNINGS TAX WILL NOT FORCE UNDUE DISTRIBUTION.

The only argument which has been brought forward against the tax on undistributed earnings is that it would force distribution to shareholders of earnings which were needed in the business, this distribution being forced to avoid payment of the undistributed earnings tax by the corporation. This argument is fallacious, for the following reasons:

Corporations are managed by boards of directors, which control payment of dividends by the corporation. The personnel of boards of directors is almost invariably made up of the principal owners or their representatives.

If the above-mentioned argument were sound, we would have to conclude that a board of directors would pay themselves dividends on which they would be obliged to pay a personal income tax in order to avoid bearing their share of a comparable tax assessed against the corporation, and that they would pay themselves these dividends and in so doing undermine the security of their investment in the corporation.

It does not seem to this committee that any such accusation of intellectual weakness is justified against the owners of the corporations of the country.

It seems to the committee that those corporations which are well managed and which are earning income, and therefore are the ones to which this tax would apply, are competent to manage their affairs, and will not undermine the security of their investment for the purpose of exempting the corporation from tax and according themselves the privilege of paying a comparable tax on such income.

Such a tax would not in any way restrict expansion commensurate with the legitimate requirements of the business, although it might act as a deterrent to any abnormal expansion which the committee believes should be financed through new securities, thus obtaining the consent of all the shareholders to the program.

The Secretary of the Treasury, in his report just recently issued, has suggested an additional tax of 6 per cent on corporation incomes.

Your committee believes that there is no sound reason why there should be any tax paid by corporations on the income which they distribute. Many eminent legal minds, including the members of the Supreme Court of the United States, have stated that a corporation is merely an aggregation of individuals, and your committee, believing as it does in the principles of taxation of income on the basis of ability to pay, and believing that every individual of the country should be permitted to pay his own tax, can see no reason why any tax should be paid by the corporation against that part of the income which is distributed to the shareholder and therefore can be equitably taxed in his possession. Any flat tax on corporations deprives the small shareholder not only of the personal exemption the law accords him, but also deprives him of the benefit of the lower rate on the first \$4,000 over his exemption.

It seems to your committee that there is no reason why a corporation as such should pay any Federal tax which is not in like manner assessed against a partnership or an individual conducting an identical institution.

The present tax law is collecting in the neighborhood of \$100,000,000 from the corporations of the country under the capital-stock tax for the privilege of doing business in corporate form. If the Federal Government is to levy any tax on the privilege of doing business in corporate form, then it would seem that such a tax as the capital stock is the fairest measure possible under the Constitution.

The corporation income tax has been generally considered as paid in behalf of the shareholders in lieu of the normal tax, and dividends have accordingly been made exempt from the normal tax. Under this plan the corporation income tax and the individual normal tax should be at the same rate.

The recent report of the Secretary of the Treasury suggests a still wider spread between the flat individual normal rate and the corporation income tax rate. If this extra rate on corporate income is designed to be a tax on the privilege of doing business in corporate form it is fundamentally wrong. At first glance it seems to be founded with only one idea in mind: To get the money.

Any tax on the total net income of corporations designed to equalize the taxes paid by partners or sole traders on the undistributed earnings of their business should not be considered for the reasons that we have pointed out elsewhere.

#### THE ADVANTAGES OF THE UNDISTRIBUTED EARNINGS TAX.

In so far as it is practicable the undistributed earnings tax will equalize taxation.

1. It will thus be closed to the serious objection which is directed against the excess-profits tax and may be directed against some of the substitutes proposed for it.

2. Since it is an extension of the income-tax principle, it does not require the setting up of new tax machinery.

3. It combines with the income tax flexibility of rate.

4. By removing the penalty that rests on small shareholders it will encourage the investment on the part of larger groups in shares of corporations, and thus contribute to the financial and economic stability of the country.

#### STATEMENT OF ROBERT J. F. SCHWARZENBACH, NEW YORK, N. Y.

##### TAX THOUGHTS OF A MANUFACTURER.

*Introduction.*—So much has been written in connection with a Federal tax system, so much "expert" opinion of economists, business men, and students brought to bear on Uncle Sam's revenue troubles and such streams of theory and experience turned on the problems of how to relieve the taxpayer painlessly of his property that it may seem unpardonable to add to the wealth of ideas promulgated. And yet, in all that wealth, certain differentiations helpful in the selection of subjects for taxation and methods and machinery of tax administration have not been given the study which perhaps they deserve. To call attention to them is the object of these "thoughts."

##### I.—FAX PRINCIPLES.

*Ability to pay.*—The theory so frequently advanced that "ability to pay" (progressively—otherwise, who dissents?) must form the basis of any sound income-tax measure may well be questioned. It must be challenged where the tax applies to business. Why should income of "business" be subject to a tax conceived in "social" considerations? It is such which have given birth to the principle of progressive taxation.

*Progressive taxation.*—This principle has never been applied to business income anywhere until the World War upset all precedents, all logic, and all science in tax making, and governments resorted to it as a dire-need expedient. Opportunism may be pardonable in war, but certainly no longer now when economic laws again function and again predicate profits upon skill and efficiency of performance. Progressive taxation of business income again spells taxation of ability and thrift, and by inference tax relief for inability and waste. It is conceived in a theory which disregards human nature and its economic effects and is really antisocial in the last analysis. It must be dropped.

*Corporate income is privileged source of "unearned income."*—While net income of business, therefore, should not as such be subject to income taxes, but only as and when received by the individual, legislation leaving net income of corporations untaxed (though only while remaining undistributed) is probably not politically "available."

It should be possible, however, politically and otherwise, to incorporate in a new tax law such differentiation between "earned" and "unearned" income as would tax the latter higher than the former by:

- (a) Applying a low basic rate to personal income derived from personal effort;
- (b) Imposing an excise tax on corporate net income, preferably in the form of a percentage addition to the rate applying to personal income derived from personal effort;
- (c) Imposing such tax also on income derived in the form of interest on loans and deposits, rents, royalties, etc. ("unearned income");
- (d) Taxing all "unearned income" at the source;
- (e) Exempting unearned income, normal tax on which has been paid at the source, in the hands of receiver thereof from such normal tax (but not from the surtax).

Suggestion *a* is justified by the consideration that the fruit of personal effort, unsupported by possession, should be taxed the least.

Suggestion *b* is justified by the advantages in the corporate form of doing business, plus by the sense of equity hereinafter specified.

Suggestion *c* is justified by a sense of equity which demands that "work" be better compensated than the fruit of mere "possession," and the fruit of "safe" possession be taxed at least as much as that of "risky" possession.

Suggestion *d* is justified by the administrative advantage which attends collection at the source.

*The sales tax.*—As "income" is uncertain and unstable by comparison with sales, and in order to distribute the total tax levy more evenly over all the people of the country, recourse should be had, in addition to duties and excise taxes (as we have or may have them), to a small tax on sales of commodities, instead of, or supplementary to the special articles taxes now in use.

*Objections thereto.*—The opposition to a small tax on sales (say 1 of one-half per cent) which centers in the actual or supposed cumulation thereof, where an article goes through the hands of various "single-process" operators (resulting allegedly in a serious disadvantage to the latter), is academic.

*"Single-process operations" no handicap.*—Single-process operations are as often an advantage as they are a disadvantage, and are, moreover, in part applied to commodities consigned (not owned) so that tax cumulation occurs only on a fraction of cost total. It is hard to see how limited cumulation can, otherwise than in theory, adversely affect deserving single-process operators. They will thrive in spite of multiple-process competition because of the innate strength of their process (while the undeserving kind is eliminated, as it should).

*A tax should be defensible and an easy income producer.*—A consideration which should overrule such "academic" objections is this: The Government, faced by a condition, not a theory, must have a big and, relatively, sure revenue wherewith to meet its expenses while not crippling business and business enterprise. Excess profits taxes having to go, and surtaxes requiring reduction to become more productive, and if increased tax rates on "unearned incomes" do not produce sufficient revenue, recourse to an indirect tax may have to be had.

The subject of such a tax should be something "live" and capable of bearing same—no property, or income at times disappearing—the sales of commodities.

*"Capital invested" and "good will" unfortunate terms.*—The terms "capital invested" and "good will" should be scrapped by the (tax) legislator. Definition/application thereof is the cause of nine-tenths of the difficulties and worries to which taxpayer and official alike are exposed.

*"Cost or market whichever is lower" a theory.*—The valuation of inventories for the purpose of account closings, whether resulting in depreciation or appreciation due to deterioration, obsolescence, market advance or recession, or other causes, should be left to the "bona fide appraisal" of taxpayer. Inventoring at "cost or market whichever is lower" are requisites of law with which actual business often finds it impossible to comply. Itemized costs in manufacturing are very often, if not usually, simply not ascertainable and market values are very often very hard to ascertain. In-process commodities have only a liquidation value. Finished commodities have but a liquidation value in a falling market. Commodities for export have only a probable market value. Moreover, the market price within reach of the taxpayer (other than that estimated by him) is the price which he is asked when he buys, and not the price at which he must sell.

*Bona fide appraisal by taxpayer indispensable.*—So in this world of facts (in contrast to a world of theory), the requirement that inventories be reported at "cost or market whichever is lower," is hard to comply with, if compliance at all there can be. Why not be honest and call a spade a spade? "Bona fide appraisal" of inventories by the taxpayer is the only way out of the tangle into which theorizing experts have

brought the business of the country. The taxpayer is not only the best, but he is often the only judge of values. That he would anticipate probable developments in his appraisals, just as he anticipates when he buys, sells, engages help, builds, equips, is a matter of course. That need worry no one, nay, should prove a source of gratification, as the Treasury needs business appraisals, and business is anticipation, the use of foresight, the banking on expectations. Concede it, and the attempts of the Internal Revenue office (very creditable in themselves as long as a theory prevails) to broadly define "market value" become superfluous.

*Surtaxes should be reduced.*—The arguments in favor of lower surtaxes (say not exceeding 33½ per cent in the highest brackets) are too well known to require much elucidation. Not only do surtaxes as high as 73 per cent drive investors into investments in tax exempt securities, but they discourage men of vision and daring to engage in business enterprises which would benefit the Nation. (For the latter reason it would seem advisable not only to eliminate the high rates of the upper brackets, but reduce those of the medium ones. No man should have to devote more than one quarter of his "earned income" to the payment of tax thereon.)

Moreover, as prosperity depends largely upon the husbandry of resources finding expression in the accumulation of capital, the public ownership of which notoriously spells waste because it subjects same to the manipulation of those who have to work for political effect rather than economic results, the thing to do is to encourage, instead of to discourage, reasonable accrual of capital in private hands.

*Corporate surpluses should go untaxed until distributed.*—For the same reason temporary accumulation of capital in corporate hands (surpluses) should go untaxed until distributed. Business and the country need them. The way to get them is by permitting, not by penalizing them.

If nonincorporated business, on account thereof, feels itself at a disadvantage, it can incorporate and pay the higher normal tax.

*Common-sense tax principles needed.*—The country badly needs simple, practical, productive tax principles lending themselves to easy application. The time, money, and energy now spent by millions of Americans on their tax problems is simply appalling. This notwithstanding, the docket of unaccepted or unadjusted tax returns is growing more in a day than the internal-revenue office (no matter how efficient) can handle in a week. The State-tax offices, no less, are swamped with thousands of cases awaiting adjustment which often can not be had on account of conflicting provisions of State and Federal law and administrative rulings. Officeholders, lawyers, and accountants are the beneficiaries of this intricate, wasteful, unpractical system of academic theory legalistically expressed and so lacking in good sense, and the people—all the people—are the "goat."

## II.—APPLICATION OF TAX PRINCIPLES.

Tax principles are practical and simple when they can be applied to life without undue waste of effort, produce revenue, and reasonably meet reasonable requirements of ordinary average justice.

Such justice demands that the taxpayer subject to income taxes at progressive rates shall have the privilege to average his income over a term of consecutive years, not exceeding, say, five (except in case of liquidation), to be selected by the Government for the purpose of arriving at a fair average, provided that nothing shall prevent the Government from securing annually advance payments of taxes as if the averaging provision did not exist, and that both such payments and payments due be subject to interest at the rate of 6 per cent per annum.

The ups and downs of American business life are tremendous. A year, whether a fiscal or a calendar year, never coincides with an economic business cycle, and to use it for measuring income means proceeding on an indefensible supposition and aggravating the fact that the perpetration of justice now hinges largely on the accident of a closing date. This false supposition is of relative unimportance where income is not taxed progressively and where normal rates remain the same for long periods. But it is fraught with inequity where the "up" in business occurs in one year and the "down" in the next, and where normal rates change frequently.

Besides doing reasonable justice, an averaging provision would lead to "audit by period" instead of audit by single year, whereby effort would be saved and auditing expense reduced.

Justice also demands that the taxpayer be harangued no more than is absolutely necessary with audits and inquisitions by administrative officials;

That his word, signature, or oath be accepted at its face value, except upon proof by the Government in court of fraud, or intent to defraud; and, finally,

That he have appeal from Internal Revenue Board rulings to special tax courts familiar with tax laws, tax procedure, and tax values.

## III.—RELIEF FROM PRESENT INJUSTICES.

But neither the incorporation in a new law of practical and just tax principles, nor new provisions for business-like application thereof, can provide relief for the injustices which have and will be perpetrated under the old law.

*Relief provision of act of 1918 should be extended to 1919 and subsequent years.*—It is a crying injustice, for instance, that the so-called relief provision of the revenue act of 1918 (which is really an equity provision) providing that inventory losses sustained in 1919 subsequently ascertained can be debited to the profit of the preceding year, has, as yet not been extended to all the years during which the present revenue act shall have been in force or that a similar law providing relief similar to that intended by Congress has not been enacted.

*So-called "net loss provision" would afford no relief.*—The so-called "net loss provision" which has been suggested as a substitute therefor and would provide that "net loss" of any one year can be carried forward to the next is not an equitable provision. It would make the consummation of justice hinge on the whim of events inasmuch as justice would be denied to those who will have no profit to which to charge a loss forward to, and no relief afforded to him whom progressive rates have unjustly—due to a faulty technique—robbed of his rightful property.

## IV.—CONCLUDING REMARKS.

*Tax system should be rebuilt from the round up.*—The whole country has freely discussed principles of taxation—but Rome keeps burning. The taxpayer's real everyday problem is as far from solution as ever, and continues to exact a grotesque toll in property, time, and human vitality. The enactment of a sales tax will bring no relief. A tax on surplus will do but harm. Abolition of the excess-profits tax will prove a weak palliative.

Why? Because such fractional changes are but patchwork, and cure but local ailments. What is needed is a reconstruction of the tax laws from the ground up, complete revision of underlying tax principles, tax procedure, and the tax administrative machinery.

It is this conviction which has actuated me in putting down these thoughts in the hope that thereby I may contribute my mite toward the solution of a very complex problem. If the result will be to bring just a bit of relief to the country's man of business so loaded down with the world's present-day troubles, the efforts put into these lines will have been prodigiously repaid.

**STATEMENT OF HON. CHARLES S. THOMAS, REPRESENTING  
CERTAIN COLORADO GOLD-MINING COMPANIES.**

Mr. THOMAS. Mr. Chairman, what I have to say first will be in a professional capacity. I have been retained by some of the gold mining companies of the West to call attention to an inequality in the existing law under which one or two of them are subject or about to be subject to the imposition of a tax which ought to be eliminated, provided the provisions of the present law are equitable, as I think they are.

The act of 1918 exempted from the operations of the excess-profits tax all companies and individuals engaged in the production of gold. The reason for that exemption, after being stated, was so perfectly obvious that the committee was unanimous in making the contention that there can be no such thing as an excess profit in a business whose product has a fixed market value the world over and which consequently produce the same product at all times and without regard to interest.

Senator WATSON. There is no doubt about that.

Mr. THOMAS. The mistake which was made at the time of the enactment of that law was in overlooking the necessity for making it applicable to the act of 1917; so that the anomalous situation occupied by those engaged in that industry, which is not producing any profits at all, is that they are subject to an excess-profits tax for one year and exempted from that tax for all succeeding years.

The companies which are at present laboring under that inequality are only three or four, for the very good reason that there is very little profit in any sort of mining, and particularly in gold mining at present. The revenues which have been realized by the application of the law of 1917 are comparatively slight because of what I have just stated. The amount in the individual cases is at present time a subject of very serious concern. For example, the Golden Cycle Co., of Cripple Creek, which I represent directly, is face to face with the assessment of an excess-profits tax for the year 1917 of about \$450,000.

Senator WATSON. For what year is that?

Mr. THOMAS. For the year 1917. And that arises very largely from a difference between the company and the authorities of the Government as to the application that should be placed upon the mine for that year, the mine having been secured prior to the first day of March, 1913.

Senator WATSON. And that tax for 1917 has not yet been adjusted?

Mr. THOMAS. It has not yet been adjusted. And I may say that my employment in this matter has brought me to a realizing sense of the complicated conditions which exist and, I suppose, necessarily so, in the department of revenue and which seem to be essential to the administration of the excess-profits tax.

Senator WATSON. Of course, so far as that particular individual case is concerned, there is nothing we can do by way of legislation to relieve that, is there?

Mr. THOMAS. Yes. I have prepared an amendment which it is entirely within the competence of the Congress to enact, but which, of course, is designed to be applied only to the unpaid excess-profits tax of these companies of 1917. I have had copies made for distribution, which of course I will leave here.

Senator WATSON. Suppose that a company like unto the one which you represent has paid the tax. Do you provide for a refund?

Mr. THOMAS. No; I have not done so, because I represent no such company. The amount involved, however, is entirely inconsequential. I have applied for a statement of the figures on the subject, the Government's figures, and as soon as I have them I will submit them to the individual members of the committee. But the amount involved in the application which I am making is, as far as I know, less than \$750,000.

This is the amendment which I have suggested:

Amend section 304, paragraph (c), so that the same shall read as follows:

In any case of any corporation engaged in the mining of gold, the portion of the net income derived from the mining of gold shall be exempt from the tax imposed by this title, or any tax imposed by Title II of the revenue act of 1917, and the tax on the remaining portion of the net income shall be the proportion of a tax computed without the benefit of this subdivision which such remaining portion of the net income bears to the entire net income.

I can not say that the payment of this tax would be ruinous to the companies I represent, but it certainly would be a considerable hardship in view of the present condition of the industry.

The purpose of my application is to show the injustice of requiring an excess-profits tax one year from companies which, for the most conclusive of reasons, are exempted from the payment of such a tax for all succeeding time.

That ends my appearance before you in a professional capacity.

I have given, or attempted the give—and largely because of the fact that I was once a member of this committee, I presume—a great deal of attention to some of the problems with which you are confronted and which, in my judgment, constitute this committee and what it will do the most important portion of the present Congress.

I want, first, to call your attention to what I think can be done in regard to the manner of payment of taxes that will at least enlist your interest. I say "the manner of payment." By that I mean the material or currency in which payments of taxes to the Government may be made or should be made. Under the provisions of the law at present provision exists for the establishment of a sinking fund for the redemption of our bonded debt, a provision which I have no doubt the Government has very carefully considered and is complying with. The present value of Government bonds is humiliatingly low, due, of course, to the effect upon Government securities of the prevailing depression. Much of the public complaint comes from investors in bonds at par, and particularly during the time of their issue, and who feel that the Government has been derelict in not doing something—in not doing everything, in fact, in its power to enhance the value of its own securities.

It has led to a great deal of speculation in public securities, in consequence of which their values are subject to the manipulation which attends similar practices in regard to all classes of securities.

Some time ago the issuance of county warrants by counties in my State was made necessary, in order to carry on the municipal affairs of these local organizations, and we were confronted with a large quantity of warrants for which there was no fund for their redemption and no prospect of an immediate change of condition. The situation became so serious as to attract the attention of the general assembly, which happily provided a remedy for the condition by the enactment of a statute authorizing or permitting the taxpayers in the payment of their taxes to pay 25 per cent of the amount of their levies in these warrants. Of course, that had the effect at once of giving some stability to the warrants, and at the same time enabling the county to meet its obligations temporarily by the acceptance in part of taxes on these securities.

The practical operation of that scheme was in all respects satisfactory. Within the course of 8 or 10 years it resulted in bringing the outstanding warrants at par, while the others were of course canceled as they were received.

I believe that your committee, by making similar provisions, can very materially improve the existing financial situation and in all probability receive almost as much revenue, and at the same time you will not be required, or the Treasury Department will not be required, to set aside the actual cash or any part of the actual cash received for the sinking fund.

Suppose, for instance, that my tax next year should be \$1,000, and that in the payment of the tax I pay, if I see fit so to do, one-fourth of the amount of the tax in Government bonds. I make the payment in bonds and the Treasury at once retires them. Of course, there is a diminution pro tanto of the public debt to the extent of the retirement. If that thousand dollars is multiplied by a thousand millions, and two hundred and fifty millions of the out-



standing bonds of the Government are used by the taxpayer in the liquidation of his taxes to the Government and the Government retires that number of bonds, the advantage will be not only that the debt itself is diminished but that the portion of the debt which ceases to be interest bearing relieves the annual interest account of the Government pro tanto.

On the other hand it is, I think, equally obvious that if Government bonds can be used by the taxpayer in part payment of his taxes they will at once acquire a value in the market that nothing else will give to them, and the time will not be very far distant when there will be no difference between the actual and the par value of the bonds themselves.

If this provision accomplished no other object than the one just mentioned it would be of enormous benefit not only to the Government, whose credit would thus be improved, but to the holders of the bonds who are at present obliged to sell them at a very serious loss. In other words, will not such a method for the payment of taxes so rapidly enhance the value of the national securities as to bring them back to par?

Using the illustration of an experience which I referred to, I am perfectly satisfied that if a provision of the following character be inserted in the revenue law it will vindicate the wisdom of this committee perhaps even beyond my own expectations.

Add to section 1314 of the revenue act of 1918 the following:

And collectors may also receive at par Liberty, Victory, or other Government bonds with adjustment and allowance for accrued interests whose principal sum shall not exceed 25 per centum of the total tax due and payable in any one year from any person hereunder.

Senator DILLINGHAM. Has it come to your attention that very many of the wealthy taxpayers have been compelled to sell their bonds?

Mr. THOMAS. I was about to refer to that, Mr. Chairman. You anticipated me directly.

I know a number of large taxpayers in my section of the country who have been obliged, because of the depressed condition of affairs, to sell their bonds and to sell them very largely in order to procure the actual cash necessary. That has the depressing effect of further lowering the market value of the bonds; and, on the other hand, it means a very serious loss to the man who has bought at par and whose financial condition compels him to part with his bonds.

If, on the other hand, these taxpayers could use 25 per cent of the bonds for that purpose, in all probability the advantage thus gained would make it unnecessary for them in many instances to resort to further sacrifices for the purpose of securing the amount of money necessary for the remaining amount of taxes due.

That, in my judgment, is one of the practical things which, if enacted into law by this committee, will not only be sanctioned by public opinion but would prove of inestimable benefit to the whole country.

I merely wish to add that the instance which I cite from my own State is not an unusual or uncommon one in the West by any means. It has been frequently resorted to, and I think even now in some of the States of the Union that that statute exists. It is still on the statute books in my State, but it is good for nothing because the

disparity in the value of warrants between the face value and their actual value has disappeared and the credit of the various counties where the condition has existed has of course passed.

I think, Mr. Chairman, that is all I care to say. I was going to say something in regard to the sales tax, but I can communicate that, if I am permitted, in the shape of a written statement that will answer every purpose.

Senator DILLINGHAM. The committee really would be glad of your opinion, Senator.

Mr. THOMAS. I am satisfied that nothing I can say will add to the information which the committee already has. I have one or two what I may call practical suggestions in regard to it that I can easily put into writing and submit in that shape.

The other two matters, however, are, in my judgment, both of importance, and the last one supremely so.

**BRIEF OF HON. CHARLES S. THOMAS, REPRESENTING CERTAIN COLORADO GOLD-MINING COMPANIES.**

I have requested the enactment of an amendment to paragraph (c) of section 304 of the revenue act of 1918, so that the same when amended will read as follows:

In the case of any corporation engaged in the mining of gold the portion of the net income derived from the mining of gold shall be exempt from the tax imposed by this title or any tax imposed by Title II of the revenue act of 1917 and assessed but remaining unpaid, and the tax on the remaining portion of the net income shall be the proportion of a tax computed without the benefit of this subdivision which such remaining portion of the net income bears to the entire net income.

The purpose is to incorporate the exemption of the revenue act of 1918 with the revenue act of 1917, and for the relief of those corporations engaged in the mining of gold which have been assessed for but which have not paid excess-profits taxes for the year 1917.

**REASON FOR THE EXEMPTION.**

Excess profits must arise from the production, manufacture of, or traffic in commodities whose prices respond to the laws of supply and demand. They imply a return to the producer or dealer, or both, in excess of a fixed or normal gain. But gold is not a commodity in the ordinary acceptance of the term. It is the standard of values for them all. Its market price is therefore fixed by law. That price is and must be arbitrary and inflexible. It is therefore unaffected by conditions influencing the price of commodities. The quantity produced or the cost of production are immaterial. This is true not alone of the United States, but of all other countries. That price is a little more than \$20 per ounce.

Gold is therefore *sui generis*. A mine abundantly supplied with gold-bearing ores, or ores readily yielding to treatment, will probably prove more profitable to its owners than one containing smaller deposits or one whose ores are more refractory. But this is due entirely to physical differences, for the market price of the output of both mines is the same. When these conditions were called to this committee's notice in 1918, it unanimously agreed to the request for the exemption, and paragraph (c) of section 304 was inserted into the bill. It was as unanimously accepted by the Senate, and I think it met with but little objection either in the House or in the conference committee.

The revenue act of 1917 did not make this exemption because the need for it was not noted during its consideration. I feel very sure that had this been done the Congress would have excluded corporations mining gold from Title II of that act. And the failure of the Sixty-fifth Congress to enact the paragraph in the form which my amendment proposes was a palpable oversight. For if corporations mining gold should not be subjected to an excess-profits tax upon their profits of 1918 and succeeding years, a fortiori should they be relieved from its operation in 1917, where they have not paid but are asking to be relieved from the exaction.

The gold-mining industry has suffered unduly from the changed conditions of labor and material due to the recent war. The cyanides used for leaching the metal from the ore were exported from Germany. After the blockade they were manufactured here, but at an enormously enhanced price to the consumer. Powder, tools, candles,

machinery, etc., were then doubled, as were the wages of the miners. But the market price of the product was unchanging. Other metals responded to the increased demand. The price for some of them soared to the clouds, thus making increased costs of mining and ore treatment comparatively unimportant. The gold miner among all the producers of the continent had no alternative but to continue his development and take chances upon the elimination of his profit or shut down. Most of them eventually did the latter. Very few persisted in going ahead, and very few of these realized much if any profit. These few are certainly entitled to consideration, especially as the assessments made against them are based upon profits calculated upon arbitrary valuations of the mines out of all proportion to their actual value. Hence the profits are not real but fictitious. With this phase of the gold miners' case this committee is not asked to legislate. It is not out of place, however, to assert that the relief to be obtained by the proposed amendment relates to assessments which can not be justified by the revenue act of 1917 properly construed and applied.

#### EFFECT OF THE PROPOSED AMENDMENT ON THE REVENUES.

Due to the destructive effect of war costs of production upon the gold-mining industry, I do not believe the excess-profits tax of 1917 has affected half a dozen companies. I personally know of but two, one in Colorado and one in Arizona. There may be others, but their number is extremely limited. I am entirely within bounds in asserting that the amendment will affect not to exceed \$500,000 of disputed revenue.

I have applied for a statement from the Bureau of Internal Revenue showing the amount of excess-profits tax realized from corporations mining gold under the revenue act of 1917, but thus far have not received it. While the amendment does not affect them, their amount will, I am very sure, fully justify my estimate of the amount involved in pleading and disputed assessments. But were they much larger, the principle of the exemption would not be affected.

#### INDUSTRY NOT PROTECTED.

Since gold is not a commodity, the mining of it is not and can not be made a protected industry. It therefore enjoys no governmental privilege unless the stabilization of the product at a fixed price can be called one. No one conversant with the difficulties of its mining and treatment will deem it so. Indeed, at present it is a serious handicap, since the actual value of gold mined would but for the price restriction be realized by the producer. The world sorely needs all that can be taken from the earth, and the industry should not be handicapped even for a single year by the burden of an unnatural and preposterous tax.

#### STATEMENT OF J. RAMSAY, OF ST. MARYS, PA., PRESIDENT OF THE REFRACTORIES MANUFACTURERS' ASSOCIATION OF THE UNITED STATES.

Mr. RAMSAY. We are a national industry, having members from Maine to California, and we represent about 80 per cent of the output of the refractories in the United States.

The CHAIRMAN. Do you want to speak on invested capital?

Mr. RAMSAY. I want to speak first about our opposition to the excess-profits tax, and our recommendation or what we approve as a substitute.

The CHAIRMAN. The committee heard the refractories people very fully in the last Congress on the questions of taxation, but still, you may go ahead.

Mr. RAMSAY. It will only take a few minutes. We are very much opposed to the first excess-profits tax law. Our industry is made up of a great number of small producers, the determination of whose invested capital has been a very great detriment to them in tax matters. They feel that the repeal of the excess-profits tax law should be substituted by a sales tax and an income tax. We feel that a sales tax is an advantageous one, because it equally dis-

tributes taxation on all people; in other words, we believe that the war was a war for humanity and that every human being in the United States should bear his proportion of the taxes, and we believe that a sales tax would be a means to that end. We believe it will be simple to operate and undoubtedly could raise sufficient revenue for the needs of the Government in addition to the income tax at present.

The only two things we wanted to be on record on are these: We oppose vigorously the excess-profits tax laws, and we favor the sales tax, with an income tax. We just simply wanted to get those two matters in the record.

The CHAIRMAN. Have you anything in writing that you want to file?

Mr. RAMSAY. No, sir.

The CHAIRMAN. Mr. Ramsay, we are glad to have had your views. I know you have a great many concerns scattered over Pennsylvania and throughout the country, important industries. Is that all?

Mr. RAMSAY. Yes, sir.

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## ESTATE TAX.

### STATEMENT OF ROBERT LYNN COX, REPRESENTING THE METROPOLITAN LIFE INSURANCE CO. OF NEW YORK CITY.

Mr. Cox. Mr. Chairman, I am third vice president of the Metropolitan Life Insurance Co., but am appearing here to-day as a member of a committee of the Association of Life Insurance Presidents, in company with Mr. E. E. Rhodes, vice president of the Mutual Benefit Life Insurance Co.

Senator WATSON. Is the Metropolitan Life Insurance Co. a mutual company?

Mr. Cox. It is a mutual company of New York City. We wish to present for your consideration a few points on behalf of the life insurance companies.

The tax question, viewed from our standpoint, groups itself, I think, into three general classifications, so far as this hearing is concerned. First, taxes payable by the companies as corporations; second, taxes payable by beneficiaries under life insurance policies; third, taxes payable by life insurance policyholders direct. In the first place, there are the taxes that are imposed upon the companies and are paid by the companies; taxes in various forms. It is not my purpose to discuss that question here to-day. We think they are unscientifically imposed; that they are unduly burdensome in many respects; that they are unequal and inequitable as between companies. But this particular subject was taken up at the Treasury Department two years ago, and the Senate had before it suggestions coming from the Treasury Department; in fact, adopted them in the Senate, and we are assuming here to-day that what you considered then will come before you in ordinary course for consideration again.

We were not then asking for a reduction in taxes or an exemption from taxation, and we are not now. The law proposed then, to which we assented, would have increased our taxes, but it would have made them definite and certain from our standpoint and

from the standpoint of the Government. It would have saved much of the litigation in which we have had to engage. There are now literally millions of dollars in litigation under the ambiguities and uncertainties of the present law, and the life companies are very anxious to be rid of that situation.

With that much said about the taxes that are imposed upon us, I would like to consider two or three other points with you. The first in importance among the taxes that are imposed upon and paid by the policyholders or beneficiaries comes under the classification of estate taxes, and we have some specific suggestions to make with reference to them.

The estate taxes are now imposed on estates of residents of the United States on amounts payable to beneficiaries in excess of \$40,000. As to nonresidents they are imposed on any amount payable to beneficiaries; that is, they are nominally imposed, although I think not actually imposed in practice.

As to the imposition of taxes on estates, on beneficiaries, in excess of \$40,000, we are asking that that tax be eliminated. The reason for that is this: We believe, in the first place, that it is an illegal tax, even the one that you are now attempting to impose. It is not a tax upon the decedent's estate; it is a tax, if a tax at all, upon beneficiaries under these life insurance policies. It is a tax on the contract between the company and the beneficiaries which becomes effective on the policyholder's death.

Senator McCUMBER. Was not that question passed on by the Supreme Court of the United States in a decision they rendered yesterday?

Mr. Cox. I do not think so, Senator. I have not noticed that it was.

Senator WATSON. I do not think it touched that question.

Senator McCUMBER. I do not know how broad the question was that was before the court.

Mr. Cox. I am not advised except by the item in the newspaper that I saw this morning, and that did not seem to cover this particular question.

There is one other point that I would mention, and that is the tax that is imposed upon money that is payable to the executor: in other words, a tax on policies payable to the estate of the insured. Now, as to that question, we are asking that there be an exemption of enough insurance to pay the inheritance tax imposed by the United States Government and by the several States including any accrued or unpaid income tax. The reason for that is, briefly, this: The Government has through its inheritance tax become, in a sense, a partner in the distribution of estates. You are stepping in and asking for a substantial amount of money out of every estate. We think you should put the man who is in the position of becoming the decedent, and whom we would like to make a policyholder, in a position where on his death insurance would become available to pay these taxes that are to be paid to the Government and the States. Beyond that we are not asking for any exemption of money payable to the estate of the policyholder, but only to cover these specific taxes which are, of course, substantial amounts, and which we feel the Government ought to recognize as something to be encouraged in the matter of prompt payment.

Senator SIMMONS. Do you mean that you propose an exemption in that case only where it is nominated in the policy where this insurance fund shall be applied to the payment of taxes?

Mr. Cox. We are not asking for it on the basis of what the policy may provide, but we are asking that where insurance is payable to the estate sufficient shall be exempt to enable the executor to pay these taxes that are imposed upon the estate and upon the beneficiaries under the estate.

Senator SIMMONS. That would apply to all taxes, all insurance money, payable, according to the terms of the policy, to the estate of the deceased.

Mr. Cox. Yes; up to the amount needed to pay both Federal and State inheritance taxes and any accrued and unpaid income taxes. Sometimes we change the beneficiary. It will be determined on how the policy is, in fact, paid at the death of the decedent.

The other point which I wish to emphasize especially, and which I think we can complain of as being one of the most onerous burdens of this particular tax, is the attempt to tax nonresident decedents; that is, the residents of foreign countries, having in mind especially our business in Canada. Of course, this objection applies mainly and primarily to American companies doing business in Canada and in other foreign countries. The law provides that there shall be a tax imposed upon any amount of insurance payable to these nonresident decedents. It is a very impracticable thing to collect. So far as I can find out the Government has collected very little, if any, tax from this source. But it becomes a matter of very grave business importance to the companies doing business in foreign countries. That is, you are expected, under the regulations of the department, to give notice to this foreign beneficiary that a tax is payable, and, under recently revised regulations, you are not only required to give notice to this foreign beneficiary that a tax will be due but you are also required to withhold payment of that insurance until that foreign beneficiary has filed a bond covering the amount of the tax.

That becomes complicated further by this fact, that when we do business in foreign countries we are required to maintain reserves and deposit them in that foreign country. Our contracts do not provide for the withholding of the tax from those beneficiaries, nor for the requirement of a bond from them to cover it. They have a contract right to come in and demand payment of that insurance of us on the death of the policyholder, regardless of any regulation that the United States Government may impose. They have jurisdiction over us in those foreign countries in the matter of suits. They can serve notice upon a foreign agent; they can bring suit in their courts, and we have no defense to any action over there as we see it and as we believe the law to be. When we set up the fact that the Internal Revenue Commissioner at Washington has asked us to do certain things—and, by the way, those things are not provided for in the statute—that is no defense to the action. Furthermore, there is another complication that is an embarrassment to us with reference to that defense.

Senator WATSON. You do not mean that the Commissioner of Internal Revenue provides for some tax that you have to pay that is not provided for by statute?

Mr. COX. No, sir. The words of the statute provide for it.

Senator WATSON. Do you mean to say that the foreign country does not seek to take into consideration our law here?

Mr. COX. Not as between us and their citizens over there, because we have agreed to pay a certain amount of money on the death of a resident Canadian.

Senator WATSON. Can you not put in a policy, though, a provision that would exempt you from the payment, so far as the tax is concerned?

Mr. COX. Yes, sir; I suppose we might do it, although I am not so sure, because to do that, I think, would destroy our foreign business.

As I was about to say with reference to the enforcement of the payment of a policy over there, five of the Provinces of Canada and the Dominion itself impose penalties for not paying a policy within 30 or 60 days, in some places 30 days and in other places 60 days. So we are not only subject to suit over there in their courts, but the Government itself may come in and seek to impose penalties for not paying within 60 days.

On the question of the way in which it would affect our business over there, it, of course, arouses a very great feeling of resentment on the part of a Canadian citizen that a policy written by a company in that country, with funds on deposit there sufficient to pay it, should hold up its insurance and subject him to a tax by the United States Government; and it is done only on the theory that the American company, having a domicile in this country, may be subject to the control of Congress to the extent of imposing this taxation. That is disputed by our counsel and all of the lawyers that have passed upon it as probably being impossible to accomplish. But assuming for the moment that it is, let us see how it has worked out and is working out to-day.

Senator WATSON. Do you mean by that that our lawyers hold that this tax is an illegal tax?

Mr. COX. They hold that it is an illegal tax; that the United States Government does not have jurisdiction over that foreign citizen for the purpose of forcing him to pay tax when the contract was made in Canada and is payable with funds that are deposited in Canada.

Senator WATSON. Of course, it is done wholly on the assumption that the tax is on the foreign company.

Mr. COX. But it does not impose it on the foreign company; it imposes it on that nonresident decedent. There is nothing that makes the company liable for that tax, and the regulation of the Internal Revenue Department which requires us to force a bond is not provided for in the statute.

Senator WATSON. The best way to do that, then, would be to test it in the courts.

Mr. COX. We have been very anxious to test it in the courts and have offered to go into the courts if they would let us. We have even said to the Internal Revenue Department, "Will you please prosecute us so we may test this question involving this illegal tax?" They said they would not.

Senator WATSON. Have you a large volume of insurance of that character?

Mr. Cox. Yes, sir; millions and millions of dollars are in force in Canada, and my particular company does a very large industrial life business, which means policies of small amounts written, generally speaking, on workingmen. Our average policy maturing over there, our industrial policy, is probably less than \$200, and this tax would in each such case be a very nominal one. Perhaps the expense alone in giving notices and requiring the bond would amount to more than the tax involved on that particular policy.

As to how it affects the Canadian mind, let me tell you that a member of the Ontario Parliament, a lawyer of high standing and good repute, had a case in which he found that a client of his was about to be taxed by the United States Government under the provisions of this law. When he went to Parliament this year he said, "I will take care of that question; I will introduce a bill that will provide that every American company doing business in Canada shall print in large letters in red ink across the face of its policy the provisions, in substance, of this American tax law, so that policyholders hereafter may know what the American Government is trying to do to people of Canada who are dealing with American companies." Of course, that as a competitive matter makes it impossible, as you can see without much argument, for us to do business in Canada. We went to that man, who is a reasonable man, and said, "We would like an opportunity to present this question to Congress, which is going to convene shortly, in order that they may see the situation in which they are putting the American company, with reference to doing business in Canada and other foreign countries." He withheld his bill; it was postponed under those circumstances, he stating that he would await action of Congress with reference to this particular matter. So we see, and I think there can be no doubt about it, the destruction of foreign life insurance business done by American companies unless we get relief from this particular thing. As I say, I do not know how much money has been collected by the Federal Government under this provision of law, but it surely must be nothing more than nominal in amount, a few hundred dollars, perhaps, or a few thousand dollars, but those figures, of course, will be available for your committee. You can find out just what it has amounted to.

Those are the amendments particularly that we are stressing for your consideration with reference to this estate tax; first, this question of taxation of foreign residents, of allowing us to have free of tax enough insurance to pay these taxes and the State taxes and unpaid income taxes and the wiping out of this particular tax on beneficiaries, which we believe is illegal.

I realize that even by trying to eliminate the first question I have taken a good deal of the time of the committee, so I shall present only one other matter for your consideration and that very briefly; that is, the proposed amendment of section 234 of Title II of the income tax act.

Some years ago what we call business insurance, or the insurance of corporation officers and employees, was on the same basis with the individual insurance and, therefore, exempt from tax; that is, the proceeds of policies were excluded from income. But a certain abuse developed with reference to that in that agents with their



alertness in writing business went out and solicited people to buy corporation insurance of high price; that is, endowment insurance or limited payment life insurance, with a high surrender value, and thus practically evade the tax. Of course, that was a very unwise thing to do and something which the companies did not countenance, but it was done. It led to the swinging of the pendulum too far in the other direction. The statute was amended three years ago and that privilege was stricken out, and since then the proceeds of business insurance policies have been treated as income under the statute and have to be accounted for as income. That has practically resulted in the destruction of that form of insurance, particularly as it has been subjected during the past two or three years to the excess-profits tax provisions. We have instances where income from policies like that were subjected to a tax equal to 60 per cent of the amount of the insurance. That is, take a small company with \$25,000 capital and a man insured for \$100,000. Of course, you have what appears to be, when you treat that as income, an enormous income for that particular year. So we felt that some way should be found whereby we could be allowed to do that business, of the right kind, there being a demand for it and a need for it; and yet not have it open to any evasion of the law, such as was possible under the old act.

In order to accomplish that we have been giving considerable consideration to the method. We have tried to have in mind both sides of this question. We feel like life insurance ought to be put as nearly as possible on a parity with fire insurance carried by a corporation or any other indemnity against actual loss. When a corporation officer is insured it is because he has particular worth to that particular corporation and his death will cause that corporation a loss. That loss becomes an insurable interest which we can insure against. So we are asking that we may be permitted to do that practically under supervision and regulation by the Commissioner of Internal Revenue, by amending section 234, adding thereto the following: "and a reasonable allowance for premiums paid for indemnity against the death of any person connected with a trade or business carried on by the taxpayer, by insurance on the whole life continuous level premium plan, or such other form of insurance as may be approved by the commissioner."

That is following the "reasonable allowance" requirement which relates to the salaries that may be paid, giving the Commissioner of Internal Revenue power over them, and limiting it to a whole life policy which carries very low surrender values and reserves. We feel that that would be a restriction which would enable companies to take up the writing of that business again and yet not do injustice to the Government from the standpoint of loss of taxes.

Senator WATSON. We would have to study that carefully. Not being an insurance man I do not know what that means. I presume the members of the committee would be a little wool-gathered on that.

Senator McCUMBER. Have you prepared amendments along that line?

Mr. Cox. I have, Mr. Chairman.

Senator McCUMBER. We will have them printed as a part of your remarks.

(The amendments referred to are as follows:)

**SUGGESTED AMENDMENTS TO TITLE IV—ESTATE TAX.**

**SEC. 402 (f)** To the extent of the amount receivable by the executor as insurance under policies taken out by the decedent upon his own life *in excess of the sum required to meet estate, transfer, and inheritance taxes imposed by the United States or any State of the United States and payable by the executor or by the decedent's beneficiaries and any accrued and unpaid income taxes of the decedent, and to the extent of the excess over \$40,000 of the amount receivable by all other beneficiaries as insurance under policies taken out by the decedent upon his own life.*

**SEC. 403 (b) (3)** Third paragraph. For the purpose of this title, stock in a domestic corporation owned and held by a nonresident decedent, ~~and the amount receivable as insurance upon the life of a nonresident decedent where the insurer is a domestic corporation,~~ shall be deemed property within the United States, and any property of which the decedent has made a transfer or with respect to which he has created a trust, within the meaning of subdivision (c) of section 402, shall be deemed to be situated in the United States, if so situated either at the time of the transfer or the creation of the trust, or at the time of the decedent's death. *The amount receivable as insurance upon the life of a nonresident decedent shall not be deemed property within the United States for the purpose of this title.*

**SUGGESTED AMENDMENTS TO TITLE II.—INCOME TAX.**

**SEC. 234. (1)** All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity, *and a reasonable allowance for premiums paid for indemnity against the death of any person connected with a trade or business carried on by the taxpayer, by insurance on the whole life continuous level premium plan, or such other form of insurance as may be approved by the commissioner.*

**SEC. 214. (1)** Amend same as above.

**SEC. 215 (d)** Strike this out.

**SEC. 213. (b) (1)** Strike out the words "to individual beneficiaries or to the estate of the insured."

## TRANSPORTATION TAX.

**STATEMENT OF S. H. MARX, ASSISTANT GENERAL COUNSEL  
AMERICAN RAILWAY EXPRESS CO., NEW YORK, N. Y.**

Mr. MARX. We are not addressing ourselves to the sales tax at all. As you notice from the calendar, we speak of the tax on express transportation, and our purpose in coming to you is principally to have you give us the same treatment that you may accord to the transportation tax on freight and passengers and Pullman.

There have been a number of bills introduced on that subject, most of them in the House. I think there is only one in the Senate—some of them include the express, others do not. The one in the Senate, which was introduced on May 12 by Mr. Trammell, does repeal A, B, and C of section 500. Section 500 of the revenue law is the tax on transportation and other facilities and insurance; and paragraph A of that section levies a tax equivalent to 3 per cent upon the amount paid for transportation by freight. That is a straight 3 per cent tax, and is not so very difficult of computation.

The next paragraph, B, levies a tax of 1 per cent for each 20 cents or a fraction thereof upon express. You will note that that is a little more difficult of computation. It is almost a 5 per cent on the

amount paid. But inasmuch as it is 1 cent for each 20 or a fraction, then you have, maybe, a 22 cent charge, which makes 2 cents tax, and our experience is that the average is 5.51 per cent of our total collections; C levies a tax of 8 per cent straight upon the passenger fare paid on railroads; paragraph D levies 8 per cent upon the amounts paid for Pullman reservations; and paragraph E a tax of 8 per cent straight upon pipe-line transportation, and so on through.

As I say, some of these bills expressly have stricken out A, C, and D, which is freight, passenger, and Pullman, omitting to strike out B, which is express.

We feel that the express tax should certainly be repealed if these others are, and we even feel that it should be repealed if the others are not, because the cost of collecting, I must say, almost equals the amount of the tax. We have no figures to prove that statement, and so I simply give you the reasons for our broad conclusion, and that is this: That the average express charge is small. You understand that express transportation deals with the small packages, packages which need fast and expeditious service. The freight is slow; express goes on passenger trains, and if you have a small package that you want to get some place in a hurry you go to the express company and ask them to hurry it there for you. The average charge on express shipments, including our carload business and everything else, is only \$1.48 per shipment; the average tax on that is 7.8 cents.

Express shipments, because they are small and because they are of value, must be given very special care and attention, and each requires a separate way bill, requires separate treatment in carrying it through the accounts, and the result is that there is a great deal of expense. In the first place, the package is taken in to the agent; he must compute 1 cent on every 20 cents or fraction thereof of the charge, and then he must enter that separately on all of his accounts. The tax is separate from the express charge and the valuation charge; if there is an extra value, that is charged for also. As I say, we have only \$1.48 on which to pay all expenses, including the expense of computing, collecting, reporting, and paying that tax, and there is only 7.8 cents tax on the shipment. The railroads' average charge, I believe, is about \$20, which you will see is a greater leeway for expense of those matters than the express company has.

The express company does business throughout the entire United States and has 28,000 agencies. This work is done at each and all of those agencies. The number of shipments handled by the company each day is 751,000, which you will note is only an average shipment for each agency of 27 per day. That is due to the fact that wherever there is a railroad station we have an agent at least who handles the express shipments. Each one of those 28,000 agencies must be properly equipped with the forms, etc., for computing, collecting, and reporting these taxes.

The amount of tax in a whole year is \$17,550,000.

Senator CALDER. That is the amount paid for express?

Mr. MARX. That is the amount which we collect and pay over.

Senator CALDER. Your company?

Mr. MARX. There is only one company, except that May 1 the Southeastern Express Co. began doing business in the southeastern part of the United States. All the other States are covered by this

one company. As you will remember on account of the war the old companies were required to form themselves into one company by the Director General.

Senator CALDER. And they have never separated?

Mr. MARX. They have never separated.

Senator CALDER. Is it likely they will?

Mr. MARX. I do not think so, because the Interstate Commerce Commission, in accordance with the permission granted by Congress in the transportation act, authorized the one company to continue, and found that that was really the best way to give the best and cheapest service to the whole country. You can go into one express office and ship a package to any other part of the United States. You do not have to sit down and find out which company goes to that point or which can get there quickest. You simply take it in, and one company handles it over any railroad or line.

So that the one company at present, so far as we can see and, as I say, so far as the Interstate Commerce Commission could see, will continue indefinitely, except, as others may spring up, as one has already in the Southeast.

So these figures I have given do cover all business, as this other company was not in operation. Hence, the total amount involved in this is only \$17,000,000. I say "only," because really in comparison to the other figures you are considering it is a small amount; for instance, the statement is made that the tax on freight is \$300,000,000. So that our figure is really small compared to the big amounts that you are considering in the whole scheme.

As I say, the point I wish to impress upon you is the amount which the Government gets from this does not justify the trouble and expense of collecting, and when you consider also that one of the big questions right now is the reduction of rates in order to get business back on a normal basis, we believe that taking this tax off is going to be a very substantial help to the shipper, because not only do we have to collect and report it, etc., but the shipper also has the same burden. Of course, it is a tax which the shipper can deduct in his income-tax reports and other reports, and so he wants to carry that separately also. He has the computation of those things. So that altogether I really believe that the expense on the transportation business to the shipper and the company is equal to the tax collected.

By striking that tax off, you can to that extent reduce express rates and help that situation in that way.

Senator SIMMONS. What you want is simply a flat rate for the express companies, just like that given to the railroads, and you think it ought not to be any greater than that of the railroads?

Mr. MARX. You understand that at the present time there is the express rate which fixes the charge that the express company shall receive?

Senator SIMMONS. I understand that.

Mr. MARX. This tax is a tax upon that, and we should like to have the whole tax stricken off, and certainly it should be if the railroad tax is to be stricken off, because there is a relation between freight rates and express rates which should be maintained, and if you strike it off of the railroads it is going to bring the railroad rate up that much closer to the express—the express is generally higher—and

disturb that relation of express rates which should be maintained, because it helps to hold to the freight business which it should have and to the express business which should move by express and go on the passenger trains.

In order to collect this \$17,000,000 yearly we handle 225,256,000 shipments, and, as I have stated, each one of those shipments must be separately handled in the collection of this tax. The agent computes it, collects it, and has to report it to his district accountant, who, in turn, carries it through to the general auditor, of which there are four, and they carry it through to the vice president who in turn reports it to the Government.

I have filed with your committee and have here two copies of the brief, to which are attached some of the forms which show the amount of work involved, and it shows marked on each form the separate space which is absolutely necessary for the purpose of carrying forward in our accounts and through the accounts to the point where we pay it to the Government—the war tax, as it is called—in addition to all other entries.

The express business, as I say, is a matter of great detail, as you can readily see from the 67 different kinds of blanks we have to use, and one or more columns must be added to each one of those blanks in order to have a space for the war tax [exhibiting forms and reports to the committee], and that involves a great deal of computation and many columns, and you can see by looking through that [indicating] how much work it really entails.

You can also see on some of these forms that we have had to leave out other information in order to put this war tax in, because it simply means another column, and on some of the forms it means three columns, and on the large one here [indicating] the war tax is entered four times on that sheet. In order not to make that sheet any larger, we had to cut out the column which previously had been used for valuation charges. These details are necessary, because the Interstate Commerce Commission fixes our rates on transportation.

In addition to that, we have a valuation charge which is a kind of an insurance of value, and which is entirely separate from the transportation charge. So, all those figures must be kept separate in order to get at the actual revenue which accrues from the transportation itself, and that is valuable information which should be retained on these forms. But we had to strike it out of some of them in order to make room for this transportation tax.

If there is an overcharge or an undercharge, as there is not infrequently, the same procedure has to be gone through. We have to deduct or add this tax to whatever change may be made in the charge, and if it has been reported to the Government and paid to the Government, we have to then get our refund, and not only does the forwarding agent have to go through those computations, but also the receiving agent.

As I said, expedition is the principal feature about express service, and the computation and collection of this tax just simply adds one more straw to the things, minor though they may be, which go to help to upset things. If there is some dispute over the amount of the tax or some difficulty in computing it, it holds up the shipments and it delays the work of the office. It is simply one of those little

things which we should like very much to get rid of, and we feel it would be very helpful to the shipper also to be rid of it.

I think that gives you in a few words what our situation is and that we should like to have the whole tax taken off of express transportation.

The sales tax, as it stands now, is based on the sale of goods, wares, or merchandise. I have in the past seen some bills purporting to be sales-tax bills which were so broad that they might be construed to cover service of many kinds, including our service, and we should like to have that borne in mind in drafting a bill of that kind, that the language be not so broad that the tax be placed on our service, even though the other one be repealed.

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## INSURANCE TAX.

### STATEMENT OF A. E. FORREST, VICE PRESIDENT AND GENERAL MANAGER NORTH AMERICAN ACCIDENT INSURANCE CO., CHICAGO, ILL.

Mr. FORREST. I represent what is known as Health and Accident Underwriters' Conference Committee, of about 90 companies engaged in a business commonly known as industrial health and accident insurance.

Senator McCUMBER. Where is your residence?

Mr. FORREST. My residence is Chicago. It is a business devoted to writing insurance on workingmen principally, and I am sent here to ask for the repeal of section 503 of internal revenue law of 1917. Mr. Estes will present the brief in respect to all of the other sections, but I wish to speak particularly about the abuse, or rather the burden that has been put upon these companies dealing in what we call "bread and butter insurance," through one particular addition to section 503, which places a 20 per cent tax on the first premium of this insurance.

I will explain that the insurance is sold to workingmen in monthly installments; for instance, take a risk at \$1 a month, we would insure him against sickness and accident. If he had to pay \$12, or an annual premium, he could not pay it, because his pay comes in monthly or weekly installments.

Now, to place upon the first month's premium a 20 per cent tax deprives the insurance company of the ability to write the risks because of the expense. The 1 per cent spread over the entire year is not so burdensome, but the 20 per cent is impossible, and the result has been that the business, that has been an aid to the workingmen, has been decreased probably 50 per cent. The company which I represent and have represented for over 30 years has had its business of that character reduced to 50 per cent since this act went into effect.

Senator WALSH. The dollar premium would be 20 cents?

Mr. FORREST. A dollar premium would be 20 cents.

Senator WALSH. For a year?

Mr. FORREST. Yes, sir; 20 cents on \$1, and no tax thereafter. But the life of this premium is short, and it makes it prohibitive.

Senator SMOOT. In other words, you want that 20 cents divided into 12 payments?

Mr. FORREST. We see no reason why the tax should not have been 1 per cent on that business, just the same as on the health and accident policies that are sold to a banker. The banker can afford to pay a year's premium, and he is only charged 1 per cent, but the workingman is charged 20 per cent for his first payment, and we have to pay this commission to get it, and there is big expense in getting it; and if it does not persist and keep on paying, then we have paid a great, larger percentage, and the business will not afford it.

Senator SUTHERLAND. One per cent on the annual premium would be 12 cents?

Mr. FORREST. Would be 12 cents, and the average life of that insurance is 7 months, and we are paying about 13 cents more than the more fortunate man who can pay his premium annually. The result has been that the companies of this character, companies that write this character of business, have departed from the system and have gotten into the habit of forcing annual and semiannual payments; and now, when salaries are not as large as formerly, we find difficulty in making collections.

Senator WATSON. What is the maximum policy you write?

Mr. FORREST. In this particular class?

Senator WATSON. Yes.

Mr. FORREST. \$5,000, and \$200 a month, we will say. But the average policy would run about \$60 a month—about \$2 a day.

Senator WATSON. What is the tax on that kind of a policy under provisions of this act?

Mr. FORREST. The tax would be 40 cents.

Senator SUTHERLAND. What is the premium?

Mr. FORREST. The premium is \$2.

Senator WATSON. The premium is \$2 and the tax 40 cents the first month and no tax thereafter?

Mr. FORREST. Forty cents the first month and no tax thereafter, and the business persists about seven months and then lapses.

Senator SMOOT. On an average?

Mr. FORREST. On an average. I am appealing only on this one point.

Senator WATSON. What is the point you make? You want the payment of this tax distributed?

Mr. FORREST. We want this tax repealed altogether; but I want to point out that this has been a hardship on the working man who buys this price of insurance; that is my entire point, and Mr. Estes will present the figures.

**STATEMENT OF P. M. ESTES, PRESIDENT SOUTHERN INDUSTRIAL INSURERS' CONFERENCE; ALSO GENERAL COUNSEL LIFE & CASUALTY INSURANCE CO. OF TENNESSEE, NASHVILLE, TENN.**

Mr. ESTES. Mr. Chairman and gentlemen, my name is P. M. Estes, of Nashville, Tenn.; and I happen at this time to be president of an organization known as the Southern Industrial Insurers' Conference. It is composed of insurance organizations that range from Chicago, Ill., to Jacksonville, Fla. I am also representing, in a way, the Health and Accident Underwriters' Conference, com-

posed of about 90 companies distributed generally over the United States, and engaged in the class of business that has been spoken of by Mr. Forrest—that is, commercial and ordinary accident business, as well as the industrial features.

Our position is this, Mr. Chairman, that we seek the repeal of section 503 of the revenue act of 1918. That section of the revenue act sought to impose a special excise or occupation tax on the business of insurance and, more than that, in the very first section it is provided that that tax should not be passed on to the consumer or to the policyholder, but must be paid by the company.

This act is a survival or revival of the Spanish American War act of 1898, and when we sought to raise funds for the recent war emergencies the chairman of the Ways and Means Committee of the House took the insurance section of the act of 1898 and put it in the revenue bill. We think that he was not mindful of the fact that in the year 1898 there was no provision whereby constitutionally an income tax could be levied, and that if he had had that in mind and had understood that if insurance companies made money they would pay the same income tax as other classes of business that step would not have been taken in the inception of this war-revenue legislation.

More than that, I wish to call the attention of this committee to the fact that as soon as the emergency of the war of 1898 had passed, that act was promptly repealed.

This is a gross income tax. Moreover, if the company does not make money, Mr. Chairman, it is a tax upon capital. It is a tax, and a material one, as I shall show you in a moment, that must be paid whether the company makes money or not; and if it fails to make money, as many of these companies have done during the years 1918 and 1920, owing to the very disastrous epidemic of "flu" we have had, it amounts to an appropriation of a material part of the capital of the companies engaged in these lines of business.

Senator McCUMBER. That is true of all excise taxes, is it not?

Mr. ESTES. That is true of all excise taxes.

We are not seeking, in asking the repeal of this section 503, to be relieved of the burden of taxation. Our position is this: That the business of insurance is a necessary and essential occupation; that it is a business that encourages thrift and economy; that insurance lies at the basis of credit; that it is necessary for the protection of the homes of the people during the sickness of the head of the family, or in the event of his death, and those things that apply to all classes of insurance apply particularly to industrial insurance, because these people very seldom have anything but these contracts of insurance in which they invest from week to week their small savings.

With respect to this class of business, may it please the committee, I wish to point out also the facts that in our own minds there is no similar class of business that pays an excise tax. We think that our class of business, in other words, the insurance business—and so far as I am concerned I would like to speak for all of them in this respect—that we assimilate ourselves more particularly to the business of a trust company or of a bank than of any other class of business.

So far as I know there is no commercial occupation, there is no manufacturing business, there is no banking business that pays an



excise tax. I except from that, of course, those lines of business that are in the way of luxuries or in the nature of manufacturing of tobacco and of pool tables, and things of that character. But outside of those matters of luxuries, and also the lines of business like those who employ child labor, where the tax is put on for the purpose of being prohibitive, there is no other class of business of the stability and of the character of the insurance business, an essential and necessary occupation, that is used for the purpose of the protection of credit and of the home and for the encouragement of thrift, that bears a special excise tax.

If the committee will pardon me just a moment—I will consume but a few minutes—I would like to read an authority upon that subject. Vice President Coolidge, in a recent address on the subject of advantages of insurance organizations, said:

There is one thing I want to congratulate you upon, and that is the fact that in spite of the conditions of the rise in price of everything else, the price of life insurance remains where it was before the war. I don't know how you are able to accomplish that. I almost doubt if you do justice to yourself and to those who are engaged in the promotion of that great enterprise to continue on the present basis, but at least it shows that you have maintained a most patriotic attitude toward your dealings with the public, that you have been able to supply them with what we regard now almost as an absolute necessity at the same rate at which they could have secured it before the war, and prior to the great advances in everything else.

That was another point that I desired to point out to the committee, the fact that in the year 1918, in addition to the difficulties of the cost of operating their business which had risen, on practically the same scale as the cost of operation of all other kinds of business, that we had a great epidemic of influenza, of which 400,000 or 500,000 people in the United States died, and a great many were sick, to whom payments had to be made weekly by these companies. And in the year 1920 they were visited by a similar epidemic, not so great in the matter of mortality, but equally destructive to the finances of these organizations in the matter of sickness, because practically the same number of people were sick in 1920 as in 1918.

Senator WATSON. You say this 20 per cent tax is not passed on to the insured, but is paid to the company?

Mr. ESTES. It is required by the law to be paid to the insurer, and not only as a matter of law but it is a matter of necessity.

Senator WATSON. I want to get at this, then: Since the imposition of this tax, you have not increased premiums?

Mr. ESTES. Not at all. These taxes in the industrial business are as generally understood, in multiples of 5 cents; that is the way the insurance is written. You do not write it as in the ordinary policies where the unit is a thousand dollar policy, but this is 5 cents, and even though the law permitted it, it would be impracticable to add a fraction to a weekly premium, and it has not been done, either in the case of these industrial companies nor in fact in the case of any other character of insurance have the rates been raised; certainly they have not in the case of accident insurance, and in the case of fire very little, if any.

Senator WALSH. Do you know what the Government receives from this tax?

Mr. ESTES. Yes, sir.

Senator CURTIS. Fire insurance has been raised?

Mr. ESTES. They added a little expense item to it, I believe. This tax amounted to \$18,421,754.01.

Senator WALSH. For what year?

Mr. ESTES. I read from the annual report of the Commissioner of Internal Revenue for the fiscal year ending June 30, 1920, on pages 66 and 67.

Senator SMOOT. That is the year 1919 business; that is, the fiscal year 1920?

Mr. ESTES. Yes, sir. As I understand it, June 30, 1919, to June 30, 1920, is the period covered.

Senator SMOOT. The taxes are paid in calendar years instead of fiscal years, so that would be the year 1919?

Mr. ESTES. 1919; I accept that statement as, of course, entirely correct.

We do not think that is such a material item, so far as the general revenues of the Federal Government are concerned, that it would furnish any argument whatever from the standpoint of necessity for its retention. We are not asking for relief from the burden of taxation. If this act is repealed, we stand where all other legitimate classes of business do; we pay whatever income taxes are levied upon banks, trust companies, or any other companies of that nature.

Although it is not so material, so far as the Government is concerned, as we think we can justly insist, it is most material so far as the insurance companies are concerned, and in what I have to say I refer particularly to the class of companies I personally represent, the weekly benefit companies.

I have their statements. I asked that they should give me the amount this tax alone, the occupation tax, bears to the percentage of combined capital and surplus: Provident Life & Accident, Chattanooga, 9½ per cent; in other words, this tax alone took an amount equal to 9½ per cent of the capital and surplus of that company.

Industrial Health & Insurance Co., of Atlanta, Ga., amounted to 14 per cent.

The Durham Life Insurance Co., of Raleigh, N. C., 15.81 per cent of the capital and surplus of that company was required to pay this occupation tax alone.

In the case of the National Life & Accident, Nashville, 7.07 per cent, and so on.

Senator SUTHERLAND. How do you account for the wide difference in the percentage?

Mr. ESTES. It grows out of this fact, that some companies push their business with more vigor than others; as has been stated by Mr. Forrest, this is a business that lapses largely, and, of course, the more you push the business the greater your lapse ratio is going to be. As a matter of fact, during the year practically 80 per cent of this business lapses. It is being written on the industrial class of the population, and they are more or less careless in the maintenance of their obligations.

It is a tax that we say operates unequally so far as our class of business and other classes of business are concerned. Also within the compass of the same tax it operates unequally upon the various lines of insurance, and I do not know of any system of calculation by which it can be made to operate more equally.

I am not here, of course, for the purpose of insisting that any other class of insurance should pay more; I am here for the purpose of saying that the whole thing should be wiped out. But I have figures to show that in the particular case of my own companies, composing the Southern Industrial Insurers' Conference, that this tax amounts to \$1 per annum on each \$54.65 of our capital assets. When you take the ordinary life insurance companies, it takes only \$1 out of \$3,132.29 of their assets. In other words, from the standpoint of assets we pay 55 times as much as these other lines of insurance.

We can not pass the tax on. We have to pay it. It is a very great burden, so far as we are concerned; and, in conclusion, I wish to submit again to the committee that in the case of a necessary and an essential industry of this character certainly no exigency exists at this time that should require or really permit its continuance.

Senator SUTHERLAND. I understood Mr. Forrest to say that because this tax would be put in the first monthly premium a good deal of business had been lost.

Mr. FORREST. That relates to another branch. Mr. Estes is talking particularly about the weekly payment life and accident, and I represent the monthly payment health and accident, which does not include life.

Senator SUTHERLAND. You pass yours on, then, to the insured?

Mr. FORREST. No, sir; we are obliged to pay it.

Senator SUTHERLAND. Well, you have not increased your rates, then?

Mr. FORREST. No; there has been no increase in rates, but we have been obliged to give up the monthly collection and endeavor to collect annually or semiannually in order to enjoy the 1 per cent rather than the 20 per cent of the first payment.

Senator WATSON. Have you a greater number of lapses now than you had before this tax was imposed?

Mr. FORREST. Not when we get the annual payment; but, for instance, in 1916 we wrote, I believe, 60,000 risks.

Senator CURTIS. How many lapses?

Mr. FORREST. I do not know how many lapses. In 1920 we wrote 20,000 in all.

Senator WATSON. Of course, you do not attribute that to this tax, that falling off?

Mr. FORREST. We attribute it to the fact that this tax obliged us to abandon that monthly payment system, and I am informed that other companies have done the same.

**STATEMENT OF H. L. EKERN, CHICAGO, ILL., REPRESENTING VARIOUS MUTUAL INSURANCE COMPANIES.**

Mr. EKERN. Mr. Chairman, I represent to a small extent the same kind of insurance as has been discussed here, but to a larger extent I represent the farmers' companies throughout the United States. I represent the National Association of Mutual Insurance Companies, which includes more than 550 of the mutual insurance companies throughout the United States. We have companies in every State in the Union. The total number of these mutual companies in the United States is about 2,400. There are 290 farmers' mutual com-

panies in the State of Illinois alone. Nearly all of the larger ones are in our association. I also represent the Federation of Mutual Fire Insurance Companies, which is an organization of the larger-class mutuals, like the millers, the lumbermen, the hardware dealers, and the general writing mutual fire insurance companies. I also represent the National Association of Mutual Casualty Companies, which is an organization of 25 of the large workingmen's compensation mutual companies which operate principally throughout the industrial States. I also represent the Association of the Automotive Mutual Insurance Companies, which numbers over 40 companies.

First, I want to speak particularly with regard to the effect of section 503 on our farm mutual companies. That has been the source of a good deal of annoyance to the Treasury Department, and I think I can fairly say to the companies. The situation is this: The companies, which do not collect any interest income from any source other than a working balance in bank and interest on Liberty bonds which were bought for patriotic purposes, do not pay any tax at all. These companies are exempt under paragraph 10 of section 231. The moment a farm company receives a dollar in interest on a mortgage or in rental from a part of its home office building, it becomes subject to the income tax. In practice, of course, it does not pay an income tax because the deduction relieves it of the income tax. However, the fact that it becomes subject to the income tax makes it immediately subject to the premium tax under section 503. This has the unfortunate effect of tending to discourage the accumulation of assets by these companies. Thus, a company which has an income from its policyholders of \$10,000 is compelled to pay a premium tax of \$100 under section 503 the moment it has an interest income of \$50 from a mortgage, while a like company which does not have interest income pays no premium tax.

We ask for the repeal of this premium tax, the repeal of section 503.

The mutual companies are striving to put themselves on the most sound and solvent basis. That can not be done unless these companies are encouraged in the accumulation of surplus funds and assets. If they are to be encouraged to accumulate funds, they must also be encouraged to invest these funds. The practical operation of this law is to discourage such accumulation. This tends to place these companies on a very unstable basis. That applies, of course, principally to the farm companies.

Mr. Estes has made the argument that this insurance premium tax is a tax on a necessity. Insurance is the only necessity which is subjected to this kind of a specific tax. We urge that section 503 should be wiped out as to all companies.

In order to make the record clear, I want to say that insurance companies did increase their rates in fire insurance as a result of this tax. When the tax was imposed the bureaus making these insurance rates throughout the United States quite generally added a surcharge of 10 per cent to the then existing premiums. That surcharge was collected for about a year.

Senator CURTIS. Some of them added much more than that, did they not?

Mr. EKERN. I think in one State there was a larger percentage added.

Senator DILLINGHAM. That was not Kansas, I hope.

Mr. EKERN. It was not Kansas; but in one of the other States I am informed a larger percentage was added. Throughout most of the United States this 10 per cent was added and collected, and the official report of the superintendent of insurance of New York states that during the period of about a year New York City alone paid more than \$3,000,000 for that addition.

It should be said that the insurance companies at the time this tax was put on figured that they would have increased expenses because of the increased cost of everything else. In fact, the increase in volume of premiums was so great that I think all concerned were satisfied afterwards that it would not have been necessary to put on the addition to the rate.

There is no doubt that in the long run this premium tax is added to the cost to the policyholder. It can not be otherwise. Even in the health and accident business the companies are less liberal in granting additional privileges and benefits to their policyholders. In the fire and casualty insurance business the rates are made by schedules, and these provide for additions for taxes. These schedules take into account specifically the taxes which have to be paid by the companies. These taxes are ultimately saddled on the man who buys and pays for the insurance.

The worst part of it is, perhaps, the fact that the cost of collecting this tax through the companies burdens the policyholder with an excessive expense for the collection. The average expenses of the casualty and the fire insurance companies run about 40 per cent of the premiums. In other words, if a dollar is collected from the policyholder, about 40 per cent is used for expenses and about 60 per cent remains to pay losses. The money collected as a tax to be paid the Government is handled in exactly the same way. When an insurance company collects \$1 from the policyholder to be used to pay this tax, 40 cents goes for expenses and 60 cents remains available to apply to the tax. This means that for every dollar paid the Government in a premium tax the fire and casualty insurance companies on the average collect from the policyholders \$1.67. That results in a very wasteful expense for the purpose of collecting this tax.

The Treasury Department spends only 50 cents for each \$100 collected by it in taxes of all kinds, most of which are paid by the taxpayers directly into the Treasury. In the case of the insurance premium tax the policyholders pay the insurance companies on the average for each \$100 of tax to the Government an added \$67 for collection expense, making each \$100 tax cost the policyholders \$167. It seems to us that it is a very uneconomical tax which should not be continued when the emergency of war has passed.

It has also been developed by the committee, which has been investigating marine insurance, that any tax of this kind tends to discourage the development of American marine insurance and drives this insurance across the water. There is no doubt about that. If we are going to develop American insurance to the extent that it ought to be developed in connection with our commerce, clearly the business must be relieved from a tax which makes competition with foreign companies impossible.

It might be urged in behalf of this tax that it is a tax that is commonly applied in the different States. That is the one thing that the

report of this committee of Congress objects to; in that the premium tax applied by the States operates to prevent the development of American insurance for marine purposes and for insurance abroad.

It would be a very unfortunate thing if now that the emergency is over it should be found necessary to continue this premium tax. We are asking in behalf of all the associations that I represent for the repeal of section 503. That does not mean that we are asking to be relieved of taxation. I assume that in any plan that will be worked out for the revision of the internal revenue act some sort of an income tax or corporation tax will be continued.

The practice abroad is to levy these taxes on insurance companies upon profits, and there is no reason why insurance companies should not be taxed on their income and profits exactly as other corporations. A suggestion was made here just a moment ago which I want to reiterate, namely, that insurance companies, after all, are merely trustees receiving deposits of their policyholders, exactly like a bank, to be applied from time to time to the payment of losses, somewhat as deposits are withdrawn from a bank. Clearly these deposits ought not to be taxed, and the policyholder should not be singled out for an extraordinary tax upon this necessity just because he prudently protects himself, his family, and his business by insurance.

Senator JONES. Just before you take your seat; you made one statement there that impresses me very strongly, if I understood you correctly, and I should like to be sure that I did understand you correctly. Is it a fact that it cost \$66 to collect a \$100 of tax upon your insurance companies?

Mr. EKERN. That is the average for the United States. Our insurance companies, the mutual companies, vary a great deal in their expenses. We have one company that has an expense ratio as low as \$4 per \$100. We have others that run as high as the average of the general business throughout the United States, \$40 per \$100. Obviously, if out of each \$100 collected from the policyholders \$40 is used for expenses, only \$60 will be left for other purposes. The same ratio applies to the money collected for the tax, and \$40 used for expenses is 66½ per cent of the \$60, which remains to be applied to the tax.

Senator JONES. Then, the people who contribute to the support of those companies get back only in benefits something like 35 or 40 per cent of their contributions?

Mr. EKERN. They get back 60 per cent, 40 per cent goes for expenses and that leaves 60 per cent for the purposes for which the money is paid in.

Senator JONES. Where did the \$66 idea come in? I do not quite understand that.

Mr. EKERN. If you collect \$100 and you use \$40 for expenses you have \$60 left for the purposes for which the money is collected. If you want to have \$100 left you would have to collect \$166.67 to permit taking out 40 per cent of the amount collected for expenses.

Senator WATSON. Are all these companies that you represent affected in the same way and to practically the same extent by that section?

Mr. EKERN. They are affected in the payment of the tax. Of course, the unfortunate experience I cited with regard to the farm

companies is more exaggerated with the farm companies than with the larger companies; but the natural tendency in all companies is to discourage the business of insurance.

Senator DILLINGHAM. This average expense is larger in the small companies than in the larger companies, is it not?

Mr. EKERN. It is in these very small ones, yes, certainly. I would like, Mr. Chairman, if I may have permission, to file a memorandum on this subject.

Senator McCUMBER. You may do so and make it a part of your testimony.

Senator JONES. I would like to ask what it is that makes it so expensive to collect that money from those companies. You pay 25 per cent, I believe you said, or thereabouts, for bringing the business in to the companies. Is that correct?

Mr. EKERN. Let me make this clear. In speaking of this average expense of about 40 per cent I am speaking of the fire and casualty business generally. I am not speaking specifically of the business that Mr. Forrest and Mr. Estes talked about; that is, of the health and accident business on the weekly or monthly basis.

Senator DILLINGHAM. Nor are you speaking of the large life insurance companies?

Mr. EKERN. No; not in that connection. I am speaking of casualty business, workmen's compensation liability insurance, and other kinds of insurance transacted in connection with the general casualty lines and of fire insurance.

Senator JONES. Why should it be necessary to have that business so expensive in its operation? Can not some plan be devised to make insurance a little cheaper to the people of the country?

Mr. EKERN. The answer to that, Senator, I think, is this, that people do not seek insurance. As a rule, especially in life insurance, and it is true in most kinds of casualty insurance and until recently in fire insurance, insurance has to be sold.

Senator WATSON. It is gotten through the agents?

Mr. EKERN. It is gotten through the agents, and the most effective machinery that has been devised yet is to have the agent go to the people and sell it to them, and that costs money.

Senator WATSON. Have you never had one of them operate on you, Senator Jones?

Senator JONES. Oh, yes; I have been a victim.

Mr. ESTES. Senator, this \$18,000,000 that this act now realizes will not be a total loss to the Government for the reason that as these companies pay income tax they would pay an income tax on all of these portions that are retained in their treasury by reason of being saved from the operation of section 503. For example, in some of the companies I spoke of that pay out of their capital and surplus as high as 17 per cent, when they come to make their income tax returns they would, of course, pay whatever the prevailing rate of income tax was upon that 17 per cent, in addition to such other earnings as they might have. So the \$18,000,000 will not be lost to the Government.

Mr. EKERN. One of the gentlemen suggests a possible misinterpretation of a statement that I made, that in this health and accident business the policyholders might be treated less liberally because of

the tax. That is correct, but I did not mean to give the impression that this would be the case in the settlement of claims. It is the purpose and intention and practice of these health and accident companies all the time to liberalize their policies. It has been very interesting to me to note how much the companies have liberalized their policies, how much more liberal these now are than before. Any tax of this kind necessarily tends to restrict that liberalization of the contracts. It does not affect the settlement according to the terms of the contracts.

## TAX ON BEVERAGES.

### BOTTLED SOFT DRINKS.

#### STATEMENT OF JAMES VERNOR, JR., DETROIT, MICH., REPRESENTING THE AMERICAN BOTTLERS OF CARBONATED BEVERAGES.

The CHAIRMAN. What does your firm do?

Mr. VERNOR. It bottles ginger ale.

The CHAIRMAN. What do you call your brand of ginger ale?

Mr. VERNOR. Vernor's Ginger Ale.

The CHAIRMAN. Will you state briefly to the committee your views on the matter?

Mr. VERNOR. I shall be very glad to.

First of all, I would like to say that this organization represents about 14,000 bottling plants in the United States. We represent the bottling plants that are covered by that section, No. 628, providing for a tax of 10 per cent; that is, the bottling plants that bottle birch beer, ginger ale, and the cola drinks, and all that sort of thing.

There is one thing that I would like to call your attention to, and that is that practically 90 per cent of those plants are small plants with an invested capital of under \$5,000. They are not plants of any size, and I think, under the ordinary rules of taxation, they are plants that should be practically exempt on account of the small amount of business they do.

We are not at all interested in the cereal beverage end of section 628. We are not representing that end of it at all. Neither are we representing any sirup interests. We are representing the actual bottlers of the beverages.

I would like to separate in the minds of the committee the idea that I think has applied that the business is a tremendously profitable one. We are not in the sirup business. There are certain sirup-manufacturing concerns in the United States that have apparently made quite a lot of money in the past few years. They sell that sirup to the small bottlers around the country, and it is those small bottlers who are paying the tax.

The CHAIRMAN. Do most of the bottling concerns make the beverages which they bottle, or do they bottle for some manufacturer of the beverages?

Mr. VERNOR. I would say that probably one-third, possibly—now I am making a guess for you—I would say that one-third of the



bottling plants to one half probably buy the sirup from various sirup manufacturers and then put the beverage into bottles. They simply perform the mechanical labor of putting it in the bottles.

The CHAIRMAN. And putting the water in?

Mr. VERNOR. Yes, sir; the carbonated water. The other half make the beverage probably right from the base; that is, they start with the raw materials, such as extracts, etc.

The CHAIRMAN. Do you make the ginger ale as well as bottle it?

Mr. VERNOR. Yes, sir.

The CHAIRMAN. Proceed, Mr. Vernor.

Mr. VERNOR. I just wanted to separate in your mind the difference between the sirup manufacturers and the bottlers; because if this tax was originally aimed, as I think it was, at some of the big sirup manufacturers, it was aimed wrongly to tax them, because it does not apply to them but to the bottlers that bottle the drink later on.

There is in the minds of a few the idea that this industry ought possibly to pay the tax on account of prohibition. I think that is a very wrong impression. In fact, I know it is from a practical standpoint, because while you raised practically \$300,000,000 from liquor taxes in the years before prohibition took effect, our total industry only does a gross business of about \$140,000,000 to \$150,000,000. Our gross business is less than one-half of the taxes collected before prohibition.

The CHAIRMAN. Has the consumption of these carbonated beverages increased since prohibition became effective?

Mr. VERNOR. I would not say so; no, sir. I would not say so for this reason, that while some beverages might have increased in consumption, a great number of bottling plants over the country did business through the saloons and through the bars, and the minute they were closed to them they ceased doing business.

If I might, Mr. Chairman, I would like to get another impression before the minds of the committee. The big bulk of the bottling business that is subject to the 10 per cent tax is what we have always tried to make and what has always been the 5-cent bottle. Some of you gentlemen buy a bottle of ginger ale in a hotel or on a railroad train and pay 40 to 50 cents for it, but the ginger ale and soft drinks that are sold over the country at these exorbitant prices are only a small fraction of the production. The sale of that kind of soft drinks is largely at the little country stores, where they open up a bottle and sell it to the consumer, and it has always been sold for a nickel. It is on account of the nickel drink that this tax has worked such a hardship to us at the present time.

You have asked if there is an increase in consumption of soft drinks. I might say that in 1920, the year closing with June 30, 1920, the Treasury collected about fourteen million six hundred and some odd thousand dollars from our tax, but in December, 1920, they collected a hundred and eleven thousand dollars less than they did in the preceding December. In January, 1921, they collected \$200,000 less than they did in the same month of the year previous, and in February \$60,000 less. In March they collected a hundred and eighty thousand dollars less than in the year previous.

Taking it as a 10 per cent tax, that means in that particular four months period, which is the winter period, the volume of that par-

ticular industry shrunk five and a half million dollars over the preceding year.

The CHAIRMAN. What do you suggest in connection with the matter pending before the committee?

Mr. VERNOR. Of course, what we ask is relief from special taxation. We have no reason for not wanting to pay any kind of taxes that anybody pays. What we are asking is equal taxation and not special taxation on a food product.

Senator SMOOT. Your shrinkage in sales was about the same percentage as the shrinkage in sales of other commodities?

Mr. VERNOR. I could not answer that question for you, Senator.

The CHAIRMAN. You simply desire to be relieved of the tax; is that it?

Mr. VERNOR. Yes; but I would like to explain, if I can have time enough, one reason why this tax is a particularly bad tax for us. I have tried to explain to you that the heart of our industry is based on a 5-cent beverage. During the war, of course, other things besides this tax forced us out of the 5-cent class. We reached a point where we raised from 70 cents a case up as high as \$1.30. We were forced there on account of sugar and one thing and another. That cut our volume of business like Sam Hill and gave the dealers a chance to profiteer, which they did. When we put our price up 10 cents a case of 24 bottles they put their price up 2 cents a bottle and got 48 cents more out of it, and the Government got 10 cents.

Everything is back to a point now where we can produce a 5-cent drink if this tax is off, but with this tax imposed it is an absolute impossibility, which I can prove by cost sheets.

The CHAIRMAN. It is sold at 5 cents now?

Mr. VERNOR. In very, very few localities, and the men who are selling it to-day for that will go bankrupt if they continue.

The CHAIRMAN. What is the bulk of it sold at?

Mr. VERNOR. Six, seven, eight, and a good many at ten cents. In Detroit we get 6 cents in our own stores for it, and we try to educate the public to demand it for 6 cents. Nevertheless, many stores are getting 10 cents for it. The minute we can get back to the 5-cent price it will all come back to that price, but now this tax lifts it out of the 5-cent price.

Senator SMOOT. What is your wholesale price to-day?

Mr. VERNOR. We are getting 90 cents. Some are getting 80. It is an impossibility for any retail dealer to market it for a nickel, which is \$1.20 a case.

The CHAIRMAN. It is a tax that you could not very readily hope to put on to the consumer because you only charge 5 cents a bottle?

Mr. VERNOR. Yes, sir. The amount of money that the Government gets from this tax is not in any proportion to what the public are paying for the goods, because the amount of money that is being taken from the public on just the little idea of being able to get over that 5-cent price by jumping up 8, 9, and 10 cents instead of 6, means an exorbitant price, because the tax is only 8 or 9 cents a case.

Some people have asked why we could not cut down the size of the bottle. We can not do that because our money is tied up in bottles, and it is turned over and over again. We have not the same recourse that they have in many industries.

Senator SMOOT. You would have to have a new plant entirely?

Mr. VERNOR. Not a new plant, but we would have to scrap every bottle that we have.

Senator SMOOT. I do not mean your building but your cases and bottles and machines.

Mr. VERNOR. Yes, sir.

The CHAIRMAN. Proceed.

Mr. VERNOR. I just want to call your attention to the fact that Dr. Alsberg, of the Bureau of Chemistry, has recognized the soft-drink industry as a food industry. Dr. Alsberg used the phrase "food product"; and he says he uses it advisedly when he uses it. There is proper nourishment contained in it, and it goes on the shelves of grocery stores alongside of other food products.

What we ask is that we be taxed the same as any other food product of like nature is taxed, and not be put in a special class by ourselves.

Before I close I would like to call your attention to one other danger that this industry faces, and that is the danger of the repeal of section 630 without the repeal of section 628. In every recommendation that I have noticed I have noticed that they have recommended the repeal of section 630 as a consumer's tax, while section 628 is called a manufacturer's tax. There is really very little difference between those two. They are both a consumer's tax and a manufacturer's tax. They are in direct competition. If we were to repeal section 630 and leave section 628, it would sound the death knell of the bottling business. There is not a particle of difference between the two kinds of drinks.

Just to use an advertised article, for example, you go to a soda fountain and ask for a glass of a certain drink, and they will put in some sirup and some water and put it into a glass. It is handed to you under the most insanitary conditions and handed to you in a very poorly mixed condition. The bottler takes that same sirup and puts it into a bottle in a sanitary condition with a properly sterilized bottle, properly closed, properly mixed; and the only difference in the two drinks is that he hands it to you with a closed top on the bottle, while the other fellow hands it to you in an open glass ready to drink. You are absolutely taxing the privilege of putting that drink in a certain type of container. It is the same drink. And there is another angle to that—

Senator LA FOLLETTE. It is very much less sanitary?

Mr. VERNOR. Yes, sir. The bottled product is marketed under very adverse conditions. In the first place, it costs more money to market it, and it is put up in very much better condition and has to go through another pair of hands, and yet it is taxed to a point where we can not compete with a drink that is an inferior article.

Another thing, if you were to lift off the tax from soda fountains and levy it on bottled goods, it would be equivalent to lifting the tax from the \$10 shoe and levying it upon the \$3 shoe.

While there are a great many drinks at the soda fountain that come in direct competition with the bottled drinks, there are by far the biggest majority of soda-fountain drinks that are sold for 15, 20, and 25 cents, and it is those high-priced drinks that you are asked to lift the tax off of. That is just another angle of the same question. A soda

fountain can open up and operate on a very small investment. You can buy a gooseneck for a soda fountain and make as good a drink as over a soda fountain for a very much less expenditure than is required for the production of bottled drinks. If you will give me a \$20 bill I can invest in a soda fountain and make just as good a drink. The rest of it is all show. I will say this: That the bottling concerns in this country are in a pretty precarious condition to-day. They have suffered some losses in the last months that are going to be very hard for them to overcome, and I question whether a good many of them will not go to the wall. There is only one solution for keeping the industry on its feet and saving the industry and that is to get back to the nickel drink; and the only way we can get back to the nickel drink is to cut our costs down. This 10 per cent tax is the final straw that breaks the camel's back.

Senator Smoor. You have a great deal of company.

**STATEMENT OF HON. HENRY L. MYERS, UNITED STATES  
SENATOR, MONTANA.**

Senator MYERS. Mr. Chairman, I have received from my State a number of very vehement protests from manufacturers of bottled soda water and other soft drinks—

The CHAIRMAN. So has the committee.

Senator MYERS (continuing). But I want to add a few more, and I hope the few that I will add will be sufficient to carry the point. I hope they will be the straw that will be the deciding factor.

They protest against the proposed action of taking the tax off soft drinks sold out of a fountain and retaining it on soft drinks sold out of a bottle.

The CHAIRMAN. The committee had that matter before it very fully.

Senator MYERS. This is a gentleman from Missoula, Mont., who is a very extensive manufacturer of bottled soft drinks and has a large amount of money invested in his business. He says that if that action is taken it will drive him out of business.

I have had a number of protests to like effect from others engaged in that business. I understand that some brewers who were put out of business by the national prohibition law are now engaged in the manufacture of bottled soft drinks. They would be put out of business for the second time if the proposed action is taken. It seems to me it is axiomatic and a self-evident truth that as to these two kinds of soft drinks, one sold out of a fountain and the other out of a bottle, if one is taxed the other ought to be taxed, and if one is to be relieved of the tax the other should be relieved.

Senator SIMMONS. You are right about that.

Senator MYERS. I do not ask that the tax be taken off the fountain drink. I think it ought to be retained.

Senator SIMMONS. Your men would be willing to pay the tax on bottled goods if the tax is retained on fountain drinks?

Senator MYERS. Yes, sir. It seems to me it is self-evident. That is all I have to say.

## GRAPE JUICE.

**STATEMENT OF HON. MILTON W. SHREVE, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF PENNSYLVANIA.**

The CHAIRMAN. What do you desire to address the committee on, Mr. Shreve?

Mr. SHREVE. On the subject of the tax on unfermented juices, particularly grape juice.

The CHAIRMAN. The committee will be glad to hear you briefly. I wish to say that we have been very liberal in giving all the time necessary to hearings before this committee on unfermented fruit juices.

Mr. SHREVE. Mr. Chairman, we want to just complete the hearings to-day by statements from the manufacturer.

The CHAIRMAN. This testimony has been printed, Mr. Shreve, and very fully considered by the committee.

Mr. SHREVE. We do not intend to repeat any of the testimony that has been offered here before, but we desire to bring the testimony down to date. You will recall that at the last hearing we heard from the growers of grapes representing the largest districts in the United States. There was presented at that time especially the fact that the grape business is not a local industry in any particular State. The point we want to bring to the attention of the committee to-day is the manufacturing situation. We had fears at the time we were before the committee last year that the future of the grape business was very far from being bright. We felt that there was almost ruin staring us in the face. Now, we come to you to tell you what the exact facts are.

Two years ago the grape-juice plants consumed 45 per cent of the product, amounting to \$3,700,000. Last year they consumed only 14 per cent of the product, amounting to only a million and a half dollars. The point I am driving at is this: Unless this tax can be reduced so that the grape-juice plants can continue operation, the farmer, the grower of the grape, is going to be down and out and will have no market for his products, because the manufacturing plants are the foundation of the whole business, as they take a certain percentage of the grapes each year. If we are not to have that grape juice marketed, then we have to ship in baskets, and it will result in congestion all over the United States. It would be disastrous to the business; there is no question about that. I have brought here to-day the executive chairman of the American Fruit Juice Producers' Association. He will tell you all about the things that have not been presented to the committee. I am not going to repeat any of this testimony that you have already heard, but I do want to call Mr. John F. Welch, who is the executive chairman of the American Fruit Juice Producers' Association. Mr. Welch will tell you all about the manufacturing end of this business and why they can not pay this tax and continue to manufacture grape juice.

**STATEMENT OF JOHN F. WELCH, EXECUTIVE CHAIRMAN OF THE AMERICAN FRUIT JUICE PRODUCERS' ASSOCIATION.**

The CHAIRMAN. Mr. Welch, will you state your full name for the record?

Mr. WELCH. John F. Welch.

The CHAIRMAN. Where do you reside?

Mr. WELCH. Westfield, N. Y.

The CHAIRMAN. What is your occupation?

Mr. WELCH. Executive chairman of the American Fruit Juice Producers' Association.

The CHAIRMAN. Will you kindly proceed to address the committee?

Mr. WELCH. Mr. Chairman and gentlemen of the committee, we are endeavoring this morning to present to you facts without any theories. We are going to claim that this tax on the producer is burdensome to the extent that it is defeating its own purpose; that it is a double and even a triple tax; that it is discriminatory and out of proportion to other products with which it is classed; and also that it is a tax on an agricultural product.

The third point has been brought up here before this committee and has been well covered. We shall not take your time with that this morning.

There has been a great deal of misinformation about the size of the grape juice business, about the prosperity of the business. There are only some 20 companies. There is not the amount of money invested in the grape juice business in proportion to other so-called large businesses. The capacity of all plants is only some 11,000,000 gallons. Yet it is large in proportion to the output of grapes in the producing sections.

In regard to the prosperity of the business, it may be significant to you gentlemen to state that in the 10 years last past the average gross profits have not reached 10 per cent, when it should have been the most prosperous period in our history. We depend on the volume of business for our profits. We turn our money only once a year, and 10 per cent does not sound like a very prosperous business.

We were confronted with increasing cost of raw materials, boxes, bottles, freight, selling cost, advertising, and everything that went into the cost. Those costs increased very rapidly along in 1917 and 1918, and then came the tax that amounted to as much as what we would call a good profit in our business. Meanwhile, the eighteenth amendment had gone into effect. We did not expect any tremendous increase in our business. Our experience in the many States which had gone dry showed us that the per capita consumption in the dry States was not any greater than in the wet States. So that, contrary to popular opinion, the eighteenth amendment was of no value in increasing the sales of grape juice. Part of that is due to the tremendous number of new drinks, thirst quenchers, which came on the market.

The CHAIRMAN. Heart exhilarators?

Mr. WELCH. Yes, sir.

Senator SUTHERLAND. They are using raisins mostly, are they not?

Mr. WELCH. I could not tell you, sir. The grape juice consumption is declining under the unreasonably high prices and a large part of that is due to this tax. We carried over a considerable proportion of our 1919 pack, and we packed out little better than 3,000,000 gallons in 1920 in these various grape juice companies.

Senator WALSH. How much of depreciation is that volume?

Mr. WELCH. The capacity of the factories is 11,000,000 gallons. We have never exceeded 7,000,000 gallons, as far as I know.

Senator WALSH. So you have dropped over 100 per cent?

Mr. WELCH. Yes, sir.

Senator WALSH. This has been due to the large number of other new beverages coming on the market?

Mr. WELCH. A great deal of it is due to that and to the high price of the finished products.

Senator SUTHERLAND. To what extent have the increased freight rates brought about that situation, do you know?

Mr. WELCH. That has made a very large difference. Let me go into that point just a minute, please. Grape juice has to be made where the grapes are grown. It has to be pressed in the fall into 5-gallon carboys, which cost from 65 to 70 cents apiece. It has to stand there three months and then it has to go through a long, very delicate and careful process during the rest of the year into small bottles which are shipped to the various markets. The juice has to be shipped, for instance, from New York, Michigan, and Pennsylvania factories, into California, Texas, and all those points. It is quite different from a bottling concern that bottles carbonated beverages. By the way, a large bottling concern in a city the size of Atlanta will do as large a business in cases per year as the biggest grape juice factory and do it all within a few miles and make deliveries by truck.

The tax since the last pack, since 1920, up to April 1 of this year, received by the Federal Government is only a trifle over \$76,000. That does not represent a very prosperous business. There just is not any. That is the reason why we claim that the tax is defeating its own purpose.

I say that this tax is a double and triple taxation. It is necessary to get the raw materials into cellars.

Senator SUTHERLAND. What is your present tax, Mr. Welch?

Mr. WELCH. The tax is 10 per cent on the cost to the jobber or the party to whom we sell. That is the tax on the juice in the cellars; the cost of bringing it up and processing it, the cost of the bottles, which will amount anywhere from 50 cents to \$1.50 a case; it is a tax on the case itself which costs from 42 to 47 cents.

Senator SUTHERLAND. It is a tax on the gross selling price?

Mr. WELCH. Yes, sir; and on the sales cost, advertising, and the overhead.

Senator SUTHERLAND. What does that mean per ton of grapes?

Mr. WELCH. The tax on a ton of grapes in 1920 will be better than \$40 in terms of grapes. It was around \$32 in 1919. We pay tax on the preparation of the juice, on the freight, on the selling, and all those items. Take the freight alone. The average freight cost in 1920 was 47 cents plus a 3 per cent tax on the freight, plus a 10 per cent tax on the total.

Senator WALSH. Can you give us a concrete case? Suppose I am retailing 10 cases of grape juice. How much is the tax?

Mr. WELCH. The tax would be about \$7.20.

Senator WALSH. How much would 10 cases cost me?

Mr. WELCH. \$72.

Senator WALSH. That includes the cost of the bottle and the juice and the freight, etc.?

Mr. WELCH. Yes; that is delivered to you at the sidetrack and you will probably cart it to your warehouse. We sell to the jobbers principally.

Senator SUTHERLAND. You pass that tax on to the consumer, however?

Mr. WELCH. Yes; this tax is passed on right through. The grape juice that is sold over the fountain, when made with carbonated water, is taxed another 10 per cent on top of these other taxes, so it catches us both ways.

Senator WALSH. Do you mind telling us how much that \$72 shipment of 10 cases of grape juice would be retailed for?

Mr. WELCH. It would be retailed for around 50 cents a pint bottle. That would require a little work in mathematics.

Senator SUTHERLAND. How many bottles in a case?

Mr. WELCH. Twenty-four.

Senator WALSH. So you can not tell us how much the retailer would get out of that?

Mr. WELCH. No, sir.

Senator WALSH. Never mind, then; we have not time to go into that.

Mr. WELCH. I want to compare the grape juice business for just a moment with the carbonated bottled beverage. I mentioned the fact that one of the big bottling plants would do as much business in cases as the largest grape juice company. What is the difference? The grape juice manufacturer by the time he gets his grape juice ready to ship will have a cost around \$5, more or less, depending upon the size of the bottle. The manufacturer of carbonated beverage has a case of goods costing somewhere near 60 cents. The carbonated bottler delivers by truck right almost in his front door yard; the cost of distribution is practically nothing and the cost of selling is practically nothing, while the grape juice manufacturer must again pay out \$1 or \$1.25 for selling and advertising, and 50 cents for freight, and then he must make a profit if there is anything left. Is there any question? I do not want to take up your time unduly.

The CHAIRMAN. Mr. Welch, the committee does not wish to be discourteous, but there are printed hearings already on this subject in reference to the size of your business and its important character, and every point you could possibly touch on. If there is anything new you have the committee will welcome it, but we have given a great deal of thought and attention to this matter.

Mr. WELCH. May I just add this one point? It comes somewhat from the growers' side. A pint bottle of grape juice contains nothing but what comes out of the soil—nothing; and that bottle and case and everything that goes with it goes out to the consumer and never



comes back. It all has to be paid for. We have no return. And when 60 cases go through one of these plants and go out to the consumer some farmer has found a market for an acre of grapes; and every time through economic conditions, through inertia of business, through taxation, or through any cause we cut down our production 60 cases that same farmer has got to find another outlet for his acre of grape crop. It mounts up pretty fast, and that is the reason that there are two parties represented here this morning; that is the reason the growers are represented as well as the manufacturers, and that is the reason that you have given so much time to these growers, because of their large interests in this. It is vital to them and we know it is vital to us.

With your permission, sir, we would like to file a brief covering more particularly our side of the case from the manufacturers' standpoint with this committee, covering in point what I have said and some additional facts.

The CHAIRMAN. What is the character of your brief? Have you got it here?

Mr. WELCH. I have one copy here.

The CHAIRMAN. How many pages does it consist of? I suggest that you have 100 copies printed and a copy sent to each Member of the Senate, and particularly the members of this committee, and we will give it very careful consideration.

Mr. WELCH. Thank you, sir; we will be very glad to do so.

The CHAIRMAN. Mr. Shreve, have you anyone else that you desire to be heard?

Mr. SHREVE. We have several Representatives of the House here this morning, if you will hear them briefly.

The CHAIRMAN. Of course, we have to extend every courtesy to Members of the House; but the rule of the committee is only to hear one, or at the most two, persons on any question and have the others record an appearance. But, still, the committee will hear any Members of Congress who want to make a statement.

Mr. SHREVE. We should like to have you hear Mr. Layton, of Delaware, who will speak upon the medicinal properties of grape juice.

**STATEMENT OF HON. CALEB B. LAYTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF DELAWARE.**

Mr. LAYTON. I shall not go over the manufacturing side of this matter or the profits involved in the question of taxation. My desire is simply to bring out a point to which I think the committee should give careful consideration, and that is the medical side of this question.

Grape juice in late years has become more and more a necessary adjunct to the hospital and to the sick man or sick woman in the home. It is being more and more extensively used in the height of fevers and in the convalescence from almost all diseases, unless there is contraindication on account of stomachic conditions or something of the sort.

It does not seem to me, in view of the amount of money the Government is getting from this source, that it is desirable to limit the supply or increase the cost to 115,000,000 of people who may need it from a medical standpoint. Neither does it occur to me as being

wise in any sense to tax the grape juice and not tax the grape jelly and grape jam. They come exactly from the same sources and are used practically for the same purposes, it being well known that grape juice has a food value as well as a medicinal value.

In addition to that, one other thought I have, and then I will quit, and that is that this is an agricultural product, and in my judgment good government will tax agricultural products the very last.

Senator LA FOLLETTE. Can you state, doctor, the number of calories in a glass of grape juice; say, an 8-ounce bottle?

Mr. LAYTON. My dear sir, I will not, because I can not. There are quite a few calories in grape juice. They are not large, but they are large enough to be a recognized part of the pharmacopœia or pharmacy of the present-day medicine.

Senator LA FOLLETTE. I was under the impression that it had a pretty high calories value.

Mr. LAYTON. It has, but you ask me a specific question, and I could not just answer it specifically. There are calories there, but just how many I am not able to state. I could look it up for you, if it is necessary. It has a food value and it has absolute medicinal value beyond a question.

Therefore, the question is, do you want to tax food values and do you want to tax medicinal values?

Representative REED. Some gentleman has handed me an answer to what the Senator desires. There are 350 calories per pint of grape juice.

The CHAIRMAN. Have you anyone else?

Representative SHREVE. We would like you to hear Congressman Chalmers of Ohio, who has just a word.

The CHAIRMAN. We will be very glad to hear the Member.

**STATEMENT OF HON. WILLIAM W. CHALMERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO.**

Senator LA FOLLETTE. Are you from the Marion district? [Laughter.]

Mr. CHALMERS. No; I am from Toledo, Ohio, and I have two counties. Toledo covers nearly all of one of them, and the other county is Ottawa. A good many farmers over there at Put-in-Bay, Port Clinton, and vicinity make their living by growing grapes, and that is why I am here. I am representing them.

I can not qualify, gentlemen, as an expert. When I lived on a farm I raised a few grapes.

The CHAIRMAN. Are you a consumer of grape juice?

Mr. CHALMERS. I have been, yes. [Laughter.] But I have never made it a business of looking on the glass when it was red, nor when it moved itself aright, or when it stirred itself in the cup. So I can not qualify either as an expert on the tax problem, nor from the standpoint of a taster.

Senator LA FOLLETTE. Do you know anything about the kicking qualities of grape juice?

Mr. CHALMERS. No. But I do want to represent my farmers up there; and I hope that you will ease up just a bit on this tax.

Representative SHREVE. I think that is all.

**STATEMENT OF D. K. FALVAY, WESTFIELD, N. Y., PRESIDENT  
CHAUTAUGUA AND LAKE ERIE FRUIT GROWERS' ASSOCIATION,  
STATE OF NEW YORK.**

Mr. FALVAY. Gentlemen of the committee, in order that you may know what the Fruit Growers' Association is which I represent as president, I wish to state that the Chautauqua and Lake Erie Fruit Growers' Association is the representative organization of the fruit growers of the fruit belt of Erie County, Pa., and the counties of Chautauqua and Erie, State of New York. It was organized 12 years ago for the purpose of promoting the interests of fruit growers. Its membership is over 3,000 in number, residing in what is known as the Chautauqua and Erie grape belt. The association does no commercial business. Its officers serve without pay. None of the officers are financially interested in any grape-juice plant nor a stockholder in the same, and none of the manufacturers are grape growers. The members are all fruit growers and the representatives at this hearing are all grape growers, operating their own farms.

In the grape belt represented by myself and others at this hearing there are 42,000 acres of vineyard. Other grape sections of the State of New York would make a total acreage of about 80,000 acres in the State. Michigan comes second with nearly 40,000 acres, and Ohio third with nearly 20,000 acres. These are the three largest grape-producing sections east of the Rocky Mountains. The grapes grown are mostly Concord grapes.

The United States Census of 1909 shows that 48 States and the District of Columbia are all raising grapes. In all, over 3,800 counties in the United States are engaged in grape growing. I make this statement to show you that the grape industry is a national factor in the agricultural and horticultural life of many thousand citizens of this Republic, and not one of local interest. More than 38,000 carloads of grapes were shipped on the railroads of the United States in 1920, valued at upward of \$30,000,000. Every grower of grapes was adversely affected by the tax matter now before you.

At a hearing before a subcommittee of the Senate Finance Committee, held March 30, 1920, which was composed of Senator Calder, of New York; Senator Sutherland, of West Virginia; and Senator Gore, of Oklahoma, appointed for the purpose of hearing the views of fruit growers on the revenue tax on grape juice, there were present representatives from the Michigan fruit belt, from Ohio, Pennsylvania, western and eastern New York, and the Chatauqua grape belt. All of these representatives presented arguments why the 10 per cent tax on grape juice should be removed. We are here to-day for the same purpose. We are speaking for all the grape growers of the United States, because if the large grape belts can not sell their crop to advantage it is very certain that the market for the smaller grape sections will also be demoralized.

It is an unusual condition when the producers of raw material are in perfect harmony with the manufacturer. In this case the interests of the growers and the manufacturers are identical. The grape-juice manufacturers have come here to-day with clean hands. The relation of the grape growers and the grape-juice manufacturers are, and have been, the pleasantest possible. They have always

given the grower a square deal and paid for the produce purchased. This I personally know, as I have been in the business of grape growing over 30 years and have had all the ups and downs connected with the business. The policy of the grape-juice manufacturers has been one of cooperation with the grower.

Neither the grower nor the grape-juice manufacturer can succeed without this cooperation. Both are equally hurt by this tax.

Contrary to public opinion, grape growing is not a gold mine. On the contrary, the industry is carried on with great hazard from year to year. The vineyards are owned for the most part by small growers. In the Chautauqua and Erie grape belt there are over 4,000 growers of grapes. Some have a few acres and others have from 15 to 20 acres.

There are very few vineyards exceeding 50 acres. The average size for the belt is about 11 acres. In connection with his vineyard, the average farmer carries on general farming, otherwise he would have to retire from the grape growing industry. About the only successful grape grower I know is the man who has a paying outside business.

During the past 20 years the Chautauqua and Erie grape belt alone has raised 162,867 10-ton carloads of grapes and other sections have produced grapes in the same proportion. During that time the grape-juice industry was in the process of development. The tonnage taken by the grape juice factories varied from year to year, from 14 to 65 per cent of all the grapes grown. On account of the small tonnage per acre, which varies from one-half ton to 3,000 pounds per acre for the belt, and the enormous expense connected with the industry and the uncertainty of getting a crop, the four or five year average of profit is very small.

The grape industry east of the Rocky Mountains has sustained a serious loss this season by the freezing weather during April just passed. California vineyards are also badly frozen. In fact the grape sections everywhere are more or less injured by freezing. The crop in New York, Ohio, and Michigan will not exceed 25 per cent of a normal yield. The vineyard expense will be just as great, with the exception of harvesting, as if there were a full crop.

Time was when grapes could be grown for less money than at present. Formerly we paid from \$8 to \$16 per thousand for grape roots. This year the same grade of roots, One Year Extras, are selling for \$150 per thousand, which means an acre of grapes will cost \$105 for roots alone. Baskets have advanced from \$53 a thousand in 1918 to \$100 and \$125 per thousand now and practically all other factors entering into the production of grapes have advanced in the same proportion. Labor required in raising grapes must be skilled labor and that costs more than common labor.

We can show you by statistics from reliable sources the cost of growing grapes and the profit or loss per acre as the case may be by the secretary of our association, S. F. Nixon.

There is a point in all business where profit ceases under certain conditions. We who have been in the grape business for years, know that point. There is one thing certain. With the present 10 per cent tax on grape juice the grape industry is seriously threatened.

The grape-juice manufacturers can not pay a living price to the growers and then pay a tax amounting to nearly \$40 per ton before

the juice is put on the market. The growers can not raise grapes at a price that will permit the grape-juice manufacturers to purchase them and sell the juice with this tax added. This is not a theory but a condition that is confronting the growers. The representative of the manufacturers has presented facts and figures to prove to you that grape juice is not selling. I personally know that the statements are correct and the fact that they are correct is causing much apprehension among the growers.

While the conditions herein presented are apparently limited to a few localities, the fact remains that the whole grape industry of the Nation is affected. As every State is growing grapes, the individuals of each State think that the grapes grown in his State are just as good if not a little better than the grapes grown in another State, and perhaps they are. The grapes grown by each State first supplies its home markets and the large grape belts are shut out from those markets unless the price is lower for the grapes shipped in. With a 150,000-ton crop to be disposed of from the big belts and the grape-juice manufacturers out of business, the three great grape sections would have to invade the smaller markets or leave the crop unharvested. It means that there would have to be moved in from three to four weeks 15,000 carloads from the three States.

The Concord grape, which is best adapted for grape juice, is harvested by one picking. California usually makes three pickings. Climatic conditions force us to harvest our crop before October 20 each year, as the danger of freezing after that date is very great.

The grape-juice plants take the place of cold-storage plants. As has been pointed out to you, the grapes are received from the growers and then are taken care of by the manufacturers. The grower's responsibility ceases after he delivers the grapes. It has been repeatedly tried to keep Concord grapes in cold storage, but the experiments were expensive failures. After a Concord grape has been thoroughly chilled the pulp separates and the grape when exposed to warmth soon deteriorates and becomes unfit for consumption.

Transportation has been a serious problem for several years. For long shipments, refrigerator cars should be used and the fruit shipped under ice. We have difficulty in getting cars to handle half our crop. To divert 10,000 additional refrigerator cars from the general traffic for so short a period as four weeks seems to be impossible. The shipping of grape juice extends through the year, thereby relieving a car shortage. All these conditions the fruit growers have to contend with. Ordinary box cars can be used for shipping to the juice factories, as the haul is short and made the same day of loading.

Grapes are a product of the soil. At the Geneva Experiment Station, Geneva, N. Y., a debate was held some years ago on the question, "Resolved, that a good dairy cow gives more profit than an acre of grapes," and the cow won. Butter and cheese are products of the cow and yet those products are not taxed, nor is any other food product. In fact, the Federal Government has justly thrown the mantle of protection over the dairy business by taxing substitutes that compete with the dairy cow.

In contrast to that protection, there is a tax on the manufactured product of the grape. Dairying is usually carried on in territory that is of low value per acre and the taxes are accordingly low. The vineyards are assessed at a high rate and the taxes are high.

The representative of the manufacturers of grape juice has pointed out to you the impossibility of competing on the market with synthetic beverages. We have no quarrel with the manufacturer of so-called synthetic beverages, but we can not understand why grape juice should be singled out to pay three taxes, namely, on the raw material, on the cost of production and transportation, and a fountain tax. The danger is that the cost of the product will be so high that the consuming public will refuse to buy grape juice and will turn to some other beverage. In fact, just such a condition now exists and we are asking that it be changed.

It takes several years and at a large expense to develop a vineyard and when once started must be kept in operation from year to year. The vineyard can not be allowed to stand even if grapes sell at a loss.

We get a paying crop about twice in five years. Were it not for those two crops we would not be here asking your kind consideration of the problems that confront us.

**STATEMENT OF S. F. NIXON, WESTFIELD, N. Y., SECRETARY CHAUTAUQUA AND LAKE ERIE FRUIT GROWERS' ASSOCIATION.**

I am vice president of the Chautauqua and Lake Erie Grape Growers' Association (Inc.), a cooperative corporation which sold last year \$3,000,000 worth of grapes, and secretary of the Chautauqua and Lake Erie Fruit Growers' Association, with an enrollment of 3,000 farmers.

Both of these organizations, having had brought home to them the effect of a 10 per cent tax on grape juice, are united in their feeling that it is more of a burden than their heretofore greatest single consumers of grapes, the grape-juice companies, can bear and still continue to provide a market as large as grape consumers.

In a hearing on March 30, 1920, before your special committee, composed of Senator Calder, Senator Sutherland, and Senator Gore, the grape growers of the United States, represented by D. K. Falvey, president of the Chautauqua and Lake Erie Fruit Growers' Association of New York; O. W. Johnson, of Ohio, president of the National Grape Growers' Association; W. Y. Velie, president of the Hudson River Fruit Exchange; D. L. Thornton, president of the South Michigan Fruit Association; G. E. Pierre, of Pennsylvania, grower and shipper; and S. F. Nixon, secretary of the Chautauqua and Lake Erie Fruit Growers' Association and vice president of the Chautauqua and Lake Erie Grape Growers' Association (Inc.) of New York, presented the case against the present tax, showing its reaction upon the grape industry. It is believed that we made a favorable presentation of our case before your committee.

During the course of the argument it was my particular privilege to discuss what amounted to the following hypothetical question: "Can the grape growers of the United States produce grapes at a less cost and sell them to the grape-juice companies for enough less to absorb an amount equal to the present 10 per cent tax?" It has been shown that the 10 per cent tax in 1919 amounted to \$32.30 a ton on the raw grapes, and in 1920, \$43.11 a ton. Can the grape growers, then, now grow and sell their grapes to the grape-juice companies \$43.11 a ton cheaper than they have done in the past?

On pages 128, 129, and 130 of the Hearings on Unfermented Fruit Juices I presented a detailed list of the actual costs of each operation of raising the grapes. I had procured the actual cost figures on three vineyards situated in widely different located localities, showing the cost of the work day by day.

For a long time there had been a need for definite information on the cost of producing grapes. In view of the differences in opinion as to what constitutes a fair price for grapes and a fair profit for the grower, it would seem that the actual costs on three vineyards in widely different localities would be the fairest method of obtaining the real cost of producing grapes.

Here follows the summary of the cost of operations, the money received, and the net loss or gain on three vineyards for five years:

	8 acres.	20 acres.	6 acres.
Total cost per acre.....	\$78.37	\$60.42	\$83.22
Average amount received.....	82.19	81.77	81.99
Average net loss or gain for 5 years.....	+3.82	+21.35	-1.33

This amounts to an average gain of \$16.34 on two of the vineyards, and a loss of \$1.33 an acre on the third vineyard, for a five-year average. The net loss and gain on these vineyards is a fair and reasonably accurate method of showing the net loss or gain on all of the commercial vineyards of the country.

It is our conclusion, therefore, and our answer to the question, that the vineyardist can not grow and sell his grapes to the grape-juice companies for \$43.21 a ton less than they have been sold for during the past five years.

Concerning the season of 1920, much has been written and said about the high price received for grapes. It was a good year, perhaps the best in the history of the grape industry. But why? The grapes were sold in September and October, 1920, at the very peak of the Nation's prosperity; following the prohibition act people bought grapes who had never bought them before; a newly organized cooperative association, organized under the agricultural law, controlled the bulk of the grape crop and maintained a high price. It was a freak year, with every contributing factor favorable toward high prices, a year which we can never hope to see again.

Last year the grape-juice companies came down to the three weeks' shipping season without their customary contracts with the growers. My own vineyards had heretofore been contracted with the grape-juice companies for 15 years. The companies placed the situation before our organizations and stated that they could not buy the usual amount of grapes from us because their juice was not moving, owing to the high price to the consumer compared with other beverages. It is now a matter of record that they purchased only 14 per cent of the grapes in 1920 compared with 45 per cent purchased in 1919.

We believe that their cause is our cause; that if they can not sell their product to the consumer, we in turn can not sell our product to them.

#### STATEMENT OF O. W. JOHNSON, GENEVA, OHIO, PRESIDENT NATIONAL GRAPE GROWERS' ASSOCIATION OF THE UNITED STATES.

The evidence shown, not only at this meeting, but at the two previous hearings, has disclosed to you conclusively that we have now left open to us but two markets for our product, namely, the juice factories, which consume about half of our production, and the rest is used by the home trade. Shut out or destroy this sweet-juice trade and this 45 or 50 per cent consumed by them will become a drug on the markets, with consequent reduction in price, loss to growers, vineyard neglect, and finally the complete destruction of the industry as a national asset.

If the sweet-juice trade can not continue buying our grapes at a profitable price to us and pay this proposed tax all at once and the same time, they will be forced to suspend operations.

If they can not sell the juice at a profit to themselves, they can not buy our grapes at a profit to us; if we can not sell our grapes at a profit, we will have to quit the business, as many are now doing and more would like to do.

We are engaged in a lawful business. Our product as it leaves our hands is one of the most beneficial food products, and when either eaten in its natural state or drunk in its specially prepared, unfermented state (the state it is in when applicable to this proposed 10 per cent tax) is considered by many eminent medical authorities of the United States as of the most nourishing and even necessary food value. The fact that it originated in the medical laboratories for necessary use in the hospitals and sanitariums of the country at large proves this. It is spoken of as "a highly valuable and easily assimilated food for patients especially during the convalescent periods," and is in general use in hospitals and sanitariums throughout the Nation. (See p. 102 of hearing before a subcommittee of the Committee on Finance, U. S. Senate, 66th Cong., 2d sess., Tuesday, Mar. 30, 1920.)

Ours is the only food product taxed under the revenue act of 1918. We believe that it is contrary to our National Constitution and the American idea of fair play to

be singled out of all the many fruits, as grapes has been so singled out by this law and made to bear a tax burden many times greater than any of its competitors are compelled to bear while competing for the same trade, in the same markets, at the same time and presented to the buying public in the same way.

If the unfermented juice of the grape, commonly referred to as sweet juice and the element subject to this tax, should be especially taxed because of its potential alcoholic possibilities and abuses consequent thereto, then corn, rye, barley, and the other products should be included in the same measure. The parallel between the grape and corn is exactly analogous. Grapes are not to blame for the deeds done outside the law.

Taxes are created to raise revenue or destroy objectionable industry. There is no other reason and we do not take issue with either reason. Hence, the case boils itself down to this point, either we are engaged in an unlawful industry and should be taxed out of existence, or this is a good place to raise revenue. Since the tax has defeated its revenue purposes by stopping the industry until only 320,000 gallons have been sold to April 1 this year, producing less than \$75,000 in revenue, this reason has ceased to function.

The enforcement of this tax adds much to the necessarily high retail price required for this sweet juice to reimburse the soda-fountain dealer in the same ratio our competitor's products reimburse him and at the same time reimburse the manufacturers of the juice for costs and taxes.

With the price set by inferior and less costly products at the markets, the tax added to the grape juice initial cost of manufacture, retail and wholesale transfers is ultimately handed back to the grower who has to take the loss or keep his crop. If this tax is passed back to the growers permitting the juice industry to survive, it will cost us \$13 a ton and we can not survive.

We maintain that we have the inalienable right to live and prosper through the legitimate channels of trade, and having chosen the long-established horticultural industry as our profession, expended years of labor, study, and investment thereon, we believe we are entitled to a just and equitable chance among the various classes of growers in that industry on the markets of our Nation, and to ask Congress to repeal a tax which either shuts out of market or if we pay it ourselves, ruins our industry.

This 10 per cent tax, if enforced, singles out grape juice, technically placing it in the outlaw class by taxing it heavily as no other fruit is taxed.

We repeat we believe we have the right to select grape growing as our vocation and that we produce a lawful, clean, and wholesome food which is entitled to all the rights and privileges enjoyed by other food products of the Nation, and we again desire to register our most emphatic objection to being forced by taxation to change our vocation against our will and financial interests.

The American Constitution directly states and constantly implies that all laws and likewise all taxes shall be uniform in application and enforcement throughout the Nation. All American jurisprudence recognizes that no single lawfully existing enterprise, subject to legal or taxable conditions, can be singled out of its recognized class and made to bear a hardship not equally enjoyed or applicable to like members of its class for legal or taxable action thereon. To single out one single fruit juice and tax it and no other fruit juice is clearly a violation of this principle.

The spirit actuating this measure in so far as it applies to this tax is so vicious that to allow it to be successfully consummated will undermine the whole fabrication of our constitutional rights.

With the prohibition act against the intoxicating by-products of the grape, we raise no issue but to extend the effect of that act by a tax against the legitimate, nonalcoholic, nonintoxicating products of our industry, to the exclusion of all others of their class is unjust and unlawful.

It is unjust because it deliberately discriminates where all should be equal.

It is unlawful because it is contrary to the recognized operation of taxation as set forth in our Constitution which demands uniform application under like conditions in all taxable matters.

It is outrageous because it deliberately attempts to foster and insert in our laws an element of arbitrary power eminently dangerous to the true principles of democracy as expressed by our American institutions.

It has been argued that this grape industry is only a small and comparatively unessential industry. In that connection, I desire to call your attention to the mass of statistics presented by your honorable body through your subcommittee on Tuesday, March 30, of last year, 1920, and printed in the report already referred to in this brief, much of which can be found on pages 77 to 96, inclusive, and to the supple-



mental facts and statistics this day presented to your notice showing the size and importance of the grape industry in almost every State.

But aside from all of that is the relative size and magnitude of an industry its sole right or reason to demand and receive justice at the hands of our legislative bodies. Is the stature of an industry to be the only guide as to its treatment by Congress. We do not and will not believe that the legislative spirit of our Congress does now or will ever entertain this belief.

Now, in closing I desire to present one more thought. There may be lurking in your minds memories of the reports circulated last fall and winter that grape growers made big profits out of the grapes and therefore are to be viewed with suspicion when we assemble here for the purpose of asking that legislation we deem detrimental to our industry be modified to the extent that we bear only our just and equitable share of the Nation tax burden, instead of a special and discriminatory tax as now in force.

Let me answer that the prices obtained last year, 1920, if they could be guaranteed to occur from year to year and continuously we would have no cause to complain if the same crop production per acre could also continue in the same regular volume, but the facts are the profits of 1920 were not in any sense excessive when compared to other lines of business, and did not begin to even up the losses sustained the years before and this year up to this writing.

In 1918 the Ohio crop was damaged by winter kill to over 75 per cent of a normal crop. In 1919, through drought and excessive heat during the peak of the picking season a loss estimated to be about 10 per cent was sustained. In 1920, through hail that three times visited our section we lost over 15 per cent of the crop. Every cost which entered into our 1920 crop was double the prewar average. In 1921, up to this writing the early freezes have so decimated the crop prospects that the crop will not reach nearly the half way mark and already one devastating hail storm has swept through the Ohio district and where it fell it absolutely killed everything green on the farms. The facts are if we get a 40 per cent crop throughout the belt this year we will be wonderfully surprised. But we have the whole season yet to run.

So bad is this risk that the losses in our belt over the last four years aggregate some 170 per cent, thus losing one and nearly two-thirds of another entire crop in that period of time, and this experience is duplicated at various times in all belts growing grapes.

The killing freeze of this spring has so delayed the budding season that we greatly fear our crop will not mature in time this year to be picked before the early fall freezes occur. Formerly these fall freezes did not cause us much material loss as the wine trade would take them at or very near the market prices, but in any event they could be marketed. Now the situation is changed. An early freeze that will spoil the grapes for table and juice will leave them on the growers hands.

Therefore, gentlemen, we growers have already in less than four harvests lost nearly one and three-fourths of a crop, proving our oft repeated contention that we grew one of the most hazardous crops of agriculture; a crop that must be harvested, sold, delivered to market and consumed in practically 30 days of time. The grape juice business which is being destroyed by this tax is our sole protection against constant loss.

So hazardous is this crop, gentlemen, that until this year no insurance company would write risks on the crop, and the cost and restriction hedging the present policy is practically prohibitive and very little of it is being written.

Therefore, trusting in the rectitude of our desires and the belief that your honorable body will understand and fully appreciate the justness of our claims and will speedily grant the relief we so urgently ask for in this matter, we beg to leave our interests in your hands.

#### **STATEMENT OF HON. DANIEL A. REED, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK.**

Mr. REED. Mr. Chairman, in view of the fact that this committee has been so very courteous to me in the past, when I have appeared in these hearings on two different occasions, I am just going to say that in my district we have approximately 40,000 acres of grapes whose growers are interested in this proposition.

Getting away from the theoretical proposition to the practical end of it, we served notice about a year ago that those men could not stand up under this tax. I have just received word that one of our

large grape-juice factories has gone into the hands of a receiver in our section of the country.

A Congressman from the State of Washington has the same condition to report. They tried to save the loganberry industry by going down and getting a ruling that it was a food product.

Something will have to be done, because the grape juice has gone to such a height in price that the people will not buy it, and the country is not getting the revenue from this business because the grape juice is not being sold. In lieu of taking the time of the committee I will submit the following brief for the record:

**BRIEF ON BEHALF OF THE AMERICAN FRUIT-JUICE PRODUCERS' ASSOCIATION.**

(American Fruit-Juice Producers' Association, Daniel R. Forbes, counsel; Chautauque & Lake Erie Fruit Growers' Association, D. K. Falvey, president; Southern Michigan Fruit Association, M. H. Pugsley, director; National Grape Growers' Association, O. W. Johnson, president; Hudson River Fruit Exchange, Edwin W. Barnes, president; Erie County (Pa.) Grape Growers, George E. Pierce, president.)

This brief is a statement of the case of the producers of grapes and of the manufacturers of grape juice, upon which they ask that the present tax on grape juice be removed. The present revenue law places a tax of 10 per cent on the selling price of grape juice when sold by the manufacturer and an additional 10 per cent fountain tax when sold as a carbonated beverage.

It will be shown:

A. That the present tax is (1) so burdensome as to defeat its purpose; (2) it is double and even triple taxation; (3) a direct tax on an agricultural product; (4) it is discriminatory and out of proportion to the tax assessed on other articles.

B. That grape growers throughout the United States are vitally interested in the preservation of the grape-juice business and are equally affected by this tax. Any legislation or tax which reduces the production of grape juice by the juice manufacturers lessens the opportunity of the grape grower to find a profitable market for his products. The present grape-juice tax threatens to take away from the grape grower this ready market for a large proportion of the production, as it is clear that the present tax on grape juice is ruinous to the industry. Without this grape-juice market the grape grower can not expect to survive.

**STATEMENT ON BEHALF OF THE MANUFACTURERS.**

**THIS TAX IS AN UNJUST TAX.**

This statement is made with due regard for the facts and without prejudice against the Congress which enacted it. Under the pressure of war-time conditions and the urgency of the need for a great revenue-producing measure, it is not surprising that the manufacture and sale of grape juice should be sought as a source of revenue and that many Members of Congress should have sought the shortest method possible; that is, to group this food product with the so-called "soft" or synthetic beverages.

As a matter of fact the grape juice business as an industry has never been very large, and, at the present time, owing to taxation under the present law and the unusually high cost of production, now faces actual ruin. Grape juice manufacturers have always operated on a narrow margin of profit, depending entirely upon volume of sales for a return on invested capital. Grape juice must be produced at or near the vineyards during the short harvest season of about 20 days, and its manufacture involves large investment in plant equipment, expensive processing, long storage through the seasons, and an unusually high degree of technical skill. In order to obtain national distribution it is necessary to pack grape juice in costly wooden cases containing 4-ounce, pint, or quart bottles, which are shipped throughout the United States to the general market. Owing to the nature of the business and the long freight hauls it is impossible for the manufacturer to secure the return of empty bottles and cases for reuse.

The cost of grapes, bottles, boxes, packing, etc., has steadily risen from year to year, as is shown graphically as follows:

1914	_____
1915	_____
1916	_____
1917	_____
1918	_____
1919	_____
1920	_____

Before the enactment of the present revenue law which placed a tax upon grape juice, the industry was severely handicapped owing to the constantly increasing cost of production and transportation which necessitated retail prices so high as to materially reduce consumption. The tax of 10 per cent on the manufacturer's selling price has added to this handicap to such an extent that it is no exaggeration to say that unless this tax is removed before the coming grape harvest season there will be little if any grape juice packed. A large part of the 1919 press of grapes was carried over, owing to the impossibility of sale at the necessarily high retail price. In 1920 there was packed 3,191,930 gallons, and this, together with the carry-over from the preceding year, amounting in all to 5,146,777 gallons, remains unsold in the hands of manufacturers and jobbers. In other words, there has accumulated unsold almost a two-year normal supply of grape juice. It is apparent that no industry can survive without a turnover of at least a major part of its production each year.

The 10 per cent tax on the manufacturer's selling price has contributed greatly to the depression in this industry. It adds to the selling price of this fruit juice 72.3 cents on each case sold, which is equivalent to a tax on the juice of 38 per cent of its actual manufacturing cost. In terms of cost of grapes per ton, it increases their price \$43.11 per ton. The present law places a tax:

1. *On the cost of materials.*—The raw material for a gallon of grape juice costs 76½ cents; for a gallon of synthetic beverage, average 28 cents.

2. *On the cost of pasteurization and storage, sedimentation, decantation, repasteurization, bottling, labeling, and packing.*—Of these items, only the cost of one process, bottling, enters into the cost of "soft drinks."

3. *On the cost of nonreturnable cases, bottles, and labels.*—The cost to the juice manufacturer of a case of empty 4-ounce bottles is \$2.62—tax 28 cents.

4. *On cost of transportation.*—The average freight charge on each case of grape juice in 1920 was 47 cents, upon which an additional 3 per cent freight tax was paid. The grape juice tax adds to the selling price of this product approximately 5 cents per case on the freight item alone.

The manufacturer's tax of 10 per cent, excessive as it is, is not the only tax burden. Grape juice is frequently sold at the fountain diluted with carbonated water. The beverage so made is again taxed 10 per cent under the present law. This further increases the retail selling price, and as the retail price has become extremely high owing to the constantly increasing costs of production, the sale of this healthful, pure fruit product has been greatly curtailed. Unless the retail price of grape juice can be brought down to a reasonable basis and these excessive taxes removed, the grape-juice industry can not hope to continue.

The grape-juice industry had its beginning 52 years ago. At that time grape juice was almost entirely used for sacramental and medicinal purposes. Grape juice at the present time is extensively used in hospitals and by invalids, convalescents, and in the diet of children. It is recognized as having unusually high food value and is valued by physicians for its antiscorbutic properties.

(See authorities quoted in the exhibit.)

The manufacture of grape juice is the most convenient and economical method of conserving the valuable food elements of the grape. As a product it is economically comparable with canned fruits and vegetables. It is an agricultural product which at the present time is being taxed out of existence, despite the fact that no other preserved fruit or vegetable is so burdened by such taxation. It is just as logical for Congress to tax canned corn or fruit jams as to place a tax upon a healthful, fruit product such as grape juice, which permits the public to obtain throughout the year the valuable constituents of fresh grapes.

That part of the grape juice production sold as a beverage at the soda fountain meets in direct competition the so-called "soft drinks." Most soft drinks (not including cereal beverages) are sold in bottles in carbonated form, or as flavoring sirups carbonated at the fountain. Soda-water flavoring sirups are not taxed; only the beverage made by the addition of carbonated water is taxed at the fountain. Yet grape juice, carbonated and sold in the same way, bears both a manufacturer's selling price tax and a fountain tax.

Bottled carbonated "soft drinks" bear a manufacturer's selling tax but as these "soft drinks" are manufactured locally, the capital employed is limited and the manufacturers secure the return of empty bottles and cases, which eliminates from their selling price a very considerable item, the tax paid is very small. Where the grape juice manufacturer must of necessity include the cost of expensive bottles and cases and long freight hauls in his selling price, the "soft drink" manufacturer has practically none of these charges. As a result, these "soft drinks" can be sold for from 5 cents to 8 cents a glass in the same market with grape juice selling for from 18 cents to 25 cents. "Including materials, labor, rent, delivery, local taxes, and overhead" these "soft drinks" cost uniformly about 62 cents per case or 41 cents per gallon.

The manufacturer's tax alone on a case of grape juice is 72.3 cents or more than the entire cost of a case of these "soft drinks."

The actual cost to the manufacturer of 1 gallon of grape juice is \$1.88 as compared with 41 cents per gallon for "soft drinks" figured on the same basis. The following table of comparison is interesting:

	Grape juice.	Soft drinks.
Cost per gallon.....	\$1.88	\$0.41
Manufacturers' tax.....	.24	.061
Fountain tax.....	1.28	.....
Total tax.....	1.52	.061
Per cent of tax to cost of material.....	88	15

Shown graphically as follows:

Per cent tax on grape juice cost \_\_\_\_\_  
 Per cent tax on soft drinks cost \_\_\_\_\_

It is apparent from the above that grape juice is taxed far out of proportion to the tax placed by the present law upon the "soft drinks" with which it must compete at the fountain.

The following graph will furthermore illustrate the fact that Congress has placed upon this pure, healthful food product a greater tax than has been placed upon many of the so-called luxuries:

\_\_\_\_\_ Grape juice.  
 \_\_\_\_\_ Playing cards.  
 \_\_\_\_\_ Jewelry.  
 \_\_\_\_\_ Patent medicines.  
 \_\_\_\_\_ Cosmetics.

#### STATEMENT ON BEHALF OF THE GROWERS.

Raisin grapes are not used for making grape juice. This branch of the grape industry is not concerned in this matter and is not considered in this brief.

There are but two important outlets for the grapes raised in the United States (excepting raisin grapes), and these are:

(a) Manufacture of grape juice. Forty-five per cent of the 1919 crop was sold for this purpose; only 14 per cent of the 1920 crop.

(b) Shipment in packages to national markets. The movement to market in 1920 of all grades grown east of California amounted to 12,058 cars.

"Table grapes" are so perishable, and therefore so difficult of commercial sale in packages and long distance shipment, that the permanent closing of the outlet (a), the manufacture of grape juice, can mean not only the total loss to the growers of large amounts of the fruit, but also the glut of every principal market with the grapes which the growers will try to sell, and hence a period of ruinous low prices to all growers everywhere.

It costs between \$80 and \$100 an acre a year to grow grapes in New York.

Grapes average but a little over 1 ton per acre; to be exact, 2,100 pounds according to Mr. Falvay. (See statement quoted last.)

Before the grape juice industry was established, grapes sold from \$8 to \$10 a ton. Since the establishment of the grape-juice factories providing a new outlet for grapes, prices increased to an average of \$85.25 a ton.

This is the last outlet left to the grower for his surplus grapes, and to shut it off by this prohibitive tax is to ruin the grape industry.

Attention is called to the fact that the grape-juice manufacturers took but 14 per cent of the crop last year, as against 45 per cent the previous year. They paid only \$1,599,000 for grapes in 1920 as against \$3,700,000 the previous year.

In the industry of grape growing there is now invested outside of California not less than \$6,000,000 in land, vines, trellises, packing houses, and cultural equipment. Grapes are grown in almost every State in the United States, as shown by the census reports.

Grape juice is made in all the large commercial grape-growing areas in the United States and the industry provides a market for grapes which is a necessary outlet to permit the grape-growing industry to survive.

*Relationship of grape-juice industry to grape-growing industry.*

Capacity of factories.....	tons..	63,000
Size of 1920 crop (in areas where factories are located).....	do....	100,000
Size of 1919 crop (same area).....	do....	90,000
Percentage of crop used by factories in 1919.....	per cent..	45
Percentage of crop used by factories in 1920.....	do....	14
Money paid by factories for grapes in 1919.....		\$3,705,930
Money paid by factories for grapes in 1920.....		\$1,599,650

The falling off in grapes used and money paid out in 1920 is self-evident.

The statement of numerous witnesses proved that the grape-growing industry was not profitable nor stable until the grape-juice industry grew to sufficient capacity to furnish the outlet for from one-third to over one-half the grapes produced in the big commercial areas. Grapes are very perishable. They can not be reconsigned from market to market. They must move as picked and be sold at once, and gluts and surplusses can only be avoided by outlets such as the grape-juice factories supply. Without grape-juice factories operating in vineyard districts great quantities of grapes would be lost through spoilage.

Small producing areas can not be developed unless the larger competing areas have the surplus outlet provided by a going grape-juice industry.

The tax of 10 per cent represented in 1920 a tax of \$32 on every ton of grapes used in this industry. For 1921, with the increasing costs, it will represent a tax of about \$43 on every ton. This is manifestly a tax which the growers can not stand.

This tax injuriously affects every State in the United States.

The 1920 agricultural census figures are not completely available, but in those States now tabulated it is found that the grape-growing industry developed very rapidly up to 1919.

In Washington, for example, nearly 7 per cent of the farms grow grapes with nearly 500,000 bearing vines and a total production of nearly 4,000,000 pounds, an increase of over 230 per cent in 10 years.

In Oregon, 13 per cent of the farms produce grapes with a total of 3,000,000 pounds.

In Alabama, 24,928 farms grow grapes, an increase of 10,000 over 1909.

Even in Maine four farms out of every 100 grow grapes.

In Maryland, more than a third of the farms in the State have vineyards.

In Ohio, there has been an increase from 30 per cent to 48 per cent in the farms producing grapes since 1909.

Utah produced more than a million pounds per year and Idaho more than a half million.

In Massachusetts 22.9 per cent of the farms grow grapes, an increase of 6.6 per cent since 1910, producing over a million pounds.

In Delaware 18.5 per cent of the farms grow grapes, an increase of 6.4 per cent. Total production, 1,445,000 pounds.

West Virginia shows 35 per cent of the farms produce grapes, an increase of 8.7 per cent, producing 2,186,000 pounds of grapes.

Indiana has 34.5 per cent of the farms producing grapes, producing 6,600,000 pounds of grapes.

The complete tabulation of the grape crop, complete by counties in every State, is found in report of the hearings referred to.

The industry is unable to stand up under a 10 per cent tax.

The evidence is quoted to show that the 1920 production of grape juice is not being marketed; that it can not be sold subject to the present tax load; and that the tax thereby defeats itself. The facts are equally clear that unless the grape juice can be sold, this market for the farmers' grapes will be cut off in the future. The manufacturer can, of course, close down and take an enormous loss, but the vineyardist can not shut down his vineyard. It must be worked or it is ruined and his capital investment lost.

The manufacturer can not control the cost of his raw material. That is controlled by supply and demand in an open market, but the lessened demand for his own product which is caused by this prohibitive sales tax can be controlled and removed by Congress.

**SUMMARY.**

We submit that the case against this tax is complete. Under its operation the business of manufacturing grape juice has dropped from 7,000,000 gallons in 1919 to about 3,000,000 gallons in 1920. Sales of grapes to the juice factories have dropped from 45 per cent of the total crop in 1919 to 14 per cent in 1920. Grape-juice factories paid \$3,700,000 to growers for grapes in 1919, only \$1,599,000 last year.

Sales of grape juice have fallen to 320,000 gallons since the last harvest. The normal and expected growth of this industry, based on experience up to the time this tax was imposed, would warrant a business now of at least 7,000,000 gallons a year.

The tax has not been repealed, and, instead of this business, there remains unsold on April 1, 1921, 5,146,777 gallons carried over from 1919 and 1920.

Every grape grower in every State, whether he sells to a local market or a juice manufacturer, is directly handicapped by this tax.

Millions of people who have used this pure product—grapes in liquid form—in past seasons have been deprived of this privilege and of this beneficial, healthful, and valuable food.

#### CONGRESS SHOULD RECOGNIZE THAT GRAPE JUICE IS A FOOD.

It would be as logical and as fair to tax the producer of milk or butter, jams or preserves, canned fruits or any other food product as to tax grape juice. Such taxation has never been attempted in any American system of revenue production.

The Government is now deriving little if any revenue from the grape-juice tax owing to the decrease in consumption, for which this tax is itself largely responsible. Even if the revenue derived from it were large, it is not believed that this Congress intends to tax out of existence the manufacturers and farmers who have here attempted to picture the crisis that now confronts them.

If our vineyards and plants are to be saved relief must be afforded at once.

We are here fighting for existence, to save not only the grape-juice business but the grape growing industry as well, which depends on the grape-juice business as a controlling factor in its market.

#### EXHIBIT.

##### FOOD VALUE AND HEALTHFUL QUALITIES OF GRAPE JUICE.

[Authorities: United States Department of Agriculture, Bureau of Plant Industry, Bulletin 24, George C. Husmann.]

The uses of unfermented grape juice are many. It is used in sickness, convalescence and good health; as a preventative, as well as a cure. By the young, by persons in the prime of life, and by those in old age, it is used at all seasons of the year, whether that season be warm or cold, wet or dry. It is used in churches for sacramental purposes; at soda fountains as a cool and refreshing drink; in homes, at hotels, and at restaurants as a food, as a beverage, as a dessert, and in many other ways. When people become accustomed to it they rarely give it up; hence the manufacture of grape juice will probably increase enormously as the years go by.

In Farmers' Bulletin No. 644 (United States Department of Agriculture), Mr. Husmann says:

The effect of unfermented grape juice on the human system has been studied at the so-called grape cures long in vogue in Europe and has been investigated to a slight extent in laboratories. It is generally claimed that the consumption of a reasonable quantity of unfermented grape juice improves digestion, diminishes intestinal fermentation, and results in an increase in body weight.

The nutrients in grape juice are the same as in other foods and as the percentage of water is high, it resembles liquid foods more closely than solids. It contains less water, however, than does milk, the most common form of liquid nourishment; it has more carbohydrates, largely present in the form of sugar, and has less protein, fat, and ash than milk. Carbohydrates are the principal nutritive ingredients. Grape juice as a food is essentially a source of energy; therefore, and may help to make the body fatter, though it is of slight assistance in building nitrogenous tissue. Sugars in moderate quantities are wholesome foods and grape juice offers them in a diluted and palatable form. Moreover, the agreeable flavor increases the appetite, which is a consideration by no means unworthy of attention.

In the "Art of Living in Good Health," by Daniel S. Sager, M. D., it is stated on page 89: "The juice of sweet grapes may be used freely for infants, replacing to advantage in many instances milk, beef tea, etc.

C. F. Langworthy, Ph.D., in Farmers' Bulletin 293, refers to grapes as a food fruit and to grape juice as a dilute food. In a table in this bulletin he shows that there is more food material in a pound of grape juice by one-tenth of 1 per cent than there is in porterhouse steak and just as much as there is in a pound of mutton leg.

## UNITED STATES PHARMACOPŒIAL CONVENTION.

*Washington, D. C., April 5, 1920.*

Hon. DANIEL A. REED,  
*House of Representatives, Washington, D. C.*

DEAR MR. REED: My attention has been drawn to the fact that a revenue tax is now levied against grape juice whereas some other fruit juices are tax free. My attention has also been called to the additional fact that a pure synthetical beverage of very inferior quality to grape juice and which contains as one of its ingredients the alkaloid caffeine, well known in its free state to be highly injurious, is also tax free. Grape juice is a food product of high value by reason of the natural sugars it contains. Its mineral constituents combined with a natural acid tartaric which gives it additional wholesomeness and palatability. While I realize the necessity of taxation, in which all persons and all articles should share, I believe I am justified in protesting against such a discrimination as that to which I have referred. In the interests of health and nutrition an article so valuable as grape juice should not be made to suffer from discriminatory taxation. I believe it would be a matter of justice to tax synthetic products, especially those which contain elements injurious to health, and remove the burden of taxation, in so far as possible, from natural and wholesome food products.

I am, respectfully,

H. W. WILEY.

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LIFE EXTENSION INSTITUTE (INC.),  
*New York, April 3, 1920.*

Mr. A. M. LOOMIS, *Washington, D. C.*

MY DEAR MR. LOOMIS: In the matter of grape juice I wish to state that unfermented grape juice is a wholesome and nutritious food and a valuable source of fuel food through its high percentage of carbohydrates, not only in a normal general dietary, but in conditions of low nutrition, convalescence, and other states where a rapidly available fuel food is required in a pleasant and palatable form.

There is no more reason for discriminating against grape juice than against any other wholesome and desirable food substance, and because of its availability in states of illness, when ordinary food substances of a similar character might not be especially exhibited, I am opposed to any restriction upon its sale or production.

Very truly, yours,

E. I. FISKE, M. D., *Medical Director.*

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MODERN HOSPITAL PUBLISHING CO. (INC.),  
*Chicago, April 3, 1920.*

Grape juice is a valuable food beverage and is recommended by physicians for use in the sick room, in homes and hospitals throughout the country. In fact grape juice was first brought into use through the medical profession and the hospitals. It is served to fever patients as a matter of routine in practically all hospitals and sanatoriums, and is extensively prescribed for nearly all patients because of its pleasing taste, flavor, digestibility and refreshing service, as well as its food value.

O. F. BALL, *President.*

**STATEMENT OF HON. S. WALLACE DEMPSEY, A REPRESENTATIVE  
 IN CONGRESS FROM THE STATE OF NEW YORK.**

Mr. DEMPSEY. All I have to say is that the tax ought not to be upon the added freight, upon the container, and upon all these incidental things, and if you have a tax it should be upon the grape juice itself. Grape juice does supply the farmer with a market for his grapes, and that market will be gone if the grape juice manufacturers are driven out of business.

## TAX ON ADMISSIONS.

**STATEMENT OF WALTER C. SAUNDERS, SECRETARY-GENERAL MANAGER VIRGINIA STATE FAIR; ALSO MEMBER EXECUTIVE COMMITTEE OF AMERICAN ASSOCIATION OF FAIRS, RICHMOND, VA.**

The CHAIRMAN. Mr. Saunders, will you please state your full name for the record?

Mr. SAUNDERS. My name is Walter C. Saunders.

The CHAIRMAN. Where do you reside?

Mr. SAUNDERS. Richmond, Va.

The CHAIRMAN. What is your business?

Mr. SAUNDERS. Secretary-general manager Virginia State Fair. I am also a member of the executive committee of the American Association of Fairs, whom I represent here.

The CHAIRMAN. What phase of the question do you desire to address yourself to?

Mr. SAUNDERS. To the tax on gate admissions to the State fairs and other fairs.

The CHAIRMAN. Will you proceed briefly to state to the committee what you have in mind?

Bear in mind, of course, before you go on, that in the last revenue hearing this particular question was unusually fairly considered. The committee is very familiar with it. I am not prepared to say the tax ought not to come off, but as to the character of it the committee is very well advised.

Mr. SAUNDERS. I am simply here to ask you gentlemen that you do not repeal that exemption on State fairs and other fairs which are not operated for profit, along with other educational institutions.

The CHAIRMAN. You want the exemption to remain as it is?

Mr. SAUNDERS. To remain as it is.

The CHAIRMAN. I think you can reasonably be assured that that will be done.

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 EXCISE TAX.

## ART.

**STATEMENT OF JOHN QUINN, NEW YORK, N. Y., REPRESENTING AMERICAN FEDERATION OF ARTS.**

The CHAIRMAN. Mr. Quinn, will you please state to the committee for the record your occupation?

Mr. QUINN. I am a member of the New York bar, Senator.

The CHAIRMAN. You are here as an attorney, then?

Mr. QUINN. Mr. Chairman, I have the honor to represent the American Federation of Arts, which is composed of 273 chapters located in almost every State in the Union and which includes practically all art museums and important art societies of the United States; the council of the National Academy of Design, of New York City; the National Arts Club, of New York City; the Fine Arts Federation of New York; the League of New York Artists (Inc.); and many other like bodies.



The Fine Arts Federation of New York is a federation of practically all the artistic associations of the city of New York and includes the following: The National Academy of Design, New York Chapter of the American Institute of Architects, the American Water Color Society, the Society of American Artists, the Architectural League of New York, the American Fine Arts Society, the Municipal Art Society of New York, the Society of Beaux Arts Architects, the National Sculpture Society, the National Society of Mural Painters, New York Water Color Club, Brooklyn Chapter of the American Institute of Architects, Society of Illustrators, American Group Société des Architectes Diplômés par le Gouvernement, the Art Commission Associates, and the New York Chapter American Society of Landscape Architects.

I also represent a group of leading art dealers throughout the United States. I am proud of the fact that I represent those important art associations and art bodies and those art dealers and that they have reposed in me such confidence that I alone represent them.

Before this committee I speak for the freedom of art, for untaxed art, and I regard the cause as a very sacred one.

The public has not the time or the leisure to judge art or to study the technique and history of art. That is the work of the specialist, of the educator, of the artist, of the art museums and art galleries. The public can only follow what the critics and specialists tell them are the great names. The public has not the time for the study of the history and technique of art. The public has its own great work to do, and it wisely follows the lead of the specialists, or those believed to be specialists.

It is to the specialists, the artists, the directors of art museums and art galleries whom I represent here, that there falls the duty of making the recurrent fight against Philistinism, against Puritanism, and against the false commercialism which would tax art.

Having a good cause at heart, I believe that we will win, as we deserve to win.

The CHAIRMAN. Mr. Quinn, you will bear in mind, of course, that the committee is very familiar with this whole question, and it will be just as well to have you touch on the recent developments.

Mr. QUINN. I shall be very brief, Mr. Chairman, as I generally am before such bodies as this, keeping to the essential points, for I know that the committee is familiar with the question generally. I prepared a careful brief on the subject entitled, "Memorandum against taxing sales of works of art," which I should like, with your permission, Mr. Chairman and that of the members of the committee, to have printed in the record. If that privilege is accorded me, I shall not take up the time of the committee to read from my memorandum, but I should like to touch upon a few points that are pertinent to the argument and are not exhaustively dealt with in the memorandum.

The CHAIRMAN. You want the whole pamphlet to go in the record, do you?

Mr. QUINN. Yes; I should like my entire memorandum to go into the printed record, Mr. Chairman.

The CHAIRMAN. If there is no objection, the pamphlet will be inserted in the record.

Mr. QUINN. Mr. Chairman and Senators, sales of art are now taxed 10 per cent.

I appeared before the Ways and Means Committee of the House of Representatives in opposition to that tax when that tax was imposed. The 10 per cent sales tax was enacted as a tentative and experimental thing. I predicted, and others predicted, that it would not work well or smoothly, and would be productive of injustice and inequality. Just what I then prophesied and predicted has taken place. The 10 per cent sales tax has damaged art generally. It has worked unjustly and inequitably. It has enormously hurt the art business.

Under the present law purchases by art museums and art galleries are exempt from the tax. The framers of the law admitted by that provision that art museums, libraries, and art galleries who purchase works of art should be encouraged and their purchases be exempt from the tax. But that was going only a short distance in the right direction. Other countries give Government aid to art galleries and art museums. We do not aid or subsidize art galleries or art museums or art schools. We have no ministry of fine arts as other countries have. But if we do not aid art museums and art galleries and libraries, we, the United States, ought not to tax what museums buy. That would not be a generous or an enlightened policy.

Everyone who has studied the subject knows, and statistics show, that over one-half, some say over 60 per cent, of the art in our museums has been acquired by the gifts or bequests of some private collectors. The Hearn pictures, the splendid Altman bequests to the Metropolitan Museum of Art, the Morgan bequests to the Metropolitan Museum of Art, the Frick bequests of his home and the art treasures it contains to the city of New York, the splendid Johnson bequest to the city of Philadelphia, and other like bequests in cities like Pittsburgh, Cleveland, Chicago, and other cities will prove my point.

The sales tax upon art retards the establishment of new and the growth of present museums. Museums depend largely for their art upon gifts and bequests of individuals. Our public art collections will be the richer if art sales are not taxed.

On behalf of the museums and art galleries and art associations of the country, as well as on behalf of the dealers, I therefore ask that the present 10 per cent sales tax on art be stricken from the law.

But I have heard the statement made: "Well, the museum directors can go abroad and buy art abroad." But that is not the fact. Museum directors can not go abroad. Buying a work of art, Mr. Chairman and Senators, is a very delicate thing, and in many cases requires important decisions. I assume, of course, that the decision to buy a particular work of art or not is made from what I call pure motives—made solely upon consideration of the merits of the work of art freed from any desire to help the artist who painted the picture or the sculptor who carved the statue or the dealer who owns the work. Let us assume that one of you is a director of a museum. You desire that your museum shall acquire an example of art by a certain artist. Your museum has saved up money to purchase it. You feel that you

need that particular work, representing that artist or a certain phase of his art, for your museum or the collection in your gallery. You can not go to Paris or to Vienna or to London or to Rome to search the galleries there. You have the work of your museum to supervise. You must consult your directors. You may have to use experts.

You, therefore, have to buy that work of art in New York City or in Philadelphia or in Chicago in order that you may see it, may compare it with others, may study it, may consider the price and the terms of payment, all of which are essential conditions to its purchase by your museum. You are, therefore, dependent upon the dealers' galleries in this country. If you are a western or a middle western museum director, you naturally go to Chicago, or you may go to New York or Philadelphia. You shop around among the galleries and the dealers. You return and talk to your committee. Then you may come back again. You go to the different dealers and find out what works by the same artist are owned in Europe, all in order that you may get the best and at the best bargain. After anxious study, after careful comparison, and after much discussion, you finally decide, or your board decides, to buy that work of art. That is an important labor, but it is a labor of love. It was the great Leonardo who said: "Great love is the child of great knowledge. The more exact the knowledge, the greater the love." That noble sentence may be applied almost as justly to the purchase of a work of art as to its production. Now, that process involves a sale by a dealer here and not by a dealer abroad.

Next I come, and I will be brief, to the refutation of the thoughtless idea that art is a luxury. But before I deal with that, I wish to contrast the present tax law upon sales of jewelry and those of art. It may probably astonish some of the members of this committee when I recall to them the fact that under the present law jewelry is taxed only 5 per cent upon sales only to the ultimate consumer, whereas under this outrageous 10 per cent provision every sale of art is taxed 10 per cent, whether wholesale or retail, and whether to the ultimate consumer or not.

Please note how that works. Suppose I come to Senator La Follette, who is a dealer, and who has a better work of art than I have. He has a painting by Manet, we will say. He wants \$10,000 for that painting. I have a smaller or a less important painting by Manet that I bought during my poorer days. He says to me: "How much did that Manet cost you?" I reply: "It cost me \$5,000. Will you, Senator La Follette, take my Manet that I paid \$5,000 for, and I pay you \$5,000 in cash, and you give me that splendid Manet that you have, which I feel I need for my collection?"

He would have to pay 10 per cent on that \$10,000 sale to me of that picture, or \$1,000, to the Government. I should pay 10 per cent on my exchange or sale of the \$5,000 picture, or \$500, to the Government. He would be taxed 10 per cent upon the sale of his \$10,000 picture and I would be taxed 10 per cent on the sale by me of the \$5,000 picture. There would thus be payable to and received by the Government \$1,500 in taxes on that one transaction, and only a \$5,000 exchange would have been made. In that case the Government would be imposing a tax of \$1,500 on an essentially \$5,000 transaction. Yet sales of jewelry are taxed only 5 per cent, and then

only to the ultimate consumer. Wholesale transactions and exchanges among dealers in jewelry, under the law, are not taxed.

Could there be any more outrageous discrimination than that?

Now, again, take the case of the exchange of pictures. Dealers frequently exchange paintings and sculpture and works of art among themselves. You, Senator La Follette, or you, Senator Smoot, may have gone to Europe and may have returned with some pictures that your particular customers may not be interested in. I may have customers for those pictures. You may have customers for pictures that I have. We exchange pictures on an agreed basis. We do not pay each other any money, or very little. I do not pay you any money; you do not pay me any, or much. I say, "I will give you two of these pictures if you will give me those three." Under the present law those transactions would be taxed, taxed 10 per cent all the way down the line.

The tax on sales of works of art is absurd, unjust, and makes those transactions impossible.

Now, as to the point that art is not a luxury, I shall be brief. I do not think it is necessary for me to argue at length to this committee that art is not a luxury in the sense that jewelry and cosmetics and automobiles and possibly furs are luxuries. Consider jewelry for a moment. A woman buys a necklace, or a man buys one for her, whether of diamonds or pearls. That necklace does not go to the public when she dies. Her wearing of it is of no benefit to the public. Sometimes it is not even a benefit to her. It may involve a sacrifice on her part that is not as lovely as diamonds or pearls, or it may mean a husband that is not as rare as precious jewels.

But art can not be considered in the same way. Art is not a luxury in that sense. It is not a matter of personal ornament or adornment or of vanity. In the strictest sense art is a necessity to a well-ordered and civilized life. Art ranks with science. It is the same as education. It is an instrument, a means of education. You might as well tax university professors and scientific instruments and colleges as to tax art sales and art museums and art purchases and purchases by private individuals, which ultimately go to art museums and art galleries. We do not tax churches or church property. They are civilizing, harmonizing, social things. All over the country churches and church property and schools and school property and college and university property are exempt from taxes. Their real estate is exempt from taxation. Why? Because of their educational value, because of their civilizing value. It is better to build churches and to establish schools than it is to build jails and enlarge penitentiaries. And so it is with art. Art museums belong with colleges and with universities and with churches and with scientific foundations, as civilizing, humanizing things. Anything that hurts them, anything that retards a general knowledge of art, any tax that taxes art sales is a tax upon civilization and upon the refinements of life. Art is the fine flowering of our civilization. You might as well tax botanical gardens because they grow flowers as to tax sales of works of art, which are the flowers of life. You might as well tax the Botanical Museum of New York City or the Zoological Gardens in this city.

I have said that art is educational. Speaking for myself, my academic education was moderately expensive. My legal education was thorough and not too costly. My political education has been

costly. My social education has been considerably more costly. But my art education has been the most costly of all, for one can only learn by study and experience—by one's mistakes. In art as in other things, one should try to follow the advice of Beecher, who said that he knew that "he made mistakes but that he always tried to make new ones." Taste in art can only be improved by years of study and experiment. It was a great artist, a man of genius, William Blake, who said: "A man must explore and reject bad art before he accepts good art."

There is a limit to taking away all of the things that make life rich and the interests of life varied. We have forbidden racing in many States. We have made it a crime to drink civilizing, humanizing wines and liquors. We have placed the whole Nation in legal strait-jackets for the benefit of a comparatively few drunkards. Puritanism and absurd ideas of economics are rampant. What amusement has the poor man who has not the money to sail away from this country for a time each year to some more civilized and rational country, where people are still free and have the sense of freedom? If misplaced ideas of economics, if absurd Puritanism keeps on, what social pleasures can people have in life and share with each other? Are people going to be made to work in the treadmill of existence all the time without any social relaxation? Shall there be no place in life for relaxation and pleasure? Are economists and statesmen of the future to preach that work, always work, and more work, is a noble thing and not a mere hard necessity? Are we to descend to such imbecility as that?

The CHAIRMAN. Do you think a picture can take the place of liquor?

Mr. QUINN. Certainly not, Senator. I am fond of both. I should not have one as the substitute for the other. Both are civilizing, humanizing things. A reasonable amount of good wine and of good liquor would but add to my enjoyment of art, both leading to legitimate and often delicious relaxation. When I have had a sufficient quantity of civilizing and humanizing wine, I am in just the right mood to be further humanized and civilized by art. Some one said, "In My Father's house there are many mansions." So in a civilized country there ought to be room for horse racing to improve the breed of horses; for wine, for the burgundy and claret of the south and the champagne of the north of sunny France, and all kinds of good whiskies, to civilize and improve the breed and the manners of men and women.

Now, gentlemen, this question of art is a very serious business for me. In a modest way I am an art collector. Senator La Follette—and Senator Thomas, who has just entered and whom I am delighted to see here—will remember the fight I made in 1913 to take the duty off modern art. Senator Stone was then chairman of the Finance Committee of the Senate. He was bent upon putting the duty back on art. In 1909, you will remember, the Republicans took the tariff off all art except modern art. After that Mr. Morgan's great collection and other great collections of art were brought into the country. The United States would not have had those great collections if that duty had remained on. So the country benefited by the advance made in 1909.

In 1913 I made the fight myself, if you will pardon the egotism of that statement. In 1909 the country had made a tremendous fight to take the duty off old art. They had organized the entire country in 1909. The American Free Art League had branches in nearly every State, and it led the 1909 fight. In 1913 I made the fight to take duty off modern art. Some of the museum directors were timid. They were afraid to open the question. They said, "No; let well enough alone. We are afraid if the question is opened up that the good work of 1909 may be undone, and that the tariff on old works of art may be restored." But I replied, "I am sure you are mistaken. I know the Senators down in Washington, and I know the Representatives. Those men are not quite as uncivilized as you assume they are. I am going down to talk to them, and I am sure that we will get a civilized and enlightened result." I was right. In 1913 Congress took the duty off modern art.

Now, what has been the result of the great 1913 reform? Museums have sprung up all over the country as a result of it. Museums already in existence have developed and grown. There are art galleries to-day not merely in the great cities—New York, Philadelphia, Boston, Chicago, St. Louis, and San Francisco—but in Providence, in Worcester, in Syracuse, in Rochester, in Buffalo, in Cleveland, in Toledo, in Detroit, in Muskegon, Mich., in St. Paul, Minn., and in other places; even in Oklahoma, in the oil regions, they are buying art. Sometimes it may not be very good art, I admit, but they are buying art, and after all, I would rather have a man buy art, even if it is bad art, than to buy automobiles. Art ultimately civilizes him. After all, he may learn how bad the art that he has bought is, and possibly turn to good art, or he may have some candid friend. Anything that encourages people to buy art—and removing the sales tax on art will encourage them—is a good thing. That was the effect of taking the tariff off art in 1913.

Now, in 1918 Congress put this sales tax on works of art. There was then almost a panic desire to raise revenue, and they passed the art tax law as a tentative thing.

The CHAIRMAN. Has the revenue amounted to much?

Mr. QUINN. Mr. Chairman, the statistics obtained from the Treasury Department show that for the fiscal year ended June 30, 1920, the tax upon art sales yielded \$1,543,133.58. Roughly, the 10 per cent tax on art sales yielded a million and a half dollars. The receipts for the nine-month period of the present fiscal year ended March 31, 1921, the latest period for which the Treasury has available figures, were \$829,374.34. That shows a great falling off, and it is claimed by the dealers whom I represent that that is almost entirely due to the injustice and inequality of the tax on art sales.

Now, let me give you another illustration as to how unfairly this present tax law works:

The large dealers, the firms and corporations whose books of account are here, and whose places of business are here, have to keep full and careful records and have to pay the tax. But a foreigner, an Englishman or a Scandinavian or an Italian or a German may come over here and bring to his hotel or apartment 15 or 20 paintings and may sell them. He keeps no books and he may go away and pay no tax upon his art sales.

Again, the wiser dealers will make the sales in Europe. They will send the photographs of their works of art over to this side. If the works are by well-known artists, like Monet or Manet or Renoir or Degas or Puvis de Chavannes or Cezanne, discriminating collectors may buy from the photographs. The acceptance of the offer is sent to Europe. The picture is delivered to a shipper in Europe. The agreement is made in Europe, and becomes binding in Europe. The money is paid in Europe. No part of the sale is made here and hence no tax is paid here. But all the time the American dealers, who have their places of business here, who pay a tax to their State, and Federal corporation and excess-profits taxes, and also an income tax, have to pay this iniquitous 10 per cent tax upon the sales that they make here.

The CHAIRMAN. Do you think the American artist is entitled to any protection?

Mr. QUINN. There is no protection whatever in this tax. No American artist is in favor of it. American artists are universally against the tax and want it taken off. The tax hurts them directly. It curtails the sales of works of art generally and to that extent hurts them. The 10 per cent tax is often the deciding factor against the purchase of a work of art by an American artist. It tends to put art, in the minds of many purchasers, in the same class as automobiles and other things which are taxed, and that is a thing that the American artist does not want. The American artist wants freedom, freedom of his art from taxation of any kind. Anything that makes for free art improves art. The American artist recognizes the educational value of art. The poor devils! They often do not get much money in their lifetime. They struggle, they hope, they live modestly, and often die poor. But they do not want the children of their dreams and of their struggles taxed any more than should Madam Curie be taxed for her discovery of radium. In his studio the true artist is an art explorer, an experimenter, just as the scientists are in the Carnegie and Rockefeller Foundations and other places of research. They are all experimenters, some to save and prolong life and others to make life lovely and beautiful.

The CHAIRMAN. Then you do not think any duty aids American art?

Mr. QUINN. It retards it; absolutely retards it. It is uncivilized and barbarous.

And now I come to my final proposition, and that is that art pays for itself.

The Senate and the House have lately passed certain tariff bills, sometimes referred to as the dye-bills. Dyes mean colors. There is, Mr. Chairman and Senators, now a most interesting exhibition on the third floor of the House Office Building—in the caucus room of the House Office Building. It is a chemical exhibition organized under the auspices of the National Research Council. That particular exhibit was prepared in cooperation with the Chemical Warfare Service of the United States Army. It shows, among other things, a topographical model representing an idealized group of chemical industries. It shows the importance of chemistry in national warfare. I spent one of the most interesting hours that I have spent in years in that room last week with a brilliant young offi-

cer who is a member of the Chemical Warfare Service of the United States Army. On one side of the room were certain wire arrangements with places to stick variously colored small wooden balls. I asked that intelligent young officer what those represented, and he said: "Those little wooden balls, those groups of white, yellow, blue, red, etc., represent the molecules that go into a particular compound to make a particular gas or perfume or acid. Take off one or two of those little balls and the formula is changed and you have a deadly poison gas. This formula represents a wonderful perfume. Add a few molecules to it and you have the murderous mustard gas." He showed me a jar that had inside of it a glass tube and inside of that was the deadly poison gas. He said that that was the deadliest poison gas in the world; that was what the Germans used. They made those gases in their dye plants. They converted those dye plants, in a very few days, into plants for the manufacturing of the most deadly poison gas, and we are told by experts, Mr. Chairman and Senators, that gas warfare is to be the warfare of the future.

Now, dyes mean color. The coal-tar dye industry is the head of all of them. I am told that Germany had developed 923 different kinds of dyes and stains and that the United States, in the short time that they had been working on the dye problem, had developed 458 dyes and stains, and that our blacks—and few know or recognize what a wonderful color black is—were the finest blacks in the world, and that with adequate protection for a reasonable time American chemists have no reason to fear competition either in dyes or other branches of synthetic chemistry. You all know the relation of synthetic medicine to synthetic chemistry, and to perfumes, and especially in medicine. It is known that synthetic resin is made from the coal-tar product phenol (carbolic acid) and formalin (formaldehyde).

It was a marvelous thing to see how close the beauty of perfume was to the deadly destructive poison gas; only a few molecules and all the difference between peace and beauty and horrible torture and death.

Phosgene was a deadly war gas, but it now enters into perfume and dye manufacturing and has been suggested for commercial uses in other industries.

America did not have those organic chemical industries before the war. Now she has them and she does well to protect them. It is wise to support them as Congress has done. Many dyestuffs are used as medicines because of their strong parasiticidal action.

I quote from a pamphlet issued by the National Research Council at that exhibit on this interesting subject:

Methylene blue is used internally in nephritis, rheumatism, and relapsing fevers. Trypan red and trypan blue are highly useful in fighting such tropical diseases as sleeping sickness. Scarlet red stimulates the growth of tissue over granulating wounds. Malachite and brilliant green have been used extensively as anti-septics. Even salvarsan ("606") is really a dye made to carry over 30 per cent of arsenic to destroy parasites without exerting its toxic effects on the human organism. Two intense yellows—proflavine and acriflavine—have desirable qualities possessed by no other antiseptics, being nontoxic and non-irritating.

Now, the United States is wisely trying to build up the dye industry in this country. Dyes, as I have said, mean colors. During



the war some women used to say that American dyes did not equal foreign dyes. Still, our experts say they have equaled them and later will excel them. I said to that young officer last week: "The Germans throw bouquets at themselves for their synthetic chemistry. How many dyes and stains have they in comparison with the number that we have?" And he gave me the figures I have stated. Germany in all the years she has worked at the problems, 923; we in the short time that we have been at it, 458. He said, "Give us a few years more and we will skin them alive." I believe that he is right. You know that a German will give up a great many things that the average American will not give up. The German will go through school and university and take a scientific course or make a chemist of himself, and he will take one element and its compounds and work on that for years. Like the man who discovered the cure for syphilis—606—I believe that his discovery was the six hundred and sixth formula that he had experimented with. Scientists in this country can accomplish as equally good results, and in my opinion they will do it in an infinitely shorter time. We have more individuality and less of the herd instinct.

Now, Congress does not want to be in the position, on the one hand, of protecting and building up dye industries, which means colors, and taxing art, which means education in colors, on the other hand. Such a contradiction would be absurd. Color and art, which is the matching of one color against another, enters into almost everything in life. It is one of the most civilizing things in life. Color and form enter into dresses, hats, shoes, yachts, automobiles, flying machines, musical instruments, surgical instruments, architecture, engineering, railway trains, and in almost everything in the room in which we are. Art touches everything that is harmonious and beautiful in life. You must not tax such a great civilizing thing. It would be like taxing civilization and science and culture.

I am not going to ask permission to encumber the record by putting in the many formal resolutions and protests against this tax on sales of works of art that have been made. I could present a small volume of them from art galleries and art dealers and art purchasers, educational bodies, writers, college presidents, editors, and publicists from all over the country.

The protest against this tax would be almost universal. The present 10 per cent tax upon art sales should be taken off because of the unfairness of it, because of the injustice of it, because art is not a luxury, because art is not a thing that should be taxed, and because it is killing the business, and the revenue from it is negligible.

I want to thank you, Mr. Chairman and Senators, for the patience with which you have listened to me.

And, now, may I trespass upon your patience and good nature for one minute in regard to one feature of the income tax law? I am a lawyer. I think there ought, as a matter of principle, be a difference in the surtax on incomes derived from personal service, like lawyers, doctors, surgeons, and scientists, and incomes derived from invested capital, irrespective of personal service. The English income tax law makes that wise and fair discrimination. The present law is most unfair. To illustrate: I follow my profession of the law and work hard at it. I make a certain income. I think it is an outrageous thing that I have to pay the same surtax, the same rate, as is paid

by the wealthy son of a rich man who loafs uptown and adds nothing to the wealth of the community, but lives upon incomes from fortunes accumulated by his father, and is of no benefit to the community and of little benefit to himself. When it was originally drafted, as you Senators know, income from personal service was not taxed. Certainly the surtax upon incomes derived from personal service should not be at the same rate as income derived from invested capital without personal service.

The CHAIRMAN. Mr. Quinn, the committee is thoroughly saturated with that thing and are praying over it.

Mr. QUINN. Very well, Mr. Chairman, if you are praying over it, I am sure the result will be right. I want again to express my appreciation of the courtesy and the open-mindedness of the committee.

The CHAIRMAN. We are much obliged to you for your views. I am one of those who think you have a good case.

(The pamphlet referred to is as follows:)

#### MEMORANDUM AGAINST TAXING SALES OF WORKS OF ART.

The plea in this brief is joined in by a large number of museums, art leagues, art associations, and other bodies, and a group of the leading art dealers of the United States. Among those are:

(a) The American Federation of Arts, which is composed of 273 chapters, located in almost every State in the Union, and which includes practically all art museums and important art societies of the United States.

(b) The Council of the National Academy of Designs of New York City.

(c) The National Arts Club of New York City.

(d) The Fine Arts Federation of New York.

(e) The League of New York Artists (Inc.).

(f) And many other like bodies.

The league of New York artists is a new organization for the purpose of improving the material condition of the artists, the correlation of art and the public, and generally to promote the development of the arts. It has a present membership of about 1,000, with a prospect of indefinite increase.

The Fine Arts Federation of New York is a federation of practically all the artistic associations of the city. They are as follows:

The National Academy of Design; New York Chapter of the American Institute of Architects; the American Water Color Society; the Society of American Artists; the Architectural League of New York; the American Fine Arts Society; the Municipal Art Society of New York; the Society of Beau Arts Architects; the National Sculpture Society; the National Society of Mural Painters; New York Water Color Club; Brooklyn Chapter of the American Institute of Architects; Society of Illustrators; American Group Societe des Architects Diplomes Par le Gouvernement; the Art Commission Associates; the New York Chapter American Society of Landscape Architects.

This is the most comprehensive art association in New York City.

#### POINT I.—SALES OF ART SHOULD NOT BE TAXED.

1. *Art is not a luxury.*—Art is not a luxury, like jewelry or sporting goods or perfumes and cosmetics or musical instruments or fancy dresses and furs or automobiles and pleasure yachts or wines or liquors and cigars.

Art is no more a luxury than education is a luxury, or than religion is a luxury, or than science is a luxury.

As education and science are not taxed, and should not be taxed, for it would be monstrous to tax them, so art should not be taxed. To tax art is, in effect, to tax institutions engaged in educational work. Art knows no country and its cultivation should be as free as can possibly be made.

The art of every age is the fine flowering of all the scientific and all the philosophical thought of its own day and time. It quickens vitality and intensifies the love of beauty and the love of country and increases the joy of life.

John Ruskin and William Morris did more, perhaps, than any men of their time in England to bring art to the people and to promote art made by the

people and for the people, as a joy to the maker and to the user, and it was William Morris who said:

"I do not want art for a few, any more than education for a few, or freedom for a few."

William Morris was a poet of genius. He was also a great prose writer. He was a true artist and a loving craftsman. He revived the art of fine printing. He was a man of rich nature—a great and many sided man. He devoted his life to literature and art and to the bettering of the conditions of the working people. Morris was so serious about his art, he so passionately regarded life as a means to art, that he devoted the best years of his life to preaching the ideal of the natural life as a community of working artists.

Morris regretted the passing of the days when art was everything in life, when nearly everything that was used and seen was the work of men's hands and was a joy in the making and a joy to the user. But the steam engine and electricity and machines and inventions have greatly changed life. To-day it is the artist and the craftsman who stand between the harshness and the crudeness of machines and their unlovely, if necessary, products and a fine life. Art is needed more now than it was needed in the Middle Ages, before the steam engine was invented, when nearly all workmen were artists.

The idea of a sales tax on art sales as luxuries is based on the assumption that education in the highest sense is a luxury that should be penalized.

2. In all matters of taxation the question should be, not merely how many dollars are involved, but the nature of the occupation proposed to be taxed.

Hundreds of millions of dollars a year are expended in this country on education and science. Yet it would be a monstrous and barbarous thing to tax education and science or to compel our universities and colleges and scientific institutions to deduct a tax from the salaries of their teachers, professors, and investigators. It would be a barbarous thing, because it would be a tax upon science, a tax upon culture, a tax upon civilization.

So, too, a tax might be imposed upon religion. The amount spent upon religion of all denominations in this country every year is very large. Much of that money is contributed by rich men. A tax upon the moneys devoted to religion would yield a large revenue, but it would not be civilized. It would be a tax upon religion itself, which, like a tax upon science and art, would be an uncivilized tax. Art ought to be a living, vital thing. The tax on art sales tends to deprive American art students of the vital living contemporary art of Europe. It deprives other persons who desire and love art and are anxious to acquire the best living art if they can of a reasonable opportunity of doing so unless they pay a tax upon all their purchases.

3. Jewelry, which is a luxury, can in no sense be compared to art. A man forms a collection of works of art, and that art ultimately finds its way into a public gallery. A woman buys jewels, but they do not go into museums or galleries. The one is of inestimable benefit to many and an aid to their culture and refinement; the other is merely a question of personal vanity and pleasure and of no benefit to anyone, except the wearer, and sometimes not even to her. Yet under the present revenue law jewelry is taxed 5 per cent only on sales to the ultimate consumer; that is to say, jewelers can trade freely between themselves without paying any tax.

Works of art under the present act pay a tax of 10 per cent, and every sale, whether wholesale or retail, is taxed.

An interesting volume could be written on the various phases and aspects of the proposition that art is not a luxury. But I think I have said enough to show that art, like education and science, is a necessity to a well-ordered and civilized life, and that instead of being taxed it should be encouraged. Our artists do not ask for governmental financial support or encouragement. They did their part in the war in the work of camouflage on the battle front and in the way of posters in this country and in the ranks and in other war services. All they ask is that art be not taxed.

**POINT II.—REASONS FOR THE REPEAL OF THE PRESENT TAX OF 10 PER CENT UPON ART SALES (SECTION 902, REVENUE ACT OF 1918).**

1. *Untaxed art aids the growth of public art galleries and art museums.*—The growth of our museums since the tariff was removed from art in the act of 1913 has been tremendous and the daily attendance has grown tenfold. We now have museums in nearly all of our large eastern cities and many of the middle west and far western cities have museums and others are in the process of

formation. Museums are for the benefit and instruction of the masses of people who have not the opportunity or the means to personally acquire fine works of art. How do museums acquire their best works? They are the gifts of public-spirited collectors, who either leave them by will or bequeath funds for their purchase. Such are the Rogers fund, the Catherine Lorillard Wolfe fund, the George A. Hearn fund, the J. Pierpont Morgan bequest, the I. D. Fletcher bequest, the H. C. Frick bequest, the John G. Johnson bequest, of Philadelphia, and other notable bequests, which are the nucleus of galleries and museums throughout the country.

2. *The effects of the present 10 per cent tax on art sales.*—This tax has tended to stifle the formation of new collections, and the country is the loser thereby. A glance at history shows that ancient Greece and Rome live in our minds to-day through their philosophers, artists, and writers. The great period of the renaissance was the foundation of modern civilization and culture, and that life flowered in its paintings, its sculpture, its tapestries, its carvings, its stained glass, and other forms of art.

Why do Americans go to Europe to-day, but to see its art treasures and to live in an atmosphere which is elevating and instructive? Why do women go to Paris to buy dresses? The answer is invariably the same, because the French dressmakers are more artistic and have more taste.

When one realizes those facts, one can not think of art as a luxury any more than science and education is a luxury.

3. The act, as it stands, tends to kill the free circulation of works of art. Collectors like to buy from certain dealers. Unless those dealers can get the works desired, no business can be done. No great collections have been in process of formation since the tax has gone into effect. As people have already so much taxation, they desist from purchasing what is not absolutely vital at the moment. This is a regrettable condition, especially at this time, as America to-day has the opportunity to acquire important art works from Europe, just as England had after the Napoleonic wars, an opportunity of which England then availed herself generously, to the enrichment of her collections. It was at that period that the great English public and private collections were largely formed. Italy realized those facts and put a ban upon the export of her fine works of art. France has put an export duty on her works, not with the idea of raising revenue, but to keep art in France. We, instead of encouraging and helping art, and encouraging our citizens to avail themselves of these opportunities for building up great private collections, which ultimately go to the public, by taxing art sales tend to kill interest in art and the possible acquisition of works of art.

4. *The injustice of the tax on art as compared with other so-called luxury taxes.*—Art is the only commodity in the whole revenue bill where sales are taxed between retail and wholesale.

The following example of how the art sales tax is applied is given in Regulation 48 of the Treasury Department:

"A picture is sold by a private owner to a dealer for \$10,000; the private owner must pay a tax of 10 per cent of \$10,000, or \$1,000. This picture is thereafter sold to another dealer for \$15,000; the first dealer must pay a tax of 10 per cent of \$15,000, or \$1,500. The second dealer in turn sells the picture to a third dealer for \$20,000; the second dealer must pay a tax of 10 per cent on \$20,000, or \$2,000. The third dealer sells the painting to a private collector for \$25,000; the third dealer must pay a tax of 10 per cent of \$25,000, or \$2,500. Lastly, the private owner sells it to another private owner for \$30,000; the former must pay a tax of 10 per cent of \$30,000, or \$3,000."

Can any one conceive of such transactions taking place? Dealers frequently used to purchase works from each other at small advances, but the tax has almost killed the wholesale business, the result being that collectors who usually trade with their own dealers, do not see new things and their interest wanes and trade stagnates.

Further, dealers frequently exchange pictures without any money passing, but these changes in the Treasury regulation are deemed sales. For example: If two dealers exchange two pictures worth \$1,000 each, they would each have to pay the Government a tax of \$100. Is this equitable? A collector constantly desires to improve and augment his collection, and to do this, trades in his earlier purchases. He can no longer do this, as the tax makes it impossible.

We give herewith an instance of how the tax works in a case which recently came up:

A dealer had a picture which he offered to a collector for \$1,000 and the tax; the collector declined to pay the tax and owing to lack of business, the dealer agreed to pay it, so the tax came out of the dealer's pocket and was therefore not a tax paid by the consumer. Within a month that collector saw a finer work by the same artist in another dealer's hands, the price of which was \$1,500, inclusive of the tax. He offered to give that dealer \$500 and the picture he had. Now, consider what the result would be if that had been done. The second dealer, out of the \$500, would have to pay \$150 tax and the collector would have to pay \$100 on the painting he returned, and when the dealer resold that picture, he would have to pay another \$100 tax. Therefore, according to the law, in order to get his \$1,500 for the picture he offered, there would be due the Government \$350 tax. Naturally, the transaction could not be made and resulted in the collector being disgusted with the status of affairs and he stated he would no longer buy while there was such taxation.

The dealers, as a result of things like this, are paying little, if any, income taxes, and corporation taxes and the luxury taxes are being largely reduced. The artistic growth of the country is being stunted, and the dealers will be slowly but surely put out of business if the tax is not taken off.

To show the effect of the tax in diminishing sales, the Treasury Department has officially stated that the total collections from art sales for the fiscal year ended June 30, 1920, amounted to \$1,543,133.58. The collections for the nine months' period of the present fiscal year ended March 31, 1921, the latest period for which the figures are available, were \$829,374.34, which shows a tremendous falling off, which is claimed by the dealers to be almost entirely due to the tax on art sales.

5. *Effect on the artist.*—Lastly and not least, the producer who is the artist is a great sufferer from the tax on art sales. The law specifies that sales of pictures belonging to the artist shall not be taxed, but the artist must sell his pictures through dealers who formerly purchased direct from the artist. This is no longer the case, for if a dealer does this the picture becomes taxable when he resells it and he would therefore have to ask a higher price. The artist now, before he can get any money, has to wait until he can either sell a picture himself or through the medium of a dealer.

6. The requirement of the law that sales taxes must be paid by the end of the month following the month in which the sales are made is very onerous and kills many sales.

It is a well-known fact that long-time credits necessarily have to be given, as a mere matter of custom which has existed for years, in many, if not most, art purchases. I have known even wealthy art purchasers to ask and receive a credit of six months or a year or even two years on their purchases. Others receive a credit of 3 to 6 months customarily, or 9 to 12 months. It will thus be seen that the requirement that the tax must be paid within the month following the month in which the sales are made is very onerous upon the dealer, who, if he made several large sales, would have to make large cash payments to the Government months in advance of receiving any payment from his customer. The effect of this is that it prevents large sales.

7. *Certain reasons of policy which led to the sales tax on art not longer apply.*—As is well known, the tax was imposed as a war measure, primarily to discourage the expenditure of money upon art objects at a time when the public should be spending it on necessities and investing it in Government securities, rather than luxuries. There is now less necessity for discouraging such expenditure. Therefore the prime reason for the tax does not now exist.

Since its imposition the tax has operated so very injuriously in the sale of art objects as to greatly reduce the amount of business done. Evidence was given even two years ago of the ruin it had wrought during the first three months of the operation of the tax, showing that six of the largest art houses in the United States had suffered a loss of three-quarters of their business, while smaller firms showed a corresponding decrease. So harmful has the tax been to them that the Government not only realized but a very small amount therefrom but actually endangered a legitimate industry. Thus from both points of view—that of decreased revenue accruing to the Government, and the art welfare of the Nation—the tax has been destructive in its effect. The English and French Governments were wiser, for not only during the war, but even

afterwards, they encouraged and protected art, and the evidence is that these Governments have considered such a tax hurtful, impracticable, and not sufficiently productive of revenue.

Antique dealers in America have at least been responsible for the introduction into this country of many famous pictures and notable works of art which through their efforts have been purchased by American collectors whose ultimate intention was later to bequeath them to the Nation, and even in cases where buyers have not had such intention, and these objects have later changed hands, they have in many cases finally entered collections, the owners of which intended leaving them for the use of the people. This in itself has greatly enriched the art life of the country. While the prime reason of the dealers in importing these valuable objects has naturally been to make money, they have at least been instrumental in helping to make America an artistic country, as without their efforts and investment of capital such pictures and works of art would most likely have remained on the other side. They have nevertheless frequently felt discouraged by reason of the imposition of the present tax, as 10 per cent upon some of the sums involved kills the sales.

The public can not escape paying a tax upon necessities. But a tax upon art very often tips the scale between the generous inclination of a man to purchase a picture and his decision not to do so, postponing the purchase until a later date when he hopes the tax will not exist.

What then must have been the position of the smaller dealers, who, in their turn, have also contributed to the presence here of these wonderful antiques, but who, by reason of their smaller position in the business, have in many cases been prohibited from even thinking of indulging in such transactions.

There is no doubt that the longer the tax remains in force the smaller will be the volume of business which the dealers are able to indulge in, and its continuation is causing an increasing amount of apprehension and dismay. All concerned feel certain that the repeal of the tax would naturally result in an increased volume of business, thereby securing for the Government increased revenue.

For this reason alone the repeal of the tax would remove a very considerable hardship upon a business which, from all points of view, surely deserves the support of the Government.

#### POINT III.—PUBLIC OPINION GENERALLY IS AGAINST A TAX ON ART

1. All American public opinion, whether it be of educators, artists or art lovers, or those interested in our art museums, is opposed to any tax on sales of art. The reasons in favor of untaxed art were set forth in the brief filed by the American Free Art League with the Ways and Means Committee of the House on November 28, 1908, which is on file in the records of both the House and Senate. That brief included the opinions of many American college and university presidents on the point, among which was the following typical protest:

President Charles W. Elliot (Harvard College):

"A tax on works of art is a tax on the education and development of the sense of beauty and of the enjoyment of the beautiful.

"The application of the beautiful is a rich source of public happiness, and the ultimate object of all government is to promote public happiness; therefore a tax on works of art violates the fundamental principles of a democracy which believes in universal education, and in all other means of increasing mental and bodily efficiency, and the resulting public and individual enjoyments."

It is the duty of an enlightened government to encourage and not to tax art.

Art has a refining influence upon a nation.

Most Governments of Europe have bureaus of fine arts and make liberal appropriations for art museums and art schools.

The highest development of art can be attained only by freedom and by the unhampered exchange of ideas between the artists of this and other countries.

Proper regard for education forbids any tax on art, which is a tax on knowledge and good taste.

The study of drawing and art is essential to education, and the educators of this country in 1900 were a unit in their opinion that works of art should be free of import duty.

2. Art adds to the wealth of the country by benefiting and improving many of its industries, in whose production form, design, or color play an important part, such as silk, cotton, jewelry, carpets, furniture, wall papers, pottery, lace, glass, chinaware architectural works in metal and stone manufacture.

A knowledge of art enters into the design, form, color, or style of mantels, fixtures, carvings, woodwork, moldings, fittings, the decorations inside and outside of houses, buildings, bridges, railway and elevated and subway stations, tableware, men's and women's clothing, and even the common and most useful kinds of painting and decoration, and all the other industries where some art education is a necessity. The product of almost every industry in the country could be improved both from the point of beauty and fitness by a real knowledge and an appreciation of art.

European countries which have applied art education to industry have produced manufactured articles of superior design.

France by following such a policy for so long has produced artisans whose artistic taste and skill give greatly increased value to their work.

Germany before the war, through a study and widespread knowledge of eastern tastes and standards, had secured and held an enormous trade in Japan.

Our artisans and artists should have the advantages which are now found in a superior measure in countries abroad.

The multiplying of art objects will tend to develop artistic taste among our people and that will in turn create a demand for artistic products, which will give employment at high wages to skilled workmen and artisans, both men and women.

Art education will create an appreciation and an increased demand for art and increase the patronage of art.

American artists have always favored untaxed art.

3. Our art museums will benefit by untaxed art, because:

(1) Untaxed art will contribute to the establishment of new and the growth of our present museums.

(2) Our museums depend largely for their growth upon gifts, loans, and bequests by individuals.

(3) More than one-half of the art in our museums has been acquired by the gifts or the loans of private collectors.

(4) Our public art collections will be richer if art remains untaxed.

4. As a nation our artistic soil is rather thin. It needs enrichment from the work of the great artists of the past and from the work of modern and living artists. It was a great writer and a great American, the late Henry James, who in his book *The American Scene* said:

"It is of extreme interest to be reminded at many a turn \* \* \* that it takes an endless amount of history to make even a little tradition, and an endless amount of tradition to make even a little taste, and an endless amount of taste, by the same token, to make even a little tranquillity"—and, I may add, to accomplish the miracle of art.

We have history. Our soldiers have in these later years made history—glorious history. We have traditions. But we need more taste. Art develops taste. Education lays the foundation. A man may be a trained scientist or investigator or economist and yet may be wholly lacking in taste and real culture. Art not only develops taste but it gives joy and a meaning to life.

5. *Untaxed art pays.*—Art in the end would pay for itself as a necessity. France used to sell millions of dollars' worth annually not merely of art but of other works to the rest of the world, mainly because the artistic instinct and the art spirit have been fostered in France for generations. The French people have the artistic instinct and the art sense, and their products are finer and better than those of people without taste and without the art sense, and therefore are bought by other nations. That principle is not limited to pictures that one sees on the walls of museums or to sculpture in art galleries. It enters into almost everything that is worth having in life. Taste and the art sense are important in everything where form, design, color, modeling, or decoration enter.

If we want to compete with the rest of the world in the finer grades of products, if we want to raise the standard of our export products so that they can compete with the works of France, England, Italy, and other countries, where art is fostered and not taxed, it will be wise for us not to tax sales of works of art.

6. To tax art as a luxury would be unworthy of our country. It is unnecessary. The revenue derived from it would be comparatively small.

Advantages of art education both in schools and museums are restricted and impaired by the tax on art sales.

In 1913, as counsel for the Association of American Painters and Sculptors, I received over 500 letters from publicists, college professors, art museums and art associations, university presidents and educators, and prominent writers

and artists, all protesting against the continuance of the tariff on modern art and urging the removal of the duty entirely. I made a digest of a small number of those letters, and that digest, on 26 printed pages, was one of the records submitted to the Senate Finance Committee.

An equally large and emphatic number of protests would, I am confident, now be made against the continuance of the sales tax on art if there was time to obtain an expression of opinion upon the subject from such institutions and from men of science and men of letters, and from writers, educators, and men of affairs. A vast amount of material would soon be at hand in case of such a public protest.

For the reasons that led Congress in 1909 and 1913 to take the tariff off art and for the other reasons that I have given, I urge that the tax on art sales be not continued.

7. A sense of the beautiful and the artistically interesting is the artist's most valuable possession. The true artist often labors and suffers over his work. All that he asks is a bare subsistence. It is well known that most of our artists have only a bare subsistence. But they do not complain. The world needs art more than art needs life.

The importance of art and of the cultivation of a sense of the beautiful in all its stages is enormous. A man may be a moralist in life or a great economist or a great statesman, but that is not enough. The sense of what is fine and thrilling, that is, the sense of the beautiful, is in France the spring of action, for which reason France leads the world.

We need the deeper cultivation of the artistic sense in order that to people generally the beauty of our country, its hills and valleys and lakes, may be apparent, and that it may be felt by those who do not now admire it. As a rule, until artists have opened their eyes, people go through life seeing little of the beauty that surrounds them.

I am told that in Denmark every artist who has produced a picture of a certain merit is at once entitled to a government pension, and gets it. Instead of taxing art our Government might follow some such plan as that of Denmark.

8. I have said that to tax art sales would be something like taxing religion. It would be exactly like taxing education. Art sales should be untaxed because art has a civilizing influence, and it tends to drive out other things that are pernicious with hatred and fanaticism.

I regard artists as constituting almost a priesthood. And so the best of them do. The road of the artist is often painful, the struggle severe, before he attains to purity of form and to "the beauty that never wearies and never satiates." The true artist becomes ever more and more difficult and harder to satisfy with his work. His life is a constant struggle, as every great artist knows, a struggle against bad taste, against commercialism, against sentimentalism, against the demand of the public for work resembling the work of older men, and often against poverty. The true artist's path is often beset by temptations to follow in the track of those who have had ephemeral successes. The artist often makes his fight as a solitary—alone. No great fortune is his lot. High prices do not come his way.

9. A tax upon art sales is a tax upon creativeness, a tax upon refinement and taste and culture.

I have compared true art to science and religion. What the hospital and the operating room are to the great physician and surgeon, what the laboratory and the research institute are to the scientist, the studio of the artist is to the artist. The studio is the scene of the artist's struggle to create, the place where he succeeds when he creates beauty or where he fails; and when he fails he must try again and brood and think and dream and struggle till the miracle of art be achieved. Many artists who live poor and die poor could make better livings and more money in other professions, but to them art is a religion, and they form a priesthood, as true scientists do.

10. There is no demand for singling out art sales for taxation. On the contrary, public opinion would approve the act of Congress in recognizing the relation of art to education and science, if not to religion. Even in this day, when we need all the revenue we can raise, we of this country do not want to go on record as being in such a panic over raising revenue that we feel compelled to continue the tax on art sales. The proposal during the war to tax art in England as a luxury was abandoned by the British Government.

It is quite true that no one need buy pictures. Yet pictures are not luxuries. They constitute one of the most essential parts of national education. What makes the right kind of patriotism? Affection for the fields, lakes, woods, and mountains and the history and the people of one's country. There is the wrong kind of patriotism, which is mere vanity and swagger, and which has as little



to do with patriotism as a rich woman's pride in her automobiles or expensive gowns has to do with home affection. The true kind of patriotism grows out of affection—affection for the people and their ways and looks as well as affection for the woods and lakes and the country and its history. And who is it that possesses this affection? Is it not the artist who paints the landscape—who make the pictures of the people?

11. One is tempted to point out that artists are not spoiled children, that behind every work of art must be feeling, a genuine spontaneity of affection or sympathy or longing, and that art is vital for Americans in order that they may acquire the habit of brooding over their country and its landscape and its people, and watching them and noting all their changes. The point that I insist on is that art is not a luxury but an education for the people. Artists are the true educators, and for that reason we must guard against any prejudice against artists. Artists are diligent men, none more diligent, and all the more so because, like men of science and learned students, they love their work. Artists give lessons—lessons in how to love the country in which they live and where they were born, and lessons in pity and affection and sympathy and admiring respect for our fellow men. Great novelists and great poets do this, of course, and the circumstances are often such that it is possible for them to make money. For painters and sculptors it is exceedingly difficult even to make a competence. There is no printing press by which to multiply their pictures.

If America is to become great in the arts as she is in technical skill, in manufacture, and in commerce she must encourage her artists. America can be to her artists a wise or a foolish mother. She will be wise if she leaves art free of all duty. The policy of the Government adopted in 1909 and reaffirmed in 1913 should not be reversed.

Because the tax upon art sales is a tax upon civilization and culture, and because the revenue from it is small and uncertain, I sincerely hope that the section taxing art sales will be repealed.

#### POINT IV.—SCIENCE AND ART SHOULD NOT BE SUBJECT TO ANY TAX.

1. The influence of art on the business, industrial, and commercial life of the country is not always appreciated. Congress is imposing a duty upon foreign dyes, principally German dyes, for the encouragement of the American dye industry. It is well known now that the great chemical plants of Germany in which the dye industry had been developed were not only a source of great revenue to their owners and to the German Government before the war, but were the chief agencies and means of Germany for the manufacture of poison gas during the war. An instructive exhibition has recently been held in the large assembly room of the House Office Building in Washington by the Chemical Warfare Section of the Army, which showed how easily dye or chemical plants in Germany were converted—within a comparatively short time, a very dangerously short time—into plants for the manufacture of mustard gas and other deadly poisonous gases. It was there shown how the addition of a few molecules would turn a perfume into a deadly gas. It was demonstrated how easily plants for the manufacture of dyes and perfumes could be turned into plants for the manufacture of deadly poison gases.

Very vivid illustrations, too, were given of the different kinds of dyes that have been developed, and illustrations were also given of the different kinds of colors made from the dyes, till one end of the room looked almost like an exhibition of some modern paintings by the great masters of color. Dyes are used for colors in the applied arts. Painting is largely a matter of selection of color and form, of placing one color or a group of colors in contrast to others. Color and form enter into printing, fabrics, furniture, ironwork, architecture, and many other products and commodities. The superiority of the French in many departments of life is due largely to the cultivation of art in France for many generations. To retain the sales tax on modern French art tends to exclude the work of the great experimenters in color and form like Cezanne, Van Gogh, and Gauguin, and living masters like Picasso, Matisse, and Derain. How foolish it would be for Congress in one act to attempt to build up an American dye industry and in another act to tax modern art, with its miracles of new color forms and combinations.

No one can visit our art museums on Saturday afternoons or Sunday afternoons or on holidays without becoming convinced that art is to be regarded truly not as the luxury of the few but as the necessity of the many.

The advantages to the artists and to the people from free art are so great that the small revenue that could be derived from the duty should not be considered.

The art museums of the country are one in their efforts to give the people of their sections the best representations of both the work of artists of to-day and that of the old masters.

2. The act of Congress of 1913 removing the duty on modern art was the most beneficent, the most civilized, and the most helpful step ever taken by an American Congress for the promotion and encouragement of art. Since that time museums have sprung up all over the country and museums then only recently founded have been enlarged and encouraged in their art and educational work. The directors of those museums can not go abroad to buy works of art. Since 1913 exhibitions of contemporary art and of art less than 100 years old have been freely held not merely in New York City and in San Francisco and in Chicago but in many other cities of the country. To those exhibitions the directors and heads of American museums have gone and have studied the works of the artists shown there and have been able to select and purchase representative works after their personal study. The same is true of private collectors and, as I have said, museums depend very largely upon gifts and bequests from private collectors and loans. From the mere fact that there are so few fine works of contemporary art in this country, our students who can afford it have to go abroad to keep in touch with vitalizing influences. But few American art students have the time and money to go abroad.

For a civilized people a tax on art sales is as defensible as a tax on thought.

The placing of a tax on sales of works of art is but raising a barrier against education and culture.

A great work of art is not like a great mechanical invention or a piece of literature, the reproduction of which may encroach upon the rights of the author. The original copy is the sole property in question. There is no protection possible to anyone through taxing it. Genius has no pedigree, produces no cheap labor problem, and leaves no posterity.

There should be no tax upon the development of man's moral, esthetic or intellectual nature. Art is one of the means of developing every side of his nature and should be as accessible as the air we breathe, if it be in man's power to make it so.

All of the artists and museum directors who have been communicated with are against any tax on art sales.

3. American art needs the stimulus and the shock that the study of foreign contemporary art will give it. If we can not have the best art of the world, we had much better have none at all. All true artists are champions of untaxed art. Our artists have nothing to lose by untaxed art. Those that have open and elastic minds have everything to gain by it. Better no great endowments, no great art museums, or great art institutes; better no art schools even, if our artists are to be provincial in outlook and are to devote themselves exclusively to soulless and spiritless work, devoid of taste and culture, or to the production of flabby or wooden imitations, showing merely artistic stagnation, without the spark of vital art, and "without high purpose, and glimmering all over with the phosphorescence of mental decay."

4. We have all sorts of art commissions, municipal, State, and national. We have many kinds of academic art bodies. Art museums, large and small, are springing up all over the country. We have in abundance the means of making modern art known. The removal of the present 10 per cent sales tax upon works of art will do more for the real advancement of American art than any other thing. To remove the present tax on art sales will encourage foreign artists to send their work here, and will do more than anything else to spread culture and the love of true art throughout the country.

#### CONCLUSION.

Because of the educational value of art, because of its practical value in the interest of art museums and art galleries to encourage the building up of private collections which ultimately come to art galleries and museums, because the growth of American art will be stimulated by untaxed art, because of the manifest advantages of untaxed art to art education both in schools and museums, because it is generally considered that it would be uncivilized to tax sales of works of art because art promotes learning and culture, because to civilized people a tax on art sales would be as defensible as a tax on thought, the present tax of 10 per cent on sales of art should be repealed.

Respectfully submitted on behalf of various museums, art leagues, art associations, and artists, and a group of leading art dealers in the United States.

**AUTOMOBILES.****STATEMENT OF C. C. HANCH, OF HOMER-McKEE CO., INDIANAPOLIS, IND., REPRESENTING THE TAX COMMITTEE, NATIONAL AUTOMOBILE CHAMBER OF COMMERCE.**

The CHAIRMAN. What is your occupation, Mr. Hanch?

Mr. HANCH. I am an automobile manufacturer, Mr. Chairman. I am vice president of the National Automobile Chamber of Commerce.

The CHAIRMAN. Whom do you represent, yourself or any association?

Mr. HANCH. I represent the National Automobile Chamber of Commerce and the Motor and Accessory Manufacturers' Association.

The CHAIRMAN. Do you desire to make a statement to the committee?

Mr. HANCH. I do.

The CHAIRMAN. You may proceed.

Mr. HANCH. As I stated, Mr. Chairman, I represent the National Automobile Chamber of Commerce and the Motor and Accessory Manufacturers' Association.

The subject will be presented to you in two sections. I shall talk to you on the general subject of revision of internal-tax laws and the general fiscal policy. Mr. George M. Graham, also of the National Automobile Chamber of Commerce, will talk to you on the subject of war emergency excise taxes as they affect the automobile industry particularly.

This subject has received consideration by the National Automobile Chamber of Commerce for a period of more than six months. The principles and recommendations which we shall state to you have been submitted to the members of our organization in membership meeting and unanimously approved. They have also been submitted in writing by mail to every member of the organization, and there has never been a dissenting voice or protest. Therefore, we feel that what we shall say represents practically the unanimous view of the industry.

We believe that the subject of revision of internal tax laws should be approached at this time from the standpoint of the business needs of the Nation, rather than the spending desires of Governmental departments.

Our view is that the greatest business need of the Nation to-day is a proper equilibrium between supply and demand. It is our belief that overtaxation is perhaps one of the most potent disturbers of the proper equilibrium of supply and demand, and we feel that discriminatory and unfair taxation is a very close rival to overtaxation.

In order to make our point more clear, we feel that it is necessary to define supply and demand in a very elementary way. As we interpret supply it consists of inclination and ability to produce; and as we interpret demand it is entirely contingent upon ability and inclination to consume. Ability and inclination to produce, in other words supply, is much less susceptible to disturbance than demand or the ability and inclination to consume. The speculative instinct of man will prompt him to produce long after there is no apparent reason to do so. Ability and inclination to consume, in other words demand, is easily disturbed and upset by a variety of causes.

Lack of ability and inclination to consume only can be restored by adjusting economies and restoration of normal consuming abilities, by the removal of improper burdens from all. This applies to Governments just as specifically and directly as to persons, firms, and corporations. This being the case, we believe that before determining whether any new forms of taxation of any kind are necessary there should be a return from war standards of expenditures to what we term a sane, normal standard; and that that return should be made immediately.

Before the war Congress was commonly termed a billion dollar Congress, which means that a billion dollars covered all of the ordinary expenditures of the Government. We recognize that there has been a change in the cost of conducting the Government and there has been a change in the cost of conducting business; but by a comparison with what is believed to be a fair rate of increased cost it seems to us that \$2,000,000,000 would be a fair amount of money at this time to spend for the ordinary expenses of the Government, excluding the special war debt charge.

If we add \$1,000,000,000 to cover the war debt charge, we have a total of \$3,000,000,000. Gentlemen, it is indicated to us from all that we have heard here and read in the newspapers that the Government is contemplating the raising by taxation and spending of anywhere from four to five billion dollars. I believe there has been no figure recently suggested of less than \$4,000,000,000. It is our opinion that that burden can not be imposed upon the country under present conditions without seriously jeopardizing the return and continuance of prosperity.

Some place must be named to begin with, and we have recommended that the naval and military program be cut to the very lowest practicable point.

The CHAIRMAN. How much would you figure upon taking off of those two programs?

Mr. HANCH. We have not figured any definite sum. There should be a reduction all along the line, but those are the largest items and would necessarily bear the largest reduction.

The CHAIRMAN. What else would you reduce?

Mr. HANCH. Just as business reduces everywhere, generally speaking, reduce everything.

The CHAIRMAN. Well, those are very general statements, Mr. Hanch. Senator Smoot is here, one of the members of the Appropriations Committee, and I would like to ask him whether he thinks it is possible to reduce the Government expenditure to \$2,000,000,000?

Senator SMOOT. Outside of the interest?

The CHAIRMAN. Yes.

Senator SMOOT. Not if we take care of the soldiers in the way they anticipate.

Senator McCUMBER. How about the railroad deficit of nearly \$2,000,000,000?

Senator SMOOT. That is supposed not to last for many years, but we can not tell.

Mr. HANCH. Gentlemen, I think this point will justify our belief in the need of the utmost economy, and that is that the estimates for maintenance of our military and naval establishments alone amount

to approximately 38 per cent of the total estimates, exclusive of the postal revenue. That is a tremendous percentage.

Senator WATSON. Do you think it is perfectly safe for a Nation situated as we are to have an Army under 150,000 in numbers, considering all the conditions that to-day confront us and the circumstances that surround us?

Mr. HANCH. I will answer that question in this way, Senator: We are not posing as pacifists and we do not wish to deprecate the need for proper preparedness. We think when there is a world conflagration impending it is proper to get firefighting apparatus, but when the conflagration has substantially burned out or has burned down to smoldering embers, it seems to us that it is a safe proposition to recharge the old fire extinguisher pending the adjustment of the fire insurance, and after the insurance is adjusted and the loss paid new apparatus may be procured. Until that time we think that the old apparatus, recharged and rejuvenated, is a reasonably safe reliance. To put it a little more plainly, Mr. Chairman and gentlemen, we feel that it would be a very safe proposition to take at least a short vacation in the military and naval program. That refers to this reconstruction period when the tax burden is so heavy and has such a vital effect upon the business of the Nation.

As a matter of equity to the present generation, which made the supreme sacrifice of fighting the World War, we believe that the cost of that effort should be distributed over a substantial period. We suggest 50 years. We do not mean by that to postpone the final payment of the entire debt for 50 years; nor do we suggest prorating it year by year the same. We expressly do advise against retiring any part of the war debt during the reconstruction period, which, under present conditions, we estimate will last until 1923, or a five year period from the date of the armistice.

After the reconstruction period large amounts of war debt can be retired with less hardship than would be imposed by retiring small amounts at the present time. The country could stand it much better than to retire any substantial amounts during the next two years.

We do not under any circumstances advocate the resort to new loans. But we do think that the victory notes and the war savings stamps and the floating indebtedness should be refunded.

This condition is applicable to the Allies as well as to our Government. We think that the demand obligations to the Allies should be refunded and the interest which they have been unable to meet should be covered by funding securities which we should accept. Such extensions granted to them at the present time will make it easier for them to meet their obligations to us later on, and at that time will relieve our tax burdens.

We believe that there should be no increase in the personal income taxes; but, on the contrary, we advocate strongly the reduction of the higher brackets of the personal income surtaxes. These surtaxes have collided with the law of diminishing returns. They have induced an undue amount of investment in tax-exempt securities and have kept out of productive enterprise much needed capital.

Senator SIMMONS. You recommend that there be no increase in the normal, and you recommend that there be a removal of the surtaxes?

Mr. HANCH. Removal of the higher brackets.

Senator SIMMONS. Down to what point?

Mr. HANCH. That is a point which the Treasury Department could perhaps answer better than I, but I would say that it must be reduced to the point where there is some advantage to the investor to put his money in tax-paying securities rather than tax-exempt securities. That process, in my opinion, will yield more revenue to the Government, not only by reason of the direct revenue from income taxes, but it will encourage putting money into tax-paying productive enterprises, and very materially increase the revenue of the Government.

Senator SIMMONS. I see; that would be your standard for making the reduction?

Mr. HANCH. We strongly advocate the repeal of the excess-profits tax, primarily because we believe that the public has already repealed the excess-profits tax, and it is almost a function of the Congress to carry out the mandate. The excess-profits tax was a war measure. It has been hard to administer and it has been burdensome.

Senator McCUMBER. Notwithstanding your opinion that the people have decided that, I think a little investigation will convince you that there is more opposition to the repeal of that than any other provision of the tax law.

Mr. HANCH. I think, Senator, there have always been two sides to every question, but my opinion is that the vast preponderance of the public is in favor of the repeal of the excess-profits tax.

Senator McCUMBER. That is, the preponderance of opinion of business men and those who are conducting large businesses and understand them, but I think it is fair to say that the public in general has an idea that the excess-profits tax should be paid.

Mr. HANCH. We are not prepared to make any statements in regard to the pressure which has been brought to bear upon you by your constituents. All we know is what we have learned by coming in contact with public sentiment on this question. We have talked to many persons who represent the wage-paying as well as the wage-earning class, and we do not find anyone at all who is in favor of the excess-profits tax when its apparent effect and the effect which it is believed to have by most people who have studied it is explained to them.

Senator DILLINGHAM. What has been the effect of that tax on the automobile trade?

Mr. HANCH. As I explained to you, Senator, our presentation is in two sections. Taxes as they refer to the automobile industry will be covered by Mr. Graham, and I would prefer to answer you by referring to general industry rather than any specific industry.

Senator SIMMONS. I think largely the opposition to the repeal is based upon the idea that it is not a consumption tax. I want to ask you whether you think it is a consumption tax in the last analysis.

Mr. HANCH. I do, very firmly.

Senator SIMMONS. You think it is practically always added to the cost of the product?

Mr. HANCH. Senator, it seems to me that it is pretty obvious that the consumer pays all taxes. The only one that I can think of that is not paid by the consumer is the inheritance tax.

The CHAIRMAN. The inheritance tax is a tax on capital and is a different proposition.

Mr. HANCH. I think that substantially all other taxes are passed on to the consumer.

Senator SIMMONS. They generally add that to what they call the overhead?

Mr. HANCH. It is added in the price of the article; it is added into the cost somewhere. It may not always be added 100 per cent; it may be added 75 per cent in one institution and other institutions may add it 175 per cent. It is an uncertain thing to start with, and that is bad for business or anything else. It is bad from a revenue producing standpoint. I think the fact that it has degenerated as a producer of revenue from \$2,500,000,000 down to an estimate of \$450,000,000 this year indicates that.

Senator SIMMONS. A very intelligent witness who appeared before the committee Saturday, Mr. Clark, said that it had been estimated that this tax added about twenty-and-odd per cent to the cost, and that that was added by his concern—I believe he was the credit man of a big department store. Do you know whether that is the general idea prevailing among business men, that the excess profits tax adds about 20 per cent to the cost, and that that figure is adopted in figuring the price of the goods to be added to the other costs?

Mr. HANCH. I think that an estimate for excess profits is generally added in business, but I am not prepared to say anything specific as to the percentage which Mr. Clark gave you.

Senator WATSON. On the line from production to consumption it is taken into account more than once and enables a pyramiding of prices.

Mr. HANCH. Certainly.

Senator JONES. Does that arise from the fact that the exemptions from the excess-profits tax are not large enough?

Mr. HANCH. Yes; I would say so, and I think that I should supplement that answer by doubting the possibility of getting any exemption high enough to apply to all kinds of business. What is a fair factor of safety to work on in one line can not be applied at all in another. So long as we are engaged in competitive business—I am excluding things that are fixed as a monopoly by governmental action—in connection with things that are on a competitive basis, the business man or merchant must provide a factor of safety during the fat years to overcome the losses during the lean years, and any arbitrary exemption is not sufficient. He must provide for more. That means that he must take into consideration excess profits.

Senator JONES. What do you mean by "a lean year?"

Mr. HANCH. Well, I would say that 1921 is a comparatively lean year.

Senator JONES. What are the causes which make that a lean year?

Mr. HANCH. In my opinion overtaxation and other burdens which have reduced the consuming ability of the people are the greatest causes. Overtaxation is one cause and it is an important cause. The consumption of the products of the United States is represented by the consuming ability of all of the people in it, and when you take away the ability to consume, then the strain becomes very

great. When all the people are just barely able to stand up under the load, it is only necessary to knock down a few before the burden gets too large and we reach the stage we are in to-day.

Senator JONES. Then your position is that a lean year is caused by the reduction in the volume of business and not in prices?

Mr. HANCH. Reduction in volume?

Senator JONES. Yes.

Mr. HANCH. The lean year is caused by reduced ability to consume the volume which is being produced, or which you may say is a normal volume of production.

Senator JONES. But the price of a given article is not affected in such a condition, you think?

Mr. HANCH. It is ultimately affected.

Senator JONES. What is it that affects the price of the article in the so-called lean year?

Mr. HANCH. Inability to consume, necessity for realizing, will force it.

Senator JONES. When there is a necessity for realizing, do you reduce your estimate of taxes? Do you still consider the amount of your excess-profits tax as a factor in fixing prices when there is an underconsumption and when you are realizing, as you call it?

Mr. HANCH. That depends upon the particular line of business. If the business happens to be one which would be probably subject to excess-profits taxes, in spite of the lean year they will take it into consideration. If it is a business in which the proprietor of the business feels that he is going to lose money and not be subject to that tax, he may be influenced by his competition, he may be influenced by pressure from his banker in fixing prices.

Senator JONES. What I am trying to develop is this thought: How can you take into consideration an excess-profits tax in fixing your prices on commodities during a so-called lean year when your commodities are being forced on the market?

Mr. HANCH. Assuming, for the sake of the argument, that you do not take it into consideration at that time, you must take it into consideration when you begin to emerge from that lean year, and it becomes an uncertainty and an undesirable factor.

Senator JONES. You do not take it into consideration unless there is a profit, do you, and a profit in excess of the exemption?

Mr. HANCH. How does a man know whether he will have a profit in excess or not?

Senator JONES. Will he in those circumstances use it as a factor in fixing those prices?

Mr. HANCH. I have answered you in some cases, yes; and in other cases, no.

Senator JONES. What I am trying to get at is whether the case you have under consideration is one where you would answer "no." Where prices are falling, where there is underconsumption, where you have to reduce prices in order to find a consumer, do you consider the excess-profits tax in fixing prices?

Mr. HANCH. I think my answer would still be the same; some merchants and business men do and others do not.

Senator McCUMBER. If you know there is going to be no excess profits, then you will not take it into consideration?



Mr. HANCH. How do you know it?

Senator McCUMBER. Your business may be so low that you know it can not possibly during the year amount up to more than a certain per cent.

Mr. HANCH. That depends on what stage of the year it is. If it is right at the present time, I do not think any man can absolutely say that he knows. Perhaps at the eleventh month or the ninth or tenth month of the year he may say that he knows.

Senator SMOOT. You always take it into consideration, however, as to what your goods cost you and as to what the profits will be?

Mr. HANCH. Absolutely.

Senator McLEAN. How can you charge a profit tax to the cost of production?

Mr. HANCH. Why, all taxes enter into cost.

Senator McLEAN. Profits do not enter into cost, do they?

Mr. HANCH. At some time every tax enters into the cost. You are naming it an excess-profits tax. It does not make it any less a tax.

Senator McLEAN. We are going to draw a tariff bill pretty soon. I am a protectionist. Can we permit Germany to add to her cost of production the profit tax that she may have to pay to the German Government?

Senator SMOOT. She will add them if she can.

Senator McLEAN. Can we, in figuring the cost of production here and abroad, permit a German manufacturer to add to his cost of production a profit tax that he pays to the Government?

Senator WATSON. We take into consideration, then, just what it costs to lay that thing down here. But if there is an excise tax levied by the German manufacturer on an automobile, for instance, we could not permit that to be taken into consideration in estimating the cost when it comes to competition with the United States. But, nevertheless, when the German manufacturer comes to consider his profits he must take that into consideration. The tax he is bound to pay on his profit, but that has not anything to do with international trade.

Senator McLEAN. A profit on the cost of production?

Senator WATSON. No; it is not the cost of production, to use that term in a true sense, but, after all, it is something that a man must pay to produce.

Senator McLEAN. It has nothing to do with the cost of production.

Senator WATSON. But the man must pay it and, of course, ultimately it is passed on to the consumer.

Senator SMOOT. That is an excise tax paid on goods that are exported.

Senator McLEAN. But I think my protectionist friends will find themselves in difficulty when it comes to fixing a tariff on German goods.

Mr. HANCH. In my opinion, the excess-profits tax discriminates against conservatively financed institutions and in favor of extravagantly financed concerns. For the reasons which I gave a while ago, we believe that it limits proper initiative, and we have pointed out to you its uncertainty of return. You can not fix the exemption equitably to apply to all lines. What is a fair exemption in a certain fixed line may be entirely out of order and improper in certain extremely hazardous lines.

Senator JONES. Is it not true that most of those highly capitalized concerns have their stock widely distributed among a large number of stockholders?

Mr. HANCH. That is the common presumption.

Senator JONES. And the undercapitalized concerns are usually closely held corporations, are they not?

Mr. HANCH. That is the usual opinion.

Senator JONES. Would it not be a reasonable solution of this difficulty to which you refer if we were to provide in this bill that a corporation might make its return as a partnership?

Mr. HANCH. I think that amendments might be added to partially at least meet that objection, but at the same time you still have this question of the fixing of invested capital, and that is a thing that can not be permanent. Of course, there are many concerns that in administering their taxes have had their capital determined for the time being, but next year it may be something different.

Senator JONES. If you once have your capital determined, it ought not to be a very difficult operation to keep up a statement of invested capital, ought it?

Mr. HANCH. I think it will always be a very troublesome operation.

Senator JONES. You mean a very troublesome proposition always with all concerns?

Mr. HANCH. Not with all concerns, but in the aggregate it will always be a very troublesome proposition.

Senator JONES. After having once ascertained the invested capital, what difficulties would arise to prevent the reasonable, simple methods of ascertaining additions to the invested capital?

Mr. HANCH. Has it not been difficult to ascertain the invested capital up to a beginning point?

Senator JONES. Yes; up to a beginning point.

Mr. HANCH. I think the same reasons that apply there still apply.

Senator JONES. I do not think I can quite agree with you there, because in ascertaining the invested capital at the beginning there are taken into consideration a great many more factors that would arise afterwards, it seems to me.

Mr. HANCH. There may be a difference of degree.

Senator JONES. Would not a great many questions be eliminated? After you once fix your invested capital, then is it not a comparatively simple process to determine what additions to or deductions from that invested capital should be made for future operations?

Mr. HANCH. Based on my experience in business, I should say in the aggregate it would still be a troublesome question, involving controversies and dissatisfaction on the part of the taxpayer, and it would be difficult of administration. I am convinced that that would be true.

Senator JONES. I should like for you or someone else to point out some illustration of the difficulties which would arise in keeping up your items of invested capital after it has once been ascertained.

Mr. HANCH. I doubt the possibility of a witness within the time at the disposal of the committee being able to give any specific illustrations.

Senator JONES. Will you kindly think up some and put them in the form of a note to be added to the record?

(Mr. Hanch later submitted the following memorandum:)

I understand the point upon which the committee asked for memorandum was as regards the objections to excess-profits tax in the case where, assuming that the invested capital of a corporation had been determined in past years, what particular complication or difficulty was there in redetermining invested capital in subsequent years.

That this redetermination is just as difficult as the original determination is clear from an examination of Regulations 45 of the Revenue Bureau relating to excess-profits tax, as issued by the bureau in 1920, particularly articles 831 et seq., which gives instructions as regards the various components which go to make up invested capital, each of which components may be a factor in the redetermination of the invested capital of the corporation at the end of each taxable year.

For instance, article 832 provides that the capital stock issued as a bonus to encourage the sale of the corporation's bonds may not be included as invested capital unless certain conditions are approved to the satisfaction of the Commissioner of Internal Revenue. And if he is so satisfied then the actual selling price of the bonds as compared with the price they would have brought without stock bonus must be determined. Obviously these are questions of fact about which there can be a world of controversy between the taxpayer and the Revenue Bureau.

Article 833 deals with tangible property paid in. Under this heading comes enforceable notes given by a subscriber of stock in the corporation. These notes may be included as invested capital according to the actual cash value, provided the corporation laws of the particular State permit the payment of stock by such consideration; also, provided the notes were given in absolute as distinguished from conditional payment. Here again are questions of law and fact over which controversies could well arise.

Article 834 relates to inadmissible assets. Certain stocks and bonds which represent payment for stock of the corporation may be included as invested capital under certain circumstances, but only at actual cash value. Here again is a question of controvertible fact.

Article 835, relating to a mixture of tangible and intangible property, provides that stocks and bonds issued therefor will be presumed, in the absence of satisfactory evidence to the contrary, to be allocated—the bonds for the tangible property and stock for the intangible property. The matter is left to the opinion of the commissioner upon the evidence presented. Again a controvertible point.

Article 836 relates to tangible property paid in, claimed to be in excess of the par value of the stock. Under this heading we find factors such as the appraisal of property by disinterested authorities made on or about the date of the transaction, proof of market price, etc. Still points of controversy.

When I started this memorandum I intended to discuss each article bearing on the subject, but at this point the writer feels that a cursory examination of the remaining articles 837 to 856, inclusive, will make it apparent that every provision in the regulations relating to the computation of invested capital of a corporation involves questions of fact which are difficult to determine and well calculated to form a basis of controversy between the Revenue Bureau and the taxpayer. The various points treated in all of these articles are sure to arise in every taxable year in the case of the majority of corporations. It does not do to say that because a corporation has in the past made its excess-profits tax calculation that it will be a simple matter to bring the computation up to date in subsequent years. For instance, a corporation may enter a taxable year with a properly determined capital of say \$1,000,000, and if it has been a prosperous year may end the tax period with an increment of invested capital of \$100,000. To argue from this that the computation of this increase, \$100,000, will be only one tenth as difficult as the original estimation of the \$1,000,000 capital is unsound, because it is the character of the problem and not the number of dollars and cents involved that causes the trouble. Just one example will make this clear: This corporation, in its \$1,000,000 invested capital, may have had to figure on a certain volume of bonds which were sold with a stock bonus; and a similar transaction, very much less in volume, may have occurred in the \$100,000 increment—but the lesser volume does not diminish the difficulty of determining the bearing of the revenue act on this smaller transaction. The truth is that the original determination of invested capital as defined in the revenue act of 1918 is well-nigh impossible, and the determination of increment or detriment of invested capital in subsequent years is absolutely as difficult. The whole trouble is we have to meet the definite, rigid requirements of the statutes. It is quite different from the problem presented to a corporation which keeps accurate books for its own private purposes. Under the latter purpose many reasonable approximations and estimates are permissible, but when we come to the statutory requirements no such latitude is permissible.

Mr. HANCH. We believe, Mr. Chairman, that all special taxes growing out of the war, such as transportation, war emergency excise and consumption taxes should be removed.

Senator WATSON. You are recommending here the discontinuance of hundreds of millions of dollars of taxes.

Mr. HANCH. I am, and I have an alternative to suggest later.

The CHAIRMAN. You are recommending the discontinuance of nearly a billion dollars in tax.

Mr. HANCH. I would like to cover, first, the reasons for making this drastic recommendation. There was no claim when these taxes were enacted that they were founded on justice and equality. Those that were affected were told that the war emergency required the sacrifice; in other words, that the country needed the money, and that we should bear the burden as a patriotic duty. They were accepted without a serious protest under the exigencies of war conditions with the justifiable belief that they would be repealed after peace was restored. We are not at war. We are not only not at war, but we are undergoing a period of extreme depression, and we believe that the public would support the Congress in carrying out the rules of good faith in repealing these taxes. They are discriminatory and they are unfair. Furthermore, as I pointed out in my opening statement, these discriminatory taxes are almost as potent as overtaxation in unbalancing the equilibrium between supply and demand.

The CHAIRMAN. What do you mean by "discriminatory"? Is a sales tax on automobiles a discriminatory tax?

Mr. HANCH. It certainly is.

The CHAIRMAN. That is your chief concern, I suppose?

Mr. HANCH. I am just as strongly opposed to it in behalf of any other industry that was taxed as a war emergency. I think it would be just as unfair to remove it from the automobile industry and leave it on the balance as it would be to remove it from the balance and leave it on the automobile industry. It is unfair in principle, and it is not right. And do not forget that when you unbalance the consuming power of the people you are hitting the people who are not directly affected by these war emergency excise taxes. It is impossible to pass a substantial portion of the proper burden of the general public to any group or class without the whole people feeling it. You can not do it without unbalancing the aggregate consuming power, resulting in business stagnation. As a concrete example, the consuming power of the jewelry worker is just as essential as that of the bakery worker. The toilet soap industry is just as important as the laundry soap industry, in that the consuming ability of both is necessary to maintain proper equilibrium between supply and demand.

These things are all based on one popular fallacy, and we answer that fallacy directly by saying that there is no such thing as a non-essential industry, and there never was. Every industry is essential to those engaged therein, and the permanent prosperity of all industries is absolutely contingent upon maintaining substantially general consuming ability.

The CHAIRMAN. Do you think the jewelry industry is essential?

Mr. HANCH. It is to those working therein, and the consuming ability of all those people, thousands and thousands of jewelry workers and dealers, is absolutely necessary to preserve prosperity.

The CHAIRMAN. Do you consider jewelry an essential part of the adornment of the average American citizen?

Mr. HANCH. I think jewelry is an essential part of the adornment of the average American woman to make her happy, and her happiness is absolutely essential to the success and prosperity of her husband.

The CHAIRMAN. That does not include a diamond headlight in a shirt bosom.

Mr. HANCH. Mr. Chairman, as to this question of burden, three men can not carry the load of five, and that is what the country is trying to do to-day, and—I think you will agree with me—with rather indifferent success.

Such situations are bound to recur so long as artificial group advantages are encouraged which result in increased cost of construction making investment unprofitable. That is the trouble with the country to-day—investment is unprofitable. Losses in revenue not offset by economies put into effect can be made up in part at least by a moderate protective tariff. We are for a moderate protective tariff. No further burden should be assumed save upon long and careful consideration. Certainly no new obligations should be incurred effective prior to 1923. I think if any substantial additional burden is put on this country prior to 1923 the Congress will hear from it many times and will remember it.

Senator JONES. You may in the earlier part of your testimony have advocated a general sales tax. Did you advocate such a tax?

Mr. HANCH. I will come to that right now and conclude my remarks with that point.

Senator JONES. In that connection, I wish you would explain to us why that would not be a direct burden upon all business.

Mr. HANCH. First of all, Mr. Chairman, we believe that no additional or new forms of taxation would be required if extreme prudence and absolute economy are observed in conducting the Government. And that gets back to our recommendation in regard to the Navy and Army and every other governmental department.

If, however, the exigencies of governmental requirements call for additional revenue, it is recommended that it be provided by a sales tax, nondiscriminatory in character, barring such exemptions as are necessary to make its administration reasonably easy. No tax of any kind should be founded on rules of expediency, such as ease of collection or so-called ability to pay. Every tax should be founded on rules of justice and equality.

Senator JONES. Well, is it not a rule of justice to have those pay taxes who have the ability to pay? Is that not a just theory of taxation?

Mr. HANCH. That is true in the present scale of personal income taxes. It would not be just to have all taxes paid by those with ability to pay alone. If that were true, and the ease of collection were the sole motive, it would be comparatively easy to send an armed guard down to any one of the banks of Washington and take away its surplus. We believe that the principle of the graded income tax is correct as applied to individuals. We also as a practical proposition recognize that any income tax, the very best, is an uncertain revenue producer. Therefore, it is for that reason that we have come to

espouse some form of sales tax which will be a more certain revenue producer and will not inequitably distribute the burden down to the consumer.

Senator SIMMONS. When you speak of ability to pay Federal taxes, of course, you have reference necessarily to income, do you not? We do not tax capital; we can not. So that when you speak of ability to pay you have reference to income?

Mr. HANCH. Yes.

Senator SIMMONS. Whether that income is derived from one line or another line of business. To adequately tax income according to ability to pay, you carry out the suggestion of the Senator from New Mexico, do you not?

Mr. HANCH. Our belief is strongly that a sales tax —

Senator SIMMONS. Is there any other way to reach an ability to pay except through income, through profits?

Mr. HANCH. And that is reached at the present time very, very substantially through income taxes. It is these other taxes which not only get down to the consumer, but they cause trouble to the Government; they cause trouble to the taxpayer; they are not equitable and they are not fairly distributed. Therefore, we believe that a simple form of sales tax of some kind which would raise a proper proportion—not the whole tax, but a proper proportion of the tax—will be more equitable and actually cause less disturbance in the prices of the commodities purchased by the poor people than the present system.

Senator SIMMONS. What proportion of the tax do you think ought to be raised through tax on income? That has reference to the profit. Income is synonymous almost with profits.

Mr. HANCH. I have not prepared myself to answer that question exactly. I am assuming that barring the repeal of the higher brackets of surtaxes, the present rates would apply, and whatever proportion they produce we will assume is a fair proportion for the time being under present conditions of revenue requirements.

Senator SIMMONS. I want everybody who is able to do it to contribute to the paying of the expenses of this Government at this time. I want to see them properly distributed. What I am concerned about is that the tax when it is levied shall exact a reasonable and fair proportion from incomes. I mean profits; I am assuming them to be synonymous, and I think they are interchangeable so far as the discussion of this subject is concerned. I do not want the consumer to have to pay it all. I want the profit to pay its part of it.

Mr. HANCH. And the profit does pay it under the corporation and other income taxes.

Senator SIMMONS. That depends upon the rate of tax and the manner of levying it on income. You can so levy it and so regulate your rate as to make it pay its proportion. Whether your suggestion of cutting down surtaxes to the extent that you indicated a little while ago would accomplish that is a question.

Mr. HANCH. It is my belief that it would be accomplished.

Senator McCUMBER. I would like to ask you a question, Mr. Hanch. Does your theory include the abolition of all taxes against corporations as such?

Mr. HANCH. Oh, no.

Senator McCUMBER. You would retain what taxes against the corporations?

Mr. HANCH. The corporation income tax.

Senator McCUMBER. The corporation income tax, but not the excess-profits tax?

Mr. HANCH. Not the excess-profits tax.

Senator McCUMBER. That leads me to the next question, and I would like to have your opinion because I know that you have studied this question. What is the objection to taxing the corporation, or rather taxing the stockholders of the corporation, the same as you would tax the partner in the partnership? I want to make this clear. Suppose, without reference to the amount of tax, or whether it is overstocked or not, a corporation has a million dollars of assets this year and that it has, we will say, not to exceed a million dollars of liabilities, including its capital stock. Suppose next year it has a \$1,100,000 in assets as against its million liabilities. It has then made a hundred thousand. Now, what objection is there to considering that hundred thousand as a part of the earnings of the individual stockholders and taxing it as income tax to the individual stockholders?

Mr. HANCH. The objection is that you are taxing prudence. Every corporation should lay aside a reserve.

Senator McCUMBER. I am getting at the principle. Supposing that is true, that same principle would apply also to a partnership; the partnership ought to lay aside a sufficient reserve in fat years to take care of the lean years, exactly the same as a corporation. But why should we make a distinction and make the partner in a partnership take whatever that partnership owned without any reference to laying aside a cent and add it to his individual income and force a tax upon that, even up to the highest brackets, while if he is a stockholder in a corporation he is not compelled to do so?

Mr. HANCH. Senator, I will admit that I have not gone deeply into that question, but I think that it is quite the general consensus of opinion that there is some discrimination in favor of the corporation stockholder as against the partnership, and I would not attempt from the preparation I have made to make a definite suggestion as to the remedy.

Senator McCUMBER. I can tell you that the principal objection in war times was that when it got into the hands of so many individuals there would not be so much for the Government to tax, and it would not get so much tax out of it; but on the ground of equality I would like to have somebody's opinion on that.

Mr. HANCH. I think the point you raise is well worthy of the consideration of Congress.

Senator SMOOT. Have you given thought as to whether the 4 per cent difference between the income tax of a corporation and an income tax on partnerships equalize it in the end?

Mr. HANCH. I have not considered that sufficiently to make any calculation, Senator.

Senator SMOOT. That difference is made to equalize the tax in the income between the individual receiving it from the corporation and the partnerships receiving it from the same business. I do not know whether it does or not. On the whole, I think it does. In individual cases I am certain it would not.

Senator McCUMBER. There is another element to be taken into consideration, and that is the partner, who assumes a responsibility in a partnership, where there is no responsibility on his part as a stockholder, except in national banks.

Mr. HANCH. I would answer that if there is any inequality or any injustice done, the principle should certainly receive the serious consideration of the Congress.

Senator JONES. Now, Mr. Hanch, let us recur again to the principle of taxation which you discussed a few moments ago. You say you are in favor of the income tax. You think that is just and equitable. Would not a tax collected through sales be an income tax? Would it not be a tax upon income of everybody who consumed anything?

Mr. HANCH. Yes; and I think there should be some tax on everybody.

Senator JONES. Then, your doctrine amounts to this, that you think that the exemption from an income tax should be removed entirely?

Mr. HANCH. No; I do not; because that would make you solely dependent upon the income tax for the largest part of your revenue, and it is an uncertain revenue producer. When your income diminishes your revenue vanishes.

Senator JONES. You evidently did not catch my point. Whenever you sell anything and put a tax upon that sale, are you not taxing the income of the individual who bought it?

Mr. HANCH. Properly; yes.

Senator JONES. Then, is not the effect of a sales tax to remove all exemption on income taxation?

Mr. HANCH. I think you would allow your same exemption which you have against the income tax as such, but you would levy an equitable amount of tax upon consumption.

Senator JONES. A tax upon consumption; is not that in its final analysis a tax upon those who would not otherwise pay an income tax?

Mr. HANCH. Not exactly. They are paying the tax now in the excise tax, and the excess profits tax. They are paying it now, in my opinion, in a more exaggerated form than they would pay it if it were specific and removed of all uncertainty; so there would be no temptation to capitalize it or add an extra amount as a factor of safety.

Senator JONES. There is a difference of opinion about that, but there would be no difference of opinion, would there, that a tax on sales would be taxing the income of an individual whose income at the present time is not of sufficient size to come within the present income-tax law?

Mr. HANCH. Yes; but, in my opinion, the low income-tax payer would pay a less amount of tax than he pays under present laws.

Senator JONES. That is a different question, but the effect of your sales tax would be to tax incomes which are now exempt from income taxation, would it not?

Mr. HANCH. I do not think there is any question between us as to all taxes being a tax on incomes.

Senator JONES. Very well, then, the effect of a sales tax is to reach humble incomes which are not reached by the present income-tax law?

Mr. HANCH. Yes; but which are otherwise reached now. You can not answer the question fairly without admitting that other forms of present taxation reach the income of the person who is exempted



from income taxes, and reach it more oppressively than it would be reached by a moderate sales tax.

**BRIEF OF C. C. HANCOX, VICE PRESIDENT NATIONAL AUTOMOBILE CHAMBER OF COMMERCE.**

We believe that the subject of revision of internal tax laws should be approached from the standpoint of the business needs of the nation rather than the spending desires of governmental departments.

In our opinion the nation's greatest present need is proper equilibrium between supply and demand.

One of the most potent disturbers of this equilibrium is overtaxation.

Discriminatory and unfair taxation is a close rival.

To clearly indicate the effect of such taxation on supply and demand, it is necessary to define these terms in an elementary way.

Supply is in effect ability and inclination to produce.

Demand is entirely contingent upon ability and inclination to consume.

It is natural that demand should be more susceptible to disturbance than supply.

The speculative instinct of man will prompt him to produce with no apparent reason for doing so.

Without both ability and inclination to consume, demand will subside and depression ensue.

Lack of inclination to consume may be corrected by example of others.

On the other hand, lack of ability to consume normal supply only can be cured by restoration of normal consuming abilities through adjusting economics and removal of improper burdens from all.

This applies to governments as well as persons, firms, and corporations.

Therefore, before determining whether there should be any new forms of taxation, we hold that the Government should reduce ordinary expenses from war standards to a sane, normal standard at once.

Prior to the war \$1,000,000,000 covered all Federal Government expenditures of every kind.

By comparison with the rate of increased cost in various lines it is fair to assume that the present cost of running the Government, exclusive of interest on the war debt, should not exceed \$2,000,000,000 per year.

Adding \$1,000,000,000 for the annual war debt charge makes a total of \$3,000,000,000.

Notwithstanding these figures, it is indicated that the Government contemplates raising by taxation and spending from \$4,000,000,000 to \$5,000,000,000 annually.

In our opinion this burden can not be imposed upon the country during the reconstruction period without seriously jeopardizing the return and continuance of prosperity.

It can be avoided by assuming no new obligations and reducing expenses.

To that end the naval and military programs should be reduced to the lowest practical point.

To fully appreciate this recommendation it should be stated that the estimates for maintenance of our Military and Naval Establishments alone amount to approximately 38 per cent of the total estimates, excluding the postal revenue.

We do not wish to pose as pacifists or to deprecate the need for proper preparedness.

We believe that when a world conflagration is impending it is highly proper to procure new fire extinguishers.

On the other hand, when a great conflagration has burned down to smoldering embers it seems to us highly proper to recharge the old fire extinguisher pending the adjustment of the fire insurance.

After the insurance is adjusted and the loss paid, new apparatus may be procured.

We are confident the public, if correctly informed as to world conditions, will support the Congress in following this policy.

It is time for at least a brief naval and military vacation.

As a matter of equity to the present generation which made the supreme sacrifice of fighting for liberty in the World War, payment of such effort should be distributed over a period of not less than 50 years.

We do not mean to defer for 50 years payment of the bulk of the war debt, neither do we mean to distribute the debt pro rata throughout the 50 years.

What we do urge strongly is the refunding of any portion of the war debt which matures at a time when it would place an undue burden on the country to retire the debt.

While we should not resort to new loans, it is entirely proper that the Victory notes, war-savings stamps, and floating indebtedness be refunded.

No part of the war debt should be retired during the period of materially increased expenses growing out of the war, or not earlier than 1923.

Ordinary expenses constitute a great enough burden during this reconstruction period, and the unnecessary hardship of debt retirement should not be imposed during this time.

After the reconstruction period large amounts of war debt can be retired with less hardship than would be imposed by retiring small amounts at the present time.

This condition is applicable to the Allies as well as our Government; therefore we urge that their demand obligations be funded and funding securities accepted for unpaid interest which they may be unable to meet.

Such extensions granted to the Allies now will make it easier for them to meet their obligations to us later on, thereby relieving our tax burdens at that time.

There should be no increase in personal income taxes at this time, but on the contrary surtaxes on personal incomes should be materially reduced.

Excessively high surtaxes have collided with the law of diminishing returns and have forced an unreasonable investment in tax-exempt securities, thereby keeping needed capital out of productive enterprises.

Proper reductions of surtaxes on personal incomes will return more revenue to the Government directly, and indirectly increase the Government revenue by diverting needed capital to taxpaying productive enterprises.

The excess profits tax should be repealed.

In effect it has already been repealed by the public through the action of the buyers strike against high costs to which the excess profits tax contributed largely.

It was a war measure and has been hard to administer and unduly burdensome to both producer and consumer.

It discriminates against conservatively financed institutions and in favor of extravagantly financed concerns.

It limits proper initiative and is extremely uncertain of return.

It is steadily growing less productive and has little to commend it to an impartial public.

All special taxes growing out of the war, such as transportation, war-emergency, excise, and consumption taxes should be removed.

There was no claim when they were enacted that such taxes were founded on justice and equality.

Those affected were told that the war emergency required the sacrifice; in other words, that the country needed the money and that we should acquiesce as a patriotic duty.

They were accepted without serious protest under the exigencies of war conditions, with the justifiable belief that they would be repealed after peace was restored.

They are discriminatory and unfair, and the public should support the Government in living up to the rules of good faith by their repeal.

Furthermore, such discriminatory taxes unbalance the consuming power of the people, thus seriously injuring those who are not directly affected.

It is impossible to pass a substantial part of the proper burden of the general public to a certain group or class of business without unbalancing the aggregate consuming power and resulting in business stagnation.

The consuming power of the jewelry worker is just as essential as that of the bakery worker.

The toilet soap industry is just as important as the laundry soap industry, in that the consuming ability of both is necessary to maintain proper equilibrium between supply and demand.

There is no such thing as a nonessential industry.

Every industry is essential to those engaged therein, and the permanent prosperity of all industries is absolutely contingent upon maintaining substantially general consuming ability.

Three men can not permanently carry the load of five.

The country is trying to perform this feat at the present time, with quite indifferent success.

Such situations are bound to recur so long as artificial group advantages are encouraged which result in increased cost of construction, making investment unprofitable.

It is no time to fasten the scarlet letter permanently on the breast of any industry which does not require regulatory treatment.

Losses in revenue not offset by economics put into effect can be made up in part at least by a moderate protective tariff.

No further burden should be assumed save upon long and careful consideration.

Certainly no new obligations should be incurred effective earlier than 1923.

It is believed that no additional or new forms of taxation will be required if prudence and economy are observed in conducting governmental affairs.

If, however, the exigencies of governmental requirements call for additional revenue, it is recommended that it be provided by a sales tax, nondiscriminatory in character, barring such exemptions as are necessary to make its administration reasonably easy.

However, no tax of any kind should be founded on reasons of expediency such as ease of collection or so-called ability to pay.

Every tax should be founded on rules of justice and equality.

#### SUPPLEMENTAL STATEMENT.

Eminent economists, financiers, and statisticians have estimated normal investment capacity of the United States as \$6,000,000,000 at a time when Federal expenditures amounted to approximately \$1,000,000,000. It is obvious that the investment capacity of the country will be reduced in proportion to the amount that Federal taxation and expenditures are increased above \$1,000,000,000.

If the Government revenue program calls for \$4,000,000,000, the investment capacity of the country will be reduced to \$3,000,000,000, and if the Government revenue program calls for \$5,000,000,000, the investment capacity of the country will be reduced to \$2,000,000,000.

In my opinion, this country can not prosper with an investment capacity of only \$2,000,000,000 to \$3,000,000,000. The most effective way to quickly increase the investment capacity of the Nation is to reduce the tax burdens of the people, and the most effective way to do this is to take immediate steps toward discontinuance of the international game of poker which is going on in the guise of competitive armaments.

#### STATEMENT OF GEORGE M. GRAHAM, BUFFALO, N. Y., VICE PRESIDENT PIERCE-ARROW MOTOR CAR CO.

Senator McCUMBER. Will you give the committee your name, your place of residence, and whom you represent?

Mr. GRAHAM. My name is George M. Graham, representing the National Automobile Chamber of Commerce, an organization of automobile manufacturers. My immediate business connection is vice president of the Pierce-Arrow Motor Car Co., Buffalo, N. Y.

Senators, if this industry of ours presumes to present two speakers and to discuss this subject from two different phases, I hope we may find our warrant in the fact that we bear a very considerable amount of the revenue burden contemplated in this bill. Our problems are fairly analogous to those of many other businesses, and much of the information that you gentlemen are seeking in your painstaking effort to decide equitably can perhaps be developed from questions relating to this specific industry.

The considerations that have gone before have been general. I want to discuss with you the relationship of these taxes and their effect upon our particular business.

The Secretary of the Treasury, in describing the taxes that netted so small a sum that the return was disproportionate to the effort, coined a word. He termed those taxes "nuisance taxes." If I might, I should like to coin a word and designate to you gentlemen the particular kind of tax which we consider inequitable and whose elimination we ask as a "stigma tax." When I discuss our business I shall simply ask you gentlemen to consider it as being typical of all the businesses that carry what are known to some as excise taxes, very properly by others as sales taxes, and by myself as stigma taxes. I would like, first, to show the authority for the word "stigma" in this connection.

I should say that when you levy against an industry or an activity a tax that is designed to limit that particular business or to regulate

it, you put upon it the imputation of inequity, of undesirability, illegitimacy, or even absolute harm to a community or to the country.

Take, for instance, the tax on alcoholic liquors, on narcotics, to a lesser extent on tobacco, on dirks or daggers or murderous weapons; the whole purport of such a tax is not to encourage or stimulate the use of the articles upon which it presses, but is, rather, to restrict their use as not being advantageous to the public.

With those regulatory taxes nobody can have any quarrel; but through the needs of the war that classification of what I call stigma taxes gained a very great accumulation of other industries. They were led into this rating by the very baneful expression "nonessential."

Perhaps you gentlemen have forgotten where that term originated. It did not originate in this body; it did not originate in Congress; but when the War Industries Board was considering to what industries it could grant a special preference in the matter for material, transportation of fuel, etc., it divided industry into two classes, one classification representing those industries that were most vital to the winning of the war; the second classification being those that were less vital.

Consequently, we have the term "nonessential" which was accepted then. Yet, as a matter of fact, over the long period and in peace times nothing could be more fallacious than the association of some lines of business with a classification that originally was based on a regulatory principle.

I, like the preceding speaker, fully appreciate the very grave responsibility of asking the elimination of millions of revenue. I do not think we can consider this subject at all in relation to ante-war conditions. We are not in war, but we still have the obligations of war. The burdens of war have not been eliminated, and the conditions that compel the raising of these very considerable revenues, whether they be three or four or five billions of dollars, are so closely related to the war that we may in large measure still regard ourselves as endeavoring to liquidate war obligations. So that I realize the high responsibility; but, at the same time, since we are correcting or modifying the existing revenue law in the light of our experience, it seems to me that you gentlemen are naturally desirous of eliminating inequities.

I would like to be permitted to trace the effect on our business of the association in this branded classification, because nothing but the brand excuses the high tax. If we are not a luxury it is not reasonable to put the high burden on our particular industry.

If I recommended to you gentlemen that in order to raise revenue you should very heavily tax steel, wheat, raw materials, or fuel, you would say, and say properly, "Preposterous." But yet, in effect, when you tax transportation you tax a medium upon which they all depend; and taxes on transportation are bound to increase the costs of all necessities. A tax on the motor vehicle is definitely a tax on transportation. If that tax is merited and if it is definitely the purpose of this committee to tax transportation; if it is decided that transportation as represented by ourselves is a luxury, we have no standing here at all. We have no right to a hearing, and our case is foredoomed to be negatived by you.

Senator JONES. We tax other forms of transportation.

Mr. GRAHAM. Yes, Senator; but not in the same degree. If the taxes were normal, if you simply imposed upon us the burden you impose on the railroads, I should then feel that your position was thoroughly consistent. But you do not. Their taxes are considerably less in number and considerably less in proportion of revenue paid than are ours.

If we are a luxury, then, gentlemen, the President of the United States is wrong. I would like to direct your attention to the fact that in his first message to Congress he devoted more time to a discussion of transportation over the highways—which means transportation by motor vehicle, essentially—than he did to any other medium of transportation; and he put the impress of utility on the motor car when he distinctly said that it had taken an indispensable place as an instrument in our political, industrial, and social life.

Senator SIMMONS. Is there any justification for it from this standpoint? I fully appreciate what you have been saying. You say that the automobile and the truck have become transportation agencies now?

Mr. GRAHAM. Yes, sir.

Senator SIMMONS. Just as the railroad is a transportation agency?

Mr. GRAHAM. Yes, sir.

Senator SIMMONS. The railroad, however, has to build its own track and maintain it at its own expense. The truck uses the common highway that is built by the country at large. The Federal Government is contributing very large sums of money annually toward the construction and upkeep of these roads. Does that furnish any basis, in your judgment, for imposing a special tax upon automobiles and trucks?

Mr. GRAHAM. I should say, Senator, that there is nothing in that statement which bears at all upon the point at issue nor warrants these taxes. In the first place, it should not be forgotten that the Government made considerable grants to the railroad companies in order to foster them at the start.

Senator SIMMONS. Some few of them.

Mr. GRAHAM. Well, some of them.

The CHAIRMAN. Very few.

Mr. GRAHAM. There are, however, such grants. It certainly established the principle that transportation, as represented by the railroad, had a reasonable right to be fostered.

In the second place, in consideration of this right of way which the railroad pays for, it gets a monopoly. The motor vehicle does not get a monopoly—

The CHAIRMAN. The railroad does not get a monopoly.

Mr. GRAHAM. It does over its own tracks, Senator.

The CHAIRMAN. Yes; but it is paralleled in most cases.

Mr. GRAHAM. Yes; but so is the highway paralleled.

Senator McLEAN. The Government regulates its income and also the wages to be paid.

Mr. GRAHAM. To its great advantage, Senator; to the great advantage of the railroad temporarily in the matter of dividends. Under Government operation dividends were paid through cash grants.

Senator McLEAN. Do you think so? Would you like to have a law passed regulating charges for the use of motor trucks?

Mr. GRAHAM. We are already very considerably regulated, as I am quite sure you will be prepared to concede if I am permitted to analyze our several different kinds of taxation.

Senator WATSON. Is it not true that you use public highways built at public expense without paying any sort of tribute or revenue whatever?

Mr. GRAHAM. No; it is not true, Senator.

Senator SIMMONS. Could you use your truck as a medium of transportation, or your automobile, except by the use of the roads built by the States, counties, and Federal Government?

Mr. GRAHAM. We could not; but between that question and the question of Senator Watson, that we pay nothing, there is very wide gulf. We pay very considerable charges.

Senator SIMMONS. Is there anything that the Government gets?

Mr. GRAHAM. You got a hundred and forty-nine millions from us in car, truck, and parts taxes.

Senator SIMMONS. Those are the kinds of taxes that you are talking about and which you want to get removed.

Mr. GRAHAM. Yes, sir; that is the stigma tax.

Also, in that same connection, when we are discussing consideration shown to the several transportation mediums, I have not heard that any steamship company is compelled to dig its own harbors or clear its own channels or that an inland steamship company is compelled to build its own waterways. They are costs borne by the country as part of the necessary stimulation and development of transportation for the common good.

Senator McLEAN. It does not cost very much to keep the ocean in repair, does it?

Mr. GRAHAM. Harbors, channels, lighthouses, coast survey, and coast patrol are all expensive. I should like to develop the rest of my thought.

Senator McCUMBER. You might add, Mr. Witness, that you pay a part of the upkeep on the roads in your State taxation.

Mr. GRAHAM. We do more than that.

Senator McCUMBER. And the people to whom you sell your autos also pay a very large sum toward keeping up these same highways.

Mr. GRAHAM. Senator, I was about to say, and you have taken from me one of my answers, that we actually pay enough for the entire maintenance of all the roads for the use of all vehicles. We pay what virtually represents the maintenance funds of the States. Taxes levied in the form of registration and license charges amount to \$107,000,000 a year. That sum, the highway commissioner has said, is enough to keep the roads in repair. That does not mean new construction; it does not even mean radical reconstruction; it means normal repair of normal wear and tear.

Senator JONES. You do not pay that, do you?

Mr. GRAHAM. No, sir; no more than any industry pays anything. It all goes back to the taxpayer.

Senator McCUMBER. If I buy one of your machines and drive it over into Maryland I pay ten times as much for that privilege of running it into that State as the wear of the roads in the State of Maryland would amount to.

Mr. GRAHAM. I believe that to be true.

I would like to ask that I might be permitted, in order that we do not stray too much into questions of definite levies, to analyze in a word or two the relationship of transportation to the whole public good and to find a place for that instrument of transportation.

It took a hundred years after the coming of the first steamship and the invention of the steam engine by Stephenson in the first two decades of the nineteenth century to get a medium of transportation worthy to take a place with those two. This medium never has been regarded as an infant industry. It never had any fostering care; and yet, gentlemen, it has reached extraordinary proportions. If I could write into the records, Mr. Chairman, a few brief figures, I think they would give information as to the importance of this particular medium of transportation in the transportation fabric.

I would like to say, first, that we have not any quarrel with any kind of transportation. We think that the interests of all, whether they are railroads or inland waterways or electric trolleys or horse-drawn vehicles or motor vehicles, are common and not opposed. We think each has several very definitely ascertained functions.

We do not think that we can compete with the railroads, for instance, on long-distance haulage. We do not think we could compete with the trolley in urban traffic. We do think that we have a strong and important supplemental place to both, and that we have that place proved by figures.

Commodity moves in the United States over four main channels—15,000 miles of inland waterways, 18,000 miles of interurban trolleys, 259,000 miles of steam railroads, and 2,753,000 miles of highways, which, to a large extent, means motor-vehicle transportation.

The haulage figures show that the interurban trolley carries an average of 4,000,000 tons every year; that over the Great Lakes and the Mississippi River go 90,000,000 tons; by rail in a normal year 2,504,000,000 tons, and by motor truck—a figure that I want to say very frankly is an estimate, definite returns not being ascertainable—1,200,000,000 tons.

That is a very considerable amount. It shows a very considerable utility to the public, and yet we find ourselves taxed and classed along with industries that are stated to be not utilitarian.

I would like, briefly, to tell you what our taxes are. We have income taxes, State and national, the same as all other businesses; we have sales taxes. A sales tax is no novelty to us—

Senator DILLINGHAM. When you say "we," to whom do you refer—the manufacturers or the men who are conducting the traffic?

Mr. GRAHAM. I am referring to the manufacturers, because I think you can consider us, Senator, as purveyors of transportation; and while we make these vehicles they are transportation mediums.

We have sales taxes, a tax on cars and a tax on trucks. In addition to that we have a tax on repair parts which is a permanent lien on the life of the vehicle, and, to some extent, is a tax on the misfortunes of the owner of that vehicle.

The CHAIRMAN. Everything goes to the consumer, does it not?

Mr. GRAHAM. Yes, sir.

The CHAIRMAN. You do not suffer.

Mr. GRAHAM. We do suffer.

The CHAIRMAN. Does Ford suffer?

Mr. GRAHAM. Ford suffers to some extent. His customers suffer. There is a sales resistance in increasing the price of the product.

May I complete my list of taxes, Senator?

The CHAIRMAN. Go ahead.

Mr. GRAHAM. We have, in addition to the income and sales taxes, a registration and license tax in the States, and we finally have a lumping of all sorts of municipal taxes, wheel taxes, gasoline taxes, and then, of course, personal property taxes which I do not include because that is common to other factors. I do not find when I read the law that there is any tax on other transportation units.

Senator WATSON. What percentage of all motor vehicles manufactured are devoted to business, that you could call pure and simple business, and what percentage are pleasure vehicles?

Mr. GRAHAM. We made a very exhaustive survey. We found that 90 per cent of all passenger-carrying automobiles as distinguished from trucks at some time discharge a business function, that 60 per cent of all the mileage has a utility angle. We paid \$267,000,000 taxes—\$149,000,000, what I call stigma taxes, goes to the United States and \$107,000,000 to the States and \$11,000,000 to the municipalities.

Senator SIMMONS. Let me ask you one question right there. Would that tax be less if we were to apply it to the articles that are transported just as we do to the articles that are transported by rail?

Mr. GRAHAM. There is already such a tax.

Senator SIMMONS. What was the tonnage you gave for automobile transportation?

Mr. GRAHAM. One billion two hundred million tons per year.

Senator SIMMONS. Suppose we were to apply the transportation tax put on the railroads. Would that be lighter or heavier?

Mr. GRAHAM. There is already such a tax. We already pay 3 per cent transportation tax.

Senator SIMMONS. On all articles transported by truck?

Mr. GRAHAM. Public haulage. The law discriminates between the man who is carrying his own stuff and the public haulage man.

Senator WATSON. I do not understand that. You do not mean that there is a Federal tax?

Mr. GRAHAM. Yes, sir; 3 per cent on professional haulage freight.

Senator SIMMONS. A regular established line, you mean?

Mr. GRAHAM. Yes, sir.

Senator WATSON. For instance, the rubber people carry their products from Akron, Ohio, on trucks all the way through.

Mr. GRAHAM. They carry from their own yards to the freight stations.

Senator WATSON. They pay no tax?

Mr. GRAHAM. No, sir.

Senator WATSON. In other words, they are not common carriers?

Mr. GRAHAM. No, sir; exactly.

Senator WATSON. Nevertheless, they use the roads for that purpose?

Mr. GRAHAM. Absolutely. I would like to trace where this tax goes, Senator. You think that is a luxury tax. That is what makes it attractive. As a matter of fact, 6,000,000 out of the 9,000,000 of automobiles and motor trucks in use in the United States have been



sold into homes with an income of \$4,000 a year or less. Six millions of nine millions—two-thirds. The greatest user of automobiles is the farmer. He is our prize customer. One out of every two farmers in the country has a car. One out of every three automobiles in the United States is owned by a farmer.

Senator JONES. They do not use Pierce-Arrows, do they?

Mr. GRAHAM. No, sir. That is a very small percentage of the automobile business. Therefore you can almost say that I am speaking here as a neutral. I should say that out of 2,000,000 automobiles that are sold a year I do not think more than 10,000 would carry a price of \$5,000 and above. I think that is a reasonable approximation.

I would like to show you the relationship of the farmer as a typical middle-class man, so to speak. I do not think anybody here has any brief against the farmer. I do not think there is any prejudice or any desire to deal unfairly with him. We all know that he perhaps gets the worst of it most of the time. He does not make much money and he has a hard job. He lives in a very narrow environment. Theodore Roosevelt, in his last message, if I recall, pointed out the necessity of relieving the monotony of the farmer's life in order to keep him on the farm; and we all know if we can not keep him there as a food producer there is not much left for the rest of us.

The four things that have done the most to ease the farmer's life and his family's life have been his automobile, which connects him with the town, lets him bring in his supplies and market his produce; the telephone that saves him from isolation; the phonograph that plays in his parlor in the evening; and, finally, the moving picture in the little hamlet. They are vital and almost necessities to him.

Senator WATSON. You can probably prove by Mr. Julius Rosenwald that the parcel post has added to his comfort.

Mr. GRAHAM. I am ready to take an amendment at any time, Senator.

Look at the governmental tax on his repair parts. If a farmer breaks an axle, it is bad news to the farmer and bad news to his neighbors. But do not ever think for a minute that Uncle Sam is a good Samaritan. He gets 5 per cent tax on the repair cost of the new axle.

I would like you to think, also, where cars go. Seventy-two per cent go into towns of 50,000 population and less; 52 per cent go into towns and hamlets and villages of 5,000 population and less.

Senator McLEAN. Are you speaking of numbers, now, or values?

Mr. GRAHAM. Numbers of cars. Naturally the highest price cars are more or less segregated in the cities. Thirty per cent go into towns of 1,000 and less.

The whole burden of what I have said rests on this. We do not feel that this record of utility warrants our inclusion in any special luxury class, and we feel that we have a right to be eliminated from that class.

I have two or three exhibits that I would like to show you, and for that reason I do not want to go any further unless you gentlemen have some questions that you desire to ask me.

Senator SIMMONS. I think you have made the case a strong one.

Mr. GRAHAM. May I show you these exhibits? They present a few figures that carry some very good information in very easily assimilated form.

The first is a quotation of what I have already given you from the President's message.

The next is an analysis of the figures I gave you.

Ninety-one per cent of the road traffic in Minnesota is motorized, showing that highways virtually mean motor vehicles.

These are figures showing the increase in automobile registrations. West Virginia led the country. Mississippi was second. Indiana led the States in motorized express routes.

The next exhibit shows live-stock figures. Five million head were shipped by truck in 1920.

The next shows the relationship of the car to suburban development, connecting up the outlying sections.

The next is the relationship of rural schools to the automobile industry.

The next is a summary of those tax figures.

Senator WATSON. What taxes do you think the automobile industry ought to pay?

Mr. GRAHAM. I believe in the sales tax as a sound principle if placed on all industries.

Senator WATSON. You are not objecting to the sales tax on automobiles?

Mr. GRAHAM. No, sir. We are objecting to having it placed specifically on ours and a few other businesses.

Senator McLEAN. You want it extended to other industries?

Mr. GRAHAM. That seems to me very equitable and fair.

#### EXHIBITS.

President Harding says:

"The motor car has become an indispensable instrument in our political, social, and industrial life."—From President Harding's message to Congress, April 12, 1921.

Where cars are—Farmers are largest buyers of automobiles: 33 per cent in towns of 1,000 or under; 22 per cent in towns of 1,000 to 5,000; 20 per cent in towns of 5,000 to 50,000; 16 per cent in towns of 50,000 to 500,000; 9 per cent in cities of 500,000 or more.—Compiled by United States Tire Co. from official State registration figures.

Ninety-one per cent of rural traffic in Minnesota is motorized—"70,059 out of 76,999 vehicles passing 181 checking points during a 7-day period were motor cars and trucks."—From report of Minnesota State Highway Commission.

West Virginia gained 61 per cent in automobile registration in 1920. Mississippi had second largest increase—52 per cent.—From registration figures United States Bureau of Public Roads.

Indiana leads all States in motorized express routes—607 lines.—From survey by National Automobile Chamber of Commerce.

Motor truck haulage of live stock: Five million head of live stock shipped by trucks in 1920; 5,445 hogs enter Indianapolis stockyard in one day.—From United States Department of Agriculture.

Cars aid in suburban development; 154,700 cars and trucks enter and leave New York City daily; 78 per cent of vehicular traffic in New York City is motorized.—Figures from New York and New Jersey Interstate Bridge Commission and New York City Department of Plants and Structures.

#### RURAL SCHOOLS USE 18,000 AUTOMOBILES.

Number of rural consolidated schools.....	12,000
Per cent school vehicular traffic motorized.....	50
Total motor vehicles in school use.....	18,000
One-room schools not yet consolidated.....	194,000

Figures from United States Bureau of Education and State superintendents of education.

Canada has repealed excise tax on automobiles. Discriminatory levies on special commodities removed December 20, 1920.

Special and discriminatory taxes of \$267,000,000 paid in public treasuries by motor vehicles in 1920:

Federal.....	\$149,000,000
State (not including \$50,000,000 personal property taxes).....	107,000,000
Municipal.....	11,000,000
<b>Total.....</b>	<b>267,000,000</b>

**BRIEF OF GEORGE M. GRAHAM, REPRESENTING THE NATIONAL AUTOMOBILE CHAMBER OF COMMERCE.**

**TAX PROBLEMS AS SPECIFICALLY RELATED TO THE AUTOMOBILE INDUSTRY.**

Much of the preceding testimony has concerned itself with a general fiscal policy. I shall limit my presentation specifically to the effects of such policy on the automobile industry. The great volume of revenue drawn from us is our warrant for asking this committee's consideration.

The Secretary of the Treasury in his letter to this committee elected to apply the term "nuisance" taxes to taxes on soda fountain returns, the results in revenue of which were disproportionate to the amount of effort and expense involved in collection.

Similarly I have made bold to designate by the term "stigma" taxes that form of levy which singles out certain industries for discriminatory taxes.

"Stigma" taxes had their origin in such regulatory taxes as were levied on liquor, narcotics, dirks, and dangerous weapons. It was not the purpose of such taxes to encourage the use of such products. It was rather the purpose of the tax to regulate or even to suppress such use, the articles in question being deemed not necessary to the public weal if not definitely harmful to it.

There has never been a serious dispute of the wisdom of such taxes. During the war, under the necessity of enormously increased revenues, the brand of undesirable was further placed on some 20 industries whose worth under normal conditions would never have been questioned.

The term "nonessential" came into application with most baneful effect.

It may interest the gentlemen of this committee to know that the term originated at a time when all other interests were being subordinated to the war program. Preference in the matter of materials, transportation, labor, and favoring taxes was naturally given to those industries most essential to war activities. The "lesser" essentials were compelled to submit themselves to a considerable discrimination. This was not at the time resented, although the imputation of nonessentiality did carry with it an implied criticism.

With the ending of the war it was a reasonable expectation that such discriminatory taxes would pass and that the stigma would be lifted.

A fundamental of our presentation is that, as a matter of equality, the classification of "stigma" taxes should be eliminated. We refer not only to such excise taxes as against ourselves, but to all such taxes except those that are directly aimed at the regulation or suppression of products harmful to the public.

We quite appreciate the great responsibility of asking the Government at its present time of financial stress, with war obligations still pressing, to relinquish the \$900,000,000 involved in present sales taxes. We make this recommendation with the full knowledge that it must be coupled with suggestions as to a means of raising this great sum by some other form of impost.

We can not feel that the motor car and the motor truck can be fittingly rated in any classification whose value to the public is questioned.

During the discussion of the two previous revenue bills, the opinion was openly expressed that if the increased taxation on passenger cars should curtail their use it would be an excellent thing.

Many gentlemen may have felt this with great sincerity during the war period; that they continue to think so now I should seriously doubt.

If the passenger car and motor truck are luxuries we must expect to be rated among the most heavily taxed industries. We have no standing here.

"MOTOR CAR INDISPENSABLE," SAYS PRESIDENT.

But if they are luxuries, then the President of the United States is wrong, for he has placed the stamp of essentiality on cars and trucks. In his first message to Congress he made the very definite statement, "The motor car has become an indispensable instrument in our political, social, and industrial life."

In excessively taxing motor cars and motor trucks a tax is placed not on luxury but on transportation.

That such taxation is undesirable is freely conceded.

Secretary Mellon in his letter to your committee frankly pointed out that while he deemed transportation taxes necessary he considered them highly objectionable. Many witnesses testifying before this body have recommended as an aid to the restoration of business the elimination of transportation taxes.

Probably no member of this committee could be persuaded as to the justice of restrictive taxes on food, fuel and raw material. Therefore, we beg to point out the economic error of placing heavy taxes upon transportation, upon which all three must depend.

We should be considered not as manufacturers of automobiles or of motor trucks but as purveyors of transportation. If transportation can be classified as a luxury, if there is anything illegitimate in transporting persons or commodity, then it is legitimate to pile on taxes to any degree.

It is a fundamental asserted by every great economist that, excepting only printing, nothing has meant so much to the progress of the world as the creation of new transportation facilities.

Within the first two decades of the nineteenth century Fulton launched the *Clermont*, and Stephenson gave the world the locomotive.

It has taken a century to develop a kind of transportation worthy to take a place with them.

We do not ask special consideration for the particular kind of transportation that we here represent.

There are five main kinds of transportation: Steam railway, electric trolley, inland waterway, motor vehicles, and horse-drawn vehicles. We believe that their interests are common, not opposed; and that the best interest of the Nation involves allotting to each medium the type of haulage it can best perform. We believe that all should have equal opportunities, that all should stand equal before the law.

Actually we are the younger brother in this great family of transportation, and yet we have never needed nor asked for the fostering aid that goes to infant industries.

Without any help we have, solely through our potentialities of service, taken a most commanding place in the transportation fabric of the United States.

This statement applies equally to haulage of commodity and of persons.

#### PLACE OF TRUCK IN TRANSPORTATION.

A few figures may demonstrate our place to you gentlemen.

Commodity moves in the United States over four main channels: 15,000 miles of inland waterways, 18,000 miles of interurban electric trolley ways, 259,000 miles of steam railways, and 2,753,000 miles of highways. Yearly figures show 4,000,000 tons for the interurban trolleys, 90,000,000 tons on the Great Lakes and the Mississippi, 2,501,000,000 tons by steam railways, 1,200,000,000 tons by motor truck.

A figure, frankly an estimate and based on passenger cars in use, shows that we move yearly by automobile, 4,900,000,000 persons, as against 1,066,000,000 by steam railway, and 11,202,000,000 pay passengers and 3,204,000,000 transfer passengers by urban trolley.

These figures would seem to me to establish our essentiality. They would seem to entitle us to a protection against "stigma" taxes. Yet, gentlemen, although we are already the most heavily taxed of industries it is suggested by the Secretary of the Treasury that there might be imposed a Federal horsepower tax on motor vehicles.

At the present time we are exposed equally to Federal, State, and municipal exactions. Every State, through control of its highways, can force the motorist and truck operator to pay whatever proportion of its total taxes may be desired, regardless of equity.

We concede the necessity of revenue, State and National, but urge that our burden should not be out of proportion to that of other forms of transportation.

At present we are the most taxed of industries. We now have five main levies as follows:

1. National and State income tax, common to all industries.
2. Sales taxes, limited to ourselves and a few other industries.
3. Taxes on repair parts, a permanent charge on the life of all vehicles, a tax specific to our industry.
4. State license and registration fees, a virtual monopoly to us.
5. Scattering municipal, gasoline, wheel, tire, and personal-property taxes.

There are no Federal sales taxes on other units of transportation, as, for example steamships, locomotives, trolley cars, and horse-drawn vehicles.

If the suggestion made by Secretary Mellon should prevail, we should then be called upon to pay six types of taxes. We earnestly urge that this course would involve not only a further discrimination but an added tax on transportation.

Far from believing that further taxes are warranted, we contend that we should be relieved of present sales taxes on cars, trucks, and repair parts.

It is sometimes said that steam railroads and trolley companies must buy right of way and lay tracks, while motor vehicles operate over the public highway, but it should be remembered that in consideration of such investments both steam railroads and electric trolleys acquire monopolies, whereas the motor vehicles share the highways with all transportation.

#### \$267,000,000 IN SPECIAL TAXES.

At a time when the whole problem of sales taxes is under discussion the fact is overlooked that we are already bearing a sales tax higher in percentage than any sales tax contemplated in any of the suggestions offered.

This Federal sales tax amounts to 5 per cent on passenger cars, 3 per cent on trucks, and 5 per cent for repair parts for both.

The total in Federal taxes raised for the current year amounted to \$149,000,000. In addition there were State taxes of \$107,000,000 and municipal taxes of \$11,000,000, making a total of \$267,000,000. Apologists for this tax may argue that it is a tax on wealth. There are ample facts to disprove this contention, facts which I think you gentlemen will welcome.

Thirty-three and one-third per cent of all the automobiles now in use in the United States have been purchased by farmers. The farmer is not a man of wealth, nor does he buy a high-priced car. There is a car in use on one of every two of the 6,300,000 farms in the United States.

Let us hope that no one is inclined to discount the claims of the farmer. His willingness to stay and produce on the farm is a basic necessity of the future happiness—almost the existence—of our country. He is a hard worker, his accumulation is never considerable, and we should facilitate all that adds to his happiness and helps to relieve the monotony of his environment.

I think you will agree with me that the automobile, the telephone, the phonograph, and the moving picture have done much to give him and his family a wider range, yet it is entirely overlooked that all four of these additions to his pleasure and convenience are heavily taxed.

#### UNCLE SAM GAINS BY FARMER'S MISFORTUNE

The misfortune of the farmer in breaking an automobile axle may cause the regret of his family and his friends, but the United States Government is no good samaritan. The revenue department gains by the accident, since it collects a 5 per cent tax on the new axle.

Of the 9,000,000 automobiles in the United States 6,000,000 are purchased into homes whose total income is \$4,000 per year or less.

It is a fallacy to refer to the passenger automobile as a pleasure car. It is actually a medium of individual transportation. A careful survey shows that 90 per cent of all passenger cars are at some time used for business purposes, and that 60 per cent of the passenger car mileage is utilitarian.

Time permits only a hasty glance at varied public service now rendered by the motor truck. It aids in the distribution of food, fuel, raw material, and manufactured articles.

In the United States 26,000,000 food producers are trying to feed themselves, 79,000,000 additional American citizens, and many Europeans. It is an enormous task. It has been made harder by waste from inadequate distribution.

Over American highways passes a volume and value of food products of astounding dimensions.

Agricultural crops, dairy products, poultry, produce, and domestic animal production reached in 1918 an aggregate of more than \$21,600,000,000. There were 5,638,000,000 bushels of cereal; 11,818,000 bales of cotton; 309,109,000 bushels of potatoes; 197,300,000 bushels of apples; 6,549,000 tons of sugar beets; 10,500,000,000 pounds of pork; 589,000,000 head of poultry; 1,921,000,000 dozens of eggs; and 8,429,000,000 gallons of milk.

United States Senator Arthur Capper, of Kansas, points out that the motor truck is essential to the development of the agricultural interests of America, and shows \$70,000,000,000 to be invested in farms—a sum equal to the total of any three other industries that might be named.

## STIMULATING FOOD PRODUCTION.

Adequate transportation helps food production by exerting these four principal influences:

1. Gives wider producing area.
2. Definitely lowers cost of foodstuff without detriment to farmer by saving much excess transportation cost.
3. Shortens time of transit to market, thereby increasing the farmer's producing hours on the farm.
4. Assures the prompt arrival of perishable items at the door of the consumer when they are in best condition and command the highest prices.

Trucks are being applied to food distribution in varied ways. The farmer hauls for himself and his neighbors. Local transfer companies are entering the field, but the biggest development is in the organization of what have come to be known as rural motor express lines.

There are now known to be 3,000 regularly established rural motor express lines in operation, and some of them involve a considerable investment.

## UNWISE TRUCK LEGISLATION HARMFUL TO PUBLIC INTEREST.

Many legislators have voted for legislation inimical to the motor truck from a feeling that they thus served the interests of the farmer. No error could be greater. The motor truck offers a haulage economy. It performs its function more cheaply than the horse-drawn vehicle.

In reality the haulage of farm produce by motor trucks is cheaper than haulage by team.

This statement has the support of the Department of Agriculture. The 1918 figures of the Bureau of Crop Estimates show the cost of hauling in wagons per ton-mile as compared with motor-truck haulage to be as follows:

Commodities.	Wagon.	Truck.
Wheat.....	\$0.30	\$0.15
Corn.....	.33	.15
Cotton.....	.48	.18

Motor-truck hauls from farm to shipping point averaged 11.5 miles, while wagon hauls averaged 9 miles. Motor trucks made 3.4 round trips per day, while wagons made 1.2 round trips.

Some extraordinary economies have been achieved. Milwaukee gets its milk by trucks, over concrete roads, at a freight saving of \$0.02 per quart, which means a saving of \$1,000,000 yearly to the people of that city.

Trucks haul the Maryland peach crop to the packing plant where the product is loaded into waiting refrigerator cars. They thus act as a profitable feeder to the railroad spur on which the packing plant is located.

The movement is also spreading rapidly to live-stock shipment.

In 1919 there were received in Indianapolis by motor truck from near-by points more hogs than arrived by rail. For the year more than 711,000 hogs, 48,000 cattle, 63,000 calves, and 59,000 sheep arrived by gasoline truck in far better physical condition and at a material saving over railway freight cost.

Not only is food production stimulated by highway transportation from the farms, but mention should properly be made of the help rendered by motor trucks to plants which mill, preserve, produce, refine, refrigerate, retail, and store various food products. These are vitally related to the great general scheme of production and distribution.

## AID IN FUEL TRANSPORTATION.

Motor trucks facilities are equally valuable as applied to the transportation of fuels.

It is true that the distance transportation of coal and oil is essentially a railroad function in specially built cars, but in many stages of fuel distribution the highways plays a most important part.

The great oil-refining companies are without exception very considerable users of motor trucks.

When the oil operator strikes a gusher he must speedily get his equipment placed or suffer loss. He buys motor trucks, and, if need be, depreciates them at 100 per cent on the particular job, being well able to do this if he can save time.

Many coal mines in this country have no railroad sidings. Coal and mine supplies must be moved by vehicle, and in many cases the motor truck has been adopted. Retail coal distribution is very largely a motor-truck function, and it is thus possible to serve many manufacturing plants not directly located on railroad spurs.

**TRANSPORTS ALL KINDS OF RAW MATERIALS.**

Motor trucks are being applied in the transport of all kinds of raw material. They are used in mining copper, graphite, gold, lead, manganese, mercury, phosphate, salt, silver, sulphur, and zinc.

Building materials such as gravel, leather, lumber, cement, and sand are all very largely handled and distributed by trucks. Immense lumber sections in the Northwest, which otherwise could not be tapped, are being reached by trucks.

Opportunities frequently arise in the cotton industry for using trucks to transmit the raw material from the fields to the gins, from the gins to the trains, and the bales from the railroads to mills.

The whole record of production of war supplies is filled with instances where trucks brought in raw material and kept going plants that otherwise would have idled.

But it is especially in its relation to manufactured articles that the motor truck justifies itself as an adjunct to production. It discharges many functions. Its service begins when a building from which will issue production is being erected. It hauls away the dirt from the excavations, brings in materials for construction, delivers the raw material, and finally completes its record by carrying finished articles to the point of delivery.

The great volume of our output does not go to the big cities. Seventy-two per cent of all automobiles are sold into towns of a population of 50,000 and under; more than half, or 52 per cent, go to towns of 5,000 and under; 33 per cent go to towns and hamlets of 1,000 and under. Therefore a tax on motor cars or motor trucks is not a tax on luxury. It is a tax on transportation and a tax on the incomes and limited finances of the comparatively poor.

It is right to reach the profits of the automobile manufacturer through the same taxes that apply to other kinds of business.

We now accept without complaint State automobile taxes sufficient to keep all roads in repair. Thus we pay not only for the damage we inflict but for the wear and tear of all vehicles. Further we should not be called upon to go.

We cheerfully welcome our share of tax burdens, but we ask that we be rated with other industries, and that we be not placed in a branded classification and made to bear a kind of special and discriminatory taxes from which other less essential businesses are exempted.

**STATEMENT OF H. B. HARPER, OF PHILADELPHIA, PA., REPRESENTING THE NATIONAL AUTOMOBILE DEALERS' ASSOCIATION; HEADQUARTERS, ST. LOUIS, MO.**

The CHAIRMAN. Your place of business is Forty-second and Chestnut Streets in Philadelphia?

Mr. HARPER. Yes, sir.

The CHAIRMAN. What particular automobile do you represent, Mr. Harper?

Mr. HARPER. I sell the Willys-Knight and the Overland, made by the Willys-Overland Co., of Toledo.

The CHAIRMAN. You speak officially for the association?

Mr. HARPER. Yes, sir.

The CHAIRMAN. Are you an officer of the association?

Mr. HARPER. I am not.

The CHAIRMAN. Will you go on? The committee is reasonably familiar, bear in mind, with the automobile tax.

Mr. WALTER B. GUY. Mr. Harper is chairman of the taxation committee of the National Automobile Dealers' Association, and speaks with the authority of the 35,000 dealers who are represented by that association. He is a former president of the association.

The CHAIRMAN. What is your full name?

**Mr. GUY.** My name is Walter B. Guy; I am local counsel for the association.

**Mr. HARPER.** Mr. Chairman, I am simply the spokesman of a committee. We are all of us in the automobile business; we have come here at our own expense, from our own cities and from our own businesses, not with the thought that we are going to tell you how to tax or how much to tax, but because we thought we knew the automobile business, and there are some things we know that might be of assistance to you.

I have the honor to be accompanied by Mr. A. E. Maltby, Philadelphia; Louis Fox, of Baltimore, Md.; A. J. Shorey, Boston, Mass.; R. C. Frampton, St. Louis, Mo.; Charles Midelburg, Charleston, W. Va.; C. C. Starkweather, Detroit, Mich.; and R. C. Cook, Chicago, Ill. All of these gentlemen are in the automobile business, and are here right now in attendance before your committee.

You have been addressed hitherto by men in the automobile business, but they have been representing the manufacturers. We are the merchants. We represent only the selling end of this business. There are 33,893 motor car dealers in the United States; there are 35,887 garages; there are 45,135 repair shops, or a total of 115,000 merchants selling the products of the 320 automobile factories.

In addition, I think that we are privileged to say that we represent 9,000,000 car owners and 40,000,000 riders, because the tax that affects us affects them.

In our annual meeting at Chicago, on the 31st of January, 1921, the National Automobile Dealers' Association passed a resolution favoring the sales tax and authorizing the committee to make application to appear before your committee at this time.

I want to reiterate that we are merchants and not manufacturers, and to say that any figures that may have been given to you before applied to the manufacturing end of the business and not to the selling end.

These 115,000 merchants employ 750,000 employees; they had a pay roll of over \$1,200,000,000 for the year 1920, and their investment is, as near as we can check it up, slightly over \$1,000,000,000. In Philadelphia alone the automobile dealers have an investment of \$20,000,000.

We do pay taxes and we expect to pay taxes and we believe the principle of taxation is right so long as it is equal taxation, so long as all interests are equitably represented in the tax demands.

We pay, in addition, special taxes which are demanded of no other line of business, and it is largely because of that that this committee has asked the privilege of addressing you.

We are here to-day specifically to protest against any attempt to increase the excise taxes upon automobiles as was recommended in the report of the former Secretary of the Treasury, Mr. Houston, to the last session of the Sixty-sixth Congress. We also oppose the levying of any tax upon the use of the automobile, and likewise we oppose any effort to tax gasoline used in motor vehicles.

We believe that the automobile industry as a whole is not protesting against paying its fair share of taxes; we know the automobile dealers are not so protesting; but we do believe that the automobile industry can fairly come before Congress and ask for relief



from taxation because it is a camel already approaching the stack from which the last straw may be added. The automobile now pays more special taxes than any other industry. Last year taxes were collected as follows from the industry:

Federal (excise) taxes:	
Passenger cars.....	\$83, 600, 094
Motor trucks.....	15, 160, 456
Parts, accessories, tires.....	49, 960, 128
<b>Total.....</b>	<b>148, 720, 878</b>
State taxes:	
Registration and licenses.....	102, 000, 000
Personal property.....	100, 000, 000
Miscellaneous State taxes.....	5, 000, 000
<b>Total.....</b>	<b>207, 000, 000</b>
Municipal:	
Registration and licenses.....	1, 000, 000
Miscellaneous.....	10, 000, 000
<b>Total.....</b>	<b>11, 000, 000</b>
<b>Grand total, Federal, State, municipal.....</b>	<b>366, 720, 878</b>

While we may be met with the statement that this is a tax paid by the consumer and not by the automobile industry, we respectfully call to the attention of this committee that virtually every witness has admitted that every tax collected by the Government at the source of production is charged against the commodity at its consumption, and we feel, therefore, that we have an equal right to appear to safeguard our consumers as any other industry.

Senator McLEAN. In your estimate of State taxes did you include taxes paid by owners?

Mr. HARPER. The licenses were paid by the owners; yes.

Senator McLEAN. You excluded that?

Mr. HARPER. Oh, yes. This is in addition to the excess-profits tax, income tax, or individual taxes.

The CHAIRMAN. Have you made any attempt to figure how much State and Federal money goes to building roads?

Mr. HARPER. How much for State and Federal roads?

The CHAIRMAN. Yes; chiefly for the use of automobiles.

Mr. HARPER. It is very difficult to say how much will go chiefly for the automobile.

The CHAIRMAN. It does go chiefly. You very seldom see a horse and cart any more.

Mr. HARPER. That is because a man who formerly used a horse and cart goes so much more quickly with the automobile and he is from choice using it.

The CHAIRMAN. That is all right.

Mr. HARPER. We paid \$102,000,000 in licenses. The total upkeep of the improved roads of America run about \$84,000,000, leaving a balance in our favor of \$18,000,000, if all the licenses went to road improvement alone.

The CHAIRMAN. That is for maintenance?

Mr. HARPER. Yes.

The CHAIRMAN. But new roads are being built every year to the extent of great mileage?

Mr. HARPER. The automobile owner pays for those new roads in the same percentage as the nonautomobile owner does. He is a taxpayer and usually is a large taxpayer because he can afford to buy a car.

The CHAIRMAN. He could not afford to sell automobiles if we did not have roads for them to run on. I am not controverting your argument nor opposed to relieving you of some of your taxes. I am simply curious to know whether the other side had been taken into consideration.

Senator McLEAN. The use of heavy motor trucks has necessitated the reconstruction of a great many roads.

Mr. HARPER. There is legislation always in contemplation for regulating the weight of motor trucks.

Senator McLEAN. That necessitates very large appropriations in all States?

Mr. HARPER. But so far there has never been spent on the improvement of roads as much money as has been collected in licenses from the automobiles that use the roads and without assessing other users of the road for the vehicle that travels over that road.

The CHAIRMAN. Very well. Go ahead in your own way.

Mr. HARPER. In compliance with Senator Penrose's request, I am not going to spend a lot of time talking to you about the essentiality of the automobile. That has been dinned into your ears time and time again, and I believe all of us agree that the automobile is an essential.

Again, we as dealers sell both passenger cars and trucks; and without the passenger-car dealer the truck dealer would not be possible, because the truck business is not extensive to a point where it could afford exclusive truck dealers; neither has the truck manufacturer, until very recently, been able to exist exclusively on trucks. So the passenger car has made possible truck and aeroplane development.

I might be pardoned in making a reference to the fact that the motor-car tax is not a tax on the wealthy, because one out of every three automobiles sold are bought by farmers. In the State of Pennsylvania 81 per cent are owned by farmers; in Utah, 78 per cent; in Connecticut, 89 per cent; in Wisconsin, 63 per cent; and so on down the line.

The CHAIRMAN. We have had all that.

Mr. HARPER. And two-thirds of the doctors in the United States own automobiles, and it has been learned through a questionnaire which has been generally distributed that doctors' efficiency had been increased 107 per cent.

The CHAIRMAN. I know their bills have. [Laughter.]

Mr. HARPER. The present is one of unprecedented sluggishness in the retailing of automobiles. Now, it may not be known by this committee, but the retail price of an automobile is set, theoretically at least, by the manufacturer and not the retailer. The present 5 per cent tax is a tax based on the manufacturer's selling price. For example, on a car retailing at, say \$1,500, the average manufacturer's discount is about 25 per cent. The car, therefore, would be sold by him at \$1,125, and the 5 per cent excise tax would amount to \$56.25. The manufacturer passes this tax along to the dealer, who in addition must add also a freight and handling charge to the manufacturer's list price.

Theoretically this dealer should sell this automobile for the manufacturers list price, \$1,500, plus tax, \$56.25; plus freight and handling charge, about \$80 per car; a total of \$1,636.25. Practically what is happening all over the country is something entirely different. Hundreds of dealers, in order to stimulate the sales that have fallen off so noticeably in the last six or eight months, are absorbing the tax and the handling charge and in addition, in 90 per cent of all sales, they are taking in a used car for considerably more than its value in order to sell, mainly for the sake of keeping their organizations moving and looking forward to a betterment of business conditions.

We have collected statistics from dealers over all the country and from those reports we have reached the conclusion that the average automobile dealer nets a profit of between 3.5 per cent and 4.5 per cent of his gross sales. We feel confident that an analysis of income and profits tax returns would bear out this conclusion. Hundreds of failures have been recorded in dealer ranks in recent months and it is undoubtedly true that probably not 20 per cent of the dealers of the country have been in business five years or more. In no other American industry, we feel sure, is the mortality so high as among automobile retailers.

We feel that any further addition in taxes upon the motor vehicle in a large manner would have to be borne by the dealers, and that the sales resistance engendered by such increase would seriously jeopardize the success, progress, and prosperity of the entire industry.

During the war a theory of taxation grew up that might be termed simply "get the money." But we believe that such taxation is of as doubtful morality as the action of the footpad. We believe that taxes should be assessed equitably and equally. We fear as much danger from immoral tax theories as from imported and half-baked industrial and economic theories.

All Governments have levied excise taxes from time immemorial, in a large degree, as a method of assisting the State in the exercise of the police power over matters classed as injurious to the public welfare, health, or morals. These taxes were levied to discourage the practice they singled out, not to encourage them. In a measure the commodities affected by these taxes have come to have in the public mind the character of illegitimacy. Under this classification narcotics and intoxicating liquors are totally banned now as articles of free commerce, and campaigns are under way to add tobacco to that list.

Into this family of commodities, then, strangled by legislation for the regulation of the public morals, we find our industry being introduced and quite naturally we fear for it the same fate that has met all other industries so classified.

Virtually all motor vehicle legislation, to-day, we believe, is still based on the outgrown assumption that the motor vehicle is a pleasure car. This characterization grew up in the public mind in the day when the first automobiles, few in number and expensive of operation, were purchased by the wealthiest or by the speediest inclined. The early days of the automobile were days of experimentation, necessarily costly and from the lessons learned upon the racing tracks and in the endurance and velocity competitions, we

have to-day the perfected motor vehicle. But the automobile is no longer a pleasure car. It is a business car first and foremost, and any recreational uses it may have are but incidental to its primary purpose, personal transportation. Sixty per cent of all automobile mileage is for business purposes. Ninety per cent of all automobiles are used, more or less, in business. Instead of being a burden upon its owner, the automobile has added a 57 per cent gain in productivity and effectiveness to the average automobile owner.

The tax on motor vehicles is often defended as being a tax based on the theory of ability to pay from surplus wealth. But the foregoing figures, to our mind, represent working capital in actual and effective employment and not surplus or profits that have been earned and set aside to idleness or mere accumulation through the workings of the laws of interest.

The tax upon automobiles is a tax upon moderate incomes. Seventy-five per cent of all the cars and trucks outside of the Atlantic States are in 37 States which have but 45 per cent of the national wealth, according to figures of the Internal Revenue Bureau. Fifty-five per cent of all motor vehicles are registered in towns of 5,000 persons or less. Thirty-three per cent are in towns of 1,000 population or less.

The tax on motor vehicles then, is as much a tax on farm production as would be a tax on thrashers, plows, tractors, or farm implements or other equipment. This burden is felt directly by the farmer in the purchase of motor trucks, and it is felt acutely by the farmer when he is forced to pay a 5 per cent tax upon his repair parts.

We believe that Government departments should realize that the "war is over" and that the Nation is unable and unwilling to permit any such expenditures for the peacetime business of Government as was allowed for the conduct of the war. According to Secretary Mellon, 1921 governmental expenditures have been at the rate of \$5,000,000,000 a year. "The Nation can not continue to spend at this shocking rate," justly concludes the Secretary. The President, in his message of April 12, declared that the burden is unbearable, and cited two avenues of relief. "One is rigid economy of expenditure and the other is the utmost economy of administration." In a measure, this Congress was given a mandate by the people to effect economies in government. It was a pledge, at least, voluntarily assumed by the party now in power, in its campaign platform.

We respectfully submit the following recommendations: (1) Utmost economy in expenditures; (2) repeal of excess profits taxes; (3) repeal of higher brackets of personal income taxes surtaxes; (4) repeal all excise taxes under Title IX, revenue act of 1918; (5) imposition of moderate protective tariff; (6) funding of war debt over period of 50 years; (7) enactment of gross sales tax on sale or lease of goods, wares, and merchandise not to exceed 1 per cent.

We believe that the best reasons for the repeal of the excess profits tax is contained in the recommendation of the Secretary of the Treasury himself, who urges this step because this form of tax is "artificial and troublesome," a "clog on productive business," and because additionally it is "complex and difficult of administration and is losing its productivity." We believe that this form of taxation is a deterrent to initiative enterprise, because in productive years

it is nearly impossible to set aside sufficient reserves that all enduring businesses must have to tide them through periods of financial stress such as we are now experiencing. While it is doubtful that the excess-profits tax will figure very greatly in the corporate taxes of the present year, yet this law unless repealed will exist as a menace to business, claiming its share when profits return. Knowledge that such a fate awaits his enterprise will discourage any business man from exercising that initiative and assuming those risks that are necessary and so large a part of a flourishing business.

Repeal of the excess-profits tax we are aware has been assailed as a means of "shifting taxation from the accumulation of the wealthy to the breadstuffs of the poor," but we respectfully point out that unless some burden is shifted from enterprise it may not be possible for business to furnish the employment by which the laborer obtains his bread. In times of rising prices the excess profits tax leads to the "loading" of prices and extravagance in business management, and at best is always an uncertain factor in price making.

We believe that a reduction in the higher brackets of the income surtax would correct a condition that is now proving a serious handicap in inducing the investment of capital in productive enterprise. It seems to be generally agreed among economists that the higher brackets of the income surtaxes have passed the point of collection, and we have, as a consequence, the investment of much capital that formerly was in business in tax-exempt securities. We make this recommendation with full knowledge that it is not primarily a tax recommendation, but as a measure of relief for business, first, which will have a secondary tax value through the production of commodities and activities that will themselves become revenue producers. According to best information we have upon this score, the rate should be somewhere between 30 and 40 per cent on normal tax and surtax combined to induce the capital now in exempt securities to return to industry. This return would likewise restore purchasing and investing power to the individuals thus employed, who in turn would be a considerable prospect for the absorption of the tax-exempt securities so abandoned. It may not be amiss to point out here that among smaller investors Federal, State, and city bonds have always enjoyed a much higher degree of confidence and respect than industrial stocks and loan securities.

During the war time Congress was faced with the task of fighting a war and financing it also. No one questioned the primary importance of winning the war, and as a consequence no one objected to bearing the financial burden of the war thus hurriedly imposed by Congress to keep our Armies in the field. We accepted the military maxim that "time is everything and money nothing," along with a score or more of other industries. However, we believe that a time has come when Congress can no longer justify a continuance of those taxes hurriedly imposed, and we respectfully urge, therefore, the elimination of those excise taxes levied under Title IX of the revenue act of 1918. It is a well-established principle of taxation that an excise levy is justified only when the commodity under scrutiny meets the following test:

The preliminary test of the availability of a commodity for such a test is whether its use is so widespread and general and its distribution so well established that neither will be substantially curtailed by the imposition of a tax and the tax will be

normally passed on to the consumer in its exact amount. (From the recommendations of the National Industrial Conference Tax Committee, foremost advocate of the retention of excise taxes.)

Many of the articles now taxed under Title IX do not so meet this test and there are numerous others probably which do meet this test that are not so included.

We believe that the present generation should not be compelled to have fought the Great War and also to pay for the cost of it. We are familiar with the fact that Thomas Jefferson, the founder of a great political party, was an avowed opponent of this theory of political economy, but we likewise remember that the Nation early overruled this theory, and as a consequence this generation is to-day paying its part not only of the cost of the Spanish-American War, but even a part of the cost of the great Civil War. In view of these circumstances, therefore, we urge the refunding of the present war debt in such a manner that it will be amortized in installments over a period of 50 years.

We believe in the principles of a moderate protective tariff and feel certain that in this Congress there will be every attention paid to the legitimate interests of American business.

Finally, we believe that there is an equity in taxation and that taxes should be imposed with a view of equality and justice. We believe that if taxes are imposed upon productive capacity they should be uniform upon all producers, if imposed upon consumption they should be uniform among all consumers.

We do not believe that it is a function of free government to set up standards, arbitrarily, of essential or nonessential industries, nor classifications of necessities or luxuries. We believe that in a free government such as ours, government should guarantee to all business perfect freedom of existence, expansion, and opportunity, and should permit each individual to make the choice of what is essential to his own welfare and happiness. What are luxuries for some are necessities for others and we do not believe it a legitimate function of government to bestow official sanction upon some and impose official condemnation upon others.

A sales tax is no experiment. Our industry is now paying a sales tax and more than a score of other industries are paying sales taxes. If a sales tax is a good thing for one class of commodities we believe it is a good thing for all commodities.

We do not propose to argue here before this committee the merits or the demerits of a sales tax. We do, however, wish to reiterate our adherence to a sales tax as an ethical and equitable form of taxation for all, and one which will produce desired and needed revenue.

Senator DILLINGHAM. Have you made any computation to ascertain what the sales tax provided for in the pending bill would produce—that is, on automobiles—as compared with the tax that is now derived from them?

Mr. HARPER. You see, we already pay an excise tax of 5 per cent. In computations I have been able to make the figure has been as high as 5 per cent. We are discriminated against now, in that we pay both a sales tax, an excess-profits tax and every other kind of tax people can think of.

Senator DILLINGHAM. When you say "we," you include us who make the purchases?

Mr. HARPER. We include you who make the purchases; you are in the same boat.

Senator DILLINGHAM. You pass it along?

Mr. HARPER. We pass the excise tax along to the consumer. We can not pass the excess-profits tax along.

Economy in expenditures—that is not for a layman to suggest, other than in our own business we have had to curtail our expenses and we found ways and means and undoubtedly that is a part of the Government program.

The excess-profits tax prohibits the building up of reserves in flush times. From personal experience and the experience of every man on this committee of ours, any extra money we have been able to make during flush times, and which we ought to have been able to put into reserve to carry over this depression, has not been put into reserve, but has been spent in taxes and our reserve is in used cars and uncollected accounts.

The excess-profits tax penalizes small capital, and in the automobile business the small capital predominates; of these 115,000 merchants, at least 75,000 are conducted on \$5,000 capital or less.

The excess-profits tax does not provide any incentive for initiative in business, because the more money we make and the more caution we exercise the less we have left at the end of the year.

The repeal of the higher brackets. I think it is an admitted fact that the present excess-profits tax, with its higher brackets, has encouraged the investment in taxation-exempt securities, and I do not know the—

Senator McLEAN (interposing). You mean the income tax?

Mr. HARPER. I mean the income tax, rather. I do not know the point at which we should stop those brackets, but I know that tax experts can readily arrive at what would be a fair, collectible tax, above which the investment is made.

We feel, too, that the excise taxes in section 9 were a war measure. The war is over, and those things which were necessary for war, and which we all voted for war are out of place to-day, and are imposing a hardship out of all proportion to the revenue that they command.

The funding of the war debt over a period of 50 years is just simply on the basis that we are now being asked to pay the war debt when times are the hardest. We are coming back to the prosperous time—certainly within 50 years—and some method of refunding that would permit of paying that when times are more propitious would be very much in the favor of the general country.

A sales tax will provide whatever deficit these other things we omit would produce, because your sales tax can be readily computed. You know what your gross sales are. Roger Babson says 1 per cent would yield \$5,000,000.

The CHAIRMAN. You mean \$5,000,000,000.

Mr. HARPER. I mean \$5,000,000,000, based on 1 per cent. Joseph McCoy, actuary for the Treasury Department, says that would be equivalent to \$1,700,000,000. We estimate that the abolition of the taxes that we recommend would cause a shortage in collections of about one and a half billion. So that even at the lowest estimate of the sales tax there would still be a balance in favor of a sales tax.

Senator McLEAN. Have you people figured that out, as to what you think it would yield—I do not know but you have just stated—the 1 per cent tax?

Mr. HARPER. We figure that the gross turnover in the United States is sufficient to yield about \$1,800,000,000.

Senator SMOOT. That would be a gross sale of about \$180,000-000,000?

Mr. HARPER. Yes. The figures are all in this brief, which I have not read to you, but which I would like to have put into the record.

The CHAIRMAN. It will be put in the record.

**BRIEF OF H. B. HARPER, REPRESENTING THE NATIONAL AUTOMOBILE DEALERS' ASSOCIATION, ST. LOUIS, MO.**

Jesse A. Smith, president, Milwaukee; Harry G. Moock, secretary, St. Louis.  
*Taxation committee.*—H. B. Harper, chairman, Overland-Harper Co., Philadelphia; Jesse A. Smith, Jesse A. Smith Co., Milwaukee; F. W. A. Vesper, Vesper-Buick Co., St. Louis; A. E. Maltby, Guy A. Willey Co., Philadelphia; A. J. Shorey, New England-Velie Co., Boston; P. H. Brockman, De Luxe Automobile Co., St. Louis; R. V. Law, president Indianapolis Auto Trade Association, Indianapolis; Charles A. Middelburg, Middelburg Garage, Charleston, W. Va.

C. A. Vane, counsel, St. Louis; Walter B. Guy, counsel, Washington.

This committee is from the National Automobile Dealers' Association. This organization represents the interests of 35,000 automobile dealers of the United States. It has a membership in every State of the Union. It has affiliated with it 3 interstate associations, 15 State associations, and 84 local or city associations. The dealer associations of every large city in the United States over 250,000 population are affiliated in a body with this organization except the city of Cleveland. Most of the dealers there, however, are individual members. The officers of this association receive no compensation for their services, and the members of this committee are paying their own expenses to appear at this hearing. Every member of the association is a bona fide automobile dealer.

It should be remembered that the interest of the members of this committee are separate and distinct from the interests of the manufacturers of automobiles. Virtually all dealers purchase outright from the manufacturers, and in 98 per cent of these transactions the purchase is for cash in advance of delivery. Ninety per cent of the dealer's sales, on the contrary, are on time payment, and in most of these sales the dealer must take in a used car and in turn resell it for time payment also. These merchants have millions of dollars invested in merchandise, real estate, and buildings. They are large taxpayers in their own communities, contributing heavily to the revenues of their cities and States, in addition to the taxes paid to the Federal Government in excise, excess-profits, and income taxes.

The recommendations that our spokesman, Mr. H. B. Harper, has made here to-day have been founded on a careful consideration of the Government's fiscal needs as well as a consideration for what business can pay. The program which we have recommended is based upon the following estimates:

*Estimated receipts (fiscal year 1922).*

Customs <sup>1</sup> .....	\$300,000,000
Income taxes.....	1,500,000,000
Miscellaneous internal revenue.....	875,000,000
Miscellaneous revenue <sup>1</sup> .....	547,643,000
Sales tax.....	1,500,000,000
<b>Total.....</b>	<b>4,797,643,000</b>

**HOW OTHER ITEMS WERE ARRIVED AT.**

*Income taxes.*—In the letter of the Secretary of the Treasury, April 30, 1921, there appears an item "Income and profits" taxes, \$2,350,000,000. On page 3, line 46, the Secretary estimates that the excess-profits tax will yield \$450,000,000 in 1922. Subtracting this sum from the former figure we have an estimate of \$1,900,000,000 to be produced by the existing income tax law. Surtaxes, the Secretary estimates, on

<sup>1</sup> Items from letter of the Secretary of the Treasury, Apr. 30, 1921.



page 4, line 7, will comprise about \$500,000,000 for 1921. In immediately succeeding lines he estimates that the loss of revenue from the reduction of the surtax rate to about 32 per cent would be \$100,000,000, but we have been generous and allowed for a shrinkage of incomes and a diminution of returns which would remove further \$300,000,000 more from his figures.

*Miscellaneous internal revenue.*—This is estimated by the Secretary to yield \$1,100,000,000, and from this figure we have deducted \$250,000,000, which we were informed by Treasury officials represents the revenue it is estimated will be produced by Title IX.

*Sales tax.*—The amount of revenue that could be derived from a gross sales tax on the sale or lease of goods, wares, and merchandise, has been estimated variously at from \$5,000,000,000 accredited to Roger Babson, statistician, to \$2,000,000,000 by Dr. Thomas S. Adams, former chairman advisory tax board, United States Government, and \$1,700,000,000 accredited to Joseph McCoy, actuary to the Treasury Department, United States Government. There seems to be a general agreement among business men who have made a study of the question that it will produce about \$1,500,000,000, which figures we accept as being as authoritative, perhaps, as any of the numerously advanced amounts.

We wish, however, to make this point clear—that in the event that a sales tax of 1 per cent produces any such revenue as three billion dollars, or four billions, or the estimate of Mr. Babson, that the rate should be so lowered that income from this source will be within the \$1,500,000,000 to \$2,000,000,000 limit now aimed at.

*Estimated disbursements.*

For fiscal year 1922 <sup>2</sup> .....	\$4, 565, 877, 033
Estimated excess of revenue over expense.....	231, 766, 967

**UNITED STATES MONEY SMALL PART OF SUMS BEING SPENT ON HIGHWAY BUILDING.**

At various times before the committee the subject of Federal appropriations for highway construction have been referred to and occasionally in a manner indicating that the part the Federal Government is playing in such construction has been unduly stressed.

For the calendar year 1921 there is available for highway construction work in the United States the sum of \$1,250,000,000. There is little if any comparative difference in expenditures during calendar and fiscal year. The calendar year has been chosen because the majority of calculations in the States have been made on the calendar year. These figures are taken from the Highway Green Book, an official publication of the American Automobile Association, and were gathered from official sources.

There will be spent \$627,000,000 of this sum during the period stated. This amount is derived from sources as follows:

Federal aid.....	<sup>3</sup> \$130, 000, 000
State funds.....	231, 477, 000
County and other local funds.....	268, 000, 000

This item of "State funds" in turn is derived from sources as follows:

General tax in 26 States.....	\$35, 603, 000
Legislative appropriations in 16 States.....	41, 845, 269
State bond issues, receipts for year.....	65, 820, 000
Motor-vehicle fund.....	84, 397, 243
Special funds in 8 States.....	3, 811, 908

But the item "Motor vehicle fund" does not represent the total of automobile license money collected from users. There is \$18,702,757 collected from motor-vehicle licenses which is not used directly upon the roads but which is used to retire bond issues which were floated for the construction of roads. This item just referred to comprises a part of the item "State bond issues," just preceding. These States are Nevada, \$4,202,757; Illinois, \$5,000,000; Maine, \$800,000; Utah, \$1,500,000.

In the following-named States the only State money <sup>4</sup>that is available at all to match Federal-aid funds is derived from motor-vehicle registration fees: Alabama, \$868,474; Arkansas, \$570,000; Georgia, \$200,000; Iowa, \$10,500,000; North Carolina, \$1,760,000; North Dakota, \$340,000; Texas, \$1,750,000.

<sup>2</sup> From the letter of the Secretary of the Treasury.

<sup>3</sup> Less 3 per cent administration.

For the information of the committee we append the following table showing the (1) total expenditures by States for highways, (2) amount of State funds available, (3) amount of automobile registration fees, and (4) amount appropriated by the United States Government:

States.	Total expenditure for highways.	Funds available.	Automobile registration fees.	Appropriated by United States Government.
Alabama.....	\$9,000,000.00	\$888,471.00	\$835,178.00	\$2,104,883.51
Arizona.....	8,000,000.00	1,600,000.00	192,308.92	1,373,044.16
Arkansas.....	12,000,000.00	570,000.00	591,464.50	1,685,178.09
California.....	28,000,000.00	10,735,000.00	5,554,265.00	3,054,675.51
Colorado.....	7,000,000.00	3,300,000.00	819,872.74	1,755,759.17
Connecticut.....	8,000,000.00	5,250,000.00	1,852,591.00	613,349.43
Delaware.....	3,500,000.00	3,385,000.00	329,980.00	102,674.81
Florida.....	7,725,000.00	1,441,908.00	554,695.14	1,147,447.92
Georgia.....	10,000,000.00	2,000,000.00	1,919,338.92	2,697,150.96
Idaho.....	4,500,000.00	1,860,000.00	882,034.51	1,226,049.93
Illinois.....	20,000,000.00	17,916,000.00	5,915,700.17	4,365,067.91
Indiana.....	14,500,000.00	12,500,000.00	2,029,691.00	2,687,053.27
Iowa.....	37,000,000.00	10,500,000.00	7,507,202.08	2,881,328.74
Kansas.....	20,000,000.00	.....	1,419,345.50	2,871,244.62
Kentucky.....	8,000,000.00	3,000,000.00	815,549.31	1,951,755.43
Louisiana.....	6,000,000.00	150,000.00	390,000.00	1,302,231.13
Maine.....	7,500,000.00	3,447,000.00	818,755.50	960,230.16
Maryland.....	4,800,000.00	3,000,000.00	2,124,924.84	866,998.61
Massachusetts.....	8,000,000.00	4,378,009.00	3,860,231.70	1,472,788.83
Michigan.....	20,000,000.00	7,800,000.00	5,754,900.90	2,891,607.97
Minnesota.....	20,000,000.00	1,925,000.00	143,704.50	2,842,089.33
Mississippi.....	11,000,000.00	900,000.00	1,800,000.00	1,807,557.17
Missouri.....	15,000,000.00	7,100,000.00	2,111,693.85	3,387,899.60
Montana.....	18,500,000.00	305,000.00	416,245.00	2,006,900.13
Nebraska.....	6,000,000.00	3,960,000.00	12,800,000.00	2,133,741.98
Nevada.....	3,500,000.00	210,000.00	103,318.33	1,276,344.43
New Hampshire.....	2,500,000.00	750,000.00	654,702.04	414,838.93
New Jersey.....	16,000,000.00	6,200,000.00	3,503,930.70	1,187,556.45
New Mexico.....	4,000,000.00	1,900,000.00	200,000.00	1,598,467.85
New York.....	55,000,000.00	29,240,000.00	8,511,597.00	4,071,833.11
North Carolina.....	6,500,000.00	1,776,000.00	1,785,600.00	2,279,053.80
North Dakota.....	7,000,000.00	340,000.00	691,500.00	1,539,227.80
Ohio.....	37,000,000.00	5,900,000.00	16,400,000.00	3,706,246.81
Oklahoma.....	8,000,000.00	3,600,000.00	12,500,000.00	2,332,478.33
Oregon.....	10,000,000.00	9,240,000.00	2,085,168.50	1,576,152.03
Pennsylvania.....	30,000,000.00	28,000,873.00	8,000,873.64	4,591,946.05
Rhode Island.....	1,700,000.00	1,270,000.00	531,462.75	233,250.87
South Carolina.....	6,000,000.00	1,281,000.00	527,868.13	1,439,019.04
South Dakota.....	7,000,000.00	2,161,000.00	1,784,000.00	1,615,779.44
Tennessee.....	10,275,000.00	2,115,000.00	1,215,776.04	2,261,013.10
Texas.....	60,000,000.00	1,750,000.00	3,510,355.97	5,861,595.46
Utah.....	6,000,000.00	1,500,000.00	350,933.29	1,120,575.66
Vermont.....	2,000,000.00	940,000.00	555,422.28	450,077.09
Virginia.....	10,000,000.00	5,075,000.00	1,822,736.16	1,977,073.83
Washington.....	14,000,000.00	5,478,896.00	2,828,896.10	1,444,027.79
West Virginia.....	8,000,000.00	6,300,000.00	1,280,193.28	1,060,152.77
Wisconsin.....	19,500,000.00	3,950,000.00	3,127,073.00	2,544,945.35
Wyoming.....	3,000,000.00	1,700,000.00	267,179.35	1,233,715.84
Total.....	627,000,000.00	231,477,420.00	101,767,821.26	97,000,000.00

<sup>1</sup> Approximate.

District of Columbia registration fee, \$266,285.

It should be remembered that the Federal Government has borne only one-half of the expense of the Federal aid road.

States.	Total highway mileage of the Union by States.	Amount of Federal aid road built in each State.	States.	Total highway mileage of the Union by States.	Amount of Federal aid road built in each State.
Alabama.....	55,446	98	Nevada.....	12,182	37
Arizona.....	12,075	36	New Hampshire.....	14,020	24
Arkansas.....	50,743	32	New Jersey.....	14,817	9
California.....	61,059	48	New Mexico.....	43,091	59
Colorado.....	31,780	37	New York.....	79,398	3
Connecticut.....	14,061	5	North Carolina.....	50,758	65
Delaware.....	3,674	1	North Dakota.....	68,796	47
Florida.....	17,995	11	Ohio.....	80,354	38
Georgia.....	80,069	18	Oklahoma.....	107,961	5
Idaho.....	24,390	39	Oregon.....	36,819	59
Illinois.....	95,647	13	Pennsylvania.....	91,556	88
Indiana.....	73,347	1	Rhode Island.....	2,170	5
Iowa.....	104,074	81	South Carolina.....	42,226	50
Kansas.....	111,052	2	South Dakota.....	96,306	.....
Kentucky.....	57,916	6	Tennessee.....	40,050	2
Louisiana.....	24,503	53	Texas.....	128,960	155
Maine.....	23,537	19	Utah.....	8,810	9
Maryland.....	16,459	25	Vermont.....	14,249	3
Massachusetts.....	18,081	25	Virginia.....	53,388	17
Michigan.....	74,190	51	Washington.....	42,428	88
Minnesota.....	93,517	109	West Virginia.....	32,024	10
Mississippi.....	45,779	4	Wisconsin.....	77,280	89
Missouri.....	06,041	10	Wyoming.....	14,797	86
Montana.....	39,204	(1)			
Nebraska.....	80,272	9	Total.....	2,478,552	1,677

1 Federal aid spent \$45,793 for bridges only.

Of the total road mileage of the United States, 2,478,552, about 12 per cent, consists of durable roadway, approximately 297,426 miles. By this we mean roads that have some kind of macadam base, and including bituminous macadam, brick, concrete, asphalt, and the like.

Foregoing figures are for period from July 11, 1916, to July 1, 1920.

**CANDY.**

**STATEMENT OF HUBERT B. FULLER, CLEVELAND, OHIO, REPRESENTING NATIONAL CONFECTIONERS' ASSOCIATION.**

Mr. FULLER. My name is Hubert B. Fuller. I am a practicing lawyer of Cleveland, Ohio, and I am special associate counsel for the National Confectioners' Association in taxation matters. I have for many years been connected with the candy manufacturing industry as attorney for the Ohio candy manufacturers, the Cleveland candy manufacturers, and I have other legal affiliations with the industry.

The National Confectioners' Association, in whose name and in whose behalf I appear, is an association of the manufacturing confectioners of the United States, and it represents and contains in its membership 75 per cent of the candy manufacturers of the country, scattered throughout the entire United States.

Gentlemen, we have had printed and have taken the liberty of placing before you a number of two-page leaflets containing a summary of our argument. I desire, very briefly, to call attention to these points and enlarge slightly thereon.

We have here several practical candy manufacturers from different parts of the country who will be glad to explain in detail any points concerning which the committee may desire further information,

and to answer any questions which may occur to the members of the committee, who, I am sure, will prefer to hear from them, bearing in mind the fact that while I am associated with the industry I am an attorney and not a practical candy manufacturer.

First of all, gentlemen, we desire to emphasize the fact that this tax is levied on the manufacturer. This is a manufacturers' excise tax under section 900 of the war revenue act of 1918. Present statistics show that 80 per cent of all candy made in the United States is sold by the manufacturers at under 25 cents a pound. At least 60 per cent of the entire candy output consists of penny goods and 5 and 10 cent package goods, the contents of which are valued at less than 25 cents per pound and are included in the 80 per cent referred to above.

Ten per cent is sold by manufacturers at 25 cents or more per pound, but under \$1 per pound.

The so-called high-priced candy, valued at \$1 and upward per pound, comprises only 10 per cent of the entire candy business of the United States.

The great bulk of candy is sold by small retail confectioners, neighborhood school stores, country stores, and the 5 and 10 cent chain stores which you find in the large cities.

We desire to call attention, gentlemen, to the fact that candy manufacturers are subject to three taxes; corporation profits taxes, excess-profits taxes, and the 5 per cent excise tax, as distinguished from the two taxes levied on industries not now subject to the excise tax. In addition the candy manufacturer also pays import duties on many of his raw materials, such as sugar, nuts, fruits, essential oils, etc.

During the first three months of the calendar year 1921 the Treasury Department received from the candy excise tax \$1,563,096.98 less than during the same three months of 1920—a reduction of about one-third. That is to say, that the receipts of the United States Government through the candy manufacturers' excise tax in the first three months of this year have fallen off an average of \$521,000 a month.

For the first four months of the calendar year 1921, 60 per cent of the candy manufacturers have done business at an average loss of 10 per cent; the remaining 40 per cent having made an average profit of only 5 per cent.

This, then, is a tax on losses and not on profits. It is, we think, a tax on gross income.

For the 10-year prewar period the profit of candy manufacturers averaged only 5 per cent. In normal times, on bulk goods—that is, candy sold by the manufacturer in buckets and barrels, the lower-priced goods—the average net profit made by candy manufacturers has been only from one-quarter to one-half cent a pound. On goods selling above 25 cents a pound the manufacturer's profit has probably ranged from 1 cent to 1½ cents a pound.

Senator LA FOLLETTE. What percentage of your goods sells above and what percentage below?

Mr. FULLER. Senator La Follette, may I call your attention to this little leaflet here?

Senator LA FOLLETTE. If it is stated there, I will not trouble you.

Mr. FULLER. Yes, sir, it is.

At the present time, as I have suggested, gentlemen, and as you see under point 8, there is no average profit in the candy industry.

The present excise tax on candy we submit is unfair, because it discriminates against the candy industry. There is no tax, if I may remind you, on such articles as cookies, fancy crackers, tops, marbles, toy balloons, etc., which compete with candy for the juvenile penny, nickel, and dime. If the soda-fountain taxes are repealed, as proposed by the Secretary of the Treasury, then ice cream, soft drinks, and the 5-cent cone, having no specific taxes, will compete against tax-paying confectionery.

There is another point in that same connection, and that is that in the candy industry there has in recent years grown up a very important element which I think we may classify under the general designation of Greeks, Italians, and other foreigners who have gone into the industry and who manufacture their goods and sell them themselves, and without meaning to make any invidious comparison, they have not paid these taxes. They keep no records and there is absolutely no way by which the Government can check them up. There are so many of them and they are so widely scattered that it has been impossible to get the tax from them, and yet they are our competitors. They are competitors in the same goods with these gentlemen representing large industries who keep books, who have an overhead, and who are checked up constantly by the internal-revenue agents.

Senator SMOOT. What percentage of the sales is made by the Greeks throughout the United States?

Mr. FULLER. Senator Smoot, may I suggest that upon the conclusion of my statement, which I have nearly finished, I am going to ask Mr. Price to talk to you for just a few moments, and I am sure that he can give you more accurate figures on that than I can.

Senator LA FOLLETTE. I suppose it would be as difficult for you to get those figures as it is for the Internal Revenue Department?

Mr. FULLER. Equally so, though we are making every effort to check them up in protection to ourselves and in fairness to the Government.

Many articles made from the same ingredients pay an excise tax when manufactured by candy manufacturers, but no specific taxes when manufactured by others, such as cake and cracker manufacturers. Examples of this are stuffed dates, with which you are familiar, fig-filled Newtons, salted peanuts, chocolate bars, etc.

The United States District Court of Massachusetts has just held that sweet chocolate bars—not the bitter chocolate used by housewives for cooking—are not subject to the 5 per cent excise tax. These bars are universally sold in direct competition with candy paying the 5 per cent excise tax.

These are the sort of bars to which I refer [indicating samples] and which you see sold constantly in drug stores and at news stands.

Senator WATSON. Was that question tested in the courts?

Mr. FULLER. In the United States District Court of Massachusetts, Senator Watson.

Senator DILLINGHAM. In that popular way they are sold as candy?

Mr. FULLER. Yes, sir; and they are sold in competition with candies universally. These bars are universally sold, as I have stated, in direct competition with candy which pays the 5 per cent excise tax.

Candy, we submit, is the only article of high food and nutritional value on which the Government levies a manufacturer's excise tax. This excise tax on candy was imposed during the war, partly as a means of conserving sugar as an emergency war measure. This emergency is now past. Of course, you gentlemen could not take the time to examine the House committee hearings on this proposed tax during the time it was considered and before it was first levied; but that very question of conserving sugar by means of a tax on candy was one of the considerations raised in those hearings, and on it our members were examined.

We urge the repeal of this tax as burdensome, discriminatory, and unfair to this reputable industry.

We submit, gentlemen, that if industries are to be taxed, they should be taxed alike and none should be discriminated against. We urge that taxes should not be levied on losses or on gross income. We respectfully submit this argument, gentlemen, in behalf of the National Confectioners' Association.

We have here, to substantiate our claims and to answer any questions regarding the candy industry, a few representative manufacturers who have long been associated with the confectionery industry.

Representing the Middle Western States we have present Mr. Vincent L. Price, of the National Candy Co., St. Louis, Mo. His company is the largest candy company in the United States, being capitalized for \$9,000,000, and operates 18 factories, as follows: Duluth factory, Duluth, Minn.; Paris factory, Minneapolis, Minn.; The National Candy Co., St. Paul, Minn.; Fletcher factory, Kansas City, Mo.; A. J. Walter factory, St. Louis, Mo.; F. D. Seward factory, St. Louis, Mo.; O. H. Peckham factory, St. Louis, Mo.; Bartlett factory, St. Louis, Mo.; F. A. Menne factory, Louisville, Ky.; P. Echert factory, Cincinnati, Ohio; National Candy Co., Indianapolis, Ind.; Pan Confectionery factory, Chicago, Ill.; National Candy Co., Chicago, Ill.; Mount Clemens factory, Mount Clemens, Mich.; Putnam factory, Grand Rapids, Mich.; Sibley-Holmwood factory, Buffalo, N. Y.; factories also at Dallas, Tex., and Nashville, Tenn.

Representing the New England States we have Mr. Horace Ridley, vice president of the New England Confectionery Co., Boston, Mass.

This company is the second largest manufacturer of confectionery in the United States.

Representing the Eastern States we have Mr. William F. Heide, first vice president of Henry Heide incorporation, New York City.

This company has been established for over 50 years and is one of the largest manufacturing confectioners in the Eastern States. Mr. Heide is also president of the New York State Association of Manufacturing Confectioners.

Representing the Southeastern States we have Mr. Brooks Morgan, of the F. E. Block Co., Atlanta, Ga.

This company is one of the largest manufacturers of confectionery in the Southeastern States.

Representing the Pacific coast we have Mr. Leon Sweet, president of the Sweet Candy Co., Salt Lake City, Utah.

Mr. Sweet is also president of the Western Confectioners' Association.

Representing the high-grade confectionery specialties, we have Mr. Walter M. Belcher, vice president of the Walter M. Lowney Co.,

Boston, Mass., one of the well-known manufacturers of high-grade confectionery. Also Mr. Elwood B. Chapman, of Stephan F. Whitman & Son, Philadelphia, Pa.

This firm, for over half a century, has been one of the largest producers of high-grade package confectionery.

Senator WATSON. Why can not you select some one to make a statement for all of you?

Mr. FULLER. That is what I desire, Senator Watson, and I ask that the committee will permit me to call upon Mr. Vincent L. Price, who is president of the National Candy Co., and who will make a very brief statement in which I am sure you gentlemen will be interested.

**STATEMENT OF VINCENT L. PRICE, ST. LOUIS, MO., PRESIDENT OF THE NATIONAL CANDY CO.**

Mr. PRICE. I will try not to repeat anything that has already been said by Mr. Fuller, except as a matter of emphasis.

In the first place I have read the statement of facts that Mr. Fuller has submitted, and in accordance with my knowledge of my own business and general situation in the Central Western territory, the statement of facts is correct as I find it.

I have been for a great many years active in the Association of Confectioners and have followed this tax matter through from the beginning, and our opposition to the excise tax on candy at the present time is due to the belief that it is unfair—first, because we do not believe that it is right to tax a specific industry in such a manner as not to have a tax which is uniform for all industries.

In the second place, the tax on candy is unfair because there is no tax on other items that come in competition with candy; for example, toys, marbles, balloons, kites, fancy cakes. The baker can make what we call a coconut macaroon, with which you gentlemen are familiar, which is not subject to tax. We make a great many coconut macaroons that are subject to tax. The baker can take a piece of marshmallow and dip it in chocolate and it is not subject to tax. We take a piece of marshmallow and dip it in chocolate and it is subject to tax.

It has been recently held by the Massachusetts courts that a chocolate manufacturer may take a piece of chocolate and put a nut in it and it is a food and not subject to tax. We take a nut and coat it with chocolate and it is subject to tax.

All of these items come in direct competition with candy.

The basic reason, as I understand it, at the time that the excise tax was put on candy, were, first, in a sense to discourage the consumption of candy, inasmuch as they wanted to conserve sugar.

Another reason was that they felt that candy was a luxury and, being a luxury, was sold at a large margin of profit and the candy manufacturers could afford to pay a tax of this proportion.

As a matter of fact, the confectionery industry is very highly competitive and always has been highly competitive and, of course, just at present we are losing money. That is due, naturally, to general business conditions that exist to-day to a certain extent; and that situation is aggravated by the fact that the industry is very highly competitive, because it is very easy with small capital to go into the business and to compete.

We go back, however, to the prewar period, for which information can be secured from the Internal Revenue Department, especially back to the year 1913, when the income-tax reports were submitted, to show that the industry, even during the prewar period under normal conditions, was highly competitive and was operated on a very small margin of profit.

In my own company for the first four months of this year our records show that 85 per cent of all the candy that we have sold has been sold to the consumer for 1 cent, 5 cents, or 10 cents. That means the unit of purchase is small. It is true that our company does not manufacture largely what is known as high-grade chocolate, but it is also true that the proportion of high-grade chocolates to the total business is very small.

Our present margin of profit, after contemplating the tax as part of our cost, is no longer a profit, because on some items we are showing an actual loss and, on the most profitable items, our profit is not to exceed 1 cent per pound.

Our business is generally with the wholesale trade and with the retail trade; and to indicate what is the nature of the purchase by the average consumer you must keep in mind that with us—and I think it is true with the other manufacturers throughout the United States—candy is mostly distributed through the small retail stores all over the country. In the rural districts the retail stores, general stores, and retail drug stores are the big distributors of our candy.

Comparing our present selling prices with the prices in the same period of the year 1920, the average decline has been 43 per cent, taking a group of 50 of our items that are the largest sellers and comparing the average value of those goods with the average value a year ago. You must keep in mind, also, that a 50 per cent decline is equivalent to a 100 per cent increase.

In regard to what was said about the manufacturing retailer: Senator Smoot, I think, asked a question as to what proportion their business was to the total business. I do not think there is any accurate record that anybody could get on that matter. I do know that those manufacturing retailers are growing in leaps and bounds. You yourselves have probably gone into medium sized cities and large-sized cities and found that where a short time ago there would be only one in a block, that now there are two or three of them in a block.

In fact, one of the recent Greek publications states that there are 30,000 Greek manufacturers of candy in the United States. Whether that is a correct statement or not I do not know, but we do know, those of us who are familiar with the general situation, that they have come into the business and that they are either not paying any tax at all or pay a tax only on such an amount as they think would put them on record as paying the tax. In other words, they keep no record of their sales and there is no way by which they can be checked up. They might do \$500 worth of business a month and pay a tax on \$200 worth, and nobody can tell whether the amount on which the tax was paid was correct or not.

That is a growing condition, and the retail manufacturer, as we call him, comes into direct competition with those small dealers through whom we have to distribute our products all over the United States.



He is unable to compete with those men, due to the fact that we, as manufacturers, have necessarily had to take this high excise tax and put it into our cost, and therefore it accumulates a profit through the jobber and the retailer to the consumer which imposes a burden upon the dealers that are handling the product as against any burden upon the retail manufacturer, who pays no tax.

Furthermore, the chain stores and stores of that nature are a large item. According to the ruling of the Internal Revenue Department, a retailer who is also a manufacturer and who does a wholesale business pays a tax not on the price to the consumer, but on his wholesale price. Therefore the little dealer, who represents, probably, 90 per cent of the sources of distribution throughout the United States, has to stand the full burden of this tax and the accumulation of profit on this tax as against the growing competition of the manufacturing retailer and chain store that is coming up all over the country and which has proven a very serious matter.

We are not in a class with the automobile industry and other industries that are subject to the excise tax, so far as profit is concerned.

As to whether or not our product is a necessity or a luxury I do not propose to argue, but it is a fact that our industry never has been and is not to-day in a position as to profit where it can stand the burden of such a high tax. In addition to that is this growing tendency throughout the United States of the small manufacturers, who, due to prohibition, also find that they can sell soda water and ice cream and serve light luncheons and thus, having a large business, are better able to support better stores and give better service. That has become a very serious competitive factor to the small retailer.

### COUGH DROPS.

#### STATEMENT OF A. N. BODEY, READING, PA., REPRESENTING W. H. LUDEN CO., MANUFACTURERS OF COUGH DROPS.

The CHAIRMAN. Please state your full name.

Mr. BODEY. A. N. Bodey, Reading, Pa. I am general manager for W. H. Luden Co.

The CHAIRMAN. What business are you in?

Mr. BODEY. Manufacturing confectioner; also manufacturer of Luden's menthol cough drops.

The CHAIRMAN. Proceed as briefly as possible, as the committee has to adjourn in a few moments.

Mr. BODEY. I just want to give you a few facts regarding the cough-drop industry as it stands to-day. There is a tax imposed which amounts to 1 cent. The consumer must pay 1 cent when he purchases one package of cough drops, which cost him 5 cents. This tax was imposed, as the law reads, amounting to 1 cent on every 25 cents or fraction thereof, which, of course, makes it 1 cent on every package.

We find to-day from records that we have gathered that fully 50 per cent of the dealers throughout the United States are not handling cough drops on account of the stamp. They refuse to be bothered with it.

Senator CALDER. On account of the inconvenience?

Mr. BODEY. Yes, sir. In reference to the other 50 per cent, at least 50, if not more, per cent of the balance are selling cough drops without the stamp. We have gathered information also to that effect. I have a brief here covering the information which we have gathered on the subject.

The CHAIRMAN. Is the brief a long one?

Mr. BODEY. Not very long. I can read it for you if you wish.

The CHAIRMAN. No. If it will suit you just as well the committee would prefer to have it filed and it will be printed. If you will give it to the stenographer it will be printed as your remarks on the subject.

Mr. BODEY. I will be very glad to do that.

Senator CALDER. That will save time, because all the members of the committee can read it then.

The CHAIRMAN. It will save your time and our time. I can see fully how the Government is defrauded and the honest cough-drop manufacturer, who sells his article for what it really purports to be, is discriminated against. If that is all your brief covers you may have it printed.

Mr. BODEY. We are not asking to have the tax removed entirely, but we would like to pay a tax as a manufacturers' tax.

Senator CALDER. You are perfectly willing to have the tax levied on the basis of 1 cent for every 25 cents' worth of cough drops. That is 4 per cent. If you are paying a cent on every 5 cents' worth you are paying 20 per cent instead of 4 per cent, which the law evidently meant to provide.

Mr. BODEY. The tax was intended to be 4 per cent. Previous to May 1, 1919, the manufacturer paid a tax of 2 per cent on the gross sales, and we paid it monthly with a sworn statement.

Senator CALDER. And you were not bothered with the stamps?

Mr. BODEY. No, sir.

Senator CALDER. And the tax was paid by everybody?

Mr. BODEY. Yes, sir.

The CHAIRMAN. It is a matter which a Treasury ruling could have provided for.

Mr. BODEY. We foresaw what might take place, and we tried to have something done, but had no success with it.

I would just like to read one of the affidavits that we have here:

For your information I want to report that recently I personally visited 38 retail stores in one city for the purpose of purchasing Luden's cough drops, with the following result:

I found among this list of stores 13 using the stamps, 12 who were not using the stamps, and 13 who would not handle cough drops because they had to attach a stamp when making a sale.

In 12 stores where stamps were not attached I purchased a package from each individual store.

The city is not mentioned in the affidavit, but for your information I will say that it is Washington.

The CHAIRMAN. Have the Government agents made any effort to prevent these illegal sales?

Mr. BODEY. I understand they have. Many of the dealers are foreigners, and every now and then we learn of one being arrested, and that of course puts more of a scare into the rest of them. They quit handling them.

**BRIEF OF W. H. LUDEN CO., READING, PA., MANUFACTURERS OF COUGH DROPS.**

**HON. BOIES PENROSE,**  
*Chairman Committee on Finance, United States Senate.*

DEAR SIR: We want to submit for your earnest consideration a few facts pertaining to existing conditions that have been brought about by the present tax as applied to the sale of cough drops—a tax so demoralizing in its present form as to have caused, since its inception, a loss of business of from 55 per cent to 75 per cent. To substantiate our statements we attach short catechisms, and facsimile letters for your careful perusal.

For your enlightenment cough drops are sold by manufacturers through jobbers to all classes of vendors, such as drug stores, candy stores, 5 and 10 cent stores, department, general, and retail stores. From information obtained through advertising agencies, we learn that there are approximately, in round figures, 480,000 such stores, through which cough drops are sold to the consumer. In addition there are about 30,000 fruit, news, and small vendors' stands, which will make up a grand total of over 500,000. Of this total, with the exception of about 50,000 druggists, these stores sell merchandise such as candy, gum, fruit, papers, magazines, etc., and other small package goods that are not taxable.

The above fact will immediately bring to your mind the prevalent practice that the 1-cent stamp can easily be kept off of a package of cough drops, through ignorance, negligence, or willfully. It is safe to say that a greater percentage of vendors are of foreign nationality, and those who do not know the law forget the tax, and others that might be fearful will not handle, and through fear cause a loss in the sale of such taxable goods.

As near as can be ascertained from manufacturers' records, there were over 200,000,000 5-cent packages of cough drops sold annually in this country before the present method of taxation. Our own sales to-day show a loss of 62 per cent, as compared to sales made when the tax was not in effect. We feel safe in saying that the sales of the cough drop industry have suffered a loss of from 55 per cent to 75 per cent because of this very unwise legislation.

Previous to May 1, 1919, when the present stamp tax act was put in effect the manufacturer paid 2 per cent monthly on their gross sales. The new act imposed a tax of 1 cent on every 25-cent purchase or fraction thereof, which was interpreted by the Revenue Department as a tax of 1 cent on each 5-cent package of cough drops, which is equivalent to 20 per cent. This 20 per cent is 16 per cent higher than the present tax on drugs, or other kindred articles, which is on the basis of 4 per cent. It might be a point in favor of the Government if this revenue was being paid into the Treasury, but such is not the case. A very complete survey of the country to-day elicits a condition that 50 per cent of former dealers are not handling cough drops because of the extreme nuisance of affixing a stamp to the article; and also this survey shows the deplorable condition—that of the dealers who do handle cough drops over 50 per cent do not affix the stamp, proving conclusively that while manufacturers have sustained terrible losses in business, the Government is deprived of a revenue so small that the expense does not warrant the collection. At present rate of losses to this industry a continuation of this tax will mean only ruination.

Please understand, Senator, that our purpose is not to avoid taxation; on the contrary, we believe in a proper and legitimate tax, if emergency demands. We are willing to pay a tax of 2 per cent as before, or, if it is absolutely necessary, on the same basis as the 4 per cent drug tax, on a sworn statement of the gross sales monthly, direct to the Government, enabling the Government to get not only all moneys due, without the cost of collection, but an amount considerably in excess of the present yield of taxation, through an immediate revival of a much depleted business.

Realizing the importance what this vital question means to our industry, and relying on your fair treatment of the question, we solicit your help and hope that we will receive your hearty support.

Yours, respectfully,

A. N. BODEY, *General Manager.*

WASHINGTON, D. C., May 18, 1921.

WM. H. LUDEN, *Reading, Pa.*

DEAR SIR: For your information, I want to report that recently I personally visited 38 retail stores in one city for the purpose of purchasing Luden's cough drops, with the following result:

I found among this list of stores 13 using the stamps, 12 who were not using the stamps, and 13 who would not handle cough drops because they had to attach a stamp when making a sale.

In 12 stores where stamps were not attached I purchased a package from each individual store.

Yours, very truly,

WM. TRAUTY.

Sworn and subscribed to before me this 18th day of May, A. D. 1921.

[SEAL.]

WM. J. COONEY, *Alderman.*

My commission will expire January 4, 1926.

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JERSEY CITY, N. J., *October 23, 1919.*

WM. H. LUDEN, *Reading, Pa.*

DEAR SIR: We are in receipt of your favor of the 20th in regard to cough drops, but we do not contemplate handling these for it is our understanding that a revenue stamp is necessary, and this would involve too much detail for us to handle the proposition.

Yours, truly,

GREAT ATLANTIC & PACIFIC TEA Co.

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DENVER, COLO., *May 2, 1921.*

WILLIAM H. LUDEN, *Reading, Pa.*

GENTLEMEN: Do you realize just how seriously the present tax arrangement on cough drops curtails the sale of this item? We have any number of customers who absolutely refuse to sell or handle cough drops on account of the inconvenience caused by the necessity of affixing a stamp to each package, and all the other red tape attached thereto. We believe that you are doing everything in your power to have this tax arrangement removed, and we trust that your efforts along these lines will be successful, so that our sales on cough drops will be restored to normal once again.

Yours, truly,

J. S. BROWN MERCANTILE Co.

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CHICAGO, ILL., *March 25, 1921.*

**SALES DEPARTMENT:**

In regard to your letter of March 22 in reference to the cough-drop situation. The sale of cough drop has practically been eliminated in the small stores, as they won't bother about putting the stamps on them. It has also hurt the sale to this extent, that the customer doesn't care about paying the extra pennies for them, and there are any number of dealers from what my customers tell me, who don't put the stamp on at all.

Any other information that comes to my attention later I will write you about.

Yours, very truly,

AL. MATZ.

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READING, PA., *April 11, 1921.*

**SALES DEPARTMENT:**

While in Terre Haute, Ind., stopped at a large drug store on Wabash Avenue, which is their main street, to purchase a package of cough drops. I bought them without a revenue stamp. I went in unidentified and out the same way, a perfect stranger.

Yours respectfully,

GEORGE E. KLOPP.

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MARCH 25, 1921.

WM. H. LUDEN, *Reading, Pa.*

DEAR SIR: Answering your circular letter of the 22d instant, it is impossible to state with positiveness how far-reaching in its effect on the sale of cough drops the Government tax of 1 cent per package is. Every retailer you talk to condemns it, but some are much more vehement in their protests than others are. All say it makes a difference: some say it has made a big difference, and a few say it has killed the sale entirely with them. The 1-cent stamp is not generally affixed to each package. It is

my experience that druggists quite generally, but retail confectionery stores very seldom, stamp the packages.

If necessity of placing a stamp on each package can be avoided either through the repeal of the rule now in force requiring a stamp on each package or through the absorption of the tax by the manufacturer, as is now done on candy, I am sure it will increase the demand of cough drops very materially.

Inclosed please find two cards, such as I use when calling on the trade, as requested.  
Yours, very truly,

W. D. WHITMORE.

ELIZABETH, N. J., *March 25, 1921.*

**SALES DEPARTMENT:**

Answering yours of March 22, there is no question that the 1-cent tax on a package of cough drops has stopped a good many retailers handling them. Most every jobber I call on has told me that they have a good many small retailers that will not be bothered with them on account of the stamp; this applies mostly to candy and grocery stores; the drug trade does not seem to kick so much, as so many of their commodities require stamps.

S. E. Nelson, of Portland, Me., was telling me the last trip there that there are a lot of small country towns around there that since the tax was put on you couldn't purchase any kind of cough drops; this applies generally, I feel certain, to most country villages. Then, again, numerous retailers never think of putting the stamp on.

It certainly would help, if the Government will not eliminate it entirely, that they should allow the manufacturers to absorb it.

Yours, very truly,

R. CURNOW.

READING, PA., *March 23, 1921.*

H. R. STREHL,  
*Sales Manager, Wm. H. Luden, Reading, Pa.*

DEAR SIR: In my estimation the collection of a tax on each sale of Luden's cough drops is a farce, in that I am of the opinion that in many cases there is no tax collected and in many cases where a tax is collected the tax never reaches the Government.

Last Tuesday Mr. Luden purchased a box of Luden's at Palm Beach, Fla.; he paid 10 cents for it, but there was no stamp on the box and the druggist told us that no part of the price was for tax. The only way to collect a tax on cough drops is to collect it from the manufacturer. Many people do not care to handle them because of the tax.

Very respectfully,

JAMES B. MARSH.

SEATTLE, WASH., *June 15, 1920.*

WM. H. LUDEN, *Reading, Pa.*

DEAR SIR: Referring to your favor of May 17, requesting data on matter pertaining to placing stamps on cough drops, some of these questions are rather difficult to answer owing to the fact that jobbers differ very much in their opinions in regard to same. Owing to the fact that where the most of their trade was with large stores and druggists this stamp did not affect the sale very much, but among the smaller stores it had a large effect.

Question 1: It is the average opinion of the jobbers that the loss on sales of Luden's cough drops has been at least 25 per cent.

Question 2: We believe all jobbers have instructed the retailers with reference to affixing the revenue stamps or at least all retailers understand the necessity of affixing this stamp.

Question 3: As far as we can learn all jobbers and retailers would prefer paying a tax on cough drops same as they do on confectionery.

Question 4: The retailers do not affix the revenue stamps to the sale of cough drops made in bulk.

Question 5: Many of our jobbers have lost customers entirely through their not wanting to bother with these stamps. Among the smaller stores they have no other use for stamps except for the cough drops, and they prefer to lose the cough-drop business rather than to bother with stamps for this one article.

Question 6: It is the general opinion of the jobbers that a smaller proportion of the cough drops are sold as confectionery although a great many are bought for cough drops and then used as confection after the cough has been relieved.

It is the writer's personal opinion that a great many of the retail dealers neglect either intentionally or otherwise to place stamps on all sales of cough drops made. Therefore we believe that if a tax could be assessed on cough drops, the same way it is assessed on confectionery the Government would receive more revenue than they do under this stamp act.

If there is any further information that we can give you regarding these matters we would be glad to do so.

Trusting this gives you the desired information, we remain,

Yours, very truly,

HARRY M. NELSON Co.

DALLAS, TEX., April 22, 1921.

W. H. LUDEN, *Reading, Pa.*

DEAR SIR: In our investigation of selling conditions in regard to cough drops, we find that a great many dealers decline to handle the goods entirely because of the revenue stamp.

The stands who sell cigars and candy are especially annoyed by this stamp, and they have just discontinued the cough drop entirely.

We believe that if this tax could be added in the way of a bulk tax, as is done in candy, that it would be less objectionable.

It is our opinion that cough drops will sell again as in the old days if the annoyance of this tax can be eliminated, and we trust that something can be done in regard to it.

Yours, very truly,

JONES-PENNYBACKER Co.

BROOKLYN, N. Y., March 23, 1921.

Mr. STREHL, *Sales Manager.*

DEAR SIR: In the past week I have made special inquiries among the jobbers in the metropolitan district, trying to find out how many of their customers refuse to buy cough drops because they are compelled to put a 1-cent stamp tax on same.

The jobber comes right back and tells me that there are about 5 per cent of the retailers who refuse to stock cough drops, owing to the great amount of trouble they have in obtaining the stamps.

The jobber also informs me that there are between 45 and 60 per cent of their retailers who do not apply the 1-cent stamp tax when they sell a package of cough drops. The only time that they apply the 1-cent stamp tax is when they suspect the consumer to be a Government inspector.

The jobber will not give the retailer's name, nor street address, neither will he tell in what section of the city the retailer conducts his business.

I personally believe that if we would mail a circular letter to all our customers requesting them to give us whatever information they can about the tax on cough drops, we would receive some wonderful results.

Yours, very truly,

H. J. Metz.

NASHVILLE, TENN., March 31, 1921.

Wm. H. LUDEN, *Reading, Pa.*

GENTLEMEN: Some time ago the writer, wishing to ascertain what the dealers were charging the customer for Luden's, went into a number of stores in the city to buy a package of Luden's.

We found that some dealers sold the cough drops for as little as 5 cents, and there were no stamps on the package, others asked 6 cents, some with and some without the stamp.

One of the large 5 and 10 cent stores here sold the writer a package for 5 cents and no stamp. Some few charged us 10 cents per package, but mostly the price was 7 cents.

If by chance a person found a fly embedded in one of Luden's cough drops, this person would no doubt mention to a friend whom he might see about to buy a package of Luden's. The fly would be a tangible detriment to Luden's in that man's mind as long as he lived, and he would knock the sale every time he could. But you take the matter of a 1-cent tax being a detriment to the sale, and it is different. You are in a hurry to catch a car home some wet night, you feel a tickling in your throat. A package of Luden's you say to yourself, as you make a dive to a cigar or drug store to buy said Luden's. Meanwhile you are feeling in your pocket for the exact change, as you have only a minute to spare. You find a nickel and possibly one penny; you know the price is 7 cents. What do you do? You say to yourself, let it go; I'll soon be home

and get some dry shoes and a cup of hot coffee and that tickle will vanish. Result, one less box of Luden's, and multiply this a thousand times you have a thousand boxes per day less, and that hurts.

If the manufacturer could absorb the tax, we think the sales would double, and if the manufacturer paid the tax, the Government would get all of it. As it is now, possibly a third is never paid.

Yours, truly,

ROY RASCOE & Co.

DENVER, COLO., *April 13, 1921.*

WM. H. LUDEN Co., *Reading, Pa.*

GENTLEMEN: We wish to advise that during the past season your cough drops have not moved to any extent. We have put a great deal more effort in our sales work on them than we ever have in the past and yet we have accomplished practically nothing.

To-day we have on hand 200 boxes of your cough drops and we feel that we are stuck with them.

It seems that a great many of our customers have discontinued handling cough drops due to the fact that a revenue stamp has to be attached to each box, and the pool halls and the grocery stores who previously used a great many boxes of cough drops during the winter made no attempt whatever in handling them with the consequence that our sales did not amount to nearly what they should have been.

We received a notice that there would be no decline on your cough drops for the present. We believe you mentioned the date of May 1, but we feel sure a decline is coming and naturally we do not wish to take a loss on this stock if we can possibly avoid it. Do you intend to protect the jobbers floor stocks on a decline or are you formulating any plan which will in some way relieve the jobber who is carrying quite a stock of cough drops.

We would certainly like to hear from you along these lines at your earliest convenience as we want to know where we are at on this particular stock.

Thanking you in advance for your attention to this, we are

Yours, truly,

MOREY MERCANTILE Co.

READING, PA., *May 6, 1921.*

1. What loss in sales of Luden's cough drops, if any, has taken place in your territory since the change in the law requiring the retailer to affix a revenue stamp on sales made to consumer?

About 25 per cent.

2. About how many jobbers have instructed the retailers with reference to affixing revenue stamps on all sales of cough drops made?

Have instructed all customers.

3. What is the general attitude of the jobber and the retailer toward this stamp act? They do not like it, and think it should be a manufacturer's tax.

4. Do the retailers affix the revenue stamp to a sale of cough drops made in bulk?

No; and 50 per cent do not stamp when in packages.

5. Have any of your jobbers lost a customer entirely through his not wanting to bother with the stamps?

Fifteen per cent.

6. About what proportion of cough drops do you suppose are sold and used as a confection and not as a cough remedy?

Ten per cent.

THE WEAVER COSTELLO Co., *Pittsburgh, Pa.*

READING, PA., *May 6, 1921.*

1. What loss in sales of Luden's cough drops, if any, has taken place in your territory since the change in the law requiring the retailer to affix a revenue stamp on sales made to consumer?

Fifty per cent.

2. About how many jobbers have instructed the retailers with reference to affixing revenue stamps on all sales of cough drops made?

Have not instructed.

3. What is the general attitude of the jobber and the retailer toward this stamp act? They think it should be a manufacturing tax.

4. Do the retailers affix the revenue stamp to a sale of cough drops made in bulk?  
No.
5. Have any of your jobbers lost a customer entirely through his not wanting to bother with the stamps?  
Yes; about 50 per cent of the small trade.
6. About what proportion of cough drops do you suppose are sold and used as a confection and not as a cough remedy?  
Thirty-three and three-fourths per cent.

CHARLES D. McEWEN, *Richmond, Va.*

READING, PA., *May 6, 1921.*

1. What loss in sales of Luden's cough drops, if any, has taken place in your territory since the change in the law requiring the retailer to affix a revenue stamp on sales made to consumer?  
Fifty per cent.
2. About how many jobbers have instructed the retailers with reference to affixing revenue stamps on all sales of cough drops made?  
Have all trade they call on instructed regarding the stamp, and at least 70 per cent are selling with no stamp.
3. What is the general attitude of the jobber and the retailer toward this stamp act?  
This firm claims that they will not handle cough drops under present tax.
4. Do the retailers affix the revenue stamp to a sale of cough drops made in bulk?  
No.
5. Have any of your jobbers lost a customer entirely through his not wanting to bother with the stamps?  
Sixty per cent.
6. About what proportion of cough drops do you suppose are sold and used as a confection and not as a cough remedy?  
Ninety per cent.

GRAEBING CANDY Co., *Pittsburgh, Pa.*

READING, PA., *May 6, 1921.*

1. What loss in sales of Luden's cough drops, if any, has taken place in your territory since the change in the law requiring the retailer to affix a revenue stamp on sales made to consumer?  
Ten per cent.
2. About how many jobbers have instructed the retailers with reference to affixing revenue stamps on all sales of cough drops made?  
Have instructed all trade.
3. What is the general attitude of the jobber and the retailer toward this stamp act?  
They think it should be a manufacturers' tax.
4. Do the retailers affix the revenue stamp to a sale of cough drops made in bulk?  
No.
5. Have any of your jobbers lost a customer entirely through his not wanting to bother with the stamps?  
Very few.
6. About what proportion of cough drops do you suppose are sold and used as a confection and not as a cough remedy?  
Ten per cent.

YOUNGSTOWN CANDY Co., *Youngstown, Ohio.*

READING, PA., *May 6, 1921.*

1. What loss in sales of Luden's cough drops, if any, has taken place in your territory since the change in the law requiring the retailer to affix a revenue stamp on sales made to consumer?  
Twenty per cent.
2. About how many jobbers have instructed the retailers with reference to affixing revenue stamps on all sales of cough drops made?  
Have not instructed.
3. What is the general attitude of the jobber and the retailer toward this stamp act?  
Think it should be a manufacturer's tax.
4. Do the retailers affix the revenue stamp to a sale of cough drops made in bulk?  
No.



5. Have any of your jobbers lost a customer entirely through his not wanting to bother with the stamps?

Five per cent.

6. About what proportion of cough drops do you suppose are sold and used as a confection and not as a cough remedy?

Fifty per cent.

PAUL WEILL, *Richmond, Va.*

READING, PA., *May 6, 1921.*

1. What loss in sales of Ludon's cough drops, if any, has taken place in your territory since the change in the law requiring the retailer to affix a revenue stamp on sales made to consumer?

Twenty per cent.

2. About how many jobbers have instructed the retailers with reference to affixing revenue stamps on all sales of cough drops made?

Have instructed all customers.

3. What is the general attitude of the jobber and the retailer toward this stamp act?

They do not like it, and think it should be a manufacturers' tax.

4. Do the retailers affix the revenue stamp to a sale of cough drops made in bulk?

No.

5. Have any of your jobbers lost a customer entirely through his not wanting to bother with the stamps?

Yes; a great many.

6. About what proportion of cough drops do you suppose are sold and used as a confection and not as a cough remedy?

Fifty per cent.

J. K. MCKEE Co., *Pittsburgh, Pa.*

READING, PA., *May 6, 1921.*

1. What loss in sales of Luden's cough drops, if any, has taken place in your territory since the change in the law requiring the retailer to affix a revenue stamp on sales made to consumer?

Twenty-five per cent.

2. About how many jobbers have instructed the retailers with reference to affixing revenue stamps on all sales of cough drops made?

Did not instruct.

3. What is the general attitude of the jobber and the retailer toward this stamp act?

They think it should be a manufacturers' tax.

4. Do the retailers affix the revenue stamp to a sale of cough drops made in bulk?

No.

5. Have any of your jobbers lost a customer entirely through his not wanting to bother with the stamps?

Twenty-five per cent.

6. About what proportion of cough drops do you suppose are sold and used as a confection and not as a cough remedy?

Fifty per cent.

CARSON J. SMITH, *Youngstown, Ohio.*

**STATEMENT OF J. S. BATES, POUGHKEEPSIE, N. Y., REPRESENTING SMITH BROS., COUGH-DROP MANUFACTURERS.**

The CHAIRMAN. Do you desire simply to repeat what Mr. Bodey has stated?

Mr. BATES. I have it in a little different form. I simply want to read a two-page letter.

My name is J. S. Bates, Poughkeepsie, N. Y., representing Smith Bros. on the question of taxing cough drops. I will eliminate the first paragraph of the letter.

The CHAIRMAN. What is the substance of your letter? You can state the substance and have it printed.

Mr. BATES. There is one place here that I think you might want to ask me a question or two about.

**The CHAIRMAN.** Go ahead, then, and read it.

**Mr. BATES** (reading):

When the tax was first placed on cough drops (law of 1917), it was 2 per cent of the manufacturers' sales. This did not interfere in any way with the business. When the law was changed (sec. 907, law of 1918) it was intended to double this tax, or make it 4 per cent of the sales.

I think that every one of the members of the Ways and Means Committee intended to do it at that time.

Instead of that the law was worded 1 cent for every 25 cents or fraction thereof on the retailer's sale. A similar article sold by the same class of vendors was raised only from 2 to 3 per cent of the manufacturer's sales. With our cough drops selling for 5 cents; it made the tax 1 cent for each 5-cent package, or a 20 per cent tax, which is larger than almost any other tax under the present law.

We find in practice this tax is difficult to collect on account of the fact that a large number of vendors are of foreign birth and do not understand affixing the stamps. The result is that some of them have been arrested, which caused them to discontinue the sale of cough drops. On the other hand, a large percentage of vendors who handle the cough drops do not stamp the package. We have this week had 229 packages of cough drops purchased in three large cities, and 128, or 56 per cent, had no stamps. We find in the small cities and rural stores that they make no pretense of stamping them. However, in most places they charge for the stamps.

**Senator SUTHERLAND.** They charge for the stamp but do not affix the stamp?

**Mr. BATES.** They charge 7 cents, because those legitimate stores that do stamp them get 7 cents—and then they fail to put the stamp on. [Continuing reading:]

We are attaching herewith three affidavits made by the men who purchased these 229 packages, 128 of which were not stamped when purchased.

Following are the figures showing the shrinkage in our sales since the stamp tax has been in effect; also the sales for the year before the stamp tax was in operation. (That was not a record year, however, as we could not obtain enough sugar to operate our plant 100 per cent.)

Sales first four months 1919—11,150 cases (2,000 packages each); no stamp tax.

Sales first four months 1920—7,458 cases (2,000 packages each); with stamp tax.

Sales first four months 1921—1,580 cases (2,000 packages each); with stamp tax.

In the first four months of this year we made and sold 1,380 cases of cough drops, or 3,160,000 packages. If the Government had received 1 cent for each package they would have \$31,000. In the first four months of the year before the stamp tax went into effect we made and sold 11,150 cases and, figured at to-day's price of \$1.16 per box of 40 packages, it amounts to \$646,700, and at the rate of 4 per cent on our gross sales the tax would amount to \$25,868, which the Government would actually get in cash, with no stamp expense or collection expense. On the other hand, if only 44 per cent of the stores are stamping the packages, which we have proven, the Government really received only \$13,904, which is \$11,964 less than the 4 per cent tax would have amounted to.

We are firmly convinced, therefore, that in justice not only to the manufacturers but to the Government it would be advisable to return to the old method of tax, namely a direct tax on the manufacturers' sales. This would relieve the already overburdened treasury department and bring a greater net revenue to the Government. It would also revive a once prosperous industry which did business throughout the country.

If the tax is paid by the manufacturer, it will immediately increase the number of outlets for selling the product. Chain stores, grocery stores, 5 and 10 cent stores, news stands and cigar stores will immediately reinstate cough drops, giving a larger turnover and volume.

We have two concerns, the Atlantic & Pacific Tea Co., and the American Stores, 8,200 stores, who will give us an order any time we can get the stamp tax taken off.

**Senator CALDER.** They will not bother with stamps?

**Mr. BATES.** No, sir.

Senator CALDER. And the reason is that they handle no other commodity that is stamped, and they will not take up that line?

Mr. BATES. In the groceries and candy stores they have no use for stamps except on cough drops. We do not have a large sale at any one place, but we have about 650,000 retail stores, and if they sell a package a day it means a factory.

The CHAIRMAN. I think there is a case made out here.

Senator SUTHERLAND. Yes.

Mr. BATES (continuing reading):

We operate two factories, each having a capacity of 500,000 packages a day, or a combined capacity of 1,000,000 packages per day. Ordinarily we employ about 250 people in our factories and a sales force of 30 men. At present we have about 15 people in our two factories and only about 6 traveling men.

We are attaching herewith copies of 49 letters that we have received during the past year from merchants from all points of the United States (these came to us unsolicited) complaining that the tax interfered with the sale of cough drops. The original letters are on file at the office of Congressman Hamilton Fish, jr., Washington, D. C.

Please bear in mind we are not trying to dodge the payment of taxes but ask that a fair tax be imposed—one that would not ruin our business as the stamp tax is now doing—but which would allow us to expand. As we increase, under the proposed new plan, the Government's revenue will also increase and without any collection expense.

We ask that cough drops in packages be taken out of section 907 of the revenue act of 1918 and be given a subsection under section 900 and that a 4 per cent tax be levied on the gross sales of the manufacturer.

Senator CALDER. Just one question, Mr. Bates. If you put up your cough drops in 25-cent packages you would pay 1 cent tax?

Mr. BATES. One cent tax.

Senator CALDER. Dividing a 25-cent package into five packages you pay 5 cents.

Mr. BATES. We do not pay it. The consumer is supposed to pay it, but the Government is not getting it.

Senator CALDER. But, again, the business has been damaged by it?

Mr. BATES. The general stores through the States of Kentucky and Tennessee handle cough drops, and we have had cough drops returned to us with 1 cent postage stamps on. They were cough drops that had been in stock so long that they spoiled. They are using postage stamps. In 1917 as the law was in effect then we paid 2 per cent.

Senator CALDER. I think you have covered the case fully.

Mr. BATES. Furthermore, this 4 per cent will not be added to our price. We can absorb 4 per cent and leave our price alone.

Senator CALDER. But you can not absorb 20 per cent?

Mr. BATES. No; we could not absorb that.

Senator SUTHERLAND. These packages are intended to be sold at 5 cents each?

Mr. BATES. Yes, sir; packages of this kind [producing several packages of cough drops].

Senator SUTHERLAND. As a matter of fact, with the 1 cent tax added they are sold at 7 cents?

Mr. BATES. They are sold at 7, 8, and 9 cents.

Senator SUTHERLAND. For how much are they sold with the tax taken off?

Mr. BATES. It will reduce them to a nickel, because we have made our price so that they sell them for a nickel.

Senator SUTHERLAND. So, as a matter of fact, the consumer is paying from 2 to 3 cents more—

Mr. BATES. What they can get. We fix our price. It has always been a 5 cent package, and we sell it so that there is plenty of profit for the jobber and plenty of profit for the retailer if they still sell them for 5 cents, if the stamp tax is taken off. We do not bother to print the price on there, because if the purchaser pays a cent stamp tax he will write to us and say, "It is 6 cents." They do not understand the stamp tax.

The loss to the Government on our concern alone amounts to \$15,000 or \$20,000 in four months. We are not trying to dodge the tax. We are trying to get it so that it will not kill our business. We have got to have volume in order to make our business pay. We sell to news stands, bootblack stands, general stores, candy stores, and drug stores. If each single store sells one package a day it will keep our factory going.

The CHAIRMAN. Are these pictures on the box good likenesses of the Smith brothers?

Mr. BATES. Yes, sir; as they were.

(The letters referred to are as follows:)

NEW YORK, May 20, 1921.

SMITH BROS. (INC.), *Poughkeepsie, N. Y.*

DEAR SIR: I have called on 46 retail candy dealers in New York City and purchased from each a package of Smith Brothers cough drops; 38 of them were sold to me without a revenue stamp, and the balance, 8 packages, were stamped with a 1 cent revenue stamp.

Paid 6 cents for stamped packages; 5 cents for unstamped.

I am certifying to this before a notary public.

Very truly,

ROB'T COLEMAN.

STATE OF NEW YORK, *County of New York, ss:*

On the 20th day of May, 1921, before me personally appeared Robert Coleman, to me known, and known to me to be the individual described in and who executed the foregoing certificate, and he thereupon duly acknowledged to me that he executed the same.

[SEAL.]

FREDERICK KOHLENBERGER,  
*Notary Public.*

STATE OF OHIO, *Cuyahoga County, ss:*

This is to certify that the writer has purchased 100 packages of Smith Bros. cough drops from many retailers and found 63 of them bearing stamp tax, the remaining 37 without.

Witness:

L. F. BAUER.

A. BROWNE.

A. R. BIXBY.

STATE OF OHIO, *Cuyahoga County, ss:*

Before me, a notary public in and for said county, personally appeared A. R. Bixby, who certifies that the above is true to the best of his knowledge and belief.

Cleveland, Ohio, May 19, 1921.

[SEAL.]

LAURA E. JOHNSON, *Notary Public.*

CHICAGO, May 18, 1921.

SMITH BROS. (INC.), *Poughkeepsie, N. Y.*

GENTLEMEN: The writer has called on 83 confectionery, tobacco, and drug stores in various parts of Chicago, and has purchased from them 83 packages of Smith Bros. cough drops. Of the amount purchased only 30 packages had the revenue stamps affixed, whereas 53 packages were sold to me without any tax whatsoever.

Yours, very truly,

C. H. MEISTER.

Sworn to before me this day, May 18, 1921.

[SEAL.]

D. SMITH.

TOLEDO, OHIO, March 23, 1921.

SMITH BROS. (INC.), *Poughkeepsie, N. Y.*

GENTLEMEN: Your favor of the 18th received and we agree with you there has been a lull in the cough drop business, and our experience is that it has covered more than two weeks.

From the reports of our salesmen, the trouble with the cough drop business is the tax. The retailers in a great many cases will absolutely not stock the goods because they do not care to be bothered with this tax business. Of course this is nothing that either you or we can do anything about at the present time, unless we might shoot a few Democrats.

We will ask that you do not stop at 10 cases in relieving us of our stock, because our men are absolutely selling nothing, and any stock that you can move for us at all will certainly be appreciated.

Yours, very truly,

SMITH-KIRK CANDY CO.

RENO, NEV., January 25, 1921.

SMITH BROS. (INC.), *Poughkeepsie, N. Y.*

GENTLEMEN: I wish you would cancel the rest of my orders as I have enough on hand for the season and if you send any more they will be on my hands till next fall. The grocery stores, who were my best customers, quit handling them on account of the stamps.

Thanking you for past favors, I remain,

Yours, truly,

A. B. MANHEIM.

TOLEDO, OHIO, December 17, 1920.

SMITH BROS. (INC.), *Poughkeepsie, N. Y.*

GENTLEMEN: We have an overstock on Smith Bros. cough drops and would like to dispose of 10 cases.

We notice that you guarantee your price till May 1, 1921, which ends the cough-drop season and means that whatever stock is on hand after May 1 you do not care to protect and the jobber is stuck. Therefore we would ask that if you have anywhere in your territory an opportunity to ship 10 cases of Smith Bros. cough drops for us we certainly will appreciate it.

Our reason is this, that since the internal revenue office have rendered the decision that it is necessary to stamp with a 1-cent stamp all cough drops we find that our big outlet have about decided to turn the business over to the drug stores.

As we have hundreds of grocers who carry nothing in their stock that requires stamps, they will not be bothered going the revenue office and buying forty 1-cent stamps to put on a box of cough drops, and they are passing up the business.

We also note a very rapid hurry on the part of a lot of manufacturers to get back again on the old 5-cent and 10-cent basis and there is no chance to do so with cough drops at your present jobbers' price.

Yours, very truly,

THE BERDAN CO.

WELLSVILLE, N. H., November 29, 1919.

SMITH BROS., *Poughkeepsie, N. Y.*

Will you please not ship us any more cough drops until further notice from us. At our salesmen meeting to-day the men stated that customers were objecting to attaching stamps, and when they closed out the present stock they were going to discontinue handling cough drops, so, unless our customers change their minds, our stock will last for a long time.

Yours, truly,

SCOVILLE, BROWN &amp; CO.

CHICAGO, ILL., May 27, 1920.

SMITH BROS. (INC.), *Poughkeepsie, N. Y.*

GENTLEMEN: Your representative recently called upon us to solicit our order for next season's requirements of Smith Bros. cough drops, and we discussed with him the Federal tax question, requiring the retailer to purchase and place upon all packages of your product stamps when making sales to consumers.

In the matter of imposing a stamp tax on a product of this nature, we believe you are warranted in having a review by Federal authorities on the ground that your product is a candy or candy lozenge, specially flavored, and should not be classed as a medicine. Incidentally, we desire to state it is quite certain that many of our customers have discontinued handling your products because of the stamping feature, supported by the belief that the cost of stamp, the effort of placing on package is not warranted when classing your product with other candies of like nature that require no stamp.

We shall be pleased to hear from you on this question at your early convenience.

Yours, very truly,

REID, MURDOCK & Co.

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 LOS ANGELES, CALIF., June 25, 1920.
SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: At various times we have discussed with your representatives, Spohn-Cook Co., the status of Smith Bros. cough drops.

It has been our experience that where we distributed quite a volume of Smith Bros. cough drops through the retail grocers, that the volume of business that we used to enjoy has shrunk considerably. In our opinion this is largely accounted for by the fact that retail grocers will not put the stamps on the packages and in a great many cases they sell the goods without stamping them, while in other instances they will not be bothered and simply discontinue handling the article.

With the retail druggists, he is, of course, more familiar with the necessity of stamping his proprietary goods, and there is not such trouble through this channel.

It is our belief that if the tax on Smith Bros. cough drops were repealed, the volume of your business would be largely increased.

Yours, very truly,

HAAS, BARUCH & Co.

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 CAMBRIDGE, MASS., May 17, 1920.
H. I. WHITCHER, *Allston, Mass.*

DEAR SIR: We presume that you know that many small dealers including grocers, confectioners, fruit dealers, cigar and tobacco dealers, etc., do not know that the law requires them to put a stamp on cough drops. We wonder if you do know that many of these dealers are refusing to handle cough drops as soon as they are informed that they must stamp each package before selling.

We are writing you in hope that you or your house may be able to do something to correct this matter. The amount of sales that we are losing is hard to determine, but it is considerable.

Trusting that we may hear from you soon in regard to this matter, we remain,

Yours, respectfully,

L. J. Foss Co.

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 SAN FRANCISCO, CALIF., June 7, 1920.
SMITH BROS. (INC.), *Poughkeepsie, N. Y.*

GENTLEMEN: Would you kindly inform us if it is still necessary for our customers to put a stamp on your packages of cough drops before they can sell the same? Every day we receive inquiries from customers asking us if it is necessary. If so we feel that this law should be repealed, as it hurts the sale of your cough drops. The retailers refuse to go to the trouble of buying the stamp and putting the same on the package.

Yours, very truly,

WILLIAM CLUFF Co.

SAN FRANCISCO, CALIF., June 7, 1920.

SMITH BROS. (INC.), *Poughkeepsie, N. Y.*

GENTLEMEN: We wish to call your attention to the unreasonable tax on Smith Bros.' cough drops. There is no doubt that this annoyance has caused many of our customers to abandon the sale of Smith Bros.' cough drops, and we feel that in justice to yourselves you should be apprised of these circumstances, which are seriously affecting the trade on your products.

Yours, truly,

HOOPER & JENNINGS.

SAN FRANCISCO, CALIF., June 7, 1920.

SMITH BROS. (INC.), *Poughkeepsie, N. Y.*

GENTLEMEN: Would it not be possible for you to eliminate the necessity of putting a stamp on your packages of cough drops?

The retailer seriously objects to this and in many instances is ignorant of the necessity of affixing them to the package, and therefore unintentionally violates the laws. We feel that this works to great disadvantage in the sale of your article.

Yours, truly,

A. NASSER CANDY CO.

JACKSONVILLE, FLA., May 25, 1920.

SOUTHERN CONFECTIONERY Co.,  
*Knoxville, Tenn.*

GENTLEMEN: As southern distributors of Smith Bros.' cough drops, we are writing to ask that you use your influence with the authorities at Washington to have the stamp tax of 1 cent per package on Smith Bros.' cough drops repealed.

We feel that this is a very unjust tax and one that is difficult to collect. The law is either being evaded to a very great extent or the merchants are refusing to handle a 5-cent cough drop which requires to be stamped, on account of the trouble necessary.

We believe that it is unjust to tax any preparation or confection which is sold for less than 25 cents per package.

Yours, very truly,

THE GROOVER STEWART DRUG CO.

SAN FRANCISCO, CALIF., June 10, 1920.

SMITH BROS. Co., *Poughkeepsie, N. Y.*

GENTLEMEN: We are wondering if there is not some way by which you could eliminate the complaint on the part of the retailers covering the question of sticking Government stamps on every package of cough drops.

Many of the retailers who used to carry cough drops are refusing to carry them, owing to the fact that they have to stick a stamp on for each sale made and sometimes, through an oversight, it might cause trouble.

We feel that undoubtedly there is some way by which this inconvenience could be overcome, and any assistance on your part toward effecting this will be appreciated by the trade.

Yours, very truly,

TILLMANN & BENDER (INC.).

NEW YORK, May 25, 1920.

ROBT. COLEMAN,  
*New York City, N. Y.*

DEAR SIR: It has come to my notice that the majority of the smaller drug stores do not affix war-tax stamps on Smith's cough drops, for which you are the agent. This interferes with our sales, since when we try to collect 1 cent extra, which represents 20 per cent of the cost, they refuse to purchase.

Personally, I think the tax exorbitant and unjust, but if the law applies it should be enforced on all druggists.

Yours, truly,

BENDINER & SCHLESINGER.

DETROIT, MICH., *May 25, 1920.*SMITH BROTHERS (INC.), *Poughkeepsie, N. Y.*

GENTLEMEN: Owing to the fact that about 75 per cent of the retailers are not attaching war stamps for the 5 per cent tax it greatly reduces the sale of cough drops. We would suggest that you get in touch with Washington, making it possible for you to absorb the tax and add it onto price, thereby equalizing competition.

We believe the Government would be ahead financially, as most of the retailers do not attach stamps.

Trusting you will do what you can on this matter, we remain,

Yours, very truly,

L. SCHIAPPACASSE & Co.

VALDOSTA, GA., *May 22, 1920.*

E. F. CONNER,

*Southern Confectionery Co., Knoxville, Tenn.*

DEAR SIR: As factory representative of Smith Bros. (Inc.), manufacturers of Smith Bros. cough drops, there is a little matter we wish to bring to your attention. We refer to the inconvenience required of our trade of stamping a package of cough drops.

The retail sale is a small one in each case and some of the smaller stores in country places do not carry out the law because they can not conceive of a confection like this requiring a stamp. We would be glad if you would take this up with your representative in Washington and try to have this tax removed. The main purpose in view would be that the smaller dealers are not carrying this out anyway and we do not believe that the Government intended to classify these goods as a proprietary medicine.

Anything you can do for us along this line will be very much appreciated.

Yours, truly,

MASHBURN DRUG CO.

NEW ORLEANS, LA., *May 18, 1920.*

SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: Regarding the tax on cough drops we certainly hope that the manufacturers of same will be successful in getting Congress to repeal taxation thereon.

We estimate in our territory that 60 per cent or more of the retailers who handled cough drops last season disposed of same without stamps, as they were not aware of the fact that cough drops were subject to taxation. Many of the retailers who knew that cough drops were subject to tax would not handle same. Those retailers were principally retail grocers, fruit stands, and confectionery stores. As you know, this class of trade sell quite a quantity of cough drops, and as their other lines are not subject to taxation they do not want to go to the trouble of buying stamps to sell cough drops.

We believe that unless this consumers tax is repealed on cough drops, our sales will be greatly curtailed, for reasons as stated above. We do not believe that it is fair to tax cough drops while other confections, such as fruit tablets, mints, and chewing gum which sell to the same class of trade who cater to cough drops, are not being subjected to tax.

With very kind regards and best wishes, we are,

Yours, very truly,

THE STOCKTON CO.

DENVER, COLO., *May 20, 1920.*

SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: It is quite evident to the writer that we will be unable to secure for you the volume of business on Smith Bros. cough drops for the season of 1920-21 that we have in the past.

Many of our jobbers are carrying over considerable stock and they attribute this invariably to the fact that dealers are not inclined to handle cough drops on account of the necessity of collecting the tax.

Some of our jobbers are declining to place orders, and will discontinue handling cough drops when their present stocks are exhausted. Several of our jobbers have advised us that in many instances when dealers find out that they are compelled to collect tax, do not keep cough drops delivered to them but return them to jobbers.

Now, we will do the best we can for this season, but do not expect the volume of business out of this territory that you have secured heretofore, for reasons as herein stated.

Truly, yours,

SPOHN & THAMER.



WILKES-BARRE, PA., *May 20, 1920.*

SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: In regard to the present war tax on Smith Bros. cough drops, would say that I think it very much decreased the sale of said cough drops, due to the fact that the average consumer does not consider cough drops as a medicine, but simply as a candy confection.

Furthermore, over 50 per cent of all cough drops are sold in places other than the drug store, which almost proves that they are only a candy confection. Kindly give this matter your attention. We remain,

Respectfully,

STAR TOBACCO CO.

CHICAGO, ILL., *May 18, 1920.*

SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: In reference to the tax on cough drops, would like to know if same could not be assumed by the manufacturer, as we continually have customers that find fault with the price of the tax on candy in the form of cough drops, believing it should be assumed by the manufacturer when in every other instance it is assumed by the manufacturer on the price of merchandise.

It is also very difficult to watch the clerks to insure safety and avoid trouble, as it frequently happens that the stamp is lost in trading and it appears that same was left off with malicious intent to defraud the Government; have had this to contend with on several occasions.

We assure you it will be a relief to our minds if this arrangement can be made, to dispense with the stamp, and trusting to receive a favorable reply, we beg to remain,

Very truly, yours,

THE FAIR.

CINCINNATI, OHIO, *May 18, 1920.*

SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: In view of the fact that 1-cent revenue stamp is taxed to package of Smith Bros.' cough drops, the sale has been very detrimental to small buyers, who, perhaps, could not turn over as many cough drops as larger chain buyers could. In consequence thereof we feel we are losing this business. Anything that could be done to obviate this tax we believe would be beneficial to both of us.

Yours, truly,

JOHN D. PARK & SONS Co. (LTD.).

DENVER, COLO., *May 20, 1920.*

SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: It has recently been called to our attention by some of our salesmen that many pool rooms, cigar stores, and grocery stores that formerly sold Smith Bros.' cough drops are not doing so at the present time for the following reasons: It is reported to us that their objections are on account of having to place a 1-cent excise stamp upon cough drops, and that as this is the only item which they carry which requires the use of excise stamps, they have concluded to discontinue the handling of cough drops in order to avoid having to go to the trouble of buying and applying the stamps.

A further objection has been made by the retail grocers to the purchase of cough drops, the statement being made by some of them that they wish to observe the law and will not sell cough drops unless the stamp is placed on them, while many other retailers are not so scrupulous and do not use the stamps. This places the retailers at a disadvantage who want to observe the law.

We believe that the use of excise stamps on cough drops is retarding their sale with us and would appreciate your trying to do something to rectify this condition.

Yours, very truly,

THE P. S. HESSLER MERCANTILE Co.

DENVER, COLO., *May 18, 1920.*

SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: After placing our order with your representative of Smith Bros. cough drops, we thought it advisable to take up with you regarding the law which now necessitates a 1 cent per box tax on your product. This tax has curtailed our business on this item to a considerable extent as there are any number of people, or rather

dealers, who refuse to handle this commodity, stating that the trouble connected with the tax is so great that they would a great deal rather not handle it. We also hear a great many reports from the retailers stating that the consumers themselves will not buy cough drops when it is necessary to place a cent a box tax on them.

We would certainly appreciate anything that you can do towards having this law repealed and will appreciate an early reply from you regarding this matter.

Yours, truly,

THE J. S. BROWN MERCANTILE CO.

CINCINNATI, OHIO, *May 17, 1920.*

SMITH BROS. (INC.), *Poughkeepsie, N. Y.*

GENTLEMEN: We have been wanting for some time to write you regarding the tax which necessitates a 1-cent stamp being affixed to each package of Smith Bros. cough drops sold by retailers to the consuming public.

While this tax is 1 cent on anything up to 25 cents, it results in virtually a 20 per cent assessment, owing to the fact that very few if any consumers buy cough drops more than one package at a time.

It has resulted in a greatly curtailed demand for this product, with a result that our retail and wholesale customers and ourselves have suffered greatly.

On the other hand, it seems that only the larger retailers are complying with this law and, as the volume of business is done through these channels, you will readily understand why we have been greatly harmed.

We do not know how your other representatives find this condition, but we know in our territory, which includes the States of Ohio, Indiana, and Kentucky, that our business has actually suffered greatly from this taxation.

Won't you, therefore, go into this matter fully and see what probabilities there are for prompt relief?

Very truly, yours,

S. H. SMALL & SON.

CHICAGO, ILL., *May 15, 1920.*

SMITH BROS. (INC.), *Poughkeepsie, N. Y.*

GENTLEMEN: For the past year I have had all kinds of trouble with my trade explaining the method which is in effect as to the tax on our cough drops.

It not only has caused a great loss to me, as some of my customers have refused to order, due to this tax, but it has also, I believe, caused a loss to the Government, due to the fact that there are a great number of retailers who never place stamps on packages of cough drops when they resell them.

Only recently I was called by the revenue officer in this district, who personally showed me approximately 200 packages of cough drops which his deputies have picked up from the retailers in this section, and these packages were not stamped.

I believe this tax is unjust and some method should be figured out whereby it could be removed.

Am taking the liberty of bringing this matter to your attention at this time, as in soliciting orders for my trade this season they are again withholding placing their orders, due to this condition, which I hope will shortly be remedied.

Yours, very truly,

C. H. MEISTER.

GREENSBURG, PA., *May 17, 1920.*

SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: We take the liberty of writing you relative to the Government ruling which requires the stamping of individual packages of Smith cough drops. We know that this ruling was not made with your sanction, but after trying from day to day to comply with said ruling, we find it so unreasonable, that we call on you with our protest with the view that you may at some time appeal to the Government so that this matter may again be righted.

We can state further, that approximately from 30 to 40 per cent of our sales on Smith Bros. cough drops have fallen off since this ruling was made, and from the information we learn from the various jobbers in Pittsburgh, they are meeting with the same trouble. Can not this be adjusted? It appears to us that if the various jobbers were to write to you and state their troubles on this point, you in turn could use their remarks in helping fight same with the proper Government officials. We also think it wise to inform you at this writing, that the retailers numbering from 50

to 60 per cent are not complying with this ruling due to the inconvenience and trouble in stamping each package.

We trust you will accept this letter in a friendly and businesslike way, as we feel that you are confronting a problem which you will find will bring you trouble and worry, and we stand ready to help fight this ruling for the better sale of your item.

Yours, very truly,

WESTMORELAND GROCERY CO.

WILKES-BARRE, PA., May 15, 1920.

SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: We are writing to inquire if there is not some way in which the tax on cough drops might be removed.

We do a wholesale business and find objections raised on every side. We feel that this condition is making considerable difference in the amount of sales of your product, and as the cough drops are candy and not drugs, we are hardly able to understand the situation.

If there is any way in which this tax can be overcome, we assure you that we would be able to use a much larger quantity of your goods.

Very truly, yours,

SPERLING TOBACCO CO.

SCRANTON, PA., May 10, 1920.

SMITH BROS. (INC.), *Poughkeepsie, N. Y.*

GENTLEMEN: I find that I am greatly hampered in the sale of your cough drops by the tax which is levied on them and I hear more and more complaints all the time.

In your advertisements you state that Smith Bros. cough drops contain no drugs. Then why should they be taxed as such?

My salesmen waste considerable time arguing because of the 1-cent tax. It will be wiser to discontinue handling your goods.

Yours, truly,

LIBERTY TOBACCO CO.

SCRANTON, PA., May 18, 1920.

SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: We receive complaints every day in regard to the stamp on cough drops. I can not understand why we have to use stamps on cough drops as they are a candy. If you would eliminate the use of stamps, we feel that we could increase the sales of your cough drops.

Yours, very truly,

THE J. D. WILLIAMS STORES.

GRAND RAPIDS, MICH., November 9, 1920.

SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: Under date of October 27 we wrote Mr. C. H. Meister, 350 North Clark Street, Chicago, asking him to cancel the balance of our order for Smith Bros. cough drops on account of the retail grocers not buying because of the fact that they have to place proprietary revenue stamps on every package and they say they will not be bothered with this.

You undoubtedly have discovered the big falling off on the sales of Smith Bros. cough drops for this very reason, and we would thank you to let us know how you have coped with the situation, for we have some 1,100 boxes on hand and the retailers positively refuse to buy as long as these stamps are to be placed on same.

Thanking you for an early reply, beg to remain,

Yours, very truly,

WORDEN GROCER CO.

CINCINNATI, OHIO, May 25, 1920.

SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: It has been called to our attention that many small confectioners are not complying with the law in that they are not affixing the 1-cent tax on their sales of Smith Bros.' cough drops. This is, of course, unfair to our members and we would like to know what we can do to have this tax removed.

Our company, as you know, is a cooperative one, composed of 600 customers throughout the neighboring States, and unless we can do something to overcome this condition we believe that our sales of Smith Bros.' cough drops will suffer thereby.

We have religiously taught our customers to meet the price, and if they can not do so and live up to the law they will be forced to discontinue handling your cough drops, as it is self-evident it is a better policy on their part not to stock an item than to allow themselves to be undersold.

Will you kindly advise us what you are doing about this matter?

Yours, very truly,

THE CINCINNATI ECONOMY DRUG CO.

SIoux CITY, IOWA, May 27, 1920.

SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: The inconvenience of stamping packages of cough drops has caused a great many of our retailers to discontinue the handling of this commodity. It has come to our attention that there are several evasions of this stamping law, but we are unable to state even approximately the percentage of distributors who are disregarding the law.

Yours, very truly,

O. J. MOORE GROCER CO.

SIoux CITY, IOWA, May 27, 1920.

SMITH BROS. Co., *Poughkeepsie, N. Y.*

GENTLEMEN: It has come to our attention that due to the inconvenience necessitated by placing stamps on individual packages of cough drops, a great many of our customers have discontinued the sale of this commodity. Some of the logical distributors of cough drops are less conscientious and we believe in fully 50 per cent of the instances the stamp is not affixed and the law entirely disregarded.

Yours, very truly,

NORTHWESTERN BEVERAGE CO.

SIoux CITY, IOWA, May 27, 1920.

SMITH BROS. (INC.), *Poughkeepsie, N. Y.*

GENTLEMEN: We have during the past season received many complaints from our trade regarding the inconvenience of stamping packages of cough drops. Our distribution has suffered greatly, and while our actual volume remains about the same, it is a reflection on us, as our business with you should show a natural development. The jobbers all maintain that their retailers, who are really conscientious regarding this stamping proposition, refuse absolutely to handle cough drops, and their only outlet is through the medium of such dealers as are in ignorance of the law or disregard it entirely. We believe the evasions of the law can be conservatively estimated at 75 per cent in this territory.

Yours, very truly,

IOWA BROKERAGE CO.

CINCINNATI, OHIO, June 3, 1920.

SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: We have complaints every day in regard to the 1-cent tax on cough drops; the customers say that they can go to the smaller stores and get the cough drops without the war tax. Ever since the Government ruling on the tax we have added it to the sale with the stamp. It seems that everyone should be compelled to add the stamp and then we would not have the complaints.

Please look into this matter and let us hear from you soon.

Yours, very truly,

THE DOW DRUG CO.

KNOXVILLE, TENN., May 31, 1920.

SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: We are writing to ask you to do all in your power to get a bill passed in the legislature discontinuing the present arrangements of having the retailer stamp every package of cough drops.

This is a terrible nuisance to us and to the retailer, and we do not believe that half of them are carrying out the Government instructions by placing these stamps on cough drops.

They are simply evading the law, not intentionally but simply through ignorance of the law or negligence. We think it would be much better to have this tax paid by the cough-drop manufacturers themselves, just the same as other confectionery manufacturers pay their tax.

Another injustice is being worked on the cough-drop manufacturers by the fact that many retailers will not handle cough drops because of the extra trouble and confusion in stamping these small packages when they can sell other confections without the necessity of going to this trouble.

Hoping that you will get this matter adjusted for us, we are

Yours, very truly,

B. L. JOHNSON & Co.

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CAMBRIDGE, MASS., May 18, 1920.

HARRY WHITCHER, *Allston, Mass.*

DEAR SIR: From inquiring among the jobbing trade we learn that some of the stores will not handle cough drops, owing to the stamp tax.

Sincerely, yours,

W. A. MILLER Co.

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SAN FRANCISCO, CALIF.

SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: We believe that a larger percentage of our customers—over 50 per cent—are consciously or unconsciously evading the Federal revenue laws in reference to the imposition of the tax on Smith Bros.' cough drops. These goods, being largely sold as candy, are confused by our customers with a package candy which is not taxed. This places an unfortunate distinction on your goods, and when we have warned our customers in this connection it has made them reluctant to continue their sale.

We feel that the application of this tax upon Smith Bros.' cough drops places your article at a great disadvantage and seriously curtails the sale. Smith Bros.' cough drops should be relieved of the imposition of this tax.

Yours, truly,

JOHN H. SCHOEN Co.

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DETROIT, MICH., May 27, 1920.

SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: My attention having been called to the fact that excise tax on cough drops being collected from the consumer is very much of a nuisance. I am taking the liberty of writing your good selves to see if anything can not be done whereby the tax can be absorbed by yourselves.

Anything you may be able to do with the Government to overcome this condition will be greatly appreciated by myself and the retailers in general.

Very truly, yours,

DETROIT CANDY Co.

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SALINA, KANS., May 19, 1920.

SMITH BROS., *Poughkeepsie, N. Y.*

GENTLEMEN: In regard to the war tax on cough drops, we find that trade in general are antagonistic to this proposition.

A number of our customers have discontinued handling cough drops because of the tax and inconvenience caused by same.

Furthermore, there is a feeling on the part of the consuming public that this tax is simply an added price to them, or at least our customers give us the impression that the trade feels that way. We have noticed an increased business on horehound products and wild-cherry products, which we can attribute to no other fact than the fact that our customers are switching to these from cough drops. The only reason for this is that they evade collecting the 1-cent tax from the customer. We believe that if this tax can be eliminated it would show a large increase in cough drops, a proposition which has not materialized the past year because of this tax feature.

We trust that you will be successful in the matter of promoting some new legislation that will do away with this unpopular tax on this particular product.

Yours, very respectfully,

THE SALINA CANDY Co.

CAMBRIDGE 39, MASS.

H. I. WHITCHER, *Allston, Mass.*

DEAR SIR: In reply to your inquiry as to the effect of the tax on cough drops, would say that we have several jobbers that purchase Smith Bros. cough drops who have informed us that their trade will not handle them on account of the bother caused by stamping the packages.

We have questioned our jobbers to considerable extent as regards the efficiency of this method of taxation, and some of them state that half of the retail trade is not using the stamps. In other sections it is only because of the visits of the inspectors that the stamps are used.

To our minds, if the stamp tax on cough drops and the 5 per cent tax on confectionery could be repealed and a low tax on sales be substituted for them, it would be a great benefit to the business.

Yours, very respectfully,

THE GEORGE CLOSE CO.

DENVER, COLO., *May 19, 1921.*SMITH BROS. Co., *Poughkeepsie, N. Y.*

GENTLEMEN: In reply to your recent letter regarding the sale of Smith Bros. cough drops, beg to advise that a number of our customers who run cigar stands, pool halls, and soft-drink parlors, who have handled cough drops in the past, have discontinued handling same, due to the fact that they do not care to go to the trouble of getting excise tax stamps, as this is the only item they carry on which it would be necessary to place this stamp.

Trusting this matter will have your attention, we are,

Yours, truly,

THE MOREY MERCANTILE CO.

KANSAS CITY, MO., *May 17, 1920.*SMITH BROS., *Poughkeepsie, N. Y.*

DEAR SIR: Please be advised that the war tax on S. B. cough drops is seriously affecting their sale in my market. Dealers quite generally object to the inconvenience of stamping every package of cough drops, and then the consumer as well as the dealer deems this tax as unjust and unreasonable.

Many of the dealers until just recently knew nothing about this tax or where to purchase the stamps. For this reason as well as the decision by most of the trade that the tax is excessive and unjust, possibly 60 per cent or more of the trade are evading the tax.

Jobbers are not buying because of their fear of the destructive effect on the sale of cough drops if the dealer is compelled to affix a war tax stamp to each package. Many dealers have already discontinued the sale of cough drops for this same reason.

Yours, very truly,

H. T. HAINZ.

LOS ANGELES, CALIF., *July 1, 1920.*SMITH BROS., *Baker Block, City.*

GENTLEMEN: It seems to us that the time has come when there should be some effort made to change the present method of collecting the tax on goods of the character of Smith Bros. cough drops. The present method certainly imposes a hardship on the dealer and on the customer, and if pressure can be brought to bear so that the present regulations can be corrected, it will certainly be very much appreciated by the trade at large.

Yours, very truly,

WESTERN WHOLESALE DRUG CO.

OMAHA, NEBR., June 9, 1920.

SMITH BROS. CO., *Poughkeepsie, N. Y.*

GENTLEMEN: We wish to refer to the war tax on Smith Bros. cough drops, which is certainly very much of a nuisance and certainly make a tax of very large proportion when one considers that the tax is about 16½ per cent of the sale price. Of course this is no worse than the tax on root beer and phosphates at the soda fountain, but it is certainly petty larceny pure and simple. We do not believe the people who buy cough drops for a cough or root beer and phosphate to quench their thirst or the makers and vendors of these commodities would object to paying any fair tax, but they do seriously object to being subjected to such a large percentage of annoyance in the payment and in the collecting and accounting for this tax.

It is quite another question as to how much this tax is avoided altogether through ignorance or willful dishonesty.

Yours, very truly,

SHERMAN & McCONNELL DRUG CO.

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SIoux CITY, IOWA, May 26, 1920.

IOWA BROKERAGE CO., *City.*

GENTLEMEN: Our experience has proven that the inconvenience caused the merchant by the necessity of stamping packages of cough drops has resulted in a great many of our customers discontinuing the sale of same; furthermore, it has come to our attention that about 60 per cent of the merchants who do carry this article seem to evade the tax altogether, which may no doubt be due to ignorance.

Trusting that something may be done to change this tax, we remain,

Yours, truly,

JOHNSON BISCUIT CO.

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SIoux CITY, IOWA, May 28, 1920.

IOWA BROKERAGE CO., *Sioux City, Iowa.*

GENTLEMEN: In regard to the war tax on cough drops and its effect upon the sale of these drops.

The writer knows of many of our customers who formerly handled not only Smith Bros. cough drops but other cough drops and have thrown the item out of their place of business because they did not care to take the time to affix stamps and make a charge therefor, and have sold them instead lemon drops and other "hardboiled" goods in lieu thereof.

Concerning violation of the law among retailers who were evading the tax altogether, we are not certain of the figures on this, but believe, along with other lines besides the cough drop line, it is done to a great extent.

Yours, very truly,

TOLERTON & WARFIELD CO.

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TOLEDO, OHIO, January 31, 1921.

SMITH BROS. (INC.), *Poughkeepsie, N. Y.*

GENTLEMEN: Your favor of the 28th received, and wish to advise that at the present time we have on hand 1,272 boxes of Smith Bros. cough drops. They are not moving very rapidly with us and we believe, in fact, we know, that it is due to the tax on same.

A lot of dealers are not bothering with them that have always been good users. If in some way this tax could be collected at the source it would be a great benefit to the sales of this piece of goods we are sure.

We note you state that you have not had any orders to the trade in Toledo and vicinity for some time. We do not know just what you mean by "vicinity," but if you have any orders to go to Detroit, Fort Wayne, South Eend, Elkhart, Columbus, or any towns within a couple of hundred miles of Toledo, we can give very prompt service out of Toledo and would appreciate the chance to reduce our stock.

Trusting you can consider this, we remain,

Yours, very truly,

THE SMITH-KIRK CANDY CO.

## FURS.

**STATEMENT OF JOHN W. HAHN, SECRETARY OF THE NATIONAL GARMENT RETAILERS' ASSOCIATION.**

**Senator McCUMBER.** Mr. Hahn, will you state your full name and address and whom you represent?

**Mr. HAHN.** John W. Hahn, of New York City; I am secretary of the National Garment Retailers' Association, with headquarters in New York City. I am here to-day to submit a brief drawn up by the taxation committee of the Retail Fur Division of the National Garment Retailers' Association.

**Senator McCUMBER.** Pro or con?

**Mr. HAHN.** We are inclined to be in favor of it, Senator.

**Senator McCUMBER.** In favor of the sales tax?

**Mr. HAHN.** Only in preference to what we now have.

**BRIEF OF THE RETAIL FUR DIVISION OF THE NATIONAL GARMENT RETAILERS' ASSOCIATION.**

In this petition for relief from the present revenue law we believe that we are expressing the sentiments of all retail furriers throughout the United States. We make this statement because we have been in a position to sound out the sentiment of the retail furriers, from all sections of the country, and knowing their problems are identical with our own, we have ventured to say that we speak for the whole retail fur trade.

The petitioner, the Fur Division of the National Garment Retailers' Association, is an organization of retail furriers throughout the country. The committee who drafted this brief was so authorized by the board of directors, and the board instructing the committee as to the wishes of the membership in any appeal for tax revision.

We believe there has been no industry that has had a greater setback in the past year than the fur industry. Millions of dollars of invested capital have been lost and hundreds of firms have gone out of business for the reason that they could not stand the strain of readjustment during the period of deflation and liquidation. Prices have dropped anywhere from 25 to 75 per cent, and retailers with large stocks suffered great losses. There were few, if any, who did not sustain material loss for the reason that the breaking of prices came just after the opening of the buying season for the fall of 1920. Retailers had purchased their stocks on the old price basis, and were unable to liquidate in time to avoid heavy losses. Unlike some other industries, purchases are made by fur retailers long in advance in anticipation of the coming season, so your committee will have some idea of the loss sustained by the fur industry from the fact that the break came after the retailers had made their purchases for the fall season of 1920. Although prices in furs in many instances are down now to prewar levels, and in some cases below them, this in itself is not sufficient stimulus to fur buying by the public, and retailers of furs find it a difficult task to make sufficient return on their investment to cover the operating costs of their business.

The fur industry ranks well among the leading industries of the country. In fact, this is one industry in which America has become preeminent. Under normal conditions thousands of men and women are employed in the industry, adding in no small way to the general prosperity of the country. When the slump came, however, thousands of people were thrown out of employment and to a large extent still remain unemployed.

One element which we believe is interfering with the return of normal conditions in the fur industry is the present revenue law. The loss sustained by retail furriers during the past year, represents not only the price deflation, but likewise the 10 per cent tax which the manufacturer paid to the Government under section 900 of Title IX of the revenue law of 1918, which, of course, was based on the high price and passed along to the retailer either as a separate item or in the price of the furs. As an after effect of deflation, as the committee will see, there is no possibility of the fur retailer passing along this high tax percentage to the public, and he must himself sustain that much loss in addition to his losses on prices.

We believe that the 10 per cent excise tax under Title IX, affecting furs, should be repealed. Without an intimate acquaintance with the fur industry and the general use of furs to-day, some people are inclined to believe that furs are a luxury. This



is not so, as a study of the industry will reveal. While some women may wear furs for no other reason than to add to their charm, there is, nevertheless, an element of warmth in the fur worn, and even in such cases the fur is used as a substitute and takes the place of a cloth garment. On the other hand, there are thousands of people who buy furs for no other reason than to insure warmth, particularly in the northern section of the country, where the climate is particularly severe during the winter months.

Our member stores report in many cities in the North that it is almost impossible to sell a cloth garment. Fur coats and fur wraps are in great demand and bought primarily for the reason of insuring against the cold. Garments of this character can not in any sense be considered a luxury. Chauffeurs in cold weather must have furs, while others employed in outside work of a similar nature find that furs are the only garments that properly protect them from the elements of winter weather.

To-day, with reduced fur prices, a fur coat may be purchased in many cases at as low a price as a cloth garment, and after all the only line of demarkation that can be established with regard to luxury or necessity articles is the price line. A fur garment at \$150 is no more a luxury than a cloth garment at the same price, yet no tax attaches to the cloth garment unless the garment is trimmed with furs, so that after all the tax is directed against the fur and not against the cloth, nor the price paid for the garment. We see in this an unfair discrimination which reacts against the fur industry and which we believe drafters of the revenue law of 1918 never intended should exist, and which we urge your committee to remedy.

To-day a woman may purchase a cloth dress, suit or coat, and though the price for that article may run into the hundreds of dollars, as some do, no tax attaches unless the garment is trimmed or decorated with furs. On the other hand, a simple little coat of fur, at any price, no matter how low, under the provisions of the revenue law of 1918 is considered a luxury and is taxed 10 per cent of the selling price.

Another point for the committee to consider in connection with this discrimination is the fact that a fur coat is of much longer life than a cloth coat. As to the question of luxury and necessity, a determining factor is likewise the service element. A cloth garment at \$100, lasting but one season, in our opinion is more of a luxury than a fur garment selling at \$500, when the period of service is considered, for, in all likelihood, the fur garment will last from 5 to 10 years, according to the care given it, rendering, as will be seen, 5 to 10 times the amount of service. So in our opinion the discrimination of luxury and necessity must be based upon a price line of demarkation and the general length of service rendered to the purchaser.

We can not understand, though we have given the question much reflection during the past two years, why the discrimination between the fur industry and others. While furs must pay a tax of 10 per cent jewelry, on the other hand, pays only 5 per cent. If the framers of the revenue law of 1918 were attempting to discriminate as between luxuries and necessities, taxing those articles which were deemed luxuries to a greater extent than those considered necessities, then the reverse should have been the case with regard to furs and jewelry.

Looking over section 900 the committee will find that the fur industry is directly discriminated against in many instances. Several industries are taxed at a lower rate percentage than the fur industry, though there can be no question of the fact that those other industries are more in the line of luxuries than furs. For instance: (2) automobiles and motorcycles (including tires, inner tubes, parts, and accessories etc.), 5 per cent; (4) pianos, organs, piano players, graphophones, phonographs, talking machines, etc., 5 per cent; (6) chewing gum, 3 per cent; (13) portable electric fans, 5 per cent; (14) thermos and thermostatic bottles, carafes, jugs, etc., 5 per cent; (16) automatic slot device vending machines, 5 per cent; (21) toilet soaps and toilet-soap powders, 3 per cent.

We believe we have made it plain that furs are in many cases a necessity, providing warmth; and also that from the point of service a fur garment is not a luxury. Yet we can not see how the same thing can be said of many of those mentioned above, on which the tax is lower than on furs. Jewelry, for instance, in no way adds warmth or convenience to the wearer, and the appeal for the sale of this kind of merchandise, aside from watches and clocks, must be based for the most part upon the charm it adds to the appearance of the purchaser. It can have little or no other appeal, and yet it bears a tax of only 5 per cent, as against 10 per cent on furs.

If the fur industry is to prosper and those workers who were dismissed during the deflation period are to be taken back into employment, we firmly urge that the fur tax be repealed.

On the other hand, if your committee finally decides not to recommend the repeal of the excise taxes under Title IX, we feel that at least all element of discrimination against the fur trade should be removed.

There have been before your committee representatives of different industries, who have recommended the repeal of the excess-profits tax, the lowering of surtaxes on incomes, and the repeal of all excise taxes under Title IX. It has been suggested in lieu of this tax that a turnover tax of 1 per cent be enacted to raise sufficient revenue to meet the requirements of the Government, which would suffer in lost income through the repeal of those taxes.

We believe, with others, that the excess-profits tax and surtaxes on incomes, as well as the excise taxes, are passed along to the consumer wherever possible, adding to the price of merchandise to the ultimate consumer. While in many cases it may not be possible to pass along the excess-profits tax, this tax, nevertheless, adds to the price of merchandise by virtue of the fact that it makes the Government a partner in business and encourages lavish spending in business expenditures, increasing many appropriations which otherwise would be curtailed, for the reason that business knows that part of these expenses must be borne by the Government through the deduction of the expenses from the reported net income. These increased expenses, nevertheless, add to the overhead of the retailer and are paid for by the consumer in his purchases. The income tax, too, we believe is passed along in many instances, while the excise taxes undoubtedly are.

The turnover tax, as recommended to your committee, we believe would not in any way be a burden upon the public but would in a long run mean the lowering of prices to the consumer. There would be no guesswork on the part of business men as to what their taxes would be, nor would there be any necessity for adding on more than enough to make sure that such tax expenses were sufficiently covered. Business would have a definite tax rate before it which would be added to the cost of the article and passed along to the consumer. There is no logic, in our opinion, in the argument that the turnover tax is an attempt to shift the burden of taxation from the rich to the poor, for in our humble judgment all taxes are ultimately consumption taxes and paid by the consumer.

Under the present tax law we have had to increase our general overhead by larger clerical departments, revised and more amplified bookkeeping methods, and have had to expend large sums for legal and auditing fees in order to protect ourselves against present or future requirements of the Treasury Department in connection with the present taxes.

We believe the turnover tax would be a simple tax to administer and collect, thus saving the Government and business the vast sums expended on the administration, collection, and recording of the existing taxes.

We therefore plead that your committee recommend that the vexatious taxes of to-day, namely, the excess-profits tax and excise taxes under Title IX, be repealed, and that the surtaxes on incomes be lowered and in their place a turnover tax of 1 per cent be enacted.

We do not recommend the turnover tax because we are particularly anxious to have it, but we believe it is a more equitable and definite tax than the present tax laws and will aid materially in getting business and the country back to normal.

Respectfully submitted.

Retail Fur Division National Garment Retailers' Association Taxation Committee, Richard Jaeckel, chairman; H. Jaeckel & Sons; P. S. Greenlees; C. C. Shayne & Co.; J. M. Gidding; J. M. Gidding & Co.; A. Jaeckel; A. Jaeckel & Co.; James Kinghorn; C. G. Gunther's Sons; Donald Adams; Balch, Price & Co.

#### STATEMENT OF EDWARD FILLMORE, NATIONAL COMMITTEE ON THE FUR INDUSTRY, NEW YORK, N. Y.

Mr. FILLMORE. My name is Edward Fillmore.

The CHAIRMAN. Where do you reside, Mr. Fillmore?

Mr. FILLMORE. New York City.

The CHAIRMAN. What is your business?

Mr. FILLMORE. I am an attorney. I represent the National Committee on the Fur Industry.

The CHAIRMAN. You are not in the fur industry yourself?

Mr. FILLMORE. I am not; but I have been connected with the fur industry upward of 17 years, but I realize that, being an attorney, you might not wish to hear the attorney's side, so I have here with me gentlemen who represent the fur industry, practical men.

The CHAIRMAN. We would rather hear the principals, in all due respect to the lawyers.

Mr. FILLMORE. I shall ask Mr. Piehler, of Boston, and Mr. Reilly, of New York, to represent us, if you please.

The CHAIRMAN. All right.

**STATEMENT OF FAIRFAX A. REILLY, NEW YORK, N. Y., REPRESENTING NATIONAL COMMITTEE ON THE FUR INDUSTRY.**

The CHAIRMAN. Will you state your full name and address?

Mr. REILLY. My name is Fairfax Reilly, and my address 20 West Twenty-third Street, New York City.

The CHAIRMAN. You are in the fur business?

Mr. REILLY. Yes, sir.

The CHAIRMAN. Will you state briefly your views on the tax question, as it bears on furs?

Mr. REILLY. Yes, sir; Senator, I am not going to read the section especially pertaining to furs, because I know you gentlemen all are familiar with it. The single subdivision of section 19 is:

Articles made of fur on the hide or pelt, or which any such fur is the component material of chief value, 10 per centum.

The National Committee of the Fur Industry, appearing at this hearing, is a voluntary committee composed and representing the following associations in the United States, and which associations represent all the different branches of the fur industry from the handling of the raw skin to the finished article:

Fur Merchants' Association of New York City.  
 Associated Fur Manufacturers (Inc.).  
 American Fur Dealers' Association.  
 Mutual Protective Fur Manufacturers' Association.  
 Fur Dressers and Fur Dyers' Association.  
 Associated Fur Industries of Chicago.  
 Boston Association of Fur Manufacturers.  
 Fur Manufacturers' Association of Philadelphia.  
 Milwaukee Retail Fur Manufacturers' Association.  
 Raw Fur and Wool Association of St. Louis.  
 Minneapolis Fur Merchants' Association.  
 Bronx Retail Furriers' Association.  
 San Francisco and Northern California Fur Dealers' Association.  
 Southern California Fur Dealers' Association.  
 New England Association of Fur Dealers.

We appear before this Committee on Finance on behalf of the fur industry of the United States at this time, to urge upon Congress to repeal this particular excise tax on furs, because this tax is discriminatory, unjust, and burdensome, for the following reasons:

From all the varied lines of wearing apparel needed by the human individual for protection, furs have been singled out, under the revenue act of 1918, as the only article of general wearing apparel to bear a maximum tax of 10 per cent, to be paid by the manufacturer, while men's and women's wearing apparel made of textile or fiber, such as silk, wool, velvet, etc., have remained untaxed, with the exception of certain definite articles under section 904, which are taxed above a certain price because deemed luxuries at the price taxed.

The revenue act of 1918 was essentially a war measure, and while the fur industry did not complain of paying its proportionate tax and of bearing its part of the burdens of the war, despite the discrimination, there exists no reason now why, after a period of over two years, the burdens imposed upon it by such a discriminatory

tax should not be lifted and the industry placed on equal footing with all other industries in the United States of the same character.

When the Ways and Means Committee proposed the revenue bill of 1918, H. R. 12863, the fur industry, through its war-service committee, observed that in the bill as submitted to the House there were but 15 different kinds of furs enumerated as a subject of taxation, and the fur industry, actuated by patriotic motives, immediately presented its views to the Ways and Means Committee and showed the error of taxing only a small number of skins, and urged upon Congress that it impose a tax on all articles made of fur. Congress then accepted the suggestion of the fur industry and enacted the present law.

The fur industry is not setting this forth for the purpose of showing that it should be rewarded now for an act that was then its undoubted patriotic duty, but wishes to call to the attention of this committee that its act at that time was because the Government needed money and needed it quickly, and we did not put forth nor investigate the inequities of this excise tax.

We are setting this fact forth now, however, for the special purpose of showing this committee that in the minds of the Ways and Means Committee at that time there were only a certain few of the articles in the fur industry which ought to be termed luxuries, and that they were intending to select those certain few articles and did not consider all of the articles made of fur as luxuries.

We have now investigated very carefully the inequities of the tax, inasmuch as we are at peace, and therefore respectively submit, as herein set forth, that by far the majority of furs used in this industry are entirely used for necessary wearing apparel; and we believe, therefore, that the fur industry is without question entitled to freedom from unequal taxation, and to full opportunity to compete equally with other like industries.

It is possible that it may appear to some that the reason why fur is taxed is because it is either a luxurious or semiluxurious article, and that for that reason it can be dispensed with, and those buying it should pay a tax thereon. This is a misconception of fact, and needs but few words to refute.

The first apparel of any kind that was worn by the human race was made of pelts of animals. The progress of civilization devised substitutes, but articles made of fur have always been a part of the wearing apparel of the human race.

The CHAIRMAN. Do you claim that furs have priority over the fig leaf? [Laughter.]

Mr. REILLY. I think it was used at the same time, at any rate, Senator. [Laughter.]

When furs were first used as wearing apparel only those furs which are to-day the rarest and most expensive were the furs used, and because of the increased demand for low-priced furs as necessary wearing apparel, and the failure in the supply in these finer furs, the industry as a whole was compelled progressively to seek out and secure the commoner furs to supply the wants, and to-day we are utilizing in very large quantities cats, dogs, rabbits, wombat, opossum, muskrats, etc., from which articles are produced garments as moderately priced and as much in general use as the ordinary cloth coat. This coming year fur coats at the new price levels will be sold by the thousands to the consumer under \$50 a garment.

It is quite true that the pelts of some rare animals are expensive, and that the wearing of same by some who could afford it would be a luxury, but by far the greater majority of the articles made of fur, sold to and worn by the general consumers of the United States are not articles of a luxurious nature, but are distinctly articles that are needed by the individual for protection against the weather conditions. When it comes to protection against inclement weather, it is well known that no article can take the place of those made of fur, because it is the only article that will withstand the extreme chill of winter.

In the Northwest, West, and East a fur coat to both man and woman is as necessary to life and comfort as food.

What can be more luxurious than articles made of gold, platinum, silver, or the different metals, known as jewelry, yet these articles, under the 1918 revenue act, bear one-half as much tax (5 per cent) as the necessary articles of wearing apparel made of fur, and at that it is levied on the retail price when sold to the consumer, while on furs the manufacturers must pay, in practically all cases, the tax before it is sold to the consumer.

Further, under the present revenue act a silk dress, lace gown, or rare linen wearing apparel, costing many thousands of dollars, purely a luxury, and not a necessity in any sense, are not taxed at all, while a woman buying a fur scarf at \$10 must pay \$1.

Men's overcoats and suits made of the finest textiles, selling upward of \$100, bear no tax at all, while the cheapest kind of a fur coat, selling for \$50, is subject to a tax under the present revenue act.

The basic reason for placing the tax on the manufacturer was, we believe, a war measure, for the conservation of labor and materials. That reason does not exist to-day. We want to make use of the labor of the country and employ the laborers, and we think that in view of the number employed in our industry to-day makes it an essential industry of the country.

It is well known that fur is a seasonable article, and the tax, under this law, in most cases, is paid by manufacturers before sold to the consumer. Naturally, the manufacturer pays the tax but passes it to the retailer. The retailer, in selling the garment to the consumer, however, does not collect the exact tax which he pays, but, on the contrary, adds it onto his cost price and reimburses himself in that way. So that the consumer does not pay the exact tax, but in many cases pays more than the exact tax levied on the manufacturer.

Aside from the present law being an injustice to the consumer, it takes from the manufacturer live capital from his business, impedes his progress, because it may be many months before he may be reimbursed from the retailer. This tax is a further injustice to the retailer because of the fact that in addition to purchasing merchandise, he is also purchasing taxes, and owing to the falling market as the fur industry is just passing through, he is not able to reimburse himself from the consumer, but must lose the taxes he has already paid, and in addition to losses sustained in the fall of the market, suffer the depreciation on the merchandise besides.

Under the revenue act of 1918 we are obliged to pay the same normal and excess profits tax that the steel, lumber, mining, silk, wool, and many other industries pay, but in addition to all these

taxes, we must provide for and are required to pay an additional 10 per cent tax that these industries are free from.

We believe that the foregoing illustrations should be ample to prove how unjust, unfair, discriminatory, and un-American is this 10 per cent tax on manufactured furs, and the absolute necessity that the same should be immediately repealed.

We respectfully submit that none of the special excise taxes, under Title IX, revenue law of 1918, are fair, and the recent recommendation of the Secretary of the Treasury to retain these present excise taxes, with the exception of section 904, the so-called luxury tax, and what he describes as certain "nuisance taxes," is not fair and just, as this would continue to present discrimination, imposing untold hardships and burdens upon some industries, while other industries are free of them. In addition to this, if section 904 of the revenue act of 1918 would be repealed and the tax on furs remain, then the only article of general wearing apparel still taxed would be furs.

I would like to say in connection with this that within the last four weeks that division of the Canadian law has been repealed, in which section furs are included, so that at the present time that tax in Canada has been repealed.

We know that the Government requires revenue, and Congress should fearlessly impose a tax on all business alike. Let each industry bear its proportionate burden. It is not right, it is not fair, to single out a few industries to bear the burden that all should share in, and there are any number of industries in this country to-day that are progressing and enjoying freedom from special taxation, while a few bear the burdens of it.

It is utterly impossible in a short memorandum and the short time we have to submit our cause to this committee to recount the many ills that the fur industry is suffering from, as with many industries it is going through the terrible times of reconstruction after the war, in which values have, without warning, been destroyed almost overnight, with the consequent loss of many millions of dollars to those engaged therein, and has brought the industry to almost the verge of ruin.

I may say, gentlemen, that the fur industry undoubtedly is one of those raw-commodity industries which has without any doubt paid back whatever profit it made during the war period. They are not complaining about that. We realized that the industries had to bear their share of the awful cost of the war with others, and the fur industry is only asking equal opportunity—it is not asking special favor over any other industry.

This situation, together with this most burdensome 10 per cent tax on furs, is making conditions almost unbearable in the industry, and greatly retard its progress of recovery.

In conclusion, therefore, on behalf of the fur industry, we submit the following:

First, that Congress repeal Title IX, section 900, subdivision 19, of the revenue act of 1918.

Second, that Congress repeal the entire Title IX of the revenue act of 1918, in other words, the excise taxes.

Third, that if the United States Government requires revenue, that Congress enact a just and undiscriminatory tax law, and for this

reason we favor the enactment into law of a gross sales turnover tax of 1 per cent, in lieu of these present special excise, excess profit, and other business taxes, as represented by either the bill introduced by Senator Smoot on April 12, 1921, known as S. 202, or the bill introduced by Congressman Mott on April 11, 1921, known as H. R. 2226, entitled "A bill to amend the revenue act of 1918 and to establish a general sales tax."

We believe that the enactment into law of such a sales tax as provided in these two bills would be eminently fair, just, and equitable, and would be welcomed by the people of the United States, especially if the normal income and the surtaxes be revised to suit the present economic conditions of the country.

**STATEMENT OF OTTO J. PIEHLER, PRESIDENT BOSTON ASSOCIATION OF FUR MANUFACTURERS, AND CHAIRMAN NEW ENGLAND FUR DEALERS' ASSOCIATION.**

The CHAIRMAN. The business is, of course, furs?

Mr. PIEHLER. Furs; and I represent the New England Association of Fur Dealers, and am chairman and president of the Boston association. I am going to take but a few minutes of your time, because I know you are fairly familiar with this entire subject. But the question which you put to the representative of the automobile industry, I thought possibly you might like to hear a similar answer as to the fur business. I have figured out, as near as I could, what the difference would be in the tax, that is, what we are paying now. It would be just about one-fourth, taking the tax at all points, from the raw material up, the turnover on the total would be yielding just about one-fourth of what it does now.

We know how discriminating this tax is, but this gentleman has covered the ground thoroughly, and there is no need of my going over it. I happened to be at that time a member of the war-service committee, and we did call your attention to the chances for the evasion of the tax, and that was our duty, first, to the Government, regardless of our industry.

I do not think there is anything else I want to say, because I understand you are so thoroughly familiar with the subject. All I hope is that you will see your way clear to remove this unjust tax, and let the burden be divided up, and let others bear their just proportion. If the sales tax were put in effect everybody would stand it without feeling it, and I suppose you know that the Boston Chamber of Commerce has reported, after a referendum vote, 20 in favor to 1 against.

**SPECTACLES AND EYEGLASSES.**

**STATEMENT OF ERNEST H. GAUNT, PROVIDENCE, R. I., SECRETARY OF THE OPTICAL MANUFACTURING ASSOCIATION.**

The CHAIRMAN. Do you want to speak on the tax on spectacles?

Mr. GAUNT. I want to speak on the tax on spectacles and eyeglasses. I have a very brief statement to make. The tax on spectacles and eyeglasses is made under section 905 by a ruling of the Treasury Department. These articles are not specifically mentioned

in the United States revenue act of 1918, but a ruling was made by the Treasury Department to make spectacles and eyeglasses come under section 905, and be subject to the 5 per cent tax.

We understand that there was a difference of opinion, and the first intention of the Treasury Department was to exempt spectacles and eyeglasses, as surgical instruments were specifically exempted in the act. The final view that prevailed, however, was to include spectacles and eyeglasses. A mild protest was made against this, because of its injustice, but due to the fact that there was a war going on, and it was realized that money was needed and that such injustices could not be avoided, perhaps, at that time, nothing considerable was done. But at this time it seems wise to point out to your committee that this is an unjust tax, both in principle and in practice. It really amounts to a tax on sick people. We might perhaps just as well have a tax on crutches.

It is a conservative estimate that one-third of the total population of the country wear glasses. I counted in this room this morning 16 out of 34 people wearing glasses; 33 per cent, or one-third of the total population, is considered a conservative estimate. By actual count in such places as New York City it has been found that 38 per cent of the people wear glasses.

It has been found out by research that one-half of those who do not wear glasses need to wear them. Nearly every one over 40 should wear glasses. In regard to school children, it has been found that 66 per cent of school children need to wear glasses, but probably not one-tenth of these are having the proper attention given to their eyes. I would like to read a paragraph of a statement made by Dr. Cassius D. Westcott.

Dr. Westcott is one of the prominent oculists of the United States and chairman of the meeting on conservation of vision of the council on health and public instruction of the American Medical Association. At a recent meeting of the Eyesight Conservation Council he said as follows:

Ninety per cent of the school children's eyes are imperfect, and at least 60 per cent are being used at a disadvantage. Many a child groping with poor eyes and struggling for an education against his handicap becomes not only a stupid child but a rebellious child, a truant child, and a truant child is a criminal in embryo. There is no question about that; it has been demonstrated again and again.

So in principle we are opposed to this tax. In practice here is the way it sometimes works out: The man of wealth can order a genuine spectacle frame, and pay \$40 or \$50 for it; he is examined by an oculist and pays \$5 to \$50. He then may have a pair of invisible bifocal lenses costing about \$25. His total bill would be about \$100, but on that he would not pay any tax at all under the present law.

On the other hand, the ordinary man could buy a frame like this [illustrating], which costs \$3 to \$4. He would pay \$3 for professional service to an optometrist; the lenses would cost possibly \$5—about \$14 in all; and on that he would pay a 5 per cent tax on the professional services and the lenses as well as on the frames, under the ruling of the Treasury Department. That is unjust to the wearer; it is also unjust to the optometrist, who does this work from start to finish, who makes the professional examination, who fits the lenses to the frames, and who fits the frames to the face.

The CHAIRMAN. Would it not cover what you want by just printing your letter addressed to the committee?



Mr. GAUNT. I am practically done, Mr. Chairman. I just want to point out that it is wrong in principle and wrong in practical application. As a matter of fact, attention to eyesight should be encouraged. The factories are taking it up and having the eyes of their employees examined; the schools are taking it up; and this tax does discourage the use of glasses. I have been informed by optometrists that they have had to absorb the tax or else lose the customer, because the customer said that glasses are not a luxury, which, of course, is a correct statement.

I think that the law should be made clear, as it was in the case of surgical instruments, that spectacles and eyeglasses are to be exempt from this tax.

(Following is the letter above referred to:)

PROVIDENCE, R. I., May 27, 1921.

FINANCE COMMITTEE,  
United States Senate, Washington, D. C.

GENTLEMEN: For your consideration in connection with the revision of revenue laws, we beg to present the views of the Optical Manufacturers' Association in regard to section 905 of the United States revenue act of 1918, under which, by a ruling of the Treasury Department, spectacles and eyeglasses are classed with articles which are commonly and sometimes mistakenly called luxuries and made subject to a 5 per cent tax.

Those who wear glasses and those who manufacture, distribute, or fit them to the wearer, have been at a loss to understand why spectacles and eyeglasses were ever classed with so-called luxuries, as it is so obvious that they are absolute necessities. Their conclusion has been that the ruling of the Treasury Department was not in accordance with the intentions of those who framed the law, and although mild protests were made, the matter was not vigorously followed up because it was realized that the Government needed to get money for the prosecution of the war and had no time to remedy even such patent injustices. We understand that there was a division of opinion on this subject among the legal advisers of the Treasury Department and that the first recommendation was to exempt spectacles and eyeglasses, but that this opinion was afterwards reversed.

However, now that the revenue revision is being considered, it is wise and just that the error made in taxing spectacles and eyeglasses be corrected. Whether or not the taxes on so-called luxuries are removed, spectacles and eyeglasses should be no longer included with these articles.

We understand that the theory upon which commodities were selected under section 905 of the United States revenue act of 1918 was that they were "not of the first necessity." We might go into an extended discussion to show that this theory was and still is wrong when applied to spectacles and eyeglasses, but it does not require a technical discussion to demonstrate that spectacles and eyeglasses are a necessity and that it is a great injustice to put them in the luxury class for purposes of taxation. Those who wear glasses, or who have members in their families who wear them, know that those who wear glasses can not do without them without paying a heavy penalty. Some people are absolutely helpless without glasses. Doing without glasses is an entirely different matter from doing without diamonds or other such articles of adornment. Doing without so-called luxuries does not in any way affect the health, but doing without glasses most certainly does affect the health.

Besides those who already wear glasses, there are a large number of people who do not wear glasses who need to. Nearly every person beyond 40 should wear glasses. Research shows that at least half of the people who do not wear glasses need to wear them for the sake of their health and efficiency.

Statistics compiled by one of the most prominent oculists, as the result of examinations of thousands of school children in one of our largest cities, indicated that only 7.5 per cent of the children had normal eyes, and of the 92.5 per cent having abnormal or defective eyes, 66 per cent had errors of refraction or defects high enough to warrant the wearing of glasses.

At a recent meeting of the Eye Sight Conservation Council of America the following statement was made by one of the most prominent oculists in the United States and chairman of the committee on conservation of vision of the council on health and public instruction of the American Medical Association:

"Ninety per cent of the school children's eyes are imperfect and at least 60 per cent," he said, "are being used at a disadvantage. Many a child groping with poor eyes and struggling for an education against his handicap, becomes not only a stupid child, but a rebellious child, a truant child, and a truant child is a criminal in embryo. There is no question about that: it has been demonstrated again and again."

In connection with child welfare, Dr. Thomas Wood, of Columbia University, says: "There are 24,000,000 school children in the United States, and only a small fraction of them have received a reasonably adequate test of vision. Probably not more than one-tenth of the children who have defective vision are having proper attention for these defects."

A great and increasing number of schools and factories require or encourage eye examinations. The great number of people who do not wear glasses and really need them should be encouraged to wear them and not discouraged, as they are by the present tax on spectacles and eyeglasses. A tax on spectacles and eyeglasses is a tax on sick people. A tax on articles not of the first necessity—so-called luxuries—may or may not be justified, but whether it is or not, it should have no bearing on a tax on spectacles and eyeglasses. During the war the optical industry was classed as an essential industry. It was given preference in the supply of coal and coke and also was allotted gold on the same basis as the dental industry, it being considered as much of a necessity for spectacle and eyeglass frames and mountings as for the filling of teeth.

We have been informed by eyeglass specialists who fit glasses to the wearer that the present 5 per cent tax has discouraged people from the purchase of spectacles and eyeglasses. Some of them state that they have absorbed the present tax rather than pass it on to the wearers of glasses, many of whom have refused to pay it stating that "glasses are not a luxury."

A concrete case of the way the tax works out is as follows: A person can order a frame finely made of genuine shell for as much as \$40 or \$50, even more, after having had their eyes examined by an oculist at a cost of from \$5 to \$50. They can then have invisible bifocal lenses costing about \$25. The complete job, from the examination to the fitting of the frames, will cost the wealthy patient often \$100 or more, and yet there would be no tax. On the other hand, the average man would go to an optometrist who charged possibly \$3 for his professional services, and would select a gold-filled frame as the one to give the best service, costing possibly \$4, and would be given the cheapest kind of lenses in double vision, costing possibly \$7, making a total of \$14, on which he would have to pay a tax of 70 cents.

Is it just that there should be a tax on professional services when given by the man who sold the glasses, and no tax on professional services by some one other than the one who sold the glasses? Is it just to tax the lenses simply because they are inserted in a frame?

It seems self-evident that glasses are of the first necessity, and we know that many Senators and Congressmen do not need to be convinced of that fact. However, we present this brief, in order to properly bring out the principles and facts which may have been overlooked in passing and ruling upon the revenue act of 1918.

In section 905, surgical instruments are specifically excluded from the tax imposed on articles made of or ornamented, mounted or fitted with, precious metals or imitations thereof. Spectacles and eyeglasses should also have been excluded at that time but were not, and we respectfully submit that hereafter spectacles and eyeglasses should be put in the same class with surgical instruments and other appliances of the same nature, and should not be classed in any way with articles called non-essentials.

We hope that in revising the revenue laws, any section under which spectacles and eyeglasses may possibly come will be made so clear that the rulings of the Treasury Department can not include spectacles and eyeglasses with so-called luxuries.

We present our views chiefly because the matter is of definite business interest to us. Naturally we also have some interest in the matter as bearing on the public interest and have aided in the formation and support of broad efforts for the conservation of vision; but we know that your committee and Congress have the public interest fully at heart and feel that if given opportunity to consider all phases of the matter you will remedy any such unwise and unjust taxation as is the present 5 per cent tax on spectacles and eyeglasses under section 905 of the United States revenue act of 1918.

We shall be glad to have you call on us for further information and assistance in this vital matter.

Respectfully submitted.

OPTICAL MANUFACTURERS' ASSOCIATION.

## SPORTING GOODS.

**STATEMENT OF JULIAN W. CURTISS, REPRESENTING ATHLETIC GOODS MANUFACTURERS OF THE UNITED STATES AND A. G. SPALDING & BROS., NEW YORK, N. Y.**

Mr. CURTISS. I represent the athletic goods manufacturers of the United States.

The CHAIRMAN. You desire to address yourself to the tax on sporting goods?

Mr. CURTISS. I do.

The CHAIRMAN. Please bear in mind, Mr. Curtiss, that the committee is fairly saturated with that question, but we will be glad to hear you briefly.

Mr. CURTISS. This group of manufacturers that I represent came together—

The CHAIRMAN. (interposing). Do you represent them as an attorney?

Mr. CURTISS. No, sir; I am president of A. G. Spalding & Bros. I am not an attorney. I am simply the head of the largest individual firm in the group. I feel that this tax was first imposed because in the opinion of the committees of Congress sporting goods were considered as luxuries. May I not, therefore, in a few brief words explain why, in my own opinion, they are far from that?

As an industry, we were first called together during the progress of the war, and the War Industry Board allotted us precious raw materials that we might make goods to send abroad, and I have been told by the officers that these goods did their share in helping the morale of our men, and in the winning of the war.

Now that the war is over, we feel that these same goods are performing a most important service in sustaining the physical well-being of the people of our country. The number of defects that the draft boards discovered brought home to this country a realization of the astounding number of physically ailing, and it gave a great impetus to the movement which was then on way, both in schools and colleges of compulsory exercise and sport. This is not only taking place in all the colleges of the land, but in the public schools as well. State after State is adopting this plan. Our leaders of education have awakened to the fact that to graduate a man with a well-developed mind and weakened body is not the way to send that man on to success.

I think the college situation is well explained in this short statement made by President-elect Angell, of Yale, at a dinner given in New York recently by the alumni:

I believe that there is an obligation on every college to see that every boy in it gets the very best type of physical education along with his mental and moral education; that he be given every possible opportunity to develop the strongest possible physique; that he be taken into sports and games, and if he doesn't want to play, that he be hyperinduced to play; that he learn the joy of playing, and that he get the moral and physical values that come out of a wholehearted participation in American college sports.

At the present time one sees in many of our colleges the underdeveloped frail boy; the timid boy, allowed to stay on the side lines or stay at home, thus failing wholly to participate with other boys in wholesome exercise and sport. Now, I say that I believe it is the job of the colleges to see that that condition is corrected first.

In the two great Government schools, Annapolis and West Point, every cadet and midshipman is required to take part in some sport or some game. He has no option. It is considered and is a part of the curriculum, and I am proud to say that we make the textbooks for that branch of study.

When one gets into the maturer side of life, in the afternoon, as it might be called, there has been another game introduced into this country in the last 25 years, the game of golf. It affords great pleasure and a great deal of physical benefit to those who participate, and I refer without permission to the President of the United States.

But it is of the small boy I wish particularly to talk here; it is he that is largely paying the tax, because the baseball side of athletic goods is by far the greater side.

Senator CALDER. Do I understand that every baseball, every baseball bat and mask that a boy uses and wears, every baseball glove, every tennis racket and net—all these things in athletic goods—are taxed specifically?

Mr. CURTISS. They are taxed 10 per cent, every one; and the tax is added in just this way—

Senator WALSH (interposing). How are they taxed?

Mr. CURTISS. It is added to the wholesale price, and in our catalogue we do not conceal it in any way, but we take pains to illustrate just exactly what it is. If the wholesale of the article is \$1, it is put down "Trade price, \$1."

Senator CALDER. The manufacturer pays the tax?

Mr. CURTISS. The manufacturer always pays the tax—"war tax 10 cents, total price \$1.10"—and, of course, that is handed on to the consumer, never less than 10 per cent tax and sometimes more.

I think you all have a warm spot in your heart for the boy; and the game of baseball means much to him. It is helpful in training and making him the man we all want him to be.

Senator CALDER. If he pays 50 cents for a baseball he pays 5 cents tax?

The CHAIRMAN. There is no evidence that if the tax is removed baseballs will come down in price?

Mr. CURTISS. Yes, sir; they would, most decidedly, come down in price.

The CHAIRMAN. There is grave doubt about that?

Mr. CURTISS. No; there is not. Incidentally, we have put our catalogue out in such form so that if the tax is removed the prices must be reduced just that much. We have not tried to conceal this tax from its very inception, but have printed it out conspicuously and made it very plain.

Senator WALSH. What is the popular present retail price of a baseball?

Mr. CURTISS. A good boys' baseball may be had from 20 to 25 cents up to the league balls at \$2, \$2.25, and \$2.50.

Senator WALSH. What would the 25-cent ball retail for if it were not for the tax?

Mr. CURTISS. If it were not for this tax the 25-cent ball would retail at 20 cents, there being no popular intermediate price between 20 and 25 cents.

Senator CALDER. How much revenue is collected from that source?

Mr. CURTISS. I have been told by the Internal Revenue Bureau of the Treasury Department that there was a trifle less than \$3,000,000 total collection on subdivision 5, article 900. But in this clause is included billiard and pool tables, billiard and pool balls, checkers and games of that sort; also fishing tackle, with which this association has nothing to do. So I estimate that at least 20 per cent could be deducted from that tax, making a total tax of not more than \$2,400,000, and the bulk of it is taken out of the youth of the land. Outside of the golfers, I think it is practically all taken out of the youth of the land. As a matter of fact, the boy can buy a drum, tin trumpet, or a pushmobile and pay no tax whatever, but the minute he buys a baseball, tennis racket, or a pair of skates, he pays 10 per cent. He can buy a rubber ball, with German pictures on it, with no tax whatever, but if he buys a ball to play the national game with, he pays a tax of 10 per cent.

The professional plays a very small part in the use of athletic goods. I estimate that at the outside not over 15 per cent of the baseballs used are used by all professional players, and in their case they are very largely paid for by the clubs themselves.

Suppose nine boys get together, form a baseball nine and desire to purchase uniforms. They can secure nine good, serviceable suits for about \$75, but to this price has to be added a tax of 10 per cent. Yet a banker can go into any clothing store and buy a golf suit, pay \$75 for it, and pay no tax whatever.

Senator CALDER. Do you mean to say that the baseball player would have to pay a tax on his uniform while the golfer may buy a golfing suit and pay no tax on it?

Mr. CURTISS. Yes; and he has to pay a tax on baseball shoes, yet if he wishes to wear a pair of tennis shoes he pays no tax; if he buys a pair of sprinting shoes he pays a tax; golf shoes with rubber soles do not have any tax whatever collected on them.

This mix-up was unavoidable; and indeed the administering of any excise tax on such a variety of goods as we are manufacturing, embracing pretty much every known raw material, can not help but be. The point that I wish to emphasize is that this tax has been largely collected from the boys and youths of our land. I hate to draw any invidious comparisons, but the boy, in buying athletic goods, that, as I said before, count mightily in the development of his health and strength, and also needed in the building of his character, is compelled to pay over three times as much of a tax as is levied on chewing gum, twice as much as on jewelry, and nearly three times as much as on cosmetics, hair dyes, and talcum powder.

In England—and I dislike to quote any other country, but I think she needs money—and I think the previous speaker brought that out—more than ourselves—at the same time she has never placed the slightest tax on any athletic goods that she considers are needed for the physical well-being of her people.

There are millions of youngsters interested in this matter, as well as those of mature age. Every college in the country feels deeply on this subject. The different organizations, like tennis associations, with its million members, and golf and base ball associations everywhere; and, in addition to that, the Y. M. C. A., the Knights of Columbus, and organizations of that sort, all feel deeply grieved at this tax and feel that some change should be made.

But my plea is really in behalf of the boy. We all love him. There is not a man with red blood in his veins, who does not enjoy seeing him play that old game of baseball as if his very life depended upon the result. May I not hope that you will see that in future our boys be allowed to play that game without annoyance and without a tax?

## YACHTS.

### STATEMENT OF WILLIAM SHERMAN RAUCH, NEW YORK, N. Y., PRESIDENT OF THE WATERWAY LEAGUE OF AMERICA.

The CHAIRMAN. What is your occupation?

Mr. RAUCH. I am a credit man. I am president of the Waterway League of America in my capacity here.

The CHAIRMAN. What is that league?

Mr. RAUCH. That league is composed of yachtsmen throughout the country. It is an organization that has close on to 4,000 individual members and represents a couple of hundred yacht clubs from coast to coast and from Canada to Mexico.

The CHAIRMAN. Then you are here as a yachtsman and member of the league?

Mr. RAUCH. Yes, sir. We have Mr. Stephens with us, who is more practical on the yacht subject than I am, and we have our secretary here, who can give you some facts concerning the conditions of the different yachting clubs on account of the tax. So that if it is the wish of the committee that only one be heard, we would prefer to put Mr. Stephens on.

### STATEMENT OF WILLIAM P. STEPHENS, BAYONNE, N. J., REPRESENTING THE WATERWAY LEAGUE OF AMERICA.

The CHAIRMAN. What is your occupation?

Mr. STEPHENS. I am the editor of Lloyd's Register of American Yachts.

The CHAIRMAN. Where do you reside?

Mr. STEPHENS. I reside in Bayonne, N. J.

The CHAIRMAN. What have you to say to the committee?

Mr. STEPHENS. We have made our statement in this brief [indicating]. I may say, briefly, that I have been in yachting for 40 years. My business has been writing for various yachting publications, and for nearly 18 years I have been editing Lloyd's Register, which is the American record of all yachts and yachtsmen. That has placed me in very close touch with the yachting industry. I am a designer myself, and intimate with all designers, and in that way I am in close touch with yachting.

We feel that in framing this bill due consideration was not given to the importance of yachting as a national sport, and also that the technical considerations of yachting, tonnage, etc., were not duly considered.

So we have set forth here what we think about yachting. It is the one national sport that is of material value to the country in promoting a love of the water. The Germans appreciated that years ago under William. They made every possible effort to encourage yachting in Germany, and with good results. But here

yachting is left to shift for itself, until this bill was passed with an adverse influence.

The CHAIRMAN. What do you suggest?

Mr. STEPHENS. We have suggested, in the first place, a change of the basis of taxation. The present basis for the bulk of the taxes is on over-all length, which is very inequitable. We propose a substitution of the gross tonnage.

In order to ascertain the over-all length it is necessary to measure the yacht, which is a matter of uncertainty. The gross tonnage for those above 16 gross tons is taken as a matter of course by the Government and is accessible in the List of Merchant Vessels of the United States. We propose that as the most equitable basis and the most practicable.

The CHAIRMAN. You do not ask, then, to have the tax abolished?

Mr. STEPHENS. We ask primarily for the abolition of the tax on the construction of yachts.

The CHAIRMAN. New yachts?

Mr. STEPHENS. Yes, sir. It is a very oppressive tax. I go through the building yards and am in touch with the men who are building yachts and ordering yachts, and I could speak at some length on the condition of the industry in the last two or three years. It is in a very low condition. We want to preserve our yacht yards, not for sport but for purposes of defense. In case of war it is the yacht yards which do the work of providing in a hurry the auxiliary fleet which has been proved so necessary. We must rely on yacht builders, on their yards and their trained men to build these boats. We needed them in 1898, and we needed them recently.

We represent the smaller yachtsmen who use and own small boats. I design and build all my own boats and run them myself, and we of the Waterway League represent that class of yachtsmen rather than the wealthy men.

We want to say a word for the builder and for the industry, and we would like the abolition of this tax on the construction of yachts, the 10 per cent tax. It is holding up the building of yachts.

As to the users' tax, it is now very complicated. In framing this bill the committee revived the limit of 5 tons, which was abolished in 1906 by the Commissioner of Navigation of the Department of Commerce. It had always been customary to document yachts down to 5 gross tons. In 1906 this was changed, and no documents are issued to yachts under 16 gross tons.

In this bill it is provided that boats of 5 gross tons shall pay a certain tax. If a man has a small yacht he has to have it measured, which means half a day's work for the measurers. They go out usually some distance from the customhouse. In New York it may be some miles, and it involves at least half a day in measuring this boat. If she comes out 4.95 tons she is given a certain tax, and if she comes out 5.5 tons the Government gets a little more tax.

The method itself is obsolete and complicated.

We propose for yachts, which are now measured officially by the Government by a very complicated process, to have a simpler measurement, length, breadth, and depth, multiplied by a constant which will give approximately the gross tons. This tax applies to a boat 10 feet long with a 1-horsepower engine. A steam yacht may

pay a heavy tax on her own individual self, with additional taxes on several tenders. We propose to substitute a simple tax with a lessening of the rate. It is very difficult to get at the statistics of yachting. I have handled yachts all my life, and exact statistics are not available. We can only guess at the result as to these small classes, but we feel that it would be better to apply some simple method of measurement which would be easy for the Government and difficult to evade, and make the rate correspondingly small.

Senator SMOOT. Does your association recommend any specific thing?

Mr. STEPHENS. Yes, sir. It is all set out in that brief.

The CHAIRMAN. This seems like a good statement.

Senator SMOOT. I was just telling Senator La Follette that it was as good a statement as anybody could make, and I think it would be well to have it go into the record.

The CHAIRMAN. It is short, and it is rather better than the usual statement submitted on the part of witnesses.

Mr. STEPHENS. As shown by the Yacht Register, we had five years ago over six hundred small yacht clubs. We have a little over four hundred to-day, and they tell me, "We do not know whether we are alive or not." They have been hurt by the war; they pay 10 per cent tax on dues; their membership is falling off. The club end of it is down. A large number of the finest yachts were taken during the war and they have not been replaced. The tax on construction hinders their replacement.

We would ask you gentlemen to consider yachting as a national asset, as helping to promote love of the water and helping to bring up our merchant marine. The men who manned this fleet during the war were yachtsmen. We want to speak for the building corporations as well as for the little individual yachtsman who owns his own boat.

I do not want to take up any more of your time, but I would be glad to answer any questions.

The CHAIRMAN. We have your statement and we are going to have it printed so that the committee will be fully informed of your views.

Mr. STEPHENS. I think you as a yacht owner will appreciate this matter. I can mention one man who bought a yacht that was unfortunately 51 feet in length. The man who owns it runs it together with the help of his son, and he could just afford a power boat of that size. After the boat was received he found that it was 51 feet instead of 50 feet, and instead of being taxed \$1 a foot he pays \$2 a foot, or a hundred and two dollars instead of \$50.

The construction of the yacht is such that he can not cut off that extra foot without obviously mutilating her. I have had cases reported in which the length had been decreased; the owner had been able to cut off a foot or two feet or so of length and save over \$50.

That certainly is inequitable, and it is a poor method of taxation which was not devised by anyone practically familiar with yachting. I have had a great many letters this year from men who declined to go on with yachting because of the present conditions.



**BRIEF OF WILLIAM P. STEPHENS, REPRESENTING THE WATERWAY LEAGUE OF AMERICA.****MEMORANDUM IN SUPPORT OF HOUSE BILL 12957 AND SENATE BILL 3904, SIMILAR ACTS TO AMEND THE REVENUE ACT OF 1918.**

The revenue act of 1918 at section 900, subdivision 20, imposes a tax of 10 per cent upon the cost of new yachts and motor boats not used exclusively for trade and pleasure boats and pleasure canoes if sold for more than \$15.

Section 1003 of the same act imposes a tax on the use of yachts, pleasure and motor boats, as follows: Over 5 net tons and not over 50 feet, \$1 per foot; over 50 feet and not over 100 feet, \$2 per foot; over 100 feet, \$4 per foot; motor boats, not over 5 net tons, with fixed engines, \$10 per annum.

By House bill 12957 and Senate bill 3904, based on a scheme of taxation worked out by the tax committee of the Waterway League of America after very careful consideration of the subject, it is proposed to abolish the tax on new yachts and boats, and instead of the present tax on the use of yachts and boats it provides for a tax of 50 cents per gross ton on yachts, pleasure boats, and motor boats with fixed engines, of less than 16 gross tons, and sailing boats of more than 5 gross tons and under 16 gross tons with a minimum tax of \$1, and \$1 per gross ton over 16 gross tons.

**THE AMENDMENT SOUGHT WILL NOT REDUCE REVENUE, BUT WILL UNQUESTIONABLY INCREASE IT.**

1. By stimulating the sport of yachting and boating, increasing building, and increasing the use of yachts and boats to such an extent that the tax upon the use of boats and yachts will more than offset the loss of taxes on new boats.

2. By substituting a simple, definite method of measurement in order to arrive at the gross tonnage, the basis of taxation, in place of the present method with the arbitrary 5 net ton dividing line between boats paying \$1 per foot of overall length and boats paying the flat \$10 tax.

**THE TAX ON NEW YACHTS AND BOATS SHOULD BE ABOLISHED.**

Yachting receives no Government support, and the sport and its attendant industry are maintained exclusively from the pockets of individual yachtsmen.

In the event of war, as in 1898 and again in 1917, the privately built and owned yacht is considered as Government property and is taken without regard to the wishes of the owner and usually without just and adequate compensation.

Back of and dependent on the sport of yachting is an established system of building, maintained exclusively by private means, giving employment to many thousands of artisans and keeping in existence a large number of plants perfectly equipped for the construction of such a fleet of auxiliary small craft as all past experience proves to be necessary as a complement to the various types of strictly naval vessels provided in the regular naval program.

The work during the late war of such establishments as the George Lawley & Son Corporation, the Consolidated Ship Building Corporation (Gas Engine & Power Co.), the Elco Co., and the Herreshoff Manufacturing Co., all distinctively yacht building organizations, is sufficient evidence of the value to the Nation at large of an established system of yacht building.

Supplementing this is the personnel of yachting, experienced Corinthian yachtsmen, skilled officers and navigators, and expert paid hands, all called on to man the auxiliary fleet.

The taxation of pleasure vessels is contrary to the established policy of all maritime nations, and the above considerations suggest that even though not deemed worthy of such governmental recognition and support as is accorded by other nations, American yachting should at least be left unhampered by taxation.

If, in an emergency such as exists at the present time, it is deemed necessary to place taxes on the construction and use of pleasure vessels the framing of requisite legislation should be placed in the hands of experts familiar with every phase of yachting, some of whom should be practical yachtsmen.

In the framing of the revenue act of 1918 no opportunity was afforded to yachtsmen to present suggestions or criticisms, and the various provisions of the act offer convincing evidence that the framers possessed no knowledge whatever of the standing of yachting as the oldest and most helpful of American sports, of its technical details, or of the existing laws applying to yachts.

The sole justification for the tax on the construction of yachts, boats, and canoes is that it would produce an amount of revenue large in proportion to the expense and trouble of collection and to the harm which must necessarily result to yachting as a whole. So far as definite results are discernible, the amount of revenue has been far less than estimated; while it has acted to cripple the yacht yards and to throw out of work not merely the skilled hull worker but the innumerable allied workers connected with the various branches of the marine fittings and supplies and the engine industry. Such work as is in hand at the present time is to the order of a limited number of wealthy yachtsmen, to whom neither the abnormally high direct cost nor the 10 per cent tax are of serious moment.

Those most familiar with yachting have looked forward to a speedy revival of the sport as yachtsmen were freed from the various restraints imposed by the war, and it was confidently expected that many new recruits would be enrolled in the pleasure navy from the ranks of the younger men released from the Navy and Army. Unfortunately the man of moderate means finds himself face to face with prices hitherto unknown for material and labor, he must do his part to build up his club after three years of reduced income and increased expenses, and in addition to the tax on his club dues he is taxed another 10 per cent on the cost of his new yacht. The increase in the cost of yachts through natural causes which only time can remedy is of itself a serious bar to the revival of American yachting; the imposition of an additional tax means a stoppage of construction which not only cuts the anticipated revenue from construction but its supplementary revenue from annual use. In the opinion of some who have studied carefully the provisions of Title IX, section 900, article 20, there is fair opportunity for the evasion of the law.

If American yachting is to return within any reasonable time to its prewar condition, if the yacht yards and engine shops are to be permanently prosperous, and if the great army of workers in yacht and engine building and their allied industries are to be assured of regular and profitable employment the tax on construction imposed by section 900, article 20, must be removed in its entirety.

The tax on the use of yachts and boats should be a fair, reasonable tax, with a simple, definite method of measurement, free from all questionable additions and deductions, as the basis of determining the tax.

The basis of taxation for the great majority of yachts under section 1003 is the length over all, a measurement not always agreed to by all parties, as it never has been officially defined. This measurement must be specially taken on all yachts of over 5 tons. The rates per foot increase by sharp and abrupt intervals, with no graduation; thus a yacht of 50 feet over-all length pays, at \$1 per foot, \$50, while a yacht of 51-foot length pays, at \$2 per foot, \$102; \$52 for 1 foot of yacht; a yacht of 100-foot length pays \$200, while a yacht of but 1 foot longer pays \$404; \$204 for 1 foot of yacht.

At the lower end of the scale is a tax of \$10 each upon all small boats with fixed engines, with no qualification as to value or use. Under this clause a racing hydroplane costing at least \$1,000 per foot of over-all length would pay \$10 tax and in contrast may be instanced the type of small craft to be seen to-day in the vicinity of every waterside city, 25 to 30 feet overall, homemade or converted from a catboat too old to carry sail safely, equipped with a small secondhand engine and towing a flat-bottomed dingy with a half horsepower kicker. Such an outfit is the week-end home of many an American family, giving healthy, wholesome and innocent recreation throughout the entire season; the tax would be \$1 per foot for the yacht, say, \$25, and another \$10 on the tender. Different in proportion but no less unjust in principle is the application of the same clause to a large yacht, which, after paying an unfair tax on her own length, must pay another tax of \$10 on every power tender hanging at her davits.

Prior to 1906 documents were issued to pleasure vessels of from 5 tons upward; the measurement of such vessels for tonnage being done by the Government with no cost to the owner except for traveling expenses of the surveyors; two surveyors are necessary for even the smallest yachts and the average time of measurement, unless several yachts are to be found in one place, is at least one half day. Under a ruling of the Bureau of Navigation in 1906 (Bureau Circular No. 2, June 30, 1906) no licenses were issued after that date to pleasure vessels under 16 gross tons; and all yachts under this measurement were dropped from the list of merchant vessels of the United States in succeeding years.

The existing laws for the measurement of vessels are an outgrowth of the old laws for the measurement of wooden-sailing vessels; they have never been fully adapted to metal construction, and the provisions as to motive power relate only to steam engines with boilers such as are found in large commercial vessels. No revision of the laws to apply to pleasure vessels of medium or small size has ever been made; much less to apply to modern means of propulsion; and the measurement of such craft is largely a matter of discretion on the part of the surveyors.

The provisions of section 1003 restore this obsolete limit of 5 net tons and necessitate the measurement of all yachts which are not obviously well above or below this limit. While the expense to the owner is but small, the measurement of every such yacht involves the waste of time of two surveyors whose services are badly needed on large commercial work; the net result being in many cases that the yacht or boat works out at 4.05 net tons and consequently pays but \$10 instead of possibly \$25 to \$35. Owing to the complicated nature of the measurement regulations and the uncertainty of yachtsmen as to their rights, disputes and misunderstandings are apt to arise as to the result of such measurement.

#### THE REMEDY.

As a remedy for the various unfair and unscientific provisions of section 1003 it is proposed in House bill 12057 and Senate bill 3904 to take as the basis for the tax on the use of yachts and boats the gross registered tonnage, as already established by law, duly measured and recorded in the list of merchant vessels of the United States, for all such yachts of 16 gross tons and over; thus providing an equitable graduation by intervals of a single gross ton in place of the inequitable jump from 50 feet to 51 feet and from 100 to 101 feet; at the same time the necessity for new measurements is avoided, to the advantage of owner and the Government.

As to the rate per gross ton for yachts of 16 gross tons and over, it is proposed to fix this at \$1, which in many yachts of various sizes will work out at about the present total, though it will be less in the case of some yachts near the 50 and 100 foot limits which were unfairly penalized under the length measurement.

In those yachts and boats of under 16 gross tons, and consequently not now measured and recorded, it is proposed to apply the same principle of tonnage or cubic capacity measurement by employing three dimensions easily taken by owner or club measurer without the aid of the customs surveyors multiplying together, and by a constant and dividing by 100 (cubic feet) to give an approximation to the gross tons of the larger vessels.

As this class is made up very largely of yacht tenders and other very small power boats of cheap construction, and also of the small family cruisers now so deservedly popular, mainly of very moderate cost of construction, it is proposed to make the rate 50 cents per gross ton, with no tax below the minimum of \$1.

While positive figures are lacking as to the exact revenue thus far derived from the existing law and the probable loss of revenue from the stoppage of construction, from evasion, and from keeping yachts out of commission to avoid paying the tax, there is every reason for the belief that the changes proposed will not only simplify and make the laws more certain of application, less subject to evasion, less oppressive to yachting, but will result in a larger return to the Government than at the present time.

It is respectfully urged that these bills be approved and their passage recommended at this time, regardless of general revenue measures, in order that yachting may have the benefit of the stimulus that will follow their passage for the summer season of 1920. If these bills are not now passed, yachting will lose a year, and the Government will lose the increased revenue, which would naturally and certainly follow their passage.

Respectfully submitted.

WATERWAY LEAGUE OF AMERICA,  
 WM. S. RAUCH, *President*.  
 EDWARD C. SCHIFFMACHER, *Secretary*.  
 OTTO B. SCHMIDT,  
 WILLIAM S. RAUCH,  
 W. P. STEPHENS,  
 EDWARD C. SCHIFFMACHER,  
*Tax Committee.*



## SUPPLEMENT.

### SALES TAX LAWS OF CANADA, FRANCE, GERMANY, MEXICO, AND THE PHILIPPINE ISLANDS.

[Compiled by the Legislative Reference Service, Library of Congress.]

#### CANADA.

[10-11 George V.]

CHAP. 71.—AN ACT To amend the special war-revenue act, 1915.

[Assented to July 1, 1920.]

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Section 12 of the special war-revenue act, 1915, is amended as follows:

(1) Subsection 3 is repealed and the following is substituted therefor:

(3) (a) Subject to the provisions hereinafter set out, no person shall transfer a bill of exchange or promissory note to a bank in such manner as to constitute the bank the holder thereof or deliver a bill of exchange or promissory note to a bank for collection unless there is affixed thereto an adhesive stamp or unless there is impressed thereon by means of a die a stamp of the value of, if the amount of the money for which the bill or note is drawn or made (i) does not exceed \$100, 2 cents; (ii) exceeds \$100, for every \$100 or fraction thereof, 2 cents.

(b) If a bill of exchange transferred or delivered to a bank or issued by a bank is payable on demand or at sight, or on presentation or within three days after date or sight, such bill shall, for the purpose of the value of the stamp to be affixed thereto or impressed thereon, be deemed to be drawn for an amount not exceeding \$100.

(c) Whenever a promissory note payable on demand is transferred or delivered to a bank in such manner as to constitute the bank the holder for an advance made or to be made by the bank a stamp of the value of 2 cents only is required to be affixed to the note or impressed thereon whatever the amount of the money for which the note is made. The bank shall quarterly, on the last day of March, the last day of June, the last day of September, and the last day of December in each year, or within five days thereafter, prepare a statement showing the maximum amount of the advances made to the person transferring or delivering such notes outstanding at the close of business on any day during the period of three months, or portion of such period, then ending in respect of notes payable on demand, and shall affix thereto at the time the statement is prepared a stamp or stamps of the value of 2 cents for every \$100 or fraction thereof by which the maximum amount of the advances as aforesaid exceeds \$100; and

the bank shall forthwith render such statement to the person to whom the advances were made, and the amount of the stamps so affixed shall forthwith be payable by such person to the bank.

(d) Whenever a document or writing is given or delivered to a bank in respect of an advance made or to be made by the bank to the person giving or delivering the document or writing and containing a promise to pay any sum of money advanced pursuant thereto, or containing a pledge of securities to secure the payment of any advance, and no promissory note or bill of exchange in respect of such advance is transferred or delivered to the bank, the following provision shall apply:

The bank shall quarterly, on the last day of March, the last day of June, the last day of September, and the last day of December in each year, or within five days thereafter, prepare a statement showing the maximum amount of the advances made to the person giving or delivering such document or writing outstanding at the close of business on any day during the period of three months, or a portion of such period, then ending in respect of such document or documents, and shall affix thereto at the time the statement is prepared a stamp or stamps of the value of 2 cents for every \$100 of such maximum advances or fraction thereof; and the bank shall forthwith render such statement to the person to whom the advances were made and the amount of the stamps so affixed shall forthwith be payable by such person to the bank.

(e) If the person to whom an advance is made as mentioned in either of the next preceding paragraphs (c) and (d) closes the account in respect of such advances at any time during a quarterly period, or if such account becomes payable at any time during a quarterly period, such statement shall be rendered forthwith and the maximum amount of the advances made to the person outstanding at the close of business on any day in either case during the portion of such period shall determine the value as aforesaid of the stamps to be affixed to the statement.

(f) Whenever an advance is made by a bank to a person by way of overdraft the bank shall on the last day of each month or within five days thereafter, prepare a statement showing the maximum amount of the overdraft outstanding at the close of business on any day during the month, and shall affix to the statement a stamp or stamps of the value of 2 cents for every \$100 or fraction thereof of such maximum amount, and the bank shall forthwith render such statement to the person to whom the advances were made, and the amount of the stamps so affixed shall forthwith be payable by such person to the bank. An overdraft to be taken into account for the purposes of the statement and the value of the stamps to be affixed shall not be deemed to be outstanding until the fourth day on which the account is overdrawn.

(g) If the person to whom an advance is made, as mentioned in the next preceding paragraph, closes the account at any time during a month, or if the account becomes payable at any time during a month, the statement mentioned in such paragraph shall be rendered forthwith, the maximum amount of the advances made to the person outstanding at the close of business on any day during the portion of such month shall determine the value of the stamps to be affixed as aforesaid to the statement.

(*h*) Every adhesive stamp affixed to a bill of exchange or promissory note, transferred or delivered or issued in the manner hereinbefore set forth, or affixed to a statement to be rendered as hereinbefore set forth, shall be canceled by the bank at the time of transfer, delivery, issue, or rendering.

(2) Subsection 5 is repealed and the following is substituted therefor:

(5) No check or other bill of exchange shall be issued or paid by a bank unless there is affixed thereto an adhesive stamp or impressed thereon by means of a die a stamp or stamps of the requisite value according to the requirements of this section.

(3) Subsection 6 is repealed and the following is substituted therefor:

(6) Every bank having in possession in Canada any promissory note, check, or other bill of exchange made or drawn out of Canada on which a stamp prepared for the purposes of this part or authorized to be used in lieu thereof has not been affixed or impressed shall before payment or presentment for acceptance or payment, if the same is payable in Canada, affix thereto an adhesive stamp of the requisite value according to the requirements of this section, and the value of the stamp so affixed shall be payable to the bank by the person entitled to the proceeds of the note, check, or bill. The bank shall, before payment or presentment for acceptance or payment, if the stamp is affixed by the bank, cancel the stamp.

(4) Subsection 8 is repealed and the following is substituted therefor:

(8) Every person who (*a*) transfers a bill of exchange or promissory note to a bank in such manner as to constitute the bank the holder thereof, or (*b*) delivers a bill of exchange or promissory note to a bank for collection; to which there is not affixed an adhesive stamp or on which there is not impressed by means of a die a stamp of the requisite value according to the requirements of this section shall be liable to a penalty not exceeding \$50.

(5) Subsection 10 is repealed and the following is substituted therefor:

(10) Every bank which issues, pays, presents for acceptance or payment or accepts payment of a check or other bill of exchange or promissory note upon which a stamp of the requisite value according to the requirements of this section has not been affixed or impressed shall be liable to a penalty of \$100.

(10) (*a*) Every bank which omits or neglects to prepare a statement as and within the time called for by the provisions of this section, and to affix thereto a stamp or stamps of the requisite value according to the requirements of this section, shall be liable to a penalty equal to the amount of the stamps required to be affixed and a further penalty of \$500.

(6) Subsection 11 is repealed and the following is substituted therefor:

(11) Every bank which omits or neglects to cancel, in accordance with the requirements of this section, the adhesive stamp or stamps affixed to (*a*) a check, (*b*) a bill of exchange or promissory note, (*c*) a receipt for money, (*d*) a statement, shall be liable to a penalty equal to the amount of the uncanceled stamps and a further penalty of \$100.

(7) The following subsection is added immediately after subsection 12:

(13) No person shall sell or transfer the stock or shares of any association, company, or corporation by agreement for sale, entry on the books of the association, company, or corporation, by delivery of share certificates or share warrants indorsed in blank, or in any other manner whatsoever, or accept the transfer or delivery of any stock or share unless in respect of such sale or transfer there is affixed to or impressed upon the document evidencing the ownership of such stock or shares, or a document showing the transfer or agreement to transfer thereof an adhesive stamp, or a stamp impressed thereon by means of a die of the value of 2 cents for every \$100 or fraction thereof of the par value of the stock or shares sold or transferred: *Provided*, That in case of sale where the evidence of transfer is shown only by the books of the company the stamp shall be placed or impressed upon such books; and where the change of ownership is by transfer of the certificate the stamp shall be placed or impressed upon the certificate; and in case of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed or impressed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers: *Provided*, That the first delivery by a corporation or company of such shares, or debenture stock, in order to effect an issue, shall not be subject to the tax imposed by this subsection.

Any person who violates any of the provisions of this subsection shall be liable to a penalty not exceeding \$500.

2. (1) Part IV of the said act, as enacted by chapter 46 of the statutes of 1918, is amended by inserting the following sections immediately after section 19b thereof:

19bb. (1) The following excise taxes shall be imposed, levied, and collected on the total purchase price of the articles hereinafter specified:

(a) A tax of 10 per cent on—

Hats, men's and boys', in excess of \$7 each.

Caps, except fur caps, or caps wholly or partly lined with fur, men's and boys', in excess of \$3 each.

Hose or stockings, silk or artificial silk, men's and boys', in excess of \$1 per pair.

Neckties and neckwear and scarfs, men's and boys', in excess of \$1.50 each.

Shirts, including nightshirts, men's and boys', in excess of \$3 each.

Hats, bonnets, and hoods, women's and misses', in excess of \$12 each.

Hose or stockings, silk or artificial silk, women's and misses', in excess of \$2 per pair.

Kimonos, petticoats, and waists in excess of \$12 each.

Nightgowns in excess of \$3 each.

House or smoking jackets or bath or lounging robes.

Pyjamas in excess of \$5 per pair.

Underwear consisting of shirts and drawers in excess of \$4 per separate garment.



Underwear combinations in excess of \$8 each.

Fans.

Purses and pocketbooks in excess of \$2 each.

Shopping and hand bags in excess of \$6 each.

Umbrellas, parasols, and sunshades in excess of \$4 each.

Trunks in excess of \$40 each.

Valises, traveling bags, suit cases, hat boxes, and fitted traveling cases in excess of \$25 each.

Gloves, except fur, in excess of \$3 per pair.

Opera cloaks.

Coats, the component material of chief value being fur, including repairs thereto, in excess of \$200 each.

Gloves, the component material of chief value being fur, in excess of \$15 per pair.

Caps, the component material of chief value being fur, in excess of \$15 each.

Muffs and neck pieces, the component material of chief value being fur, in excess of \$35 each.

Robes and rugs, the component material of chief value being fur, in excess of \$50 each.

Wearing apparel, not elsewhere specified, the component material of chief value being fur.

Ivory handled cutlery.

Ebony and imitation ivory toiletware.

\* Cut glassware and etched glassware.

Sporting goods, such as tennis rackets, nets, racket covers and presses, canoe paddles and cushions, polo mallets, baseball protectors, football helmets, harness and goals, basketball goals and uniforms, golf bags and clubs, baseball, lacrosse, hockey, and football uniforms, balls of all kinds not hereinafter specified (not including children's balls), fishing rods, reels, lines, spoons, and artificial bait, billiard and pool tables, chess and checker boards, and pieces, dice, games, and parts of games (except playing cards and children's toys, games, and express wagons), and all similar articles not elsewhere specified commonly or commercially known as sporting goods, in excess of 50 cents.

Baseball bats and baseballs in excess of \$2 each.

Baseball masks and gloves in excess of \$1.50.

Skates in excess of \$2 per pair.

Toboggans and hand sleds in excess of \$3 each.

Skis in excess of \$3 per pair.

Footballs in excess of \$3 each.

Lacrosse sticks in excess of \$2 each.

Hockey sticks in excess of 75 cents each.

Articles plated with gold or silver not otherwise provided for in this section adapted for household or office use.

Velvets, velveteens, plush, silk, and artificial silk fabrics in excess of \$2 per yard.

Curtains, including tapestry curtains, in excess of \$7.50 each.

Embroideries of silk or artificial silk.

Lace and braid in excess of 50 cents per yard.

Collars and collarettes of lace and all manufactures of lace in excess of \$2 per article.

Ribbons of all kinds and material (except typewriter ribbons) in excess of 50 cents per yard.

Corsets in excess of \$5.

Walking sticks.

Silk clothing, including artificial silk clothing, not elsewhere specified.

Clocks and watches in excess of \$10 each.

Articles commonly or commercially known as jewelry, whether real or imitation, for personal use or for adornment of the person, except wedding rings, when said articles do not exceed \$5 in value.

(b) A tax of 15 per cent on—

Oriental rugs.

All antique furniture of walnut, mahogany, rosewood, ebony, prima vera, or oak.

Carved ebony or teakwood and lacquered furniture.

All furniture finished in gold leaf, verni martin, or with ornamental or expensive inlays, such as mother-of-pearl, or with hand-painted decorations.

All tables made especially for cards, checkers, chess, or other games.

All liquor cabinets, smoker cabinets, tea wagons, sewing cabinets, work tables, piano lamps or stands, table lamps or stands, ferneries, jardinières, pedestals, and bric-a-brac made of rosewood, prima vera, solid mahogany, or ebony, or lacquered or decorated.

Chinaware and crockery known as Royal Crown Derby, Wedgewood, Minton, Ainsley, Limoges, Coalport, Pekard, Copeland, and similar quality chinaware and crockery, by whatever name known.

(c) A tax of 20 per cent on—

Cigar and cigarette holders and pipes in excess of \$2.50 each.

Cigar and cigarette cases, ash trays, and match boxes of gold or silver.

Humidors and smoking stands.

Hunting and shooting garments and riding habits.

Hunting and Bowie knives.

Gold and silver handled pocketknives and pencils.

Fountain pens in excess of \$5 each.

Gold, silver, and ivory toilet ware.

Articles of silver not otherwise provided for in this section adapted for household or office use.

Silver and gold deposit ware.

Liveries, livery boots and hats.

Articles commonly or commercially known as jewelry, whether real or imitation, for personal use or for adornment of the person, except plain gold wedding rings, when said articles exceed \$5 in value.

Any person, firm, or corporation, including the jewelry branch of a departmental store, whose chief business is the selling of jewelry by retail, shall obtain a special license to sell jewelry and other articles specified in this section, in which case the tax payable shall be 10 per cent on the value of the total sales of such establishment or branch, except pipes selling in excess of \$2.50 each, plain stationery, books, magazines, spectacles, eyeglasses, and goods specified in subsection 4 of this section, under regulations to be made by the minister of customs and inland revenue.

(d) A tax of 50 per cent on articles of gold not otherwise provided for in this section adapted for household or office use, not including gold pen nibs.

(2) The following excise taxes shall be imposed, levied, and collected on so much of the amount paid for any of the following articles as is in excess of the price hereinafter specified as to each such article:

(a) A tax of 10 per cent on carpets and rugs in excess of \$6 per linear yard of 27 inches in width.

(b) A tax of 15 per cent on—

Boots, shoes, pumps, and slippers of any material (not including shoes or appliances made to order for persons having a crippled or deformed foot or ankle, or to top boots not less than 10 inches in height, such as are used in lumbering, mining, and fishing industries or to river driving boots) in excess of \$9 per pair.

Clothing consisting of coat, vest and pants, or coat and pants, men's and boys', in excess of \$45: *Provided*, That on clothing covered by this item made to the order and measure of each individual customer by a merchant tailor or journeyman tailors in his employ, the tax shall be payable on the amount in excess of \$60.

Trousers, sold separately from suits, in excess of \$12 per pair.

Coats, men's and boys', sold separately from suits (not including leather coats lined with sheepskin), in excess of \$25 each.

Cloth overcoats, men's, boys', women's and misses', in excess of \$50 each.

Waistcoats, men's, sold separately from suits, in excess of \$5 each.

Dresses, women's and misses', except silk, in excess of \$45 each.

Skirts, separate from dresses, except silk, in excess of \$15 each.

Suits, women's and misses', except silk, in excess of \$60 each.

Coats, women's and misses', sold separately from suits, except silk, in excess of \$35 each.

Knitted sweaters and knitted sweater coats, in excess of \$15 each.

On articles of clothing, the selling price of materials and cost of manufacture when sold separately are to be combined when determining the selling price.

(3) The excise taxes imposed by the preceding subsections shall be paid by the purchaser to the vendor at the time of sale and delivery for consumption or use, or on importation for consumption or use other than for resale on the duty-paid value in addition to the duties of customs already imposed, and such taxes shall be paid in stamps or otherwise by the vendor to His Majesty in accordance with such regulations as may be prescribed.

(4) The following excise taxes shall be imposed, levied and collected on the articles hereinafter specified, namely:

(a) A tax of 3 per cent on chewing gum or substitutes therefor.

(b) A tax of 5 per cent on pianos not exceeding \$450 each and organs not exceeding \$150 each (other than pianos and organs for religious or educational purposes).

(c) A tax of 10 per cent on—

Boats, yachts, canoes, and motor boats: *Provided*, That on satisfactory proof being furnished that these articles will be used for trading or commercial purposes the said tax shall not be collected.

Cameras weighing not more than 100 pounds.

Confectionery which may be classed as candy or a substitute for candy (this item not to include goods packed ready for sale in cartons or other packages bearing thereon the name of the manufacturer, selling by retail at 10 cents or less per carton, or to candy known as "gross goods" selling by retail at 1 cent each).

Firearms, shells, or cartridges for use other than for militia purposes.

Pianos exceeding \$450 each and organs exceeding \$150 each (other than pianos and organs for religious or educational purposes). Mechanical player pianos, graphophones, phonographs, talking machines, music boxes and records used in connection therewith or with any musical instrument; musical instruments (other than band instruments) not otherwise specified.

Chandeliers, except for churches, in excess of \$12 each.

Gas and electric light wall brackets, in excess of \$3 each.

Gas and electric light fixtures not elsewhere specified, in excess of \$3 each.

(d) A tax of 15 per cent on—

Automobiles adapted or adaptable for passenger use, retailing for not more than \$3,000 each and a tax of 20 per cent on such automobiles when retailing for more than \$3,000 each.

(e) A tax on playing cards for every 54 cards or fraction of 54 in each package, when selling at \$24 or less per gross packages, 15 cents per pack; when selling in excess of \$24 per gross packages but not in excess of \$36 per gross packages, 25 cents per pack; when selling in excess of \$36 per gross packages, 50 cents per pack.

(f) A tax of \$2 per gallon on rum, whisky, brandy, gin, wines containing more than 40 per cent proof spirits, cordials, liqueurs, and spirituous and alcoholic liquors not otherwise provided for in this subsection suitable for beverage purposes (not including alcohol used in the process of manufacturing articles of commerce in which the alcohol is destroyed and from the resultant products of which it can not be recovered).

(g) A tax of 30 cents per gallon on ale, beer, porter, and stout; on wines of all kinds, except sparkling wines, containing not more than 40 per cent of proof spirits.

(h) A tax of \$3 per gallon on champagne and all other sparkling wines.

(5) The excise taxes as imposed by the preceding subsection 4 shall be payable on the duty paid value in addition to the present duties of excise and customs at the time of sale by the Canadian manufacturer or when imported or when taken out of customs or excise bond, but shall not apply to such articles when exported, and shall be accounted for to His Majesty in accordance with such regulations as may be prescribed.

"(6) The following excise taxes shall be imposed, levied, and collected at the time of importation or when taken out of customs warehouse for consumption on the duty paid value of the articles hereinafter specified, namely:

(a) A tax of 20 per cent on medicinal or medicated wines, vermouth, and ginger wines, and patent and proprietary medicines containing alcohol, but not more than 40 per cent of proof spirit.

(b) A tax of \$2 per gallon—

On lime juice or fruit juices fortified with or containing more than 25 per cent of proof spirits.

On spirits and strong waters of any kind, mixed with any ingredient or ingredients, as being or known or designated as anodynes, elixirs, essences, extracts, lotions, tinctures or medicines, or ethereal and spirituous fruit essences not otherwise provided for in this subsection.

On alcoholic perfumes and perfumed spirits, bay rum, cologne and lavender waters, hair, tooth, and skin washes, and other toilet preparations containing spirits of any kind.

(c) A tax of 50 cents per gallon on lime juice and fruit juices fortified with or containing not more than 25 per cent of proof spirits not otherwise provided for in this subsection.

(7) Every person selling or dealing in the articles upon which taxes are imposed as prescribed by this section may be required by the minister to take out an annual license therefor, for which license a fee not exceeding \$2 shall be paid, and the penalty for neglect or refusal to obtain a license shall be a sum not exceeding \$1,000, which shall be recoverable upon summary conviction.

19bbb. (1) In addition to the present duty of excise and customs a tax of 1 per cent shall be imposed, levied, and collected on sales and deliveries by manufacturers and wholesalers or jobbers and on the duty paid value of importation, but in respect of sales by manufacturers to retailers or consumers or on importations by retailers or consumers the tax payable shall be 2 per cent; the purchaser shall be furnished with a written invoice of any sale, which invoice shall state separately the amount of such tax to at least the extent of 1 per cent, but such tax must not be included in the manufacturer's or wholesaler's costs on which profit is calculated; and the tax shall be payable by the purchaser to the wholesaler or manufacturer at the time of such sale, and by the wholesaler or manufacturer to His Majesty in accordance with such regulations as may be prescribed, and such wholesaler or manufacturer shall be liable to a penalty not exceeding \$500, if such payments are not made, and in addition shall be liable to a penalty equal to double the amount of the excise duties unpaid: *Provided*, That a drawback may be granted of the tax paid on goods exported or on materials used, wrought into, or attached to articles exported: *Provided also*, That this tax on sales shall not apply to sales or importations of animals, living; poultry; fresh, salted, pickled, smoked, or canned meats; canned poultry; soups of all kinds; milk, cream, butter, cheese, buttermilk, condensed milk, condensed coffee with milk, milk foods, milk powder, and similar products of milk; oleomargarine, margarine, butterine, or any other substitutes for butter; lard, lard compound, and similar substances; cottolene; eggs; chickory, raw or green, kiln-dried, roasted, or ground; coffee, green, roasted, or ground; tea; hops; rice, cleaned or uncleaned; rice flour; sago flour; tapioca flour; rice meal; corn starch; potato starch; potato flour; vegetables, fruits, grains, and seeds in their natural state; buckwheat, meal or flour; pot, pearl, rolled, roasted, or ground barley; corn meal; corn flour; oatmeal or rolled oats; rye flour; wheat flour or wheat meal; sago and tapioca; macaroni and vermicelli; split peas and pea meal; cattle foods; hay and straw; nursery stock; vegetables, canned, dried, or desiccated;

fruits, canned, dried, desiccated, or evaporated; honey; fish and products thereof; sugar, molasses; maple, corn, and sugar cane sirups and all imitations thereof; ice; newspapers and quarterly, monthly, and semimonthly magazines and weekly literary papers, unbound; gold and silver ingots, blocks, bars, drops, sheets, or plates unmanufactured; gold and silver sweepings; British and Canadian coin and foreign gold coin; materials for use only in the construction of ships; anthracite and bituminous coal and coal dust, lignite, briquettes made from anthracite or bituminous coal or lignite, coke, charcoal, peat, wood for fuel purposes; electricity; calcium carbide; gas manufactured from coal, calcium carbide, or oil for illuminating or heating purposes; fiber for use only in manufacture of binder twine; ships licensed to engage in the Canadian coasting trade; artificial limbs and parts thereof; donations of clothing and books for charitable purposes; settlers' effects; articles enumerated in Schedule C of the West India agreement or to articles purchased for use of the Dominion Government or any of the departments thereof or by or for the Senate or House of Commons; and the governor in council shall have power to add to the foregoing list of articles exempted from the tax on sales such other articles as he may deem it expedient or necessary to exempt from the said tax.

(2) The minister may require every manufacturer and wholesaler to take out an annual license for the purposes aforesaid, and may prescribe a fee therefor not exceeding \$5, and the penalty for neglect or refusal shall be a sum not exceeding \$1,000.

(3) Any such tax, costs, or penalties may, at the option of the minister, be recovered and imposed in the Exchequer Court of Canada or in any other court of competent jurisdiction in the name of His Majesty.

3. (1) The provisions of this act shall be held to have come into force on the 19th day of May, in the present year, 1920, and to apply and to have applied to all goods imported or taken out of warehouse for consumption on or after the said day: *Provided*, That in the case of goods which were imported or taken out of warehouse for consumption and on which duty was paid, on or after the 19th day of May, 1920, in accordance with the rate of duty set forth as payable on such goods in the resolutions respecting the duties of excise introduced in the House of Commons on the 18th day of the said month, or in any amended resolution subsequently introduced in the said House, the duty so paid shall not be affected nor shall the person paying it be entitled to any refund or be liable to any further payment of duty by reason of such rate of duty being altered before the 16th day of June, 1920.

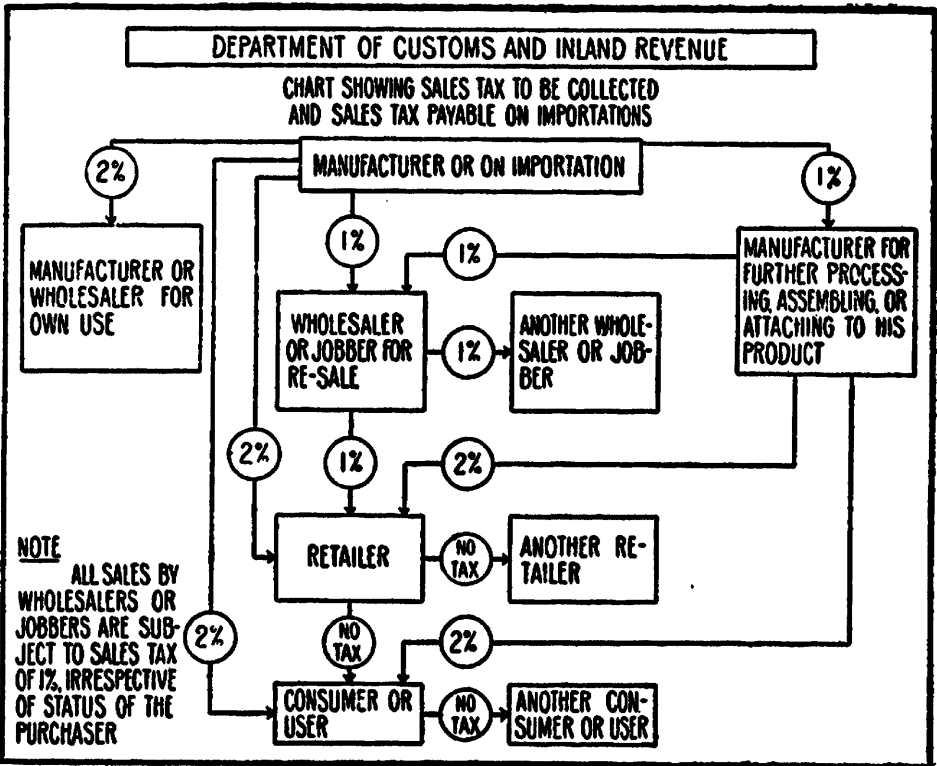
(2) Section 19A of the said act, as enacted by chapter 46 of the statutes of 1918, is amended by adding thereto the following words: "and the word 'jewelry' shall be held to include precious stones and imitations thereof."

(3) Section 14 of the said act, as amended by chapter 46 of the statutes of 1918; section 15; section 16; section 16A, as enacted by chapter 46 of the statutes of 1918, except the provisions thereof relating to matches; section 17, as enacted by chapter 46 of the statutes of 1918, except the provisions thereof relating to matches; section 18; subsection 8 of section 19; subsections 1, 2, and 4 of section 19B, as

enacted by chapter 46 of the statutes of 1918; the schedule to Part III of the said act; the schedule to Part IV, as enacted by chapter 46 of the statutes of 1918; and all other provisions of the said act inconsistent with this act are hereby repealed.

(4) Every person who being thereto liable refuses or neglects to pay the taxes prescribed by sections 19bb and 19bbb of this act, or if such duty is payable in stamps neglects or refuses to duly affix such stamps and to duly cancel the same, shall be liable on summary conviction to a penalty equal to not less than ten times the amount of such duty, but in no case less than \$50.

DIAGRAM EXPLAINING APPLICATION OF CANADIAN SALES TAX.



## SUMMARY OF THE FRENCH TURNOVER TAX, 1920.

[Translated and digested by A. Bernard, research assistant, Legislative Reference Service, Library of Congress, Dec. 8, 1920.]

### OUTLINE.

1. Tax on the payment of the purchase price of articles of luxury.
2. Stamp duty on ordinary payments.
3. The turnover tax:
  - (a) Nature of the tax.
  - (b) Persons liable to the tax.
  - (c) Exemptions.
  - (d) Basis of the tax.
  - (e) Rates of the tax.
4. Tax on the sale of brandies, cordials, appetizers, and sweet wines.
5. Tax on the sale of high-class wines.

### SUMMARY.

In lieu of the tax on payments, retail sales and luxuries, established by sections 19 to 28 of the act of December 31, 1917, the act of June 25, 1920,<sup>1</sup> has established a turnover tax consisting of the following:

1. A tax of 10 per cent on the payment of the purchase price of articles of luxury.
2. A graduated stamp duty on ordinary payments.
3. A tax of 1.1 per cent (increased to 3 and 10 per cent in certain cases) on the turnover of all persons exercising a trade or profession.
4. A tax of 25 per cent on the sale of brandies, cordials, appetizers, and sweet wines.
5. A tax of 15 per cent on the sale of high-class wines.

#### 1. TAX ON THE PAYMENT OF THE PURCHASE PRICE OF ARTICLES OF LUXURY.<sup>2</sup>

In lieu of the luxury tax of 1917, a tax of 10 per cent is levied on the payment of the purchase price of goods classed as articles of luxury in the case of sales made between persons other than merchants. The tax is collected by means of an adhesive stamp affixed on the receipt which the law requires to be delivered to the purchaser regardless of the amount involved in the sale. Failure to deliver a receipt or to pay the tax is punished by a fine equal to three times the amount of the tax due, but which may not be less than 100 francs.

The Government is authorized to specify by decrees the goods which are to be classed as articles of luxury. A decree of June 26, 1920,<sup>3</sup> contains a list of such goods. The articles subject to the tax are divided into goods taxable regardless of their price (schedule A)

<sup>1</sup> Journal Officiel de la République Française, June 26, 1920.

<sup>2</sup> Act of June 25, 1920, secs. 57, 58.

<sup>3</sup> Journal officiel, June 27, 1920.



and goods taxable only when their sale price exceeds a specified amount (schedule B).

The text of the two schedules here follows:

**SCHEDULE A.—GOODS CLASSED AS “ARTICLES OF LUXURY,” WHATEVER THEIR PRICE.**

- Art bindings.
- Art bronzes, ironmongers' and locksmiths' art wares.
- Art glassware, stained-glass windows of all kinds, art china, and porcelain articles.
- Automobiles, new or secondhand, for carrying passengers, their chassis, bodies, fittings, and accessories, except separate parts for repair.
- Billiard tables and accessories.
- Books, art editions (printed in limited numbers) on special papers.
- Curiosities, antiques, old books, and objects for collections.
- Dogs and other pet animals.
- Game (living) for sporting or breeding purposes.
- Goldsmiths' and silversmiths' wares of gold, silver, or platinum, including medals, tokens, and coins.
- Harness for riding horses.
- Horses, ponies, mules, etc., for pleasure or sporting purposes. (Breeders are not subject to the 10 per cent tax.)
- Hosiery and lingerie of pure or mixed silk; lingerie of linen batiste or thread.
- Jewelry, fine; jewelry of gold, silver, and platinum; imitation jewelry of all kinds.
- Liveries, uniforms for private services.
- Objects of tortoise shell and ivory.
- Paintings, water colors, pastels, drawings, original sculptures. (Original works of this class which are sold by the artist himself are exempt from the tax of 10 per cent.)
- Fine pearls.
- Perfumery: Extracts, essences, perfumes, almond paste, beauty creams, rice powder, rouge, sachets and powder for sachets, tinctures and all other such articles except soaps and dentifrices.
- Pianos, other than upright pianos, phonographs, graphophones, mechanical pianos, and their accessories.
- Pleasure boats and canoes, mechanically propelled; yachts.
- Precious stones and natural gems.
- Riding habits and hunting garments.
- Brandies, cordials, appetizers, and sweet wines.
- Sporting guns and articles, gunsmiths' wares.
- Tapestry, ancient or modern, of wool or silk, fabrics made by machine or by hand. Turkish and oriental rugs.
- Truffles, including truffled poultry or game, truffle pâtes.
- Gold or platinum watches.

**SCHEDULE B.—GOODS CLASSED AS “ARTICLES OF LUXURY” WHEN SALE PRICE EXCEEDS AMOUNT NOTED PER ARTICLE.**

	Francs.
Lamp shades:	
In china or glass .....	40
In any other material.....	20
Photographic apparatus and lenses, except apparatus and objects for radiography or medical use.....	150
Paris specialties (articles de Paris), all fancy articles of French or foreign origin of every description and all kinds of materials, except those included in schedule A.....	20
Fancy articles for offices.....	10
Smokers' articles.....	12
Devotional articles.....	30
Brushes, combs, and other toilet articles.....	25
Picture, etc., frames.....	50
Walking sticks (except those for cripples' use) and riding whips.....	15

China :	Franca.
(a) Dinner sets for 12 persons (74 pieces)-----	400
Dessert sets for 12 persons (42 pieces)-----	200
Single piece: plate-----	4
Single piece (small)-----	6
Single piece (medium)-----	12
Single piece (large)-----	30
(b) Complete toilet sets-----	100
Single pieces-----	30
(c) Tea or coffee sets-----	50
Single piece (small)-----	6
Single piece (large)-----	12
Men's hats-----	60
Women's hats-----	80
Shoes (per pair):	
Children's-----	75
Men's and women's-----	100
Chocolate of any kind and cocoa (per kilogram)-----	12
Pure cocoa (per kilogram)-----	13
Dog collars and leads-----	15
Confectionery (per kilogram)-----	12
Corsets and stays:	
Corsets-----	80
Stays, etc-----	50
Clothing:	
(a) Suits or overcoats—	
Children's-----	200
Boys'-----	300
Men's (dress suit, frock coat, cutaway)-----	600
(b) Sack suits for men-----	500
(c) Separate garments—	
Vests-----	50
Trousers-----	150
Dress coat, tuxedo, frock coat, cutaway-----	400
Sack coat-----	300
(d) Suits:	
Misses'-----	300
Ladies'-----	600
(e) Coats—	
Misses'-----	300
Ladies'-----	600
(f) Separate garments—	
Skirts-----	250
Waists-----	175
(g) Negligee and lounging robes—	
For ladies—	
Dressing gowns and bath robes-----	125
Pajamas-----	50
For men—	
Bath robes-----	250
Pajamas-----	50
(h) Clothing accessories for men, women, or children: Neckties, suspenders, mufflers, etc-----	20
(i) Woolen wearing apparel, underclothing for men, women, or children (woolen wearing apparel used as clothing is taxed as clothing)-----	00
Cutlery, scissors, all articles having less than 25 centimeters in length (per article)-----	25
Blankets, quilts, elderdowns-----	275
Laces, embroideries, guipures:	
Machine made (per meter)-----	10
Handmade (per meter)-----	25
Machine made (per article)-----	20
Handmade (per article)-----	50
Fans-----	10
Natural, artificial, or sterilized flowers, hothouse or house plants (per purchase)-----	10

	Francs.
Furs .....	250
Gloves (per pair) .....	20
Fire irons .....	150
Engravings, prints, art photographs, and reproduction of works of art by photographic process .....	100
Gaiters, leggings (per pair) .....	45
Game and sporting goods .....	00
Fishing tackle, except fishing nets used by fishermen .....	15
Musical instruments other than those listed in Schedule A .....	400
Toys .....	30
Field glasses, opera glasses, lorgnettes, stereoscopes .....	30
Lamps, bracket lamps .....	100
Household linen:	
Sheets .....	200
Pillowcases .....	30
Tablecloths (per square meter) .....	45
Napkins or towels .....	12
All other articles .....	12
Chandeliers, drop-lights, and ceiling lamps:	
Chandeliers and drop-lights .....	200
Ceiling lamps .....	150
Trunks .....	150
Small fancy leather articles (per article) .....	20
<hr/>	
Furniture:	
Bedroom—	
1 wardrobe .....	1,500
1 bed .....	1,200
1 bedside stand .....	300
Total .....	3,000
Dining room—	
1 cupboard .....	1,500
1 table .....	600
6 chairs (150 francs each) .....	900
Total .....	3,000
Living room—	
1 sofa .....	1,200
2 armchairs (600 francs each) .....	1,200
2 chairs (300 francs each) .....	600
Total .....	3,000
Library—	
1 bookcase .....	1,500
1 desk .....	1,100
1 armchair .....	400
Total .....	3,000
Furniture other than listed above and generally sold by the piece:	
Large size .....	1,500
Medium size .....	600
Small size .....	300
Separate pieces of minor importance .....	150
Mirrors:	
Large mirrors (framed) .....	200
Hand glasses .....	50
Motor cycles, side cars, and the like .....	2,000
Side cars alone .....	1,000
Watches other than those listed in schedule A .....	200
Handkerchiefs (per dozen) .....	48

	Franca.
Goldsmiths' wares of common metals, whether or not gilt or silvered, except tableware (per piece).....	20
Wall paper (per roll of 8 meters).....	30
Umbrellas and parasols.....	80
Perfumery articles other than those classified in schedule A:	
Soaps, powders, tooth powders, in any form (per article).....	3
Dentifrices (per liter).....	35
Toilet waters (per liter).....	20
Dress ornaments of feathers.....	50
Pelts.....	100
Clocks, wall clocks, timepieces.....	500
Upright pianos, organs, and harmoniums.....	3,000
Ornamental feathers.....	10
Book binding (per volume):	
Octavo and smaller sizes.....	20
Folio and quarto size.....	40
Alarm clocks, traveling clocks, desk clocks.....	50
Curtains, bed and window draperies:	
Curtains or draperies.....	200
Double portière.....	200
Single portière.....	100
Bed draperies.....	100
Window curtains, sash curtains (per pair).....	50
Ribbons, trimmings (per meter or piece).....	10
Ladies' handbags in any material.....	50
Saddlery (harness-making articles not subject to the tax):	
Complete carriage harness for private use.....	1,500
Single piece.....	300
Window shades.....	100
Fountain pens.....	40
Imitation bronze ware articles.....	20
Carpeting:	
Rugs.....	250
Bedside or hearth rugs.....	100
Carpet (per meter, 1 m. by 0 m. 70).....	30
Carpet of greater width.....	40
Table covers.....	100
Bedspreads.....	150
Wall hangings of every description (per square meter).....	5
Fabrics of every description for clothing and for furniture (per square meter).....	50
Suitcases, traveling bags, and cases.....	100
Glassware and crystal ware:	
(a) Large table glasses.....	6
(b) Small table glasses.....	3
(c) Toilet or desk articles.....	25
(d) Large articles.....	25
(e) Table sets, 52 pieces (special sets, such as for Madeira, beer, cordials, and the like, are taxed, according to their compositions, on a unit basis).....	300
Postage stamps, per collections (per purchase).....	5
Wines:	
In cask (per liter).....	3
Bottled.....	5
Horse carriages for private use.....	3,000
Aviaries, bird cages.....	15

## 2. STAMP DUTY ON ORDINARY PAYMENTS.

Sections 13 to 22 of the act of December 31, 1917, had established a very complicated system of taxing payments. While the majority of payments were subject to a graduated tax of 0.20 per cent, there was imposed on other payments a graduated tax of from 0.10 to 0.50

per cent under the act of July 15, 1914, which made it difficult to make a departure between the two forms of taxation.

The provisions of the act of 1917 have now been repealed, and section 54 of the act of June 25, 1920, has established a single-taxation standard for all ordinary payments, whether private or involving a business transaction, and regardless of the character of the persons receiving or making them. The rate of the tax is as follows:

1. Twenty-five centimes when the amount involved is 100 francs or less.<sup>4</sup>
2. Fifty centimes when the amount involved is between 100 and 1,000 francs.
3. One franc when the amount involved exceeds 1,000 francs.

### 3. THE TURNOVER TAX.

In contradistinction to the system of taxing business provided for by the act of December 31, 1917, the turnover tax established by sections 59 to 72 of the act of June 25, 1920, places the burden of paying the tax on the amount of sales made not, as precedently, on the purchaser but on the vendor, who is now also solely accountable for the failure to pay the tax or for in any way violating the law.

#### A. NATURE OF THE TAX.

The tax consists of the levy of a percentage payment on the turnover (i. e., the amount of sales made) of every business.

#### B. PERSONS LIABLE TO THE TAX.

Payment is due by all persons who either as a regular business or occasionally<sup>5</sup> purchase goods to resell them, or do acts pertaining to the professions liable to the tax on industrial and commercial profits established by the act of July 31, 1917. The tax is also due by mine operators.<sup>6</sup>

#### C. EXEMPTIONS.

The tax does not apply to liberal professions or to farmers selling their crops themselves.

The following are likewise exempted:

1. The turnover of any business subject to governmental control as to sale price. This includes:

- (a) The transactions connected with the sale of bread.
- (b) The transactions connected with the sale of products monopolized by the Government, as well as those connected with the sale of stamps and stamped papers by the Government.

(c) The sale transactions connected with the operation of public utilities enjoying a monopoly and subject to Government control as to rates, such as railroads, etc.

2. The sale transactions already taxed under previous laws.

<sup>4</sup> The rate is not levied on an amount less than 1 franc.

<sup>5</sup> As middlemen or agents. Cf. Instruction of Aug. 29, 1920, concerning the execution of the act of June 25, 1920, secs. 59 to 73, and of the regulations governing the same. (Journal officiel, Sept. 3, 1920.)

<sup>6</sup> Sec. 33 of the act of Apr. 10, 1910. Mine operators are now classed as merchants (Act of Sept. 9, 1919, sec. 5.)

3. The sale transactions connected with exports. If, however, a person living outside France buys goods in France and has them delivered to a third person in France, such delivery is regarded as an importation, and the seller of the goods must pay in addition to the tax of 1 per cent applicable to the sale transaction a second tax of 1 per cent or of 10 per cent (according to the quality of the third party who has taken delivery and to the nature of the goods).

#### D. BASIS OF THE TAX.

The tax is levied as follows:

1. In the case of persons selling any goods or objects which they have themselves purchased or manufactured, on the turnover represented by the amount of sales actually made.
2. In the case of persons engaged in transactions other than sales (contractors, carriers, bankers, middlemen, etc.), on the turnover represented by the amount of fees or profits actually received in any manner or under whatsoever name (commission, fee, rent, interest, discount, etc.).

#### E. RATES OF THE TAX.

The turnover tax comprises three different rates, namely:

1. A rate of 1 per cent on sales in general, plus one "décime" \* allocated to local authorities.
2. A rate of 3 per cent (without décime) on payments for lodging or for food, or drink consumed on the premises when made to an establishment rated as second class.
3. A rate of 10 per cent (without décime) on retail sales and on any articles consumed on the premises classed as articles of luxury.

As regards the tax of 1.1 per cent, section 12 of the budget law of July 31, 1920, provides that, so far as imports are concerned, "the tax \* \* \* shall be increased by a percentage equal to the turnover tax, when the French or foreign seller has no place of business or branch office in France and consequently escapes the turnover tax. This increase shall not, however, apply when the seller is established in the country of origin of the goods imported."

#### 4. TAX ON THE SALES OF BRANDIES, CORDIALS, APPETIZERS, AND SWEET WINES.

Intoxicating beverages remain subject to the provisions of the luxury tax of December 31, 1917, but the rate of the tax has now been raised to 25 per cent with regard to brandies, cordials, appetizers, and sweet wines.

#### 5. TAX ON THE SALE OF HIGH-CLASS WINES.

In the case of high-class wines the rate of the tax has been raised from 10 to 15 per cent.

In both cases the tax is due by the purchaser. Delivery of a receipt is required. The tax is collected by means of an adhesive stamp affixed to such receipt, unless the vendor has an account opened with the Treasury, in which case monthly payments are made.

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\* The "décime" is a surtax of 10 per cent of the principal tax, collectible at the same time and by the same means.

## SUMMARY OF THE GERMAN TURNOVER TAX, 1920.

[Translated and digested by C. Meyer, research assistant, Legislative Reference Service, Library of Congress, Dec. 15, 1920.]

### SUMMARY OF THE GERMAN TURNOVER TAX, 1920.

#### OUTLINE.

- I. Introduction.
- II. Objects of the law of December 24, 1919.
- III. Nature of the law.
  - A. Transactions and persons subject to the law.
  - B. Exemptions.
  - C. Rate of the tax.
    1. Necessaries.
    2. Luxuries.
      - (a) Tax payable on sales by manufacturers
      - (b) Tax payable on sales by retail merchants.
    3. Special transactions.
  - D. Punishments.

### TAXATION ON TURNOVER.

#### GERMANY.

I. *Introduction.*—On July 26, 1918, a law<sup>1</sup> was passed in Germany known as the "Umsatzsteuergesetz" or tax on turnover. This law not only levies taxes on sales but on services as well, and makes provisions for both wholesale and retail sales.<sup>2</sup> On December 24, 1919,<sup>3</sup> the German National Assembly greatly modified and extended the law, which was amended in turn by the laws of March 29, 1920,<sup>4</sup> March 30, 1920,<sup>5</sup> and April 1, 1920.<sup>6</sup>

II. *Objects of the law of December 24, 1919.*<sup>7</sup>—The objects of the tax have been summarized as follows:<sup>8</sup> "(1) To transform and modify the provisions of the existing tax on sales (Umsatzsteuer); (2) to establish an especially high general tax on the process representing the disappearance of goods from circulation; (3) to transfer the existing luxury tax from producers to purchasers, regardless of whether such purchasers resell the articles in question, and to extend the existing luxury tax so that it will include all articles which are not necessities; (4) to assimilate all articles of luxury which are not adapted to the treatment described in (3) to a new class, upon which a retail tax would be levied; (5) to tax certain services which are not actual 'deliveries.'"

<sup>1</sup> Reichs-Gesetzblatt, 1918, No. 95, p. 779.

<sup>2</sup> *Ibid.*, secs. 1, 2, 4, 8, 9, 14.

<sup>3</sup> Law of Dec. 24, 1919. Reichs-Gesetzblatt, 1919, No. 250, p. 2157.

<sup>4</sup> Reichs-Gesetzblatt, 1920, No. 57, sec. 57.

<sup>5</sup> *Ibid.*, No. 60, secs. 41-43, 56.

<sup>6</sup> *Ibid.*, No. 66, secs. 16 and 17.

<sup>7</sup> *Ibid.*, 1919, No. 250, p. 2157.

<sup>8</sup> U. S. Commerce Reports, No. 264, Nov. 10, 1919, p. 802, quoting the Berliner Boersen Zeitung.

**III. Nature of the law.**—A. Transactions and persons subject to the law: Subject to this sales and service tax are all sales transactions performed within the country which are not specifically exempted, and all services of persons who are either masters, shopkeepers, or other independent agents and artisans, provided, that their services fall within the scope of their business (sec. 1).<sup>9</sup> The tax is also due on auction sales, with the exception of forced sales. Moreover, the tax is payable by persons who take from their own store, shop, or business articles for their private use (sec. 1.).

B. Exemptions: Excluded from this tax are a number of banking transactions, exchanges of bank notes, paper money, coins; also precious metals and their alloys, provided that they were not acquired in the retail business. Medical services are excluded only in so far as they are payable by the Government (sick fund) or by incorporated workers' unions (sec. 1). Exempt are also the Government postal, telegraph, telephone, and transportation services, as well as the stockyards, gas, electricity, and waterworks which are under Government control. Charitable and public-welfare institutions are not subject to the tax (sec. 3). Reductions, however, which had been granted in the case of fathers of families with certain limited incomes were canceled by the law of March 29, 1920,<sup>10</sup> repealing section 14 of the present law. Thus, transactions amounting to less than 3,000 marks per annum are no longer exempted from the levy.

C. Rate of the tax: (1) Necessaries.—The rate of the tax—in so far as there are no stipulations to the contrary<sup>11</sup>—is  $1\frac{1}{2}$  per cent on necessities and on all other taxable transactions.

(2) Luxuries.—(a) Tax payable on sales by manufacturers: This law decrees that the manufacturer shall pay on the sale of luxuries a tax at the rate of 15 per cent. The list of articles classed as luxuries for the purpose of this law includes the following:<sup>12</sup>

(1) Articles subject to this tax owing to the nature of the material or the workmanship expended upon it:

Jewelry consisting partly or wholly of precious metal, ceramics, cut glass, plate glass, leather articles, articles of carved wood, wickerwork, furniture covered with certain materials as velvet, plush, silk, and the like.

(2) Articles subject to this tax owing to the nature of their utility.—Jewelry of all kinds (not already included under (1)); paintings, sculptures, and other works of art; limited editions of books printed on special paper; photographic apparatus, lenses, and accessories; firearms and ammunition; musical instruments, including phonographs and talking machines; billiard tables and accessories; vehicles (air, water, and land) propelled by motor power or employed for purposes of amusement; especially ornamented children's carriages; furs; fans; hat feathers; articles partly or wholly made of rubber; perfumery articles and cosmetics; secret remedies; canes, umbrellas, and whips made of costly woods or ornamented with val-

<sup>9</sup> "A further innovation is the levying of the tax on services as well as sales, so that now the barber, the doctor, the lawyer, etc., must each pay the tax and pass it on to his client. From this rule only the clerk and official is exempt." Comment from Business Digest, June 19, 1918, p. 805, discussing the bill then pending.

<sup>10</sup> Reichs-Gesetzblatt, 1920, No. 57, sec. 57.

<sup>11</sup> Reichs-Gesetzblatt, 1919, No. 250, secs. 15, 21, 25, 27, providing for higher rates on certain transactions and sales of luxuries; see below.

<sup>12</sup> Reichs-Gesetzblatt, 1919, No. 250, sec. 15.



uable kinds of horn; dolls; fancy clocks and lamps; hardwood floors; carpets; wall decorations; fiber trunks of more than 65 centimeter length; underclothing of silk, half silk, or linen cambric; fancy bed covers, table decorations, garments, embroideries, hats, and caps; certain specified grades of candy.

(b) Tax payable on sales by retail merchants: The rate of taxation in the case of sales of luxuries by retail merchants is 15 per cent. The list of articles enumerated in this group includes the following:

Precious metals; jewelry; original works of art; valuable old books and prints if not acquired for scientific purposes; flower bouquets and floral decorations, the price of which exceeds 30 marks; riding horses and coach horses; live game.

(3) Special transactions: The rate of the tax is 10 per cent in the case of the following transactions:<sup>13</sup>

(a) Advertisements in so far as they have no connection with public elections.

(b) Renting of rooms to transients in hotels or private houses if the rent per day or per night amounts to 5 marks or more.

(c) Safekeeping of money, securities, valuables, jewelry, works of art, furs, and wearing apparel.

(d) Renting of animals for riding purposes.

D. Punishments: Violations of the law are punishable by fine up to 20 times the amount of the tax due or by imprisonment (sec. 43).

<sup>13</sup> Reichs-Gesetzblatt, 1919, No. 250, sec. 25; for reductions in the rate, see sec. 27.



## TAX ON SALES IN MEXICO.

[Translated and digested by A. Bernard, research assistant, Legislative Reference Service, Library of Congress, Mar. 29, 1920.]

### MEXICO.

#### FEDERAL TAX ON RETAIL AND WHOLESALE SALES.

The tax on retail and wholesale sales is contained in the Federal stamp act of April 23, 1893, superseded on June 1, 1906, by a new act which has since been extensively amended.

1. *Tax on retail sales.*—For the purposes of the act, retail sales are those involving an amount less than:

(a) Twenty dollars in national gold specie, or

(b) One hundred dollars in "unfalsifiable" paper of the new issue.<sup>1</sup>

2. *Tax on wholesale sales.*—Any sale which is made in a single operation to one purchaser involving \$20 or more is deemed, for the purposes of the law, to be a wholesale sale. The uniting in one receipt, invoice, or document of different sales made in the same day and which amount to \$20 or more is also considered a wholesale transaction. The omission of the dates on which the different sales specified in the document have been made is sufficient reason for considering them as made on one and the same day.<sup>2</sup>

3. *Schedule of the tax.*—By decree of May 22, 1917, the federal stamp tax established by the act of 1906 was increased 50 per cent, beginning January 1, 1918.<sup>3</sup>

In the following schedule only the rates prevailing before January 1, 1918, have been given. In order to know the present rate of assessment the figures must be increased 50 per cent.

#### 4. *Rate of assessment of the tax on retail sales.*<sup>4</sup>

	Rate of assessment.
I. Sales involving less than \$20 made directly by merchants or by commercial, industrial, agricultural, or mining establishments.....per cent.....	1
II. Sales involving less than \$20 made by others than the above—for each 2 pesos or fraction thereof.....	\$0.02

<sup>1</sup> Sec. 62 of the act of June 1, 1906, as amended by the decree of May 31, 1916 (El Constitucionalista, June 6, 1916, p. 401)

<sup>2</sup> Sec. 86 of the act of June 1, 1906 (Ley de la renta federal del timbre y su reglamento, México, 1911, with Appendix to Dec. 31, 1913, inclusive).

<sup>3</sup> Diario oficial, May 26, 1917, p. 604.

<sup>4</sup> No. 28 of the schedule forming part of the act of June 1, 1916, as amended by the decree of Jan. 7, 1914 (Diario oficial, Jan. 7, 1914, p. 62). The rates are given in Mexican money.

5. *Rate of assessment of the tax on wholesale sales.*

	Rate of assessment.
I. Sales involving \$20 or over, without regard to the form of the documents recording the same, for each 10 pesos or fraction thereof.....	\$0. 10
II. If, owing to the nature of the transaction or of its provisions, it is not possible to determine the price at the time the purchase contract is agreed to, the tax to be collected, in conformity with the provisions of Nos. I and II, shall be due within the period determined by section 110 of the law, and, in addition, at the time of executing the contract there shall be paid:	
(a) If the document in which the sale is stipulated is a public instrument, per sheet.....	2. 00
(b) If it is not a public instrument, per sheet.....	. 50

6. *Tax exemptions.*—The following retail sales are exempted from the tax, namely:

- (a) Sales not amounting in the aggregate to \$100 per month.
- (b) Sales made in stalls or stands in public markets, streets, squares, or other places for the use of which a due is ordinarily paid, provided that these are not occupied permanently.
- (c) Sales made within the premises of a club or private meeting places, provided that the payments are made for the immediate and direct benefit of the organization and not for the benefit of third contractors or lessees.
- (d) The payments in seeds to “peons” and laborers on account of their wages.
- (e) The sale of periodical publications.
- (f) The sale of their own products by schools, industrial bureaus, and establishments maintained by the Federal Government, the States, or municipalities, or public charity.
- (g) The direct sales of articles subject to the special tax on cotton thread and goods, including hosiery.

The transactions referred to under (g) are exempted also from the tax on wholesale sales.

## PHILIPPINE SALES TAX, 1917.

Chapter 40 of the Administrative Code<sup>1</sup> (p. 365ff) of the Philippine Islands creates a Bureau of Internal Revenue and imposes certain taxes. Among these are the cedula tax, the documentary stamp tax, certain specific taxes, privilege taxes, etc. Among the privilege taxes is the "percentage tax on merchants' sales," the text of which is given below:

**SEC. 1459. Percentage tax on merchants' sales.**—All merchants not herein specifically exempted shall pay a tax of one per centum on the gross value in money of the commodities, goods, wares, and merchandise sold, bartered, exchanged, or consigned abroad by them, such tax to be based on the actual selling price or value of the things in question at the time they are disposed of or consigned, whether consisting of raw material or of manufactured or partially manufactured products, and whether of domestic or foreign origin. The tax upon things consigned abroad shall be refunded upon satisfactory proof of the return thereof to the Philippine Islands unsold.

The following shall be exempt from this tax:

(a) Persons engaged in public market places in the sale of food products at retail, and other small merchants whose gross quarterly sales do not exceed two hundred pesos.

(b) Peddlers and sellers at fixed stands of fruit, produce, and food, raw or otherwise, the total selling value whereof does not exceed three pesos per day and who do not renew their stock oftener than once every twenty-four hours.

(c) Producers of commodities of all classes working in their own homes, consisting of parents and children living as one family, when the value of each day's production by each person capable of working is not in excess of one peso.

"Merchant," as here used, means a person engaged in the sale, barter, or exchange of personal property of whatever character. Except as specially provided, the term includes manufacturers who sell articles of their own production and commission merchants having establishments of their own for the keeping and disposal of goods of which sales or exchanges are effected, but does not include merchandise brokers.

[12657—1014.]

**SEC. 1460. Sales not subject to merchant's tax.**—In computing the tax above imposed transactions in the following commodities shall be excluded:

(a) Things subject to a specific tax.

(b) Agricultural products when sold by the producer or owner of the land where grown, or by any person other than the merchant or commission merchant, whether in their original state or not.

<sup>1</sup> 1917. Printed as Senate Document No. 124, 65th Cong., 2d sess.

## APPENDIX.

### EXTRACTS FROM REGULATIONS OF THE DEPARTMENT OF CUSTOMS AND INLAND REVENUE RELATING TO THE CANADIAN SALES TAX.

[Canadian sales tax. Extracts from excise tax regulations issued by the Department of Customs and Inland Revenue, Ottawa, Canada, July 30, 1920 (G. 31)].

#### SALES TAX.

(d) The sales tax is collectible at the time of sale by manufacturers, wholesalers, or jobbers, or on importation.

The sales tax collected by manufacturers, wholesalers, or jobbers must be returned by the vendor to the collector of inland revenue for the division in which the collection was made, or as otherwise authorized by the department, not later than the last day of the month following the monthly transactions covered by the return.

Returns of sales tax must be made on Form 93 and must be supported by affidavit. Sales records showing total of sales and amount of tax represented thereby may be accepted.

Certificates from chartered accountants or independent auditors covering sales of companies may be accepted in lieu of the affidavit of the dealer.

The sales tax on importations will be collected by officers of customs at the time of passing customs entry for duty.

For purposes of the sales tax, the term manufacturer, wholesaler, jobber, retailer, and consumer shall have the meaning as hereinafter defined:

**Manufacturers** are persons, firms, or corporations who produce, manufacture, process, or assemble articles or materials into salable articles or materials for sale.

**Wholesalers or jobbers** are persons, firms, or corporations who sell for the purpose of resale.

**Retailers** are persons, firms, or corporations who sell to the user or the consumer, or who have a retail counter.

Examples of status:

**Manufacturers.**—Job printers, sash and door manufacturers, lumber planing mills, foundries.

**Wholesalers.**—Regular wholesalers and also concerns having wholesale and retail departments which are segregated; the wholesale department is regarded as a wholesaler.

**Retailers.**—Regular retailers, building or similar contractors, concerns having wholesale and retail departments but not segregated are held to be retailers for purposes of the sales tax.

**Consumer.**—Individual users or consumers, also municipalities, railways, shipping and other public-utility companies are regarded as consumers of materials, including materials used in manufacturing articles for use in their services. Manufacturers are consumers in respect of machinery and material for plant equipment purchased by them.

All manufacturers, wholesalers, or jobbers selling articles subject to sales tax are required to take out a license.

Sales by manufacturers direct to retailers or consumers are subject to a sales tax of 2 per cent.

Sales by manufacturers to wholesalers or jobbers or by wholesalers or jobbers are subject to sales tax of 1 per cent.

Importations by manufacturers, wholesalers, or jobbers are subject to the sales tax of 1 per cent unless said importations consist of equipment for their own use, in which case the tax is 2 per cent.

Importations by retailers or consumers are subject to sales tax of 2 per cent.

## METHOD OF DETERMINING RATE OF SALES TAX.

Wholesalers or jobbers ordering from manufacturers must state conspicuously on such order the serial number and character of license held by them, thus:

"Wholesaler's License No. -----"

Manufacturers purchasing material from other manufacturers, such material to be used and incorporated in or attached to their finished product, must certify on their orders that such materials are for use as above and must also state the nature and serial number of their license.

Manufacturers selling materials to other manufacturers on orders which do not bear the above certificate must charge the second manufacturer the 2 per cent sales tax.

Manufacturers will charge a sales tax of 1 per cent when the orders received from wholesalers or jobbers state that such wholesaler or jobber is in possession of a sales tax license and note the number thereof, otherwise they will charge 2 per cent.

Manufacturers must charge a sales tax of 2 per cent unless orders for materials show that the purchaser has a manufacturer's or wholesaler's license and states the number thereof. The status of persons purchasing from manufacturers is subject to special corroboration by officers of this department.

Customs officers will collect the 2 per cent sales tax unless the importer can show that he is in possession of a wholesaler's or manufacturer's license and states the number thereof. When importers have manufacturer's license, customs officers will be required to ascertain whether or not the importation is for manufacturer's plant equipment. Materials imported by manufacturers for their own use or for plant equipment are subject on importation to the sales tax of 2 per cent.

Customs officers and manufacturers will be able to verify the character of license held by persons, firms, or corporations, by reference to collectors of inland revenue, who will keep a record of all licenses issued.

Every manufacturer, wholesaler, or jobber dealing in articles subject to the sales tax must furnish the purchaser with a written invoice of such sale. Such invoice must show, as a separate item, the amount of tax upon such sale to at least the extent of 1 per cent.

Manufacturers only are allowed to absorb a portion of the tax, and that only when the sale is made by the manufacturer to the retailer or user whereby the tax is 2 per cent; in this event the manufacturer may absorb 1 per cent tax, but must show 1 per cent on the invoice to the purchaser as a separate item.

The tax paid by manufacturers, wholesalers, or jobbers at the time of purchase of goods may be charged to the person purchasing from such manufacturer, wholesaler, or jobber provided it is not shown as a separate item on the invoice and not included in the seller's cost upon which profit is calculated.

As regards goods destined for export, the sales tax is applicable except on sales and deliveries direct to a foreign purchaser; that is to say, material sold by a dealer to a foreign purchaser is not subject to sales tax if such material is shipped to the foreign purchaser direct from the mill. If the material is shipped from the mill to a Canadian dealer and is exported by such dealer, the sale and delivery by the mill to the dealer is subject to the tax, but the delivery by the dealer to the foreign purchaser is exempt from the tax; in this event, however, the tax paid on the sale and delivery by the mill to the dealer is subject to drawback upon furnishing proof of export and of payment of the tax.

When goods are exempt from the sales tax conditionally, such as materials used only in the construction of ships—orders placed for such goods must bear the certificate of the purchaser as respects the purpose for which the goods are to be used.

## VALUE FOR EXCISE TAXES.

(a) The sales tax on domestic sales must be computed upon the regular (open) market value at point of shipment, provided, however, that the excise tax must in no case be collected on less than the actual net selling price of the goods.

When goods are sold at a delivered price and estimated or actual freight charges have been added to the price f. o. b. point of shipment to arrive at such delivered price, the actual charges so added may be deducted from the gross invoice value to ascertain the value upon which to compute the sales tax.

A concern which has wholesale and retail departments that are segregated must, upon the sale of the goods from the wholesale to the retail department,

pay the sales tax on such sale and the tax so payable must be computed on the value of the transferred goods as if sold to the regular retail trade.

Trade discounts which are regularly allowed under like conditions of sale may be allowed for excise-tax purposes if such discounts are allowed and deducted on the face of the invoice by the shipper.

Cash discounts may be allowed for excise-tax purposes if allowed and deducted on the face of the invoice by the shipper. If the shipper grants to the purchaser the privilege of deducting from the gross invoice price a discount for cash payment in a stated period, and if the purchaser, when making settlement of the bill, avails himself of the condition under which the discount is allowable, the tax paid on the amount of such discount may be credited in the next succeeding tax return furnished by the shipper, provided that such next succeeding return is made within 60 days of the payment of the tax upon the amount of discount allowed. If the adjustment of the tax paid on the amount of the discount can not be made within the 60 days, such adjustment can only be made by application for refund to the department.

(b) The sales tax on importations must be computed upon the duty-paid value of such importations. If the article is subject to the luxury tax the sales tax is not collectible on the amount of such luxury tax.

#### GENERAL.

The books and records of manufacturers, wholesalers, and jobbers shall be open at all times for inspection, examination, or investigation by departmental officials.

Returns of sales tax furnished by manufacturers, wholesalers, or jobbers will be audited by inland revenue auditors as frequently as deemed necessary.

Manufacturers, wholesalers, and jobbers will be required to retain on file for a period of two years all invoices and vouchers relating in any way to sales and deliveries of articles subject to sales tax for purposes of adjustments found necessary by means of the audit and also for requisite investigation for purposes of refund or drawback, where legally payable.

#### RETURNABLE CONTAINERS.

Manufacturers dealing in goods shipped in returnable packages may make to the Government, not later than the end of March in each year, an annual sales-tax return as to such packages, instead of monthly returns, and the sales tax so payable to the Government by the manufacturer shall be paid on the difference between the amount charged for the returnable containers shipped during the year and the equivalent amount rebated for containers returned during the same period, and it shall be optional with the manufacturer to charge the sales tax on the value of returnable containers in invoices to the purchaser subject to credit when returned, or to pay such sales tax himself.

#### MEMORANDUM 4B.

##### DEPARTMENT OF CUSTOMS AND INLAND REVENUE,

##### INLAND REVENUE SERVICE.

*Ottawa, Ontario, September 10, 1920.*

Memorandum.

SIR: Your attention is drawn to our memo of the 21st ultimo:

"The tax paid by manufacturers, wholesalers, or jobbers at the time of purchase of goods may be included in the selling price and charged to the purchaser, provided it is not included in the amount upon which profit is calculated," should read, "The tax set forth on invoices to customers must not be included by manufacturers or wholesalers as part of the cost on which profit is calculated." I remain, sir,

Yours, very truly,

GEO. W. TAYLOR,

*Assistant Deputy Minister Inland Revenue.*

To the COLLECTOR OF INLAND REVENUE.

DEPARTMENT OF CUSTOMS AND INLAND REVENUE,  
Ottawa, November 25, 1920.

**Fractional sales.**

For the purpose of determining the amount of sales tax applicable on any sale, the following regulations shall govern:

- (1) Sales tax shall be computed upon the total value of any sale.
- (2) Where the amount of the sales tax thus computed results in a figure containing a fraction of a cent and the fraction is less than one-half cent, such fraction shall be disregarded; where the fraction is one-half cent or more, it shall be treated as 1 cent.
- (3) Where the amount of the tax on any sale is less than one-half cent, no tax is collectible.

The above regulations are effective from December 1, 1920.

GEO. W. TAYLOR,

*Assistant Deputy Minister Inland Revenue.*

Approved:

R. R. FARRONE,

*Commissioner of Customs, Deputy Minister of Inland Revenue.*

[Extract from a letter of Dec. 9, 1920, from the deputy minister of inland revenue, Ottawa, Canada, to the United States consulate at Ottawa in response to an inquiry of Dec. 6 from Hon. Joseph W. Forduey, chairman of the Ways and Means Committee, House of Representatives.]

The sales tax is applicable on sales by manufacturers, wholesalers, or jobbers, or on importation, and is payable on all goods or articles which are not specially exempted. The sales tax is cumulative in effect, the rate of sales tax being 1 per cent on sales and deliveries by manufacturers, wholesalers, or jobbers, but, in respect of sales by manufacturers direct to retailers, or to consumers, or on importations by a retailer or consumer, the tax is payable at the rate of 2 per cent.

In order that manufacturers may know the proper rate of sales tax to collect on their sales, the department has established a system of control by means of the issue of sales tax licenses, thus determining the status of the purchaser. Further details concerning the operation of licenses will be covered in a subsequent paragraph of this communication.

Returns of sales tax collected are submitted to the collector of inland revenue for the division in which the taxpayer is situated. Such returns may be sworn before an officer of inland revenue or customs, or before a justice of the peace or other person authorized to administer oaths. Sales tax returns are required to show only totals of sales and the amount of tax collected in respect thereto. The accuracy of returns furnished by the taxpayer is determined by the employment of auditors who make investigation into the taxpayer's books and accounts.

The collection of the tax on imported alcoholic preparations is under the control of customs officers, and is collected at the time of passing customs entry.

Four classes of licenses are issued as follows:

**Retailer's license:** Must be obtained by any person, firm, or corporation, which sells for consumption or use articles which are subject to the payment of luxury tax.

**Sales tax license:** Must be obtained by all persons, firms, or corporations whose sales are subject to payment of sales tax.

**Manufacturer's license:** Must be obtained by manufacturers of articles specified in section 19BB, subsection 4 of the act.

**Jeweler's license:** Must be obtained by bona fide jewelers, including the jewelry branch of a department store whose chief business is the selling of jewelry by retail.

Bona fide jewelers are entitled, under the provisions of the act, to collect the luxury tax at the rate of 10 per cent on all sales, with the exception of certain articles specially exempted, this tax being payable in lieu of the regular luxury tax at the rate of 15, 20, or 50 per cent, payable on sales of jewelry or articles composed of precious metals. The special jeweler's license is issued, therefore, to enable the department to distinguish between jewelers who are entitled to operate on the basis of 10 per cent turnover tax collection from concerns exposing jewelry for sale but whose chief business is not the selling of jewelry by retail.



It is provided in the regulations that manufacturers, wholesalers, and jobbers must show the number and character of sales tax license held by them. The 2 per cent tax is payable upon materials purchased by manufacturers, and in respect of which they are consumers, such as, for example, plant equipment and other material not actually incorporated in, or attached to, their finished manufactured product. To control the rate of tax applying, as between one manufacturer and another, in respect of such materials, the second manufacturer must certify, on his order, that the materials being purchased by him are intended to be incorporated in, or attached to, his finished manufactured product. Sales tax licenses are not issued to bona fide retailers.

From indications based on returns of collections to date, it appears that, unless there is a very great reduction in the volume of domestic trade during the balance of the present fiscal year, the total amount of collections, through the medium of this tax, will meet the expectations held by the Government at the imposition of the tax.

It has been found that the levying of the sales tax has caused no appreciable disturbance of markets or market prices; no undue enhancement of costs, as reflected in index figures, is discernible.

Judging from the paucity of complaints and the number of commendations expressed, the principle of the sales tax, being virtually a tax at the origin, appears to be universally acceptable to the Canadian people. As a matter of fact, observations of the department indicate that the sales tax is a popular innovation in the production of revenue.

The initiation of so new a form of taxation was, as might be expected, attended at the outset by considerable difficulty, which, however, has now been almost entirely eliminated, owing to the close cooperation of the public with the department. I remain, sir,

Your obedient servant,

GEO. W. TAYLOR,  
*Assistant Deputy Minister Inland Revenue.*





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