REVENUE ACT OF 1924

HEARINGS

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

SIXTY-EIGHTH CONGRESS

FIRST SESSION

ON

H. R. 6715

AN ACT TO REDUCE AND EQUALIZE TAXATION, TO PROVIDE REVENUE, AND FOR OTHER PURPOSES

MARCH 7-APRIL 8, 1924

WITH INDEX

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REVENUE ACT OF 1924.

FRIDAY, MARCH 7, 1924.

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met in executive session at 10 o'clock a. m. in the hearing room of the Senate Finance Committee, 310 Senate Office Building, Hon. Reed Smoot (chairman) presiding.

Present: Senators Smoot (chairman), McLean, Curtis, Watson, Ernst, Stanfield, Simmons, Jones of New Mexico, Gerry, Walsh of Massachusetts, Harrison, and King.

There were also present: A. W. Gregg, special assistant to the Secretary of the Treasury; M. Beaman, legislative draftsman of House of Representatives; F. P. Lee, legislative draftsman of the Senate; and J. S. McCoy, special adviser to the Finance Committee of the Senate.

The CHAIRMAN. The committee will come to order.

The committee asked the Secretary of the Treasury to appear here this morning at 10 o'clock, but Senator Simmons yesterday advised me that he, together with others, thought it was best to make an examination of the bill and make some provisions in it before the Secretary comes before the committee. I so notified the Secretary and also advised him that I did not know the exact date on which we would call him to the committee, but we wanted him to be ready at any time the committee may summon him to appear.

I was going to suggest to the committee that as long as the rates will lead to a great deal of discussion, and the Senators would like more time to examine them, that the committee this morning take up the administrative provisions of the bill. I think there is very little opposition to any of the amendments that may be made, and I suggest that we begin on page 144 of the bill, Part IV.

It is true that in the first part of the bill there are administrative features, but they are of vital importance, and affect not only the revenue directly and the rates also, but the general administrative provisions.

Senator SIMMONS. Which one is this you are on now, the confidential print?

The CHAIRMAN. The print in which is shown the House Bill with the amendment of the existing law—committee print No. 1.

Senator SIMMONS. Most of these changes made in the administrative part of the bill were suggested by the Secretary of the Treasury as the result of his experience in administering the law?

The CHAIRMAN. Yes, or our own drafting bureau in consultation with the Secretary.

Senator SIMMONS. When the draftsmen of the bureau made the suggestion I suppose it was simply to clarify?

The CHAIRMAN. Yes.

Senator SIMMONS. Not to make any change in substance. I would like to inquire whether the changes were the changes as suggested by the officials?

Senator CURTIS. I think that is a good suggestion.

Senator SIMMONS. I want to inquire of them first whether they made any change except for the purpose of clarification?

The CHAIRMAN. Well, Mr. Gregg can answer that question as far as the Secretary is concerned.

STATEMENT OF A. W. GREGG, SPECIAL ASSISTANT TO THE SECRETARY OF THE TREASURY, WASHINGTON, D. C.

Mr. GREGG. These administrative sections that we are starting on now were not changed in the House at all. They are the same as were prepared in the Treasury. There was a committee in the Treasury working all last summer on these matters with Mr. Beaman and Mr. Lee, of the drafting service; the result was sent to the Ways and Means Committee by the Secretary, and as far as the provisions that we are reading now are concerned, they were not touched in the House Ways and Means Committee nor on the floor of the House, and are just exactly the same as sent down by the Secretary.

Senator SIMMONS. What do you mean by "not touched"? Do you mean that they were adopted just as you made them?

Mr. GREGG. Yes; just as recommended by the Secretary. They are purely administrative provisions, and adopted by the House just as recommended by the Secretary.

Senator SIMMONS. I want to know whether this committee of experts that were examining into this were examining into it with the view of making such corrections as occurred to you ought to be made, or were you considering suggestions of corrections made to you by officials of the department?

Mr. GREGG. Both. We got from every division of the department their recommendations in full as to desirable changes in the law; where it worked inequities; where there were holes in the provisions of the law; where it worked a hardship; where it was indefinite; and then we went over it most carefully ourselves.

Senator SIMMONS. You went over it yourself?

Mr. GREGG. Yes, sir.

Senator SIMMONS. You were a committee of experts?

Mr. GREGG. Yes, sir; I was one of a committee.

Senator SIMMONS. In going over it did you make changes arbitrarily that affected the substance, or merely changes that clarified the meaning of the law?

Mr. GREGG. They were changes both of substance and of law.

Senator SIMMONS. Well, who suggested those changes of substance?

Mr. GREGG. Some of them came from the different divisions of the bureau that sent us suggestions. Some of them came from the members of the committee.

Senator SIMMONS. Did you as experts in writing the law adopt suggestions made to you by officials of the department?

Mr. GREGG. No, sir. What we were doing is this, we were preparing the bill——

Senator SIMMONS. I am just trying to get at by what authority you, representing these experts, made these changes; whether you did it upon your own suggestion and your own theory as to whether the law should be amended or not, or whether you made them at the suggestion of some official, responsible official of the department?

Mr. GREGG. Well, we are all officials of the department, all of us on the board.

Senator SIMMONS. I am not meaning to impeach you at all.

Mr. GREGG. Certainly.

Senator SIMMONS. But I want to see what was behind these suggestions of changes.

Senator MCLEAN. Senator Simmons, if you will permit an interruption, there seems to be a supplement here to the bill which explains the very questions that you are asking. A supplemental note.

Senator SIMMONS. Well, I did not know of that. I have not read it.

Senator MCLEAN. And it may be that a reading of these notes will clarify the situation somewhat. These notes contain all the changes, do they not?

Mr. BEAMAN. No, sir; the important ones.

Mr. GREGG. They contain the changes that were made in the Treasury draft by the House. They do not refer to the changes made by the bill in the existing law.

Senator MCLEAN. Oh, I thought you said that the House adopted bodily the provisions without any changes.

Mr. GREGG. Not as to the whole bill, of course. The earned income, the Board of Tax Appeals, the rates, that sort of thing, of course, were changed in the House.

Senator MCLEAN. Do these notes also contain changes in the administrative division?

Mr. GREGG. Wherever they were made.

Senator MCLEAN. Wherever they were made, and the reasons?

Mr. GREGG. No, sir; it does not contain the reasons.

The CHAIRMAN. But in the bill itself as printed now under a note of each amendment made will be found just what the change is. For instance, on page 145, striking out section 250, the note says:

> The above two paragraphs are superseded by section 270 on pages 165–167 of this print. The second sentence of the first paragraph is superseded by section 270 (b) (1); the third and fourth sentences by section 270 (c); the last sentence by section 270 (b) (2).

Then after reading this section 250 as stricken out, you can turn to section 270 and just see what changes were made.

Senator WATSON. Now you say the Secretary appointed this board?

Mr. GREGG. Yes, sir.

Senator WATSON. And when he appointed you what were your instructions? What were you to do?

Mr. GREGG. We were to study the entire act. The board was composed of Mr. Moorehead, who is chairman of the Tax Simplification Board; Mr. Bright, who is the Deputy Commissioner of Internal Revenue, in charge of the Income Tax Unit, and myself; we were to work with Mr. Beaman and Mr. Lee in the technical redrafting of the bill. In other words, it was an attempt to make a technical

revision of the bill at the same time as the general reduction and revision in rates.

Senator JONES of New Mexico. What is your name?

Mr. GREGG. A. W. Gregg.

The CHAIRMAN. The same policy was followed when Doctor Adams was in the department.

Mr. GREGG. Yes; substantially the same thing was done.

Mr. BEAMAN. May I make a little further statement? The way the thing started was this: Last spring Judge Green, of Iowa, the chairman of the Ways and Means Committee, asked the Secretary of the Treasury if he would not appoint a committee or board to study the law with the view to preparing amendments for the simplification, wherever possible, and the clarifying and making whatever changes were necessary to iron out the troubles in the administration of the law, correcting abuses either where there was inequity or hardship upon the taxpayer, or loopholes or evasion whereby the Government would be defrauded of its just taxes, and to have ready at the first of the session recommendations along those lines to submit to the Ways and Means Committee when it started preparation of the bill, if it saw fit. And he requested that we, working in conjunction with whatever committee the Secretary might appoint—that the drafting service might be permitted to participate in that discussion, so that the committee might be advised when the recommendations were made. Acting on the suggestion of Judge Green the Secretary did appoint the committee, constituted as Mr. Gregg has explained it, and Mr. Lee and myself participated in their discussions.

Senator SIMMONS. Mr. Gregg's statement a little while ago simplified the matter in my mind. I have been under the impression, from his first statement, that this was a committee composed of the experts, like yourself, who have been sent here to assist the committee. I wanted to see what authority was behind them. I understand Mr. Gregg now to say that that committee was composed of three officials of the Treasury Department, yourself—and whom did you say?

Mr. GREGG. Mr. Bright, who is the Deputy Commissioner of Internal Revenue, in charge of the Income Tax Unit, and Mr. Moorehead, chairman of the Tax Simplification Board created by the revenue act of 1921.

Senator SIMMONS. Those were the three officials of the Treasury Department, and these gentlemen, the draftsmen, were associated with you for the purpose of preparing the matter that you might see fit to adopt or recommend, with the right of participating in the discussions?

Mr. GREGG. We were working on the recommendations which the Secretary made to Congress. When he made his recommendations to the Ways and Means Committee he sent with them a complete technical redraft of the bill which had been prepared in the Treasury Department.

Senator SIMMONS. Did you make recommendations to the Secretary, or did the Secretary make recommendations to you—I mean, to your board?

Mr. GREGG. Both ways. The Secretary worked right with us. He was, of course, very much interested in tax matters.

Senator SIMMONS. When you decided that there ought to be a change in the administrative features of the law—and that is very important, because it very vitally affects the substance of the law in many respects—did you submit that to the Secretary for his approval?

Mr. GREGG. We went over it with the Secretary and with Mr. Winston, the Undersecretary. We took it up personally with them.

Senator SIMMONS. I am not talking now about the suggestions made by the Secretary of the Treasury; I am talking about changes that you upon your own initiative suggested or decided upon.

Mr. GREGG. That is what I was referring to.

Senator SIMMONS. Did you submit them to the Secretary for his approval?

Mr. GREGG. As we would redraft a section we would send it to the Secretary and to Mr. Winston for their consideration and comment. If it was of any real importance we took it up with them personally and discussed it. Everything that we did, however, we submitted to them. Each draft that was made was submitted to the Secretary and to the Undersecretary.

Senator MCLEAN. Did I understand you to say that Doctor Adams approved these changes?

Senator SIMMONS. He said that Doctor Adams made the suggestion for the appointment of this committee.

Mr. GREGG. No, sir; Judge Green did.

The CHAIRMAN. I stated that the work of this committee was similar to the work done by Doctor Adams, who was a member of some committee which revised the former revenue act.

Senator MCLEAN. I understand that Doctor Adams did advise the House committee, and was familiar with these changes and approved them.

Mr. GREGG. He did not advise the House committee this year.

Senator MCLEAN. But he is quoted in the debates in the House.

Mr. GREGG. I do not know in what capacity.

The CHAIRMAN. Those are statements, I think, made by him when the present law was under consideration.

Mr. GREGG. That was the result of a letter which Doctor Adams wrote to Judge Green.

Senator JONES of New Mexico. Where is Doctor Adams now?

Mr. GREGG. In New Haven.

Senator JONES of New Mexico. Is he any longer connected with the Treasury Department?

Mr. GREGG. No, sir; he is at Yale.

Senator SIMMONS. You made a very great many radical suggestions of changes, did you not?

Mr. GREGG. In what we are coming to now there are no very important changes. The administrative sections of the law have always been rather neglected; they have never been very accurate or definite. We made them, I think, both accurate and definite. The penalties were quite severe, and we toned them down to make them more fitting to the crime. There has been a complete revision and rewriting of the administrative sections.

Senator SIMMONS. I thought we made a very complete revision of the administrative features in 1921, with the assistance of Doctor Adams, who very carefully went into these matters. I remember

that upon the floor of the Senate we took a good deal of time upon the administrative features.

The CHAIRMAN. Not of the administrative features.

Senator WATSON. I do not think so, Senator Simmons.

Mr. BEAMAN. My recollection is that we all spent a good deal of time on those things, but it was never done in a systematic way—it was a sort of patchwork.

Senator SIMMONS. Doctor Adams supervised that, did he not?

Mr. BEAMAN. He worked along, but there was no systematic examination and revision of the thing from the bottom up to set it up in an orderly fashion.

Senator SIMMONS. There were a great many amendments made to the administrative features of the 1917 act?

Mr. BEAMAN. There were, Senator; but as I say, they were in the nature of patchwork, and as a result it was not very successful.

Senator SIMMONS. Your impression is that this revision was very much more satisfactory?

Mr. BEAMAN. Oh, absolutely, Senator. This has been very carefully worked over.

The CHAIRMAN. I thought perhaps Mr. Beaman could take the bill, beginning at section 144, and read the administrative provisions——

Senator SIMMONS. The reason I made my inquiry was because I wanted to know how Congress is going to examine these various and sundry situations, to see whether these provisions have been thoroughly verified and proved in the department.

Mr. GREGG. They have been most thoroughly studied. We got suggestions from every division in the department and then we went over the whole thing ourselves.

Senator SIMMONS. Personally, I am thoroughly aware of my inability to understand clearly these administrative provisions. They are very complicated, and I simply wanted to know whether they had been made after mature consideration and with care.

Mr. GREGG. After the most mature consideration and with great care.

Senator JONES of New Mexico. How long have you been in the department, Mr. Gregg?

Mr. GREGG. About four years, sir.

Senator JONES of New Mexico. What is your principal duty in the department?

Mr. GREGG. I have been working on legislative matters for the last year, almost. Before that, if you care to go back——

Senator JONES of New Mexico. Yes; I want to know your qualifications for the job which you have undertaken.

Mr. GREGG. I am a lawyer by profession. I was in the Income Tax Unit first; later I was in the office of the Solicitor of Internal Revenue; I was chairman of the special committee on appeals and review, and after that I was detailed to the Secretary's office to work on tax matters there, particularly the legislative end of it.

Senator JONES of New Mexico. Now, tell us briefly about the other two members of the board.

Mr. GREGG. Mr. Moorehead is a lawyer, from Pittsburgh. He is chairman of the Tax Simplification Board, which was created by the act of 1921. Mr. Bright is——

Senator SIMMONS. Is Mr. Moorehead a young man?

Mr. GREGG. Oh, I should say Mr. Moorehead is about 45.

Senator SIMMONS. Has he had any experience with this character of work before he went into the department for the purpose of helping you in this work?

Mr. GREGG. He had the usual lawyer's experience.

Senator SIMMONS. I know, but how long has he been connected with the department?

Mr. GREGG. He has been connected with the department for about the last two years.

Senator SIMMONS. Largely in connection with this character of work?

Mr. GREGG. Yes; he has worked on the revision. He is chairman of the Tax Simplification Board, and has had to do with problems of this type.

The third member is Mr. Bright, deputy commissioner, head of the Income Tax Unit. He has been with the unit for about five years, and has been the chief of the different divisions in that bureau.

Senator JONES of New Mexico. And where did Mr. Moorehead practice law?

Mr. GREGG. Pittsburgh.

Senator JONES of New Mexico. Was his practice related especially to the income tax law?

Mr. GREGG. It was not.

Senator JONES of New Mexico. And what position did he take in the department when he came into it?

Mr. GREGG. He came in as chairman of the Tax Simplification Board.

Senator SIMMONS. Was this Tax Simplification Board that you are speaking of an independent board?

Mr. GREGG. An independent board.

Senator SIMMONS. Why was not the revision of this law referred to that Tax Simplification Board?

Mr. GREGG. Well, the simplification board was not appointed for that purpose; they had other duties. Their duties were primarily the simplification of procedure within the bureau, such as the simplification of forms.

Senator KING. Was there any thought given to the drafting of a bill not connected with war or war times, but a new bill, particularly with respect to procedure?

Mr. GREGG. Yes, sir. This is a complete redraft.

Senator KING. You have of course in your studies observed the tax bill and the administrative features of the English bill? You have got complexities here and a wilderness of doubt that do not exist in the English law. Why don't you simplify it and get away from the war-time administrative features?

Mr. GREGG. We did our best to simplify it. The complications come primarily from a complicated policy. I can give many examples of that. The net loss section—the reorganization section—all of them involve problems that are necessarily complicated. It is the result of a complicated policy, which is, I think, perfectly necessary and proper. But the complications are there. It must be remembered, however, that those complications affect comparatively few taxpayers.

Senator SIMMONS. Mr. Gregg, did this committee to which you belong and which you are talking about now have to do with any other sections of the law than those relating to administration?

Mr. GREGG. We worked on the whole law, Senator. To go back to what Mr. Beaman said, Judge Green, at the end of the last session of Congress, asked the Secretary to appoint a board to study the bill and be prepared to make the recommendations of the Treasury to Congress——

Senator SIMMONS. When was that, did you say?

Mr. GREGG. The end of the last session of Congress, last March.

Senator SIMMONS. It was not supposed then that we were going to have a revision?

The CHAIRMAN. Oh, yes.

Mr. GREGG. You remember, at the end of the last session of Congress the Treasury proposed several amendments.

Senator SIMMONS. That was March a year ago?

Mr. GREGG. Yes, sir.

Senator SIMMONS. But we did not have then a surplus that justified our reduction of rates?

Mr. GREGG. No, sir.

Mr. BEAMAN. No, Senator. Judge Green's recommendations had nothing to do with the reduction of rates. What he was after was to do away with loopholes and opportunities for evasion and hardship upon the taxpayers through administration.

Senator SIMMONS. I understand that. But of course this committee not only made its investigations and recommendations as to the administrative features, but its activities embraced the consideration of the whole bill?

Mr. BEAMAN. In so far as they did that they were representing the Secretary of the Treasury in preparing his recommendations on those matters. Judge Green had, of course, no interest in those.

Senator SIMMONS. Did you recommend changes in the rates?

Mr. GREGG. Some of the recommendations came from the Secretary down to us to prepare, and some of them went from us up to the Secretary.

Senator SIMMONS. Did most of them come from you, or did most of them come from the Secretary?

Mr. GREGG. I can not say. Take the earned income proposition; that is a good example. We studied the question of earned income. I suppose we worked for a month on the matter of earned income, to determine whether it was practicable to make such a distinction between earned and unearned income. Then we took it up with the Secretary and the Undersecretary and discussed it very thoroughly with them, and then we drafted the provisions. That is a typical example of the way we worked.

Senator SIMMONS. Did this committee undertake the study of the bill with a view to determining how these changes to bring about a reduction in taxation should be made?

Mr. GREGG. Our consideration was not primarily of rates at all. Earned income was more or less a technical matter.

Senator SIMMONS. But you took up the income tax and the excess-profits tax and considered them to determine what you thought ought to be the rates?

Mr. GREGG. No; we were not going into the rates at that time. When we started to work——

Senator SIMMONS. I am not talking about that time; I mean any time.

Mr. GREGG. We had little idea, you see, until about the time Congress met, as to the surplus.

Senator SIMMONS. I mean, when it was determined that we had some money there that we could turn back to the taxpayers in the form of reduced taxes, was that left to you, and did you then undertake an investigation or make suggestions of changes in rates with a view to reduction in taxes?

Mr. GREGG. No, sir. The suggestions of changes in rates were made primarily by the Secretary and the undersecretaries, Mr. Gilbert and Mr. Winston.

Senator SIMMONS. You did not make any recommendations then as to changes in rates?

Mr. GREGG. No, sir; no original suggestions.

Senator SIMMONS. Or as to revision in taxes upon this thing or that thing? You just took the suggestions of the Secretary and considered them and advised them how those reductions could be made, whether they could be made or not, within the limitations that he was acting under?

Mr. GREGG. Well, it was not necessary for us then to do that. The question of whether they could be made or not was a question of the surplus available.

Senator SIMMONS. I am trying to get you to tell us exactly what you did as to changes in rates upon incomes and other things as well.

Mr. GREGG. As to recommendations as to changes in rates I can say we had very little to do with that. That was not our primary purpose to go into the rates. Our business was more as to the technical revision of the bill, the stopping of evasion, and the smoothing out of the inequities and inequalities of the law.

Senator JONES of New Mexico. Who was it suggested the revision of the rates?

Mr. GREGG. It was not a matter of suggestion. As soon as it was known that the surplus was there, of course the Secretary personally took up the matter of tax reduction which was made possible by the surplus.

Senator JONES of New Mexico. Well, who suggested the reduction of the rates on individual incomes?

Mr. GREGG. I do not just understand you, Senator Jones. If you mean the exact rates that were recommended, the Secretary took up the revision of the rates himself.

Senator SIMMONS. You did not have anything to do with it?

Mr. GREGG. Oh, I would not say I had nothing to do with it. We sat in with them at times and discussed it.

Senator SIMMONS. I mean, your committee had nothing to do with it?

Mr. GREGG. Our committee had nothing officially to do with it; no, sir.

Senator SIMMONS. You were not consulted about it?

Mr. GREGG. No. We sat in with them on the matter.

Senator SIMMONS. I am talking about the committee.

Mr. GREGG. No, sir; the committee did not.

Senator KING. Did you consider the proposition of increasing the exemptions with a view of reaching a far larger number that might profit by the differentiation between earned and unearned income?

Mr. GREGG. Well, of course the differentiation between earned and unearned income affects all taxpayers. I mean, it affects primarily the ones in the lower classes, as far as numbers are concerned.

Senator KING. It would not affect any considerable number, would it, if you had an exemption of $3,000 for unmarried and $4,000 for married, with the other exemption for minor children?

Mr. GREGG. Of course, it would cut down decidedly the number of people affected, because it would cut down to such a great extent the number of taxpayers.

Senator KING. The difference between earned and unearned income would not cut any figure with the overwhelming number if you adopt the exemptions of $3,000 and $4,000?

Mr. GREGG. No, sir; very little, because that would cut out so many of the taxpayers.

Senator KING. May I inquire, with the permission of the committee, whether the matter was considered by the Secretary, if it is not betraying his confidence, or by the committee, of abolishing entirely this matter of capital losses and capital gains and adopting the plan which they have in Great Britain?

Mr. GREGG. Yes; that was considered.

Senator KING. But the Secretary made no recommendation?

Mr. GREGG. As a matter of fact, in the letter which he wrote to Judge Green, containing his recommendations with reference to the capital loss provision which he recommended, he stated that unless some such provision as that were inserted it probably would be better to go to the English system of ignoring capital gains and capital losses entirely.

Senator KING. If it is not betraying any confidence, didn't you discover that that provision of our law was the most difficult of administration and the most prolific of controversy and trouble, without corresponding gains?

Mr. GREGG. It is a provision which causes much difficulty of administration. I do not say it is more troublesome than any other provision, but it does give rise to a great many difficulties. I can say, however, that ignoring capital gains and losses would give rise to some problems. There are many border-line cases where it would be difficult to distinguish between ordinary income and capital gains. The problem of avoidance, if such a distinction were made, would be a very difficult one and would have to be very carefully considered.

Senator KING. Great Britain does not have any trouble?

Mr. GREGG. Oh, yes, sir. They have had considerable difficulty in distinguishing between capital gains and ordinary income and in preventing evasion through converting what is ordinary income into capital gains. The existing law distinguishes, but does not go so far as the British law. The existing law provides that capital gains shall be subject only to 12½ per cent tax. We have recommended to Congress several amendments to stop the evasion through this provision. Particularly in corporate transactions it is sometimes rather easy to convert what is in fact ordinary dividends into capital gains.

Senator KING. Mr. Chairman, I shall not pursue that now, but I shall have an amendment to offer when we come to that feature of the bill.

Senator REED of Pennsylvania. What would be the effect on the revenue of excluding all capital gains and capital losses from consideration?

Mr. GREGG. Senator Reed, I imagine it would increase the revenue in the long run. However, I yield to Mr. McCoy on that. Have you made an estimate, Mr. McCoy?

Mr. MCCOY. I was consulted in that matter, and I think that on my recommendation the 12½ per cent went in.

The CHAIRMAN. The Senators who were members of the committee at the time of the passage of the bill in 1921 will remember that this very subject was discussed for days and days. Doctor Adams was, I suppose, the most insistent on limiting it to 12½ per cent. He demonstrated to the committee beyond any question of doubt at that time that if business was to proceed in its regular way, without any hampering at all through investments or purchases, it would only proceed by the limitation of 12½ per cent upon the gains. That is the reason it was adopted in 1921.

The question of the English law was also discussed very carefully at that time by Doctor Adams. Up to that time, if his information was correct, if the information that was given to this committee was correct, England was having a great deal of trouble before we were in relation to capital gains and capital losses.

If there is no objection, I will ask Mr. Beaman to begin to read section 251—if the committee wants to hear it read.

Senator SIMMONS. Are we going to take up these provisions with a view to studying them and acting upon them?

Senator JONES of New Mexico. I suggest that we go through the bill and make notes of the things which we want to consider further.

The CHAIRMAN. Of course, it will be distinctly understood, even though we approve of an amendment, that at any time any member of the committee can call up a provision for reconsideration. And it would not surprise me at all if there may be some amendments offered by the drafting board on some of these provisions, or by the committee appointed. So, whatever we act upon now we shall not have to cover the ground again unless some Senator or any of the members of the committee want to refer to it.

Senator KING. Of course, if there is any change in the substance of the law in the taxing features, that would necessarily compel us to return to the administrative features for emendation of them.

The CHAIRMAN. Yes. My thought is that the Senators here may want several days—for the examination of the rates particularly—and I did not ask the consideration of the administrative features in the fore part of the bill, because they are the vital ones. These are general, and therefore I thought we should go to page 144 and go through this and then let the Senators study the rates in the bill and also the provisions affecting those rates.

Senator WALSH of Massachusetts. Mr. Chairman, in 1921 when the law of that year was under consideration an estimate was, I believe, submitted to us of the probable loss of revenue caused by the changes. Since that time, of course, the law has been in operation and there have been revenues received. May we have a table show-

ing what the estimate was at that time, and what has been actually received under the various items?

The CHAIRMAN. I think that can be gotten up very quickly, can it not, Mr. McCoy?

Mr. MCCOY. I think so.

Senator WALSH of Massachusetts. I want to find out, in other words, how accurate the estimates were that were submitted in 1921.

Mr. MCCOY. I can give you the 1921 estimate.

Senator MCLEAN. It must have been put into the Congressional Record of the debates.

The CHAIRMAN. I think it was.

Senator WALSH of Massachusetts. Then I want also what was actually realized under the operation of the law the first year. Can that be gotten?

Mr. MCCOY. Oh, yes. The trouble is that that was on a different basis from the basis of the revenue as realized.

Senator WALSH of Massachusetts. Certainly, but I would like to have the table for whatever it is worth.

The CHAIRMAN. Mr. McCoy, you may prepare that and present it to the committee just as quickly as possible.

Mr. Gregg, Mr. Beaman suggests that you do this and make any explanations that you desire.

Mr. GREGG. May I ask what procedure the committee would rather adopt?

(After informal discussion.)

Senator KING. I presume that when you get to section 250 you will explain the reason for striking out section 250?

Mr. GREGG. I may say, to start with, that section 250 was a conglomeration of provisos, with as many as seven provisos in one paragraph, and it was almost impossible to understand it. We rewrote it, sometimes for purposes of clarity and accuracy of expression only. I can explain those changes as we come to them.

The CHAIRMAN. All right. Section 254.

Mr. GREGG (reading):

SEC. 254. Every corporation subject to the tax imposed by this title shall, when required by the Commissioner, render a correct return, duly verified under oath, of its payments of dividends, stating the name and address of each shareholder, the number of shares owned by him, and the amount of dividends paid to him.

Now, do you wish me to take it up and discuss it?

The CHAIRMAN. Yes. If there is any question any Senator wants to ask, or any explanation he desires, he may say so now.

Senator MCLEAN. I think it would be a good plan to have an explanation of each section in the record.

Mr. GREGG. All right, sir. "Every personal service corporation" is stricken out, because with the repeal of the excess-profits tax the provisions as to personal service corporations went out of the bill.

In lines 6 and 7 "stockholder" is changed to "shareholder." In the 1921 law the language generally used was "stockholder or member." We have put in a definition of shareholder, which includes a member in an association, and all through the law we have used the one word "shareholder."

Senator JONES of New Mexico. Before you leave that, the Senate passed a resolution early in the session, calling on the Treasury De-

partment for a statement of the net incomes of corporations, dividends declared, etc. How is that work progressing?

Mr. GREGG. We advised, as I remember, that as soon as it was prepared it would be submitted to the Senate. Is not that the reply——

Senator JONES of New Mexico. I never saw any reply at all. But even if that were the reply, I would like to know how the work is progressing and when we may expect a report.

Mr. GREGG. I can not answer you accurately on that, Senator. I will look it up for you.

Senator JONES of New Mexico. I wish you would, please, Mr. Gregg.

Senator KING. Let me inquire whether under this section persons who are conducting their business and putting their dividends and other earnings into the corporation for the purpose of evading taxes, except corporate taxes—whether this is intended to cover that.

Mr. GREGG. No, sir; the sole purpose of this section is to allow the Secretary and the commissioner to require corporations to furnish a statement of the dividends paid by them during the year, for the purpose of checking up on the stockholders to see if the stockholders return those dividends. This is purely a means of enabling the commissioner to check the accuracy of the returns made by the individual stockholders. It has been in the law for many years. You see, that is optional with the commissioner.

Senator WALSH of Massachusetts. I was just going to ask you, does he resort to that authority?

Mr. GREGG. It has never been resorted to until about two months ago, when the commissioner required complete statements under this provision.

Senator WALSH of Massachusetts. From all corporations?

Mr. GREGG. From all corporations; yes, sir.

Senator JONES of New Mexico. Why is that left in the discretion of the commissioner?

Mr. GREGG. Ordinarily it is not necessary to have these returns.

Senator JONES of New Mexico. Why?

Mr. GREGG. Our agents can check the books of the corporations and get these statements, and then check up against the individual's return.

Senator JONES of New Mexico. Would it not aid those agents very materially and make very much less work for them?

Mr. GREGG. Well, it is a decided burden, Senator, on a corporation with fifty or sixty thousand stockholders to make those returns, as many as four times a year, giving the name of each shareholder, his address, and the amount of dividends paid to him during the year.

Senator JONES of New Mexico. It is nothing in the world but copying from the books, is it?

Mr. GREGG. That is true; it is clerical work, but it is quite a burden at that.

Senator JONES of New Mexico. You say it is quite a burden. Define that to some extent.

Mr. GREGG. Well, when we put it into effect two months ago we got such a storm of protest as to the work involved that we had to postpone the requirement for the submission of those returns.

Senator JONES of New Mexico. Those corporations have a list of their stockholders and the number of shares owned by each, have they not?

Mr. GREGG. Yes, sir.

Senator MCLEAN. It is required now. Is it likely to be a permanent requirement?

Mr. GREGG. I doubt that it will be a permanent requirement, because of the burden that it involves.

Senator KING. You are not making it retroactive?

Mr. GREGG. No, sir. The dividend payments are matters concerning which it is comparatively easy to check up on the individual stockholders.

Senator KING. Would it not aid the Governmnet materially and prevent fraud if the suggestion made by Senator Jones were carried out?

Mr. GREGG. I do not think so. We have very little trouble with the matter of dividends from corporations being returned by the stockholders. They are practically always returned. These returns of information are such a burden that we try to cut them down in every instance possible. Ownership certificates were required to be filed with reference to interest payments, and they were such a burden that we cut them down as much as we could without jeopardizing the Government's interests.

Senator JONES of New Mexico. Will you tell us what you mean by those interest payment certificates?

Mr. GREGG. They were certificates or returns that a bondholder had to fill out when collecting interest on his bonds. All those certificates were filed with the department and were then checked against his return to see if he returned as income the amount of interest which he collected on the bonds during the year. That was the effect of that provision.

The CHAIRMAN. I noticed in this morning's paper, I think it was, that the Secretary had modified that order so as to require only the stockholders whose dividend was above $500 to make it.

Mr. GREGG. That was brought about by the burden that was imposed upon the corporations as well as the department in checking the return matters against the individual stockholders.

The CHAIRMAN. It would be a good thing, would it not, to find out just what the dividends are throughout the country, even if it should be rather burdensome at this time? I do not think it would have any particular effect upon the revenue, but it would give us information that we have not got.

Mr. GREGG. We can get that information from the corporations. Whenever we want it in an individual case, we can get it.

Senator KING. Let me inquire whether there had been evasions, frauds, and concealments by stockholders of corporations which induced the recommendation here that we give the authority to the commissioner to require it?

Mr. GREGG. No, sir; there has been very little failure by stockholders to return dividends. It has been negligible, because it is something that can be checked so easily. As I say, this provision has been in the act; it was in the 1921 act, the 1918 act, and how much further back I do not know. But it has never been enforced until recently.

Senator KING. What prompted the commissioner to put it in force?

Mr. GREGG. I can not say just what the idea was behind it.

Senator KING. Had any evils arisen or had they discovered any fraud or evasion which prompted the change in the policy?

Mr. GREGG. It was not prompted by the matter of fraud or evasion on the part of the individual stockholders. However, I will be glad to find out just what occasioned the order. It was purely an administrative order, and I am not particularly familiar with it.

The CHAIRMAN. You may proceed with section 255.

Mr. GREGG (reading):

SEC. 255. Every person doing business as a broker shall, when required by the Commissioner, render a correct return duly verified under oath, under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe, showing the names of customers for whom such person has transacted any business, with such details as to the profits, losses, or other information which the Commissioner may require, as to each of such customers, as will enable the Commissioner to determine whether all income tax due on profits or gains of such customers has been paid.

There is no change in that section, except the change of "individual, corporation, or partnership" to "person."

Senator REED of Pennsylvania. Has that power been utilized?

Mr. GREGG. No, sir; never.

Senator KING. Let me inquire whether you have discovered that any or any considerable number of brokers throughout the United States have failed to register or be licensed as required by law?

Mr. GREGG. No, sir. You see, that is something that is very easily checked. The tax is very small, from $50 to $150.

Senator KING. Do you get these bucket-shop brokers as well as the legitimate brokers, so called?

Mr. GREGG. Yes, the individual brokers pay the tax. We get practically all of them. There has been no evasion. It really would not be worth while evading it.

Senator KING. Do they keep records of their transactions so that you can get any information from them?

Mr. GREGG. I think their records are usually complete. Of course, that depends upon the individual case. We ocasionally find cases where the records are not complete, but we have never had any difficulty in getting what information we wanted.

Senator KING. You have difficulty if you seek to obtain information from the exchanges, do you not, as to the business done by the brokers upon the exchanges?

Mr. GREGG. I do not remember that the department has ever made any attempt.

The CHAIRMAN. Not as to the gains, but as to the individuals who initiate the transaction. I do not think the exchanges generally—I am quite sure it is true as to the New York Exchange—keep the name of the party selling the stock or the name of the party who purchases it. All they keep is just simply the transaction.

Senator JONES of New Mexico. Would it not be a good idea right in this connection to require such accounts to be kept by these brokers?

Mr. GREGG. We have authority over in the general administrative sections, Senator Jones, to require the keeping of any necessary books and records. It is a general power. We can require anyone to keep sufficient records to enable the department to determine tax liability.

The CHAIRMAN. I think they keep records now sufficient to determine that.

Mr. GREGG. In other words, it gives us power to require the keeping of such records as are really necessary.

Senator KING. Of course the stock exchanges have no tax liability, as I understand it. If I am in error——

Mr. GREGG (interposing). Yes, I think you are. The New York Stock Exchange is liable to tax on its income, I know.

Senator JONES of New Mexico. Have these brokers kept such accounts as are referred to here, of which you have any knowledge?

Mr. GREGG. As I said, Senator Jones, this provision only comes into effect when the commissioner with the approval of the Secretary shall prescribe, and it has never been brought into effect.

Senator JONES of New Mexico. I understand, but do those brokers keep the information which you could get if you asked for it?

Mr. GREGG. I think the majority of them do.

The CHAIRMAN. I think all the brokers do.

Mr. GREGG. There may be individual cases where the record would be incomplete, but I think that as a general proposition they have sufficient records.

Senator MCLEAN. A broker has to keep a record of every transaction.

Senator REED of Pennsylvania. The ledger account with every customer would show that.

Senator WATSON. They could not do business unless they kept some sort of record.

Senator MCLEAN. The exchange keeps a record of every transfer of every stock, the name of the broker representing the purchaser and the seller, but not the party owning the stock.

Senator JONES of New Mexico. Do you think, Senator, you could go to any broker and find out from his books what the losses and gains of any individual customer were?

Senator MCLEAN. Oh, no doubt about it.

Senator KING. With the exception of the bucket-shop brokers—many of them.

Senator MCLEAN. Any legitimate broker.

The CHAIRMAN. I think the bucket shops keep it too.

Senator REED of Pennsylvania. They could not run their business if they did not have such an account.

Senator MCLEAN. A respectable broker, of course, has to furnish his customer every year with a complete statement of every transaction, for income-tax purposes.

Senator SIMMONS. When an individual reports that he has sustained a certain loss on a transaction you can go to the broker through whom he operated and ascertain whether he did sustain that loss?

Mr. GREGG. Yes, sir.

Senator KING. Have you had occasion to make any inquiries to determine whether the losses reported by taxpayers are true?

Mr. GREGG. You see, we adopt the other course and do not generally do as suggested by Senator Simmons. Rather than go to the broker to see if his statement is true, we can disallow the loss and make the taxpayer come in with the broker's record and prove that it is correct if we are doubtful about it.

Senator SIMMONS. That saves you trouble?

Mr. GREGG. Yes, sir; it saves us the burden of taking the initiative.

Senator KING. I think that is where the burden of proof should be.

Senator REED of Pennsylvania. Furthermore, you require the person to state through whom the transaction was conducted?

Mr. GREGG. Yes, sir.

Senator MCLEAN. How do you trace transactions in coupon bonds that are not registered? Do you have any trouble there?

Mr. GREGG. No, sir; we have these ownership certificates, requiring the owner of the bond to file a certificate at the time he collects the interest, and the certificate is attached to his return, and we can trace it back.

Senator CURTIS. And they do not pay it unless that certificate is made out?

Mr. GREGG (reading):

SEC. 256. All persons, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, and employers, making payment to another person, of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments described in sections 254 and 255), of $1,000 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Commissioner, under such regulations and in such form and manner and to such extent as may be prescribed by him with the approval of the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

Such returns may be required, regardless of amounts, (1) in the case of payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations, and (2) in the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by persons undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

When necessary to make effective the provisions of this section the name and address of the recipient of income shall be furnished upon demand of the person paying the income.

The provisions of this section shall not apply to the payment of interest on obligations of the United States.

Senator REED of Pennsylvania. That section is pretty generally ignored, isn't it?

Mr. GREGG. The first part of it is pretty closely followed, Senator Reed. The returns of information by employers making payment of salaries of $1,000 or more are filed very generally and are very accurately checked against the individual. That is really the only information return which is of any value to the department.

Senator REED of Pennsylvania. How about rent?

Mr. GREGG. Yes; we get the returns on that.

Senator KING. Does this section require the lessee to make a return of the rents which he pays during the year if they exceed $1,000?

Mr. GREGG. To the lessor; yes, sir. However, where one person makes a payment to another person he often does not make the return required here. Where a concern pays salaries to several employees, that is a case where the return is almost always made and where we check it accurately, particularly the large employers.

Senator KING. That is the existing law?

Mr. GREGG. Yes, sir.

Senator GERRY. What is the special object of having these returns made by the lessee?

Mr. GREGG. It is just a means of checking, to see whether the income is returned by the recipient. The type of case where it is most generaly used is the case of the large employers making returns for a large number of employees.

Senator JONES of New Mexico. My recollection is that the forms have never provided for any such information.

Senator GERRY. Would it not require a tremendous amount of bookkeeping to carry that out? Is not that useless?

Mr. GREGG. We have never had any trouble with it.

Senator GERRY. Is it really enforced or carried out?

Mr. GREGG. It is not carried out in the case of an individual who may make a payment to some one person. It it carried out in the case of a corporation making payments to many people, as of wages and salaries.

(After informal discussion as to further procedure:)

Mr. GREGG. Section 257 I think I had better read.

The CHAIRMAN. Let that go over.

Senator WATSON. Why let it go over?

Senator SIMMONS. That is one of the important sections. We might discuss it a little bit.

The CHAIRMAN. There are so many of these that I thought we could get out of the way, and this is one of the vital things which I thought we had better let go over until we get the balance of the bill, because it is about the only thing there will be any discussion on, in my opinion.

Mr. GREGG. Shall I pass section 257, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. GREGG. Section 258 merely prescribes that the commissioner shall publish statistics of income, with which publication you are all familiar. That is existing law.

Section 259 is the existing law. It deals with the returns of people undertaking as a matter of business the collection of foreign payments of interests or dividends, etc.

Section 260 is the existing law, without any change.

Section 261 deals with the income of citizens in the possessions of the United States.

The CHAIRMAN. I have an amendment suggested by some man living in the Philippine Islands, but I do not think we need take it up now.

Senator KING. Let me inquire in regard to that. What tax do we collect under this law from the inhabitants of the Philippine Islands?

Mr. GREGG. As a matter of fact, in the Philippines they have power to amend this law so far as its effect in the Philippine Islands is concerned, and I understand that it has recently been entirely

amended by the Philippine Legislature as to its effect in the Philippines.

Senator KING. By that do you mean that they have suspended this law as far as their country is concerned?

Mr. GREGG. Substituted another one for it; yes, sir.

Senator MCLEAN. Does the substitute result in the receipt of any income by the United States?

Mr. GREGG. No. sir. You see, we have never gotten the money from it anyway.

Senator SIMMONS. In other words, when we are passing a law to apply to the islands, the islands have the right to change that in any particular they see fit.

Senator MCLEAN. We have a lot of their bonds, which we are morally obligated to pay, I suppose. I did not know whether there was any provision made in the Philippine law for a sinking fund or anything to take care of those bonds. I do not suppose there is.

Mr. GREGG. Section 262 is substantially the same as existing law, and provides for a tax of the incomes of persons living in the possessions of the United States.

Section 263 is the provision of the existing law under the China Trade Act of 1922.

Senator KING. Returning to section 262, would that apply to the Philippine Islands?

Mr. GREGG. Yes, sir.

Senator ERNST. Everything except the Virgin Islands?

Mr. GREGG. Everything except the Virgin Islands.

Senator GERRY. Why are the Virgin Islands especially exempted?

Mr. GREGG. They collect their own revenues. There is an appropriation act which provides that the entire revenue collected from the Virgin Islands shall go to the use of the Virgin Islands, and for that reason it was excepted. That was a provision of some naval appropriation act.

The section with reference to China Trade Act corporations is the same as existing law.

Senator KING. Has that been found to work satisfactorily?

Mr. GREGG. No, sir. The people who were after the China Trade Act were behind this and asked for this, and when this exemption was given to them it was not what they wanted. They want a much broader exemption than this is, and they are bringing a new bill before the Judiciary Committee of the House asking for amendments to this.

Senator KING. Do we get any revenue now from persons who operate under the China Trade Act?

Mr. GREGG. Yes, sir; to the extent that the stock of the corporation is held by others than Chinese resident in China or Americans resident in China, we get the tax from it.

Senator KING. Do you find any evasion under which American investors put their capital in the name of the Chinese or aliens?

Mr. GREGG. We have not found any. That is subject to pretty close regulation by the Department of Commerce.

Senator JONES of New Mexico. What is the difference between this China trade act and the law as to foreign trade generally?

Mr. GREGG. There is no corresponding law as to foreign trade generally.

Senator JONES of New Mexico. What is the effect of this section?

Mr. GREGG. The American citizen deriving income from sources without the United States, whether he is in the United States or outside of the United States, and a domestic corporation deriving all of its income from sources without the United States is taxed. This provision, however, gives exemption to corporations organized under the China trade act of 1922 deriving their income from sources within China, the exemption being based upon the percentage of stock of such corporation which is held by citizens of China resident in China or citizens of the United States resident in China.

Senator WATSON. If any member of the corporation is a resident of the United States, why then he is taxed.

Mr. GREGG. To that extent the corporation does not get the exemption.

Senator JONES of New Mexico. Then it is an advantage to owners of stock in corporations doing business in China to become residents of China, is it?

Mr. GREGG. It was designed primarily to encourage investment by Chinese resident in China and by Americans resident in China in our corporations. It was an attempt to put the American corporation trading in China on the same basis as the English corporation with reference to the attractiveness of the investment by Chinese and Americans resident in China.

Senator KING. The contention was made, Senator, that the Chinese would invest in English corporations rather than American, because they did not have any interest in American State charters or Alaskan charters and they wanted United States charters. Moreover, the English escaped taxation and the Americans were taxed to the full amount of the capital.

The CHAIRMAN. The Englishman was exempt from taxation.

Senator KING. You have derived some revenue from this provision?

Mr. GREGG. Yes, sir. To put it the reverse way, they have gotten very little exemption.

Mr. BEAMAN. Very few corporations have been organized, because the exemption given by this bill was not sufficient.

The CHAIRMAN. The 80 per cent was not enough.

Senator WATSON. In other words, it was not sufficient to put them on a level with English corporations doing business in China.

Mr. GREGG. That is what they say.

Mr. BEAMAN. In other words, what they really wanted was an exemption to permit people living there to put their money in there.

Senator JONES of New Mexico. It strikes me that this matter ought to be taken up with the English Government and have that special provision eliminated from both countries.

The CHAIRMAN. But England does not propose to do that.

Mr. GREGG. That is the general policy of the English taxing law. They do not tax income of their citizens, resident outside from sources outside of England, which is contrary to the basic theory of our income tax law.

Senator JONES of New Mexico. Then why should we single out China in order to make an exception?

Mr. GREGG. It was singled out just to encourage trade with China. There is no income tax in China, nor, so far as English companies

are concerned, is there any English tax. As to most other countries there is an income tax. For that reason China stands in a peculiar position.

Senator JONES of New Mexico. I have my doubts about the policy.

Mr. GREGG. Section 270 begins the provisions as to the payment of the tax. I will run over these provisions, stating what they do and wherein they differ from the existing law.

The CHAIRMAN. Turn back to section 144, and you can follow it.

Mr. GREGG. It is very difficult to follow it from 144, because it is so cut up. As Mr. Beaman said, it was a patchwork job.

The CHAIRMAN. Then you may read it and make your explanation.

Mr. GREGG (reading):

SEC. 270. (a) Except as provided in subdivisions (b), (c), and (d) of this section the total amount of tax imposed by this title shall be paid—

(1) In the case of a taxpayer, other than a nonresident alien individual, and other than a foreign corporation not having an office or place of business in the United States, on or before the 15th day of March following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on or before the 15th day of the third month following the close of the fiscal year; and

The effect of this is the same as the existing law. [Reading:]

(2) In the case of a nonresident alien individual, and of a foreign corporation not having an office or place of business in the United States, on or before the 15th day of June following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on or before the 15th day of the sixth month following the close of the fiscal year.

That is the same as the existing law. [Reading:]

(b) (1) The taxpayer may elect to pay the tax in four equal installments, in which case the first installment shall be paid on or before the date prescribed in subdivision (a) for the payment of the tax, the second installment shall be paid on or before the 15th day of the third month, the third installment on or before the 15th day of the sixth month, and the fourth installment on or before the 15th day of the ninth month, after such date.

The effect of that is the same as the existing law. [Reading:]

(2) If any installment is not paid on the date fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

That is the same. If the taxpayer falls down in one payment, the entire tax becomes due. [Reading:]

(c) (1) At the request of the taxpayer, the Commissioner may extend the time for payment of the amount determined as the tax by the taxpayer, or any installment thereof, for a period not to exceed six months from the date prescribed in subdivision (a) or (b) for the payment of the tax or an installment thereof. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

The effect of that is the same as the existing law.

Senator KING. Can you grant the extension without the payment of interest?

Mr. GREGG. No, sir; the next section covers that. [Reading:]

(2) If the time for payment is thus extended there shall be collected, as a part of such amount, interest thereon at the rate of 5 per centum per annum from the date when such payment should have been made if no extension had been granted, until the expiration of the period of the extension.

The existing law states the rate of interest, but it is indefinite, and you have sometimes two rates of interest, 12 per cent and 6 per cent, under the existing law. That was inadvertently done, but it is done, nevertheless.

Senator JONES of New Mexico. Who suggested the change of the rate to 5 per cent per annum?

Mr. GREGG. From 6 per cent to 5 per cent? We have all through the bill, Senator Jones, changed the rate of interest from 6 to 5. In other words, it is a rate which more nearly represents payment for the use of money and has not the element of penalty in it. We pay 5 per cent interest on refunds and collect 5 per cent interest on deficiencies. It has been made uniform throughout the bill.

Senator JONES of New Mexico. Does not that enable many taxpayers to get money at a very much lower rate of interest than the current business rate, and is that advisable? Is not this an inducement to taxpayers to get an extension?

Mr. GREGG. Well, of course a man has to give a valid reason for an extension. He does not have a right to an extension; he requests an extension.

Senator JONES of New Mexico. Suppose he gives the reason that he has not got the money.

Mr. GREGG. Well, that is not a sufficient reason.

Senator JONES of New Mexico. Then if he has the money, why can't he pay?

Mr. GREGG. The usual case of an extension is where the party is out of the jurisdiction. The extension of time for payment of an installment is very seldom used. They say it is used about 20 times a year, and usually in the case of a taxpayer abroad or something of that sort. Sometimes he can not make his return.

Senator JONES of New Mexico. It really is not a very important matter?

Mr. GREGG. It is not an important matter at all; no, sir.

Senator MCLEAN. In the past you have exacted 6 per cent, have you not?

Mr. GREGG. Yes, sir.

Senator MCLEAN. And that being so, the probabilities are there has been no invitation for anyone to hold back. But if you reduce it to 5 per cent, you are holding out an invitation that has not heretofore existed.

The CHAIRMAN. But he is liable to penalties, too, you know.

Senator KING. I move to strike out 5 per cent and insert 6 per cent.

Mr. GREGG. We have the right to supervise, you see, and pass upon the merits of the claim for extension. If there is no valid ground for the extension, it is not granted.

Senator MCLEAN. But suppose you should reduce it to 4 per cent?

Mr. GREGG. Five per cent is an attempt to get at approximately the rate the Treasury is paying on its loans. We set 5 per cent as being a fair rate for the use of the money and representing no element of penalty.

Senator KING. Would it not be a misfortune and dislocate the working of the Treasury if you made the rate of interest so low as to induce people to avail themselves of the opportunity of borrowing and thus deprive the Treasury of the money?

Mr. GREGG. It could not be done. You see, they have to give a valid reason for the extension.

Senator JONES of New Mexico. What is the objection to raising this to 6 per cent?

Mr. GREGG. I have none. It is not important.

Senator MCLEAN. Most taxpayers in the States pay more. In my State they have to pay 10 per cent.

Senator WATSON. I ask for the question on Senator King's motion.

(The motion by Senator King to substitute 6 per cent for 5 per cent was agreed to.)

The CHAIRMAN. Proceed.

Mr. GREGG. Subdivision (d) relates to the case of withholding agents. They are really collecting agents for the Government, and they should pay it right over to the Government. They should not be allowed to pay in installments or anything of that sort.

Mr. BEAMAN. Furthermore, those sections referred to in this provide when the tax shall be paid.

Mr. GREGG. Section 271 is merely introductory to the following——

Senator GERRY. Why should not that be made a time certain?

Mr. GREGG. It is later. The period of limitation is prescribed later. [Reading:]

SEC. 272. If the taxpayer has paid as an installment of the tax more than the amount determined to be the correct amount of such installment, the excess shall be credited against the unpaid installments, if any. If the amount already paid, whether or not on the basis of installments, exceeds the amount determined to be the correct amount of the tax, the excess shall be credited or refunded as provided in section 281.

That refers to the case where the commissioner examines the return before or after the last installment is paid and sees that the taxpayer has overpaid.

Senator JONES of New Mexico. That would be involved in connection with this reduction of taxes which we were discussing yesterday. I understand there are some taxpayers who have paid their taxes for this year already. If they pay in installments and we pass a law deducting 25 per cent, they get back that reduction on subsequent payments under this provision?

Mr. GREGG. That would probably be true, Senator Jones. To be more specific, however, we provide specifically in that case for the crediting of the overpayments against the next payment.

Senator JONES of New Mexico. It was proposed yesterday that we pass a resolution through the Congress, without delay, providing that this might be done.

Mr. GREGG (reading):

SEC. 273. As used in this title the term "deficiency" means—

(1) The amount by which the tax imposed by this title exceeds the amount shown as the tax by the taxpayer upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or

(2) If no amount is shown as the tax by the taxpayer upon his return, or if no return is made by the taxpayer, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assess-

ment, shall first be decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax.

That is just to cover the case when no return is filed.

Senator SIMMONS. Is that entirely new?

Mr. GREGG. There is a definition contained in the existing law, but it is inaccurate.

Senator SIMMONS. This is just a rewriting of it?

Mr. GREGG. Yes, sir.

Senator SIMMONS. But it covers the same thing?

Mr. GREGG. It covers the same thing as the existing law.

Senator KING. The purpose of this is to determine whether there is a deficiency in the payments tendered by a taxpayer, and to define just what the deficiency is?

Mr. GREGG. Certainly and accurately; yes, sir.

Senator KING. And to make application of amounts in excess to unpaid taxes which are due for the year.

Mr. GREGG. It is to provide for the collection of any money that is not paid, or to refund any amount that is overpaid, stated generally. [Reading:]

SEC. 274. (a) If, in the case of any taxpayer, the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the taxpayer, except as provided in subdivision (d), shall be notified of such deficiency by registered mail. Within 30 days after such notice is mailed the taxpayer may file an appeal with the Board of Tax Appeals established by section 900.

This is new, because the Board of Tax Appeals is new. Shall I stop now, Senator Smoot, to make an explanation about that Board of Tax Appeals?

Senator KING. I should like to know what that is. I have assumed that we would create some sort of judicial tribunal that would pass upon these refunds and claims for refund instead of permitting millions to be paid out as we have been doing in the past. And if this is to answer the purpose I had in mind, a board of review, I should be very glad to have that explanation now.

Mr. GREGG. The bill provides for a Board of Tax Appeals, an entirely new body. This board, I might say, is entirely outside of the Treasury Department. It is to be appointed by the President, with the advice and consent of the Senate. The members range from 7 to 28 in number, not less than 7 and not more than 28. It is divided into divisions of 3——

Senator JONES of New Mexico. Who determines the number?

Mr. GREGG. The President, the appointing officer. The reason for that large variation, Senator Jones, is that right now we have an accumulation of excess-profits tax cases that it will take, I should estimate, a couple of years to get rid of, and we will need a large board to dispose of them. After we have disposed of those cases the necessity for a large board will pass and the number can be reduced.

Senator JONES of New Mexico. Are these members of the board appointed for a definite length of time?

Mr. GREGG. They are appointed for 10 years, but the original appointments may be for 2, 4, 6, or 8 years. Any reappointment will be for 10 years.

Senator MCLEAN. What is the salary?

Mr. GREGG. $7,500. The Treasury Department recommended $10,000.

Senator SIMMONS. Let me understand that. There may be 28 members, you say?

Mr. GREGG. Yes, sir.

Senator SIMMONS. And you say that because of this vast accumulation of excess-profits tax cases you would probably need a large committee right now?

Mr. GREGG. Yes, sir.

Senator SIMMONS. Suppose the President should appoint 28 of them now in this present emergency. Now, they would get through with that within a year or two. Have we then got to continue those 28 men in office for 10 years?

Mr. GREGG. No, sir; the original appointments may be made for only two years.

The CHAIRMAN. Is there any provision in the law that there shall be a certain number appointed only for two years?

Mr. GREGG. No, sir; that is not stated definitely.

Senator WATSON. If we ever get 28 of them in there, there will be 28 there as long as we live.

Senator JONES of New Mexico. I suggest that you propose some other solution of that for our consideration.

Mr. GREGG. Let me give you this, gentlemen. At the present time we have a committee on appeals and review dealing with these same questions, but just as to the income tax. On that committee there are 24 members, and they handle just the income-tax cases——

Senator SIMMONS. But they do not have a term of 10 years?

Mr. GREGG. No, sir.

Senator SIMMONS. They are Treasury employees, are they not?

Mr. GREGG. Yes, sir. But there are 24 of them now doing practically the same thing with reference to income-tax cases——

Senator WATSON. Then what becomes of this Board of Appeals and Review that you have now?

Mr. GREGG. It won't be necessary then.

Senator WATSON. Those men are sent back to their previous positions?

Mr. GREGG. In the bureau, or possibly some of them will go to the board. I don't know.

Senator MCLEAN. How many of them are required to constitute a court to pass upon a claim?

Mr. GREGG. In the proposed bill, or in the present law?

Senator MCLEAN. In the proposed bill.

Mr. GREGG. In the proposed bill they are divided into divisions of three.

(After informal discussion:)

The CHAIRMAN. I am quite sure we can not cover this subject this morning. Let us pass this over. The committee will stand adjourned until 10 o'clock to-morrow morning.

(Whereupon, at 11.52 o'clock a. m., the committee adjourned to meet at 10 o'clock a. m. to-morrow, Saturday, March 8, 1924.)

SATURDAY, MARCH 8, 1924.

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met in executive session at 10 o'clock a. m. in the hearing room of the Senate Finance Committee, 310 Senate Office Building, Hon. Reed Smoot (chairman) presiding.

Present: Senators Smoot (chairman), McLean, Curtis, Watson, Reed of Pennsylvania, Ernst, Stanfield, Simmons, Jones of New Mexico, Gerry, Harrison, and King.

There also were present: A. W. Gregg, special assistant to the Secretary of the Treasury; M. Beaman, legislative draftsman of the House of Representatives; F. P. Lee, legislative draftsman of the Senate; and J. S. McCoy, special adviser to the Finance Committee of the Senate.

The CHAIRMAN. The committee will come to order. Mr. Gregg, will you proceed with your statement?

STATEMENT OF A. W. GREGG, SPECIAL ASSISTANT TO THE SECRETARY OF THE TREASURY, WASHINGTON, D. C.—Continued.

Mr. GREGG. I will read section 275 (a), which appears on page 172. [Reading:]

If any part of the deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 per centum of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions of subdivisions (e) and (f) of section 274 shall not be applicable.

The existing law imposes a flat penalty of 5 per cent and interest at the rate of 1 per cent a month; that is 12 per cent a year. The department being several years behind in auditing returns, the result of the present provision is that the interest sometimes runs up to 24 to 36 per cent, making the penalty out of proportion to the offense. So, we cut the penalty to just 5 per cent, which is sufficient for negligence.

Paragraph (b) of the same section reads:

If any part of the deficiency is due to fraud with intent to evade tax, then 50 per centum of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected, and paid, in lieu of the 50 per centum addition to the tax provided in section 3176 of the Revised Statutes as amended.

That is the same as the existing law. Section 276 (a) reads:

(1) Where the amount determined by the taxpayer as the tax imposed by this title, or any installment thereof, or any part of such amount or installment, is not paid at the time prescribed for its payment, there shall be col-

lected as a part of the tax, interest upon such unpaid amount at the rate of 1 per centum a month from the date prescribed for its payment until it is paid.

Senator SIMMONS. Let me ask you a question about that 50 per cent. Suppose you impose that in a case where the taxpayer claims that he was not defrauding, but you find that he was, what opportunity has he to show that you were mistaken?

Mr. GREGG. He has two opportunities under this bill. He has the right to appeal to the Board of Tax Appeals before paying the tax or penalty. Then, should the Board of Tax Appeals decide against him, he has to go into court after filing a claim for refund.

Senator SIMMONS. Does he have an opportunity to get into court?

Mr. GREGG. Oh, yes.

Senator KING. Where is the provision for court procedure?

Mr. GREGG. The provisions of the law allow both the Government and the taxpayer to appeal to the court from the board's decision.

Senator JONES of New Mexico. In case of absolute fraud, there ought to be a pretty severe penalty.

The CHAIRMAN. We discussed that, and we thought that 50 per cent was the minimum we ought to impose.

Senator KING. Is section 3176 of the Revised Statutes the general statute——

Mr. GREGG (interposing). That is the general statute imposing a penalty for fraud.

Senator SIMMONS. Who makes the first decision on that?

Mr. GREGG. The commissioner himself upon an examination of the returns. I should say some one acting for him, of course, does so.

Senator SIMMONS. I doubt very much whether a subordinate ought to have the power to decide that a man is guilty of fraud when it results in such a heavy penalty being imposed. I think a more responsible official ought to do it.

Mr. GREGG. Such a decision is, of course, approved by the commissioner.

Senator WATSON. Are there many cases?

Mr. GREGG. Very few.

Now, coming back to section 276 (a). [Reading:]

(1) Where the amount determined by the taxpayer as the tax imposed by this title, or any installment thereof, or any part of such amount or installment, is not paid at the time prescribed for its payment, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of 1 per centum a month from the date prescribed for its payment until it is paid.

That is in the case of delinquency. The existing law imposes a flat penalty of 5 per cent and interest at the rate of 1 per cent a month, which is a very heavy penalty; so the House bill cuts it down to 1 per cent a month.

Senator SIMMONS. That contemplates a case where the delinquent fails to pay by the result of his negligence; but suppose the delinquent fails to pay because of inability?

Mr. GREGG. It is the same.

Senator SIMMONS. But the question I am raising is whether that ought to be the same.

Mr. GREGG. There is a provision for an extension of time.

Senator SIMMONS. This is a very heavy interest charge to place upon him during the time that he is not able to raise the money.

Senator McLEAN. If he is solvent he ought to be able to get it in the market.

Senator SIMMONS. There are plenty of cases where a perfectly solvent man can not get money.

Mr. GREGG. We have a provision here allowing the commissioner to extend the time for payment in such cases as that.

The CHAIRMAN. At what rate of interest?

Mr. GREGG. Five per cent under the bill.

Senator ERNST. After this 1 per cent begins to run, you mean to say that the commissioner will then extend the time?

Mr. GREGG. No, sir; not after it begins.

Senator McLEAN. These cases arise under a reauditing of an old account, and in such cases where the man is solvent the commissioner can allow an 18-month period in which to pay.

Senator SIMMONS. And during that period he has to pay what?

Mr. GREGG. Five per cent interest. Under the amendment which your committe adopted yesterday, I suppose we will have to change that to 6 per cent.

Senator KING. Where there is a reauditing and a larger amount found due from the taxpayer to the Government and it was not the taxpayer's fault, because he put down what he thought was proper; in other words, the return which he submitted he believed to be entirely fair, but, on account of technicalities, a greater amount of taxation is imposed, what penalty is he then subjected to?

Mr. GREGG. If there is no negligence, no fraud, there is no penalty. An additional assessment of the tax under the 1921 act or this act would carry interest at the rate of 6 per cent from the time the tax should have been paid. The prior acts do not provide for interest. That interest provision was first adopted in the 1921 act.

Senator KING. A number of persons have come to me who were assessed large sums. Their returns had been made out by representatives of the Government. They had acted in good faith. Two or three years afterwards they are notified that they have to pay $10,000 more.

Mr. GREGG. There is no penalty at all in such a case.

Senator JONES of New Mexico. This is a case where the taxpayer himself makes his return and does not pay it and he is taxed 1 per cent a month. I do not think that is out of the way.

The CHAIRMAN. I do not, either.

Senator JONES of New Mexico. This is where the amount as determined by the taxpayer himself is due and he does not pay it. I think that is about right.

The CHAIRMAN. If we do not have a penalty of some kind on it, some people will not pay their taxes.

Mr. GREGG (reading):

(2) Where an extension of time for payment of the amount so determined as the tax by the taxpayer, or any installment thereof, has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under paragraph (2) of subdivision (c) of section 270, is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (1) of this subdivision, interest at the rate of 1 per centum a month shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

That question deals with the tax owed on the taxpayer's return, not with an additional assessment.

Senator McLEAN. What is the difference between this and the existing law?

Mr. GREGG. It just clears up the inaccuracies; the principle is the same. [Reading:]

(b) Where a deficiency, or any interest or additional amounts assessed in connection therewith under subdivision (f) of section 274, or under section 275, or any addition to the tax in case of delinquency provided for in section 3176 of the Revised Statutes, as amended, is not paid in full within ten days from the date of notice and demand from the collector, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month from the date of such notice and demand until it is paid.

This is the case of an additional assessment of a tax for which demand is made of the taxpayer. If he does not pay within 10 days, interest at the rate of 1 per cent per month runs. The present law provides a flat penalty of 5 per cent, plus an interest charge of 1 per cent per month. [Reading:]

(c) In the case of estates of incompetent, deceased, or insolvent persons, there shall be collected interest at the rate of 5 per centum per annum in lieu of the interest provided in subdivisions (a) and (b) of this section.

In other words, this is a provision not to penalize the incompetent for the act of the guardian.

Senator WATSON. Shall we make that 6 per cent to be uniform?

(No response.)

Mr. GREGG (reading):

(d) If a claim in abatement is filed, as provided in section 279, the provisions of subdivisions (b) and (c) of this section shall not apply to the amount covered by the claim in abatement.

In other words, if the taxpayer comes in with a claim in abatement the interest charge of 1 per cent per month does not run when that claim in abatement is filed. [Reading:]

SEC. 277. (a) Except as provided in section 278 and in subdivision (b) of section 274 and in subdivision (b) of section 279—

(1) The amount of income, excess-profits, and war-profits taxes imposed by the revenue act of 1921, and by such act as amended, for the taxable year 1921 and succeeding taxable years, and the amount of income taxes imposed by this act, shall be assessed within four years after the return was filed, and no proceeding in court for the collection of such taxes shall be begun after the expiration of such period.

The period is the same as was adopted in the 1921 act.

Senator WATSON. Why is that in italics?

Mr. GREGG. The language in the 1921 act was different.

Senator JONES of New Mexico. What does that mean? Four years would only put us back to 1920.

Mr. GREGG. The next paragraph will answer your question, Senator. [Reading:]

(2) The amount of income, excess-profits, and war-profits taxes imposed by the act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, the act entitled "An act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October 3, 1913, the revenue act of 1916, the revenue act of 1917, the revenue act of 1918, and by any such act as amended, shall be assessed within five years after the return was filed, and no proceeding in court for the collection of such taxes shall be begun after the expiration of such period.

That applies the five-year period from the time the return is filed to all acts prior to the revenue act of 1921, which is carrying out the theory of the revenue act of 1921.

Senator JONES of New Mexico. That would shut out any claims for the years 1917 and 1918, would it not?

Mr. GREGG. Yes.

Senator JONES of New Mexico. Are those all adjusted?

Mr. GREGG. They are all adjusted or protected by waivers.

The CHAIRMAN. Most of them by waivers.

Senator WATSON. You would not say most of them?

The CHAIRMAN. I think so.

Senator GERRY. That special act that we passed takes care of the counterclaims?

Mr. GREGG. As a matter of fact, for 1917 and 1918 there are about 24,000 unsettled cases at the present time. They are being adjusted at the rate of about 14,000 a month.

Senator JONES of New Mexico. Yesterday some gentleman came to me who wanted to talk about an amendment. I told him it was useless to talk about it and I said to him that he would undoubtedly have an opportunity to present the matter to the committee. Afterwards I did read the little statement which he gave me. I have not it with me, but it related to an adjustment of the taxes which would enable them to go back and open up the whole thing, especially relating to excess-profits taxes, and he thought that the matter of excess-profits taxes for any one year would necessarily involve the taxes for all years, practically. He wanted some change in this respect, I take it. Whether it related to this particular section or not, I do not now recall.

Senator WATSON. Evidently the five-year period is long enough.

Senator JONES of New Mexico. I am inclined to think so, too, but I caught this point, that in the administration of the excess-profits tax it really makes very little difference what a fellow starts out with if he keeps it up, you know, in his books—the same amount of invested capital, together with the changes that have been made in it. It works itself out in an equitable way in the long run of years. That is the point, as I took it, that he had in mind.

The CHAIRMAN. This applies to the hereafter, and there is not more than 15 per cent now of the claims that require adjustment as compared with 1917, when the bill first went into effect. The taxpayer is now learning how to make out his tax return.

Senator SIMMONS. Let me ask you one question. This section here requires that the Government shall begin its proceedings within the five-year period?

Mr. GREGG. Yes, sir.

Senator SIMMONS. And you say that a large number of the claims have not been audited yet, and the five-year period is about to run out and you are protecting those claims by waivers?

Mr. GREGG. Yes, sir; in some cases.

Senator SIMMONS. Suppose you do secure a waiver. The five years have run out and the Government is protected by that. What do you do to protect the taxpayer against the expiration of his time for filing counterclaims?

Mr. GREGG. That is in the resolution which has just passed the House.

Senator SIMMONS. But you have not made any provision in this bill for that.

Mr. GREGG. In the claim for refund section we are going to put in exactly the same provision as in that bill.

Senator SIMMONS. Would it not be just as well to put it in this bill?

Mr. GREGG. Oh, yes; it should be in this bill, in both places, and we will take care of that.

Senator KING. You stated that there were sixty thousand and odd cases for 1917 and 1918 undetermined. Are there many cases for 1920 and 1921 undetermined?

Mr. GREGG. Quite a few as to the corporations. You see, you can not determine the excess-profits tax liability for 1919, 1920, and 1921 until you have determined it for 1917 and 1918. The determination of invested capital for the first year determines the question for the coming years. On the individual returns, we are almost current as to the majority of them. I do not mean that literally, but most of the 1921 returns are settled.

On the matter of invested capital, if the Government and the taxpayer agree on 1917 or 1918, then it is a matter of mathematics to get the capital for later years.

Senator KING. If you settle for 1918 as the taxpayer wants it instead of as the Government has probably said it should be under a proper interpretation of the law, to what extent will it mean a revision for later years?

Mr. GREGG. We are settling for 1917 and 1918 as the department thinks is correct. Those settlements usually involve an additional assessment, at least more often than they do a refund.

Senator KING. For the years 1919, 1920, 1921, and 1922, have they paid upon the theory that the Government has adopted, or are they withholding taxes awaiting the settlement of 1917 or 1918?

Mr. GREGG. They will usually pay upon the same basis as they did in 1917 or 1918, and of course the changes made in 1917 and 1918 will determine the amounts for, say, 1921. The estimated back tax collections for the coming year are approximately $250,000,000 and the estimated refunds are $125,000,000.

Senator KING. For which year?

Mr. GREGG. For whatever back year we are working on—1918, 1919, or 1920. We will refund approximately $125,000,000.

Senator GERRY. That means a net gain in the auditing of the old years of $125,000,000?

Mr. GREGG. Yes.

Senator GERRY. Now, there is nothing in this act that includes as yet the provisions of House bill No. 2901?

Mr. GREGG. That should come in in section 281.

Senator SIMMONS. You just said that the Government was protecting itself so far as this limitation is concerned by securing a waiver. Suppose the taxpayer refuses to give you a waiver. What do you do?

Mr. GREGG. Let me put it this way. In the usual case the way the waiver is filed is this. The Government audits the taxpayer's books, say for 1918, and advises him that it appears that he owes an additional tax. He comes and says that he should be allowed to

present additional evidence to contest the Government's claim for additional taxes. He may want to have an appraisal made.

Senator SIMMONS. I understand that part.

Mr. GREGG. If he does not, we make an assessment and collect the tax. If he asks us to delay the assessment, to give him time to present his evidence, then he files a waiver, and we hold up the assessment.

Senator SIMMONS. I understood you to say that you were behind about sixty thousand and odd cases. I understood you to mean by that that you had not finally audited those cases.

Mr. GREGG. I meant by that that they had not been finally closed.

Senator SIMMONS. Have you finished your audit?

Mr. GREGG. Yes; in practically all of them. I will get you the exact figures.

Senator SIMMONS. Are you demanding waivers in the cases where audit has not been made?

Mr. GREGG. Yes, sir; some of them.

Senator SIMMONS. In a case of that sort, where you demand waiver and the taxpayer refuses to give it, what do you do?

Mr. GREGG. We have to put men on immediately to audit the case to see if there is any additional tax liability. If there is, we assess the tax.

Senator MCLEAN. Suppose the limitation period of five years has run?

Mr. GREGG. Then it is gone.

Senator SIMMONS. My point was that when the time limit is about to expire there may be a great many of those 60,000 cases that the Government will not be able to audit. I have seen in the papers and I have seen in testimony that the Government is securing these waivers by intimidation and threats.

Mr. GREGG. I think that that was a fair objection last year.

Senator SIMMONS. If that is so, it would look like the Government were derelict rather than the taxpayers.

Mr. GREGG. That is not true this year.

Senator SIMMONS. I have particular reference to the testimony in the House.

The CHAIRMAN. Shortly before the time limit expires the department asks the taxpayer for a waiver. If the taxpayer refuses to give the waiver, then the Government will assess an additional assessment of what it thinks is right so as to hold the case over and not allow the period of limitation to run against the Government.

Senator SIMMONS. Here we have the Government which has not made any audit. The Government does not know exactly what to demand. The five-year limit is about to expire and the Government calls on the taxpayer and he says, "I will not waive my rights." Then, according to your statement, the Government arbitrarily imposes a penalty for his not waiving his rights. Does that happen?

Mr. GREGG. It happened in March of last year. Some cases——

Senator SIMMONS (interposing). That is intimidation if that happens.

Mr. GREGG. We did not collect the tax. We allowed the taxpayer to file a claim in abatement and to come in and show that he did not owe the amount. What we did was to make the assessment in the prescribed period.

This year the conditions are much better. There is going to be practically none of that.

Senator SIMMONS. I am not referring to the question of the taxpayer filing a claim in abatement. I am supposing he has filed no claim and that you have not audited his return and the time is about to run out and the Government wants him to waive any claim in abatement. Does the Government say to him, "If you do not waive that claim, if you do not waive your rights, we will arbitrarily assess you by way of penalty"?

Mr. GREGG. No, sir; not arbitrarily assessed by way of penalty. What we did last year was this: A hurried audit was made of the case to see what additional tax the taxpayer might owe, and that was assessed to keep the statute from running.

Senator MCLEAN. I guess the Government took no chances.

Senator SIMMONS. That assessment was not the result of an accurate audit, but it was by way of penalty.

Mr. GREGG. That was not by way of penalty, because that was not collected. We did not have to collect it within the period. All we had to do was to assess it. We would assess it within the period and then the taxpayer would have to prove he did not owe it.

Senator SIMMONS. Then, as I understand you, when you have not made your audit, and when the time is about to run out, you ask the taxpayer to waive his rights and to apply for an abatement. If he does not want to do it, he says, "I will not do it." Then you say, "If you do not do it, we will assess you. We will add to your tax an amount by way of assessment." Is that what is done?

Mr. GREGG. That happened in some cases last year.

Senator SIMMONS. Even where there was no claim for abatement?

Mr. BEAMAN. Here is the proposition. Supposing I am the taxpayer and Mr. Gregg is the commissioner, and the statute is about to run, he will say to me, "We have not time to go into this as fully as we would like to, but it is apparent you owe some more taxes. Now, if you want to give us a chance to hear you, that will be done. If you will not file a waiver, we will put on whatever assessment appears to us to be due from you from a quick examination of your returns. We will assess that, but we will not collect it. We will allow you to file a claim in abatement. We will put the assessment upon you, but we will allow you to file a claim in abatement until you have had an opportunity to appear."

Senator SIMMONS. That is equivalent to saying that, although you have not asked for an abatement——

Mr. BEAMAN (interposing). You can not ask for an abatement until there is an assessment.

Senator SIMMONS. You say, "Unless you waive, we are going to put on a penalty."

Mr. GREGG. No penalty; we are going to assess the tax that appears to be due, but we will not collect it.

Senator SIMMONS. There are some of these cases in which they are asking for this waiver where the Government has not audited the returns. It does not know whether there is any probability of the taxpayer owing a larger tax than is indicated by the return. They have not examined the return.

Mr. GREGG. They have not completed an accurate examination.

Senator SIMMONS. Have you any claims up there for back years, say 1917 or 1918, that you have not audited at all, and in which you ask people for these waivers?

Mr. GREGG. I do not think so. I will get you accurate information and send it up here.

Senator SIMMONS. That is what I want to know, whether you are asking for a waiver in cases you have not examined, and whether you say, "If you do not file a waiver, we will put a penalty on you."

Senator ERNST. They do not say that, do they, Senator?

Senator SIMMONS. But it means that, does it not, Senator?

Senator ERNST. Here is what I understood, that prior to the time of the expiration of the period of limitation, if the Government has not had time to make as careful examination as they would like to, rather than lose the right which the Government has against the taxpayer, it will make an assessment so as to save its rights. Is not that the right thing for the Government to do? Then, after it has done that, if the taxpayer is aggrieved, he has a chance to be heard. This action prevents the statute from running and it protects the Government and it does not do the taxpayer any harm. Now, ought the Government to lose all its cases rather than make a quick assessment?

Senator SIMMONS. I am not asking the Government to lose any cases. The question I am asking him is, first, whether there are any cases up there in which the Government has made no audit at all, and whether in a case of that sort, without having made any audit or having any reason to believe that there is any deficit due, the Government will say to the taxpayer, "The time is about to expire, and unless you waive your rights we will put an assessment upon you, although we have not made any audit at all"?

Mr. GREGG. No, sir. Before they make an assessment they make an office audit and the assessment is made on the basis of that office audit to prevent the running of the statute. That saves the statute, and the taxpayer can put in his proof afterwards. No collection, however, is made. This office audit is the best that can be made from the returns. We do not have the time to send a field agent out to the taxpayer.

Senator SIMMONS. You mean, then, to say that you would not make an assessment against a taxpayer unless you had audited his claim or unless you had reason to believe that it was incorrect or that upon a more careful audit he would owe the Government some money?

Mr. GREGG. Yes, sir.

The CHAIRMAN. Mr. Gregg, you may proceed.

Mr. GREGG. Page 176, line 1 [reading]:

(3) In the case of income received during the lifetime of a decedent the tax shall be assessed within one year after written request therefor by the executor, administrator, or other fiduciary representing the estate of such decedent, but not after the expiration of the period prescribed for the assessment of the tax in paragraph (1) or (2) of this subdivision.

That is the same as the existing law, allowing the executor or administrator to require the final settlement of the decedent's tax liability in order to close up the estate. [Reading:]

(b) The period within which an assessment is required to be made by subdivision (a) of this section in respect of any deficiency shall be extended (1) by 60 days if a notice of such deficiency has been mailed to the taxpayer under subdivision (a) of section 274 and no appeal has been filed with the Board of

Tax Appeals, or, (2) if an appeal has been filed, then by the number of days between the date of the mailing of such notice and the date of the final decision by the board.

Now, that sounds very mysterious. Here is the necessity for it: Suppose just before the expiration of the period of limitations the Government makes an office audit of the return and it appears that the taxpayer owes an additional amount and he is advised of that fact. He wants to test the correctness of that determination by the Government; wants to appeal to the Board of Tax Appeals. The commissioner can not assess a tax until after it has been approved by the Board of Tax Appeals. Obviously the taxpayer could not be allowed to take his appeal, because the statute would bar the Government from collecting the tax. Therefore this provision extends the statute of limitations on the additional assessment during the time that the case is pending before the Board of Tax Appeals. In other words, it takes out of the statutory period the time that the case is pending before this board. If the commissioner has 30 days to make the assessment when he advises the taxpayer of the liability, then, under this provision, the commissioner will still have 30 days after the decision by the board.

Senator JONES of New Mexico. In other words, the statute does not run while the case is pending?

Mr. GREGG. On appeal.

Senator JONES of New Mexico. On no notice?

Mr. GREGG. That is it exactly. [Reading:]

SEC. 278. (a) In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed at any time.

This is the same as existing law [reading]:

(b) Any deficiency attributable to a change in a deduction tentatively allowed under paragraph (9) of subdivision (a) of section 214 or paragraph (8) of subdivision (a) of section 234, of the revenue act of 1918, or the revenue act of 1921, may be assessed at any time.

This is the same as the 1921 act. The sections to which reference is made are sections dealing with amortization in the 1918 and 1921 acts. This allows the assessment to be made at any time.

Senator JONES of New Mexico. That is a new section?

Mr. GREGG. That is the same as the existing law.

Senator JONES of New Mexico. Well, now, under existing law—I think I read the section the other day; Mr. Beaman turned to it—we did fix a time within which claims should be made for just such cases as that.

Mr. GREGG. That is true, Senator, to this extent. That section says——

Senator JONES of New Mexico (interposing). I think it expired March 3.

Mr. GREGG. Yes, sir. It says that where the deduction for amortization had been allowed the commissioner may, and at the request of the taxpayer shall, reexamine the return and revalue the property, but that the revaluation must be made and the reexamination of the return must be made prior to March 3; but the assessment growing out of that revaluation may under existing law be made at any time.

Senator GERRY. March 3, when?

Mr. GREGG. 1924.

Senator GERRY. How long is that statute of limitations? For how many years?

Mr. GREGG. The provision for amortization was first in the revenue act of 1918.

Senator GERRY. How many years, then, was it for?

Mr. GREGG. There are two statutes of limitation, the statute on additional assessments and——

Senator GERRY (interposing). What I am speaking of is the statute that expires March 3. How many years does that run?

Mr. GREGG. It ran from 1918, 1919, 1920, and 1921 to March 3, 1924, when it closed for all years.

Senator GERRY. What do you mean by that? Was there a statute of limitations for so many years?

Mr. GREGG. On additional assessments.

Senator GERRY. After 1918 there was a limitation of three years. Is that right?

Mr. BEAMAN. As to these particular reappraisals.

Senator GERRY. In other words, you carried the same provisions for another three years, from 1921 to 1924?

Mr. BEAMAN. Yes.

Senator GERRY. Well, then, did that continue only for those taxes between 1921 and 1924?

Mr. BEAMAN. The taxes were allowed for the years 1918, 1919, 1920, and 1921. Those were the only years that could be allowed in respect to that.

Senator GERRY. The next provision was for 1921 to 1924.

Mr. BEAMAN. As to what were the right taxes for those years, up until March 3 just passed, the commissioner could examine the return and make any appraisal.

Senator GERRY. In other words, there was a statute of limitations for six years?

Mr. BEAMAN. Five years, because the return was not filed until 1919.

Senator GERRY. That was in order to allow the department to catch up and examine a lot of these returns so as to collect the back taxes?

Mr. BEAMAN. And, conversely, we have the taxpayer coming in. It is exactly reciprocal. In other words, when the thing was originally passed it was known that it was vague and indefinite and that any determination made in the beginning was obviously subject to correction in order to tell what these values would be.

Senator GERRY. Now, then, this was closed on March 3. Do you know how many were examined in that five-year period?

Mr. GREGG. Wherever the taxpayer requested it we had to reexamine. In some cases it was done by the Government on its own initiative when it appeared that the previous determination was perhaps made in error.

Senator GERRY. Do you know if there were many cases pending when this statute ended?

Mr. GREGG. They had all been closed.

Senator GERRY. They had examined all they had wanted to?

Mr. GREGG. Yes.

Senator GERRY. When were most of them settled?

Mr. GREGG. I can not tell you. The section that handled these questions was abolished about six months ago.

Senator GERRY. The point I am driving at is whether the statute of limitations should be continued or not; in other words, whether the department wanted it continued in order to examine further into these claims.

Mr. GREGG. The department does not request any extension.

Senator GERRY. You feel that it has gone into all these cases thoroughly?

Mr. GREGG. It feels that by going over them again we probably would not improve the situation.

Senator SIMMONS. I would like to ask you about one case that I have heard of. As I understand it, a big mercantile establishment was assessed about $319,000 in back taxes. The Government seized the stock of goods and the concern was thrown into the hands of a receiver. Can you tell me about the facts in that case? It looked to me to be a very hard case.

Mr. GREGG. I am not familiar with it. It must be a very unusual case, because when the assessment of a back tax will throw the taxpayer into bankruptcy we are authorized to compromise.

Senator SIMMONS. I am not familiar with the facts, but anyway the business has been closed up and is in the hands of receivers as a result of some back assessment.

Mr. GREGG. I can not quite understand the reason for that.

Senator JONES of New Mexico. Mr. Gregg, were there many cases where claims for amortization had been allowed in too great an amount in the first instance and where there was a subsequent reassessment?

Mr. GREGG. I do not think so, Senator. The usual accusation made against the department is that we allow too little rather than too much.

The CHAIRMAN. I know of a case in Utah which was settled just a little while ago, where a back payment of over $400,000 had to be made on account of amortization.

Mr. GREGG. They go both ways.

The CHAIRMAN. I do not know except what the man from Utah told me about a month ago. He said he had to pay over $400,000.

Senator JONES of New Mexico. The impression I had is that during the war they claimed a very large percentage each year by way of amortization or for purposes of amortization, and that afterwards they found that the property was useful, and they made just as much use of it as they did of any other property.

Mr. GREGG. Let me say this as to the original amortization claimed by the taxpayers. That was revised upon audit by the Government, and in most cases the amortization was cut down. Very seldom was it necessary for us to go in and make a second examination after that first.

Senator SIMMONS. Well, now, suppose the taxpayer was engaged during the war in some war industry and in connection with that he built some extensive plants. The war closed, and he presents a very heavy bill for amortization in connection with that plant. It had become worthless because of the war requirements disappearing. It turns out after you allowed this amortization that the same industry has converted that plant into a building for the manufacture of some

other commodity and they have lost nothing by reason of construction for war purposes. Would you reassess?

Mr. GREGG. Yes, sir; on that information we would revise the amortization deduction and reassess the taxes for back years.

Senator JONES of New Mexico. Have there been many such cases?

Mr. GREGG. There have been many cases where we reduced the amortization deduction originally claimed by the taxpayer.

The CHAIRMAN. If that is all, Senator Jones, we will proceed.

Mr. GREGG. Page 177, line 5 [reading]:

(c) Where both the Commissioner and the taxpayer have consented in writing to the assessment of the tax after the time prescribed in section 277 for its assessment the tax may be assessed at any time prior to the expiration of the period agreed upon.

That is to cover the waiver cases [reading]:

(d) Where the assessment of the tax is made within the period prescribed in section 277 or in this section, such tax may be collected at any time by distraint or by a proceeding in court, but nothing in this section shall be construed as preventing the beginning, without assessment, of a proceeding in court for the collection of the tax before the expiration of such period.

The effect of that is this: Suppose that within the five-year period the Government makes an assessment of taxes which the taxpayer admits he owes. The taxpayer has no money to pay it at the time, but three years later he can. This is to allow the collection of that tax which was assessed in time and which he admits he owes, after the expiration of the period of limitation upon assessment. This makes an assessment comparable to a judgment at law which may be kept alive indefinitely for its subsequent collection.

The CHAIRMAN. But that is only in cases where it is impossible for the Government to collect.

Mr. GREGG. It is only in cases where it is originally assessed and determined within the statutory period.

Senator ERNST. When you say that, where is your authority for your statement?

Mr. GREGG. In the first part of this sub-section [reading]:

Where the assessment of the tax is made within the period prescribed in section 277 or in this section, such tax may be collected at any time by distraint or by a proceeding in court * * *.

In other words, the assessment must be made within the period. If the assessment is made within the period, then the tax can be collected at any time.

Senator SIMMONS. Although it was collectible the day after it was made, if the Government failed to collect it for 10 years it could still issue its execution. Your first statement indicated to my mind that this would only apply where the Government was unable to collect the assessment at the particular time but became able to collect it afterwards by reason of the improved condition of the taxpayer.

Mr. GREGG. Where we make an assessment and the taxpayer has the property and does not contest the correctness of the assessment, we immediately proceed to collect it. There is delay in assessment but not in collection after the assessment, if the taxpayer has the property.

Mr. BEAMAN. That assessment goes out to the collector and the collector becomes chargeable for that money and he goes right out and gets it.

Senator ERNST. If that is the case, why make it indefinite as to the time he should collect? Is there not a limit there?

The CHAIRMAN. I think he should pay it as soon as he can.

Senator ERNST. But why give the Government 50 years to collect? I think it is better for the Government and the taxpayer to have a limitation.

Mr. BEAMAN. There is a limitation. On page 175 it is provided that the assessment must be made within four years.

Senator SIMMONS. After the assessment then, under this law, there would be no limitation as to the time for collecting that assessment?

Mr. BEAMAN. That is right, Senator. You must understand that under that no assessment can be made until the taxpayer has had his right to go before this tribunal.

Senator SIMMONS. Now, you say that there is to be no limitation upon the time within which the Government may collect that money?

Mr. BEAMAN. That is right.

Senator SIMMONS. In most of the States when a judgment is obtained that judgment is collectible within a certain time. In my State it is within 10 years, but after that the time has run out. There ought to be some time when the rights of the Government under the statute should expire.

Mr. BEAMAN. But in your State, as in other States, you can keep that judgment alive.

Senator SIMMONS. You have got to go through certain proceedings in order to revive it. It dies within 10 years unless you do that, but you can revive it any time within the 10 years.

The CHAIRMAN. It seems to me that the leniency is entirely on the part of the Government in this case. The taxpayer owes the money, it is assessed, and it should be paid. When the Government finds that under conditions existing the taxpayer can not pay, all this provides is that when he is in position to pay he can pay the Government and he is not put to any expense by further action on the part of the Government.

Mr. GREGG. May I make this suggestion? These taxes will never be collected more than 10 years after the dates of assessments. The 10-year limitation, if it were put in, would not jeopardize the collection of any taxes.

Senator SIMMONS. There ought to be a statute of limitations, not only for the Government but for the taxpayer. It would stimulate the Government to activity and diligence in trying to collect this money, and the taxpayer ought not to carry that burden through his life if the Government were negligent. That is the reason that they have such statutes in the States.

The CHAIRMAN. There is not a State in the Union where you can not renew the judgment.

Mr. BEAMAN. You must remember this: That the collector is chargeable for this money after the assessment has been made.

Senator ERNST. We understand that; but there ought to be some period of limitation.

Senator SIMMONS. That is the object of bankruptcy laws, so that the citizen can leave behind this incumbrance that he can not pay and start life over again.

Senator ERNST. What would be a reasonable time—10 years?

Senator SIMMONS. I should think so.

The CHAIRMAN. We will pass this over. This is paragraph (d), section 278.

Mr. LEE. Are you gentlemen going to reserve decision on that point, or are you deciding it?

The CHAIRMAN. I think we will let it go over.

Mr. GREGG. Page 177, paragraph (e) [reading]:

This section shall not (1) authorize the assessment of a tax or the beginning of a proceeding in court for the collection of a tax if at the time of the enactment of this act such assessment or proceeding was barred by the period of limitation then in existence, or (2) affect any assessment made, or proceeding in court begun, before the enactment of this act.

That is to keep this section from having any retroactive effect or to apply to things happening before its passage.

These next sections deal indirectly with the Board of Tax Appeals. I do not want to take this up now. Down to section 281, on page 180, they deal indirectly with the subject of appeals.

The CHAIRMAN. We will take all that up at one time.

Senator SIMMONS. I want to say right here, before we go further, that the reason I was raising such questions as Senator Ernst and I were discussing is this: I do not say that these sections are or are not against the taxpayer, but I do say that they are prepared in the Treasury Department, and the Treasury Department is very properly looking after the interest of the Government, and I think we ought to scrutinize the bill with the view to seeing that the taxpayer is protected as well as the Government.

The CHAIRMAN. I think that has been the sentiment of the committee in preparing these proposed provisions.

Mr. BEAMAN. In regard to this section 279 which you propose to pass up, it is inseparably bound up with section 274 which was passed over.

The CHAIRMAN. I think those sections ought to be considered together, and I also feel that we ought to look as carefully into the interests of the taxpayer as we do into the interests of the Government.

Mr. BEAMAN. I may say right here that these particular sections that we are going over, so far as I know, are almost in every case in the interest of the taxpayer. Wherever a change has been made it has been to the interest of the taxpayer.

The CHAIRMAN. So far as penalties are concerned, I think you have done that.

Mr. BEAMAN. We are giving him an orderly method under which he can have his liabilities determined, and very great care was given to that thing. In fact, the only place I can think of where possibly that might not be true would be in this place about the limitation of suits.

Mr. GREGG. As a matter of fact, that is in accord with the department's construction of the present law [reading]:

SEC. 280. If, after the enactment of this act, the Commissioner determines that any assessment should be made in respect of any income, war-profits, or excess-profits tax imposed by the revenue act of 1916, the revenue act of 1917, the revenue act of 1918, or the revenue act of 1921, or by any such act as amended, the amount which should be assessed (whether as deficiency or as interest, penalty, or other addition to the tax) shall be computed as if this act had not been enacted, but the amount so computed shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including the provisions in case of delinquency in payment after notice and demand) as in the case of the taxes imposed by this title.

All that this does is this: The amount of an additional assessment under a prior act is to be determined by the act in existence at that time. The procedure to govern the collection of that amount, respecting appeal to the Board of Tax Appeals, etc., is to be determined under this bill.

Senator SIMMONS. You assess the taxes according to the law in existence at the time the law was applicable?

Mr. GREGG. Yes, sir.

Senator SIMMONS. But the procedure is governed by the new bill?

Mr. GREGG. Yes, sir. [Reading:]

SEC. 281. (a) Where there has been an overpayment of any income, war-profits, or excess-profits tax imposed by this act, the act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, the act entitled "An act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October 3, 1913, the revenue act of 1916, the revenue act of 1917, the revenue act of 1918, or the revenue act of 1921, or any such act as amended, the amount of such overpayment shall be credited against any income, war-profits, or excess-profits tax or installment thereof then due from the taxpayer under any other return, and any balance of such excess shall be refunded immediately to the taxpayer.

In effect, that is the same as existing law [reading]:

(b) Except as provided in subdivisions (c) and (d) no such credit or refund shall be allowed or made after four years from the time the tax was paid, unless before the expiration of such four years a claim therefor is filed by the taxpayer.

As it is now, the period of limitation on the filing of a claim for a refund is very complicated. It is five years from the time the return was due or two years from the time the tax was paid, either one. It seemed to the department and to the House that the proper time for the statute to begin running is the time that the tax was paid, because that is the time when the right of action for recovery accrued; and four years is the same period that we put on the Government's right to assess.

Senator WATSON. Instead of two?

Mr. GREGG. It is now five years from the time the return was due or two years from the time the tax was paid, both. [Reading:]

(c) If the invested capital of a taxpayer is decreased by the Commissioner, and such decrease is due to the fact that the taxpayer failed to take adequate deductions in previous years, with the result that there has been an overpayment of income, war-profits, or excess-profits taxes in any previous year or years, then the amount of such overpayment shall be credited or refunded, without the filing of a claim therefor, notwithstanding the period of limitation provided for in subdivision (b) has expired.

That is the same as the existing law.

Senator JONES of New Mexico. Well, now, does not that in effect take care of the questions raised in the amendment referred to by me a little while ago?

Mr. GREGG. I suppose this is the proper place for that amendment, if you want to take that up.

Senator GERRY. Who proposed that?

Mr. GREGG. The Inland Daily Press Association. It was up before the House Ways and Means Committee, and on the floor, and has been urged here. They want a provision in the act to this effect, where an additional tax is proposed by the commissioner the taxpayer may by filing a waiver of his rights open all five years, both for additional assessments and claims for refund. That is the general proposition. In other words, suppose that in 1926 the Government proposed an additional assessment for 1921. The taxpayer could under this amendment file a waiver of his rights for the years 1917, 1918, 1919, 1920, and 1921. The one waiver would operate for all those years and thereby reopen all five of those years, either for an additional assessment by the Government or for a refund to the taxpayer. When the Government proposes this additional tax for 1921 the taxpayer by filing a waiver can reopen all five of the years.

Senator GERRY. That, of course, means that he would not do it unless he was sure of getting the refund.

Senator JONES of New Mexico. That is true. Here is a corporation running along and paying an excess-profits tax on the basis of a certain amount of invested capital for a series of years. Finally the Government comes along to consider the claim for 1921 and undertakes to say that the reported invested capital for 1921 is not right. That very necessarily involves what he has been doing in his back accounting with the invested capital for previous years. He may have his invested capital too high or too low for previous years, and in order to determine what the invested capital should be for 1921 you have got to go back to the other years when he was doing business and when his invested capital account was stated and fixed in his return.

The CHAIRMAN. But suppose that the taxpayer declines to give a waiver for 1917, 1918, 1919, and 1920. What then would the Government do?

Mr. GREGG. The Government would have to proceed with 1921 and could not touch the old years. There are two objections, as I see it, to the proposed amendment. The first is that it tends to keep those years open. It would keep 1917 open until after 1926. In the second place, I think it is perfectly fair to say that the taxpayer would file the waiver only if he were convinced that he had a refund coming for the prior years.

Senator ERNST. I think that in a number of cases it is the only fair way for the taxpayer to get exact justice.

The CHAIRMAN. The taxpayer may file a waiver if he wants to, and if he does not want to, the case is estopped.

Senator JONES of New Mexico. There is certainly merit in this, I think.

The CHAIRMAN. Yes; but the Government is estopped unless the taxpayer agrees to the waiver.

Senator JONES of New Mexico. I do not believe I would go to the extent of the case stated by Mr. Gregg. Unless the Government proposes to increase the tax by reason of the statement of invested capital in 1921, then the taxpayer should not have the right to go back and disturb what has been settled before, either upon his own statement or the assessment of the Government; but if the Government itself proposes to increase a man's tax by reason of what it considers to be an erroneous statement of the invested capital for 1921, then I think there is much merit in the thought that the taxpayer ought to go back and show that his previous payments of taxes have been on an incorrect basis as to the amount of his invested capital.

The CHAIRMAN. He not only has a right under this provision here, but he gets a further right, namely, that the Government can not go back——

Senator JONES of New Mexico (interposing). I do not take it that this bill provides that the taxpayer can go back of the year involved under the present law. Do you mean that under this bill as it is framed now he can do that?

Mr. GREGG. No, sir; under the amendment.

Senator JONES of New Mexico. But I understand you, Mr. Chairman, to refer to this law.

The CHAIRMAN. This paragraph (c) of section 281, the one that we are discussing, is all one-sided. Under the proposed amendment, he never would file a waiver unless he wanted to and then the Government would be estopped from going back into 1918, 1919, and 1920; but if he wanted to file a waiver, then the Government could do it.

Senator WATSON. What reason do they give for this? What I did was to read the paper over very casually.

Senator ERNST. Have you examined that paper carefully?

Mr. GREGG. Yes, very carefully.

Senator ERNST. A hurried reading impresses me somewhat with it.

Mr. GREGG. There is something to be said on behalf of that amendment. The equities are always against the statute of limitations. I think, however, that the arguments on the other side are the stronger, particularly the argument that it will keep open almost indefinitely these returns.

Senator JONES of New Mexico. This is the place to consider that. I suggest we pass this over because those people will want to be heard on that.

Mr. GREGG. I suppose the committee will authorize us to put in here a provision similar to the provision passed in the House bill and which is now before the committee, which allows the taxpayer as well as the Government to come in after a waiver.

The CHAIRMAN. That is fair.

Mr. GREGG. In other words, do you want us to put that in there?

The CHAIRMAN. Yes.

Mr. GREGG. We will submit an amendment to that effect.

Senator WATSON. Do you know of any especial reason why the papers should be proposing this matter?

Mr. GREGG. None whatsoever.

Senator WATSON. I have had letters from papers in my State in regard to it.

Senator JONES of New Mexico. This is the age of organized propaganda.

Senator WATSON. But who can be "propagandising" on that?

Senator JONES of New Mexico. I said to the man who saw me that surely he would have an opportunity to be heard.

Mr. GREGG (reading):

(d) Where any provision of any act specified in subdivision (a) of this section or the application thereof to any person or circumstances has been held by the Supreme Court of the United States to be invalid, any amount of income, war-profits or excess-profits tax illegally collected pursuant to such provision shall be credited or refunded if a claim therefor is filed by the taxpayer within four years after the decision, notwithstanding the period of limitation provided for in subdivision (b) has expired.

That was put in by the Ways and Means Committee of the House and it came about as a result of this case: A taxpayer in 1914 had received a stock dividend, which under the law then in existence he had to pay tax on. In 1915, the following year, he sold that stock dividend. Now, in 1920, the Government assessed an additional tax for 1915, the year in which he sold, and he said, "I will admit that that is right, following the decision of the Supreme Court holding a stock dividend not subject to a tax; but, then, give me back the tax I paid on the stock dividend in the year of its receipt." We could not do it; the statute of limitations barred it. The result was that we taxed him twice on the same thing. We could not help it, as the Government could not waive the statute. It resulted in this section.

Senator WATSON. Senator McCumber was up here yesterday and talked to me and other Senators on this very section. He wanted the words "or other internal revenue tax" inserted after the words "excess-profits tax"; in other words, if the Supreme Court declared any tax illegal which had been collected, why, then, there ought to be a refund. It ought not to be confined alone to excess-profits taxes or war taxes. There ought to be a refund.

Mr. GREGG. Senator Watson, this section deals only with incomes, war-profits, or excess-profits taxes. That would more properly come in section 3228, Revised Statutes.

Senator WATSON. If the Supreme Court declared it illegal, why should it not be refunded?

Mr. GREGG. That proposed insertion should come in later.

Page 182, line 12, paragraph (e) [reading]:

Where there has been an overpayment of tax under section 221 or 237 any refund or credit made under the provisions of this section shall be made to the withholding agent unless the amount of such tax was actually withheld by the withholding agent.

The withholding agent in certain cases is merely an agent for the collection of the tax. In other cases he is the real taxpayer. The effect of this section is that where he is merely the agent for collection, the refund goes back to the person from whom he collects it. If it comes out of his pocket, it goes back to him.

Paragraph (f) [reading]:

This section shall not (1) bar from allowance a claim for credit or refund filed prior to the enactment of this act which but for such enactment would have been allowable, or (2) bar from allowance a claim in respect of a tax

for the taxable year 1919 if such claim is filed before the expiration of five years after the date the return was due.

The first part of that is merely to keep this section from having any retroactive effect. The second part is to put the year 1919 upon the same basis as 1918 and 1920 as far as the statute of limitations is concerned. We change the statute, and that change necessitates an extension of the statute with reference to the year 1919, to put them all on a parity.

(Whereupon, at 11.45 a. m., the committee adjourned to meet at 10 o'clock a. m., Monday, March 10, 1924.)

MONDAY, MARCH 10, 1924.

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met in executive session at 10 o'clock a. m., in the hearing room of the Senate Finance Committee, 310 Senate Office Building, Hon. Reed Smoot (chairman) presiding.

Present: Senators Smoot (chairman), McLean, Curtis, Watson, Reed of Pennsylvania, Ernst, Stanfield, Jones of New Mexico, Gerry, Harrison, and King.

There were also present: A. W. Gregg, special assistant to the Secretary of the Treasury; F. P. Lee, legislative draftsman of the Senate; and J. S. McCoy, special adviser to the Finance Committee of the Senate.

The CHAIRMAN. Let us start with the general administrative provisions.

STATEMENT OF A. W. GREGG, SPECIAL ASSISTANT TO THE SECRETARY OF THE TREASURY, WASHINGTON, D. C.—Continued.

Mr. GREGG. This is at page 310, section 1000. [Reading:]

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this act.

The stricken-through matter is taken care of in a subsequent provision, in section 1002.

Section 1001. [Reading:]

The Commissioner, with the approval of the Secretary, is authorized to prescribe all needful rules and regulations for the enforcement of this act, provided such regulations shall not enlarge or modify any provisions of this act and of any other law, and all such rules and regulations and all amendments thereto shall be annually reported to Congress.

That last language was put in on the floor of the House. There is no necessity in the world for it.

The CHAIRMAN. Should we take it out?

Mr. GREGG. I think so, but it does not do any harm.

The CHAIRMAN. Let us agree to it.

Mr. GREGG. Will you give us permission to clear up the language a little?

Senator REED of Pennsylvania. It ought to read, "for the enforcement of this act or of any other law."

Mr. GREGG. Yes.

Senator KING. Have you changed the language from that of the existing law as to the power of the Secretary to adopt regulations?

Mr. GREGG. That language in italics is new. It was put in on the floor of the House.

The CHAIRMAN. Well, if there is any modification, it will be agreed to with the modification.

Mr. GREGG. Section 1002. [Reading:]

(a) Every person liable to any tax imposed by this act, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

That corresponds to section 1300 of the existing law.

Senator KING. So, now, Mr. Chairman, I would like to know whether this will put into the hands of the administrative officers—that means, of course, the commissioner and Secretary—the power to impose arbitrary and capricious and exceedingly vexatious and irritating regulations with respect to how the taxpayer shall keep his books. Does that mean that he shall prescribe how individuals and corporations shall keep their books and compel the changing of systems that have long been established?

Mr. GREGG. No, sir; that has never been done.

Senator MCLEAN. The provisions of section 1002 are practically the same as section 1300?

Mr. GREGG. Yes, sir.

Senator KING. Generally speaking, it is a dangerous and imprudent thing to commit to administrative officers the power to formulate regulations which are penal in character and which subject the violator of such regulations to punishment, fine or imprisonment or both.

Mr. GREGG. This authority is the same as is now conferred by section 1300, and there has never been any abuse of it at all so far as the regulations with respect to keeping records is concerned.

The CHAIRMAN. If there is no objection, it is agreed to.

Mr. GREGG (reading):

(b) Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

That is in effect just the same. [Reading:]

(c) The Commissioner, with the approval of the Secretary, may by regulation prescribe that any return required by Titles IV, V, VI, or VII to be 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.

Senator KING. What are those returns required by Titles IV, V, VI, and VII?

Mr. GREGG. The titles dealing with special and excise taxes and the taxes on cigars, tobacco, admissions, and dues. [Reading:]

SEC. 1003. Section 3176 of the Revised Statutes, as amended, is amended to read as follows:

"SEC. 3176. If any person, corporation, company, or association fails to make and file a return or list at the time prescribed by law"——

That is just the same.

Section 1004. No change in that.

Section 1005. No change there.

Section 1006. No change there.

Section 1007. No change in substance there.

Section 1008. No change there.

Section 1009 (a). [Reading:]

Except as provided in sections 277, 278, 310, and 311 and subdivisions (b) and (c) of this section,

That makes an exception of income and estate taxes which are specially treated in one title. [Continues reading:]

all internal revenue taxes shall, notwithstanding the provisions of section 3182 of the Revised Statutes or any other provision of law, be assessed within four years after such taxes became due, and no proceeding in court for the collection of such taxes shall be begun after the expiration of five years after such taxes became due.

That period is the same.

Senator KING. Going back to section 1319, I do not quite understand what this means:

That section 3227 of the Revised Statutes is hereby repealed.

Then you state that it is not proposed to be repealed, but is shown in stricken-through type only for information.

Mr. GREGG. Let me explain it in this way: This section is a provision of the 1921 act repealing section 3227 of the Revised Statutes. There is no need now of repealing the section which repealed section 3227 of the Revised Statutes.

Senator KING. Section 1319 has already done that?

Mr. GREGG. Yes.

Senator KING. And you will not repeal the clause that is still in existence?

Mr. GREGG. That is it.

Senator KING. Ought you not to carry it in this act?

Mr. GREGG. No, sir; if you save it in the saving clause. The repealing clause in this act does not repeal section 1319 of the revenue act of 1921.

Senator KING. You want to be sure of that.

If there were to be a reprint, where would section 1319 appear?

Mr. GREGG. In the 1921 act, and not repealed by this act.

Senator KING. And, of course, the codification would import it into the codified act?

Mr. GREGG. Of 1921.

Senator KING. It would, then, be brought forward and put into the codification?

Mr. GREGG. Yes. [Reading:]

(b) In case of a false or fraudulent return, with intent to evade tax, of a failure to file a required return, or of a willful attempt in any manner to defeat or evade tax the tax may be assessed at any time.

That corresponds to the provisions on income and estate taxes. [Reading:]

(c) Where the assessment of the tax is made within the period prescribed in subdivisions (a) and (b) such tax may be collected at any time by distraint or by a proceeding in court, but nothing in this subdivision shall be construed as preventing the beginning, without assessment, of a proceeding in court for the collection of the tax before the expiration of the period provided in subdivision (a) for the beginning of such proceeding.

When this similar provision was reached in the income-tax title Senator Ernst said that he thought perhaps a limitation of 10 years should be put in there. Now, the same action should be taken here.

No action was taken in the corresponding section covering the income tax.

The CHAIRMAN. Just mark that, please.

Senator ERNST. We just want some time when the limitation will take place, so that the Government can not a great many years afterwards seek to recover old taxes.

Senator HARRISON. Some gentleman came to my office this morning with reference to this matter, and he said he wanted to file a brief with each member of the committee. He said he had spoken to the chairman and that he would file the brief to-day.

Senator WATSON. On this section?

Senator HARRISON. Yes: on (a) I think it was.

Senator KING. This appears to be an amendment, this paragraph (c).

Mr. GREGG. Yes, sir; that is new.

Senator KING. Is there nothing in the existing law that covers the point which you seek to cover?

Mr. GREGG. No, sir; the general administrative provisions cover assessments and suits, but they do not cover a suit brought to enforce an assessment which was made within the statutory period. That requires special treatment.

Senator REED of Pennsylvania. Would you not get the whole business if you put in line 6 "the tax may be assessed at any time within 10 years"?

Mr. GREGG. We have now a limitation upon assessment, but this (c) is a matter of limitation of suits and distraint to collect an assessment.

Senator WATSON. Do you not fix any specific time beyond which that may not be done?

Mr. GREGG. No, sir.

Senator WATSON. Does the law anywhere do that?

Mr. GREGG. No. The Treasury, however, has no objection to the limitation of 10 years.

Senator WATSON. Sometime there ought to be repose.

Mr. GREGG. There is a limitation upon the right to make assessments, and there is a limitation upon the right to sue without assessment, but if the assessment is made within the statutory period of four years, then this provision authorizes a proceeding to collect the assessment at any time. This puts an assessment upon the same grounds substantially as a judgment at law which may be kept alive indefinitely, and allows the bringing of an action to enforce this assessment at any time. The Treasury has no objection in the world to a limitation of 10 years within which the action must be brought after assessment. As a matter of fact, it has no objection to a shorter time.

Senator REED of Pennsylvania. In section (b) you abolish any statute of limitations in case of fraud or failure to file a return. That would mean that the assessment could be made 50 years afterwards on a charge of fraud. Surely, we ought not to leave a man's estate open to such a charge indefinitely.

Mr. GREGG. The income tax has always been to that effect. There have been no limitations in case of fraud.

The CHAIRMAN. I think if there is fraud there ought to be no limitation.

Mr. GREGG. We are apt to discover it at any time, of course.

The CHAIRMAN. They tell me they have one case now that will net the Government of the United States two or three million dollars.

Senator REED of Pennsylvania. That is very good in case of fraud, but you include cases other than those involving fraud. The same section includes the failure to file the required return. There is many a woman taxpayer and many a man who fails to file the required return. I will bet every one of us is in arrears in filing returns as to servants, chauffeurs, and clerks; and under this the estate of any one of us could be taxed by the Government 50 years from now.

Mr. GREGG. This only allows the assessment of a tax with respect to which the return was not filed. For example, suppose the taxpayer fails to file an income-tax return for 1920. The Government is not put on notice. There is no way we can check it immediately, since he has not filed a return, to see if he paid the tax he should have paid. We are not put on notice. So it seems to me perfectly fair in that type of case to extend indefinitely the period within which we can make an assessment.

Senator KING (interposing). You distinguish between cases where a return is filed and where there is no intent to deceive and cases where a man deliberately files no return?

Mr. GREGG. Yes, sir.

Senator KING. In the first instance you were put on notice and you can inquire and ascertain whether there have been any omissions in the return. In the second instance you have not been put on notice, and your contention is that you should have an indefinite period within which to make your assessment. But do you not think in the latter case, after you have made the assessment, there ought to be a limitation within which you may prosecute to a successful issue your claim for the tax?

Mr. GREGG. I just said that as that applies to paragraph (c) the Treasury has no objection to a period of limitation of 10 years; but the provision about a failure to file a required return has been in the law always. There are cases occasionally where we find a taxpayer has failed to file a return, but sometimes we can not prove deliberate fraud. It seems to me that the statute should not begin to run against the Government until the Government is put on notice in a case of this kind.

Senator REED of Pennsylvania. The only offenses against which there are no statute of limitations are murder and treason. Why should we class this offense with those two?

Mr. GREGG. This is not a penalty for the offense; this is for the collection of the tax. There is a statute of limitations on the criminal penalties.

Senator REED of Pennsylvania. This is not a thing that I would debate at any length.

The CHAIRMAN. In the case that I referred to it might well have gone on 10, 12, or 15 years longer and the Government would have not known anything about it, but there happened to be a death in the meantime.

Senator KING. As far as I am concerned, if they put in a provision that, after having made the assessment, there will be a period of limi-

tation of 10 years within which they must prosecute to a successful conclusion——

Senator JONES of New Mexico (interposing). I think six years would be all right.

The CHAIRMAN. Turn to page 177 of the bill and let us fix both of them at the same time.

Mr. GREGG. Page 177, line 15, strike out the words "at any time" and insert "within six years after the assessment."

The CHAIRMAN. Well, then, now turn to page 318.

Mr. GREGG. On page 318, line 6, strike out "at any time" and make the same change here. [Reading:]

(d) This section shall not (1) authorize the assessment of a tax or the beginning of a proceeding in court for the collection of a tax if at the time of the enactment of this act such assessment or proceeding was barred by the period of limitation then in existence, or (2) affect any assessment made or proceeding in court begun before the enactment of this act.

That is to prevent the giving of any retroactive effect to the provisions of this act. The taxes under prior acts stand on their own footing, and this applies only after the passage of this act.

In section 1010 there are no changes. However, in (b) there is the usual change to keep from giving this section any retroactive effect.

Senator KING. Why do you say, "is reenacted without change"? I find those words in italics.

Mr. GREGG. That was carried in the 1921 act. In the 1921 act it was amended. In this act we are not amending it further; we are just reenacting it without change.

Section 1011, reenacting section 3220 of the Revised Statutes, is the same.

There is no change in substance in section 1012.

I do not think it will help any to read section 1013. I will explain what it does. In the revenue act of 1921 the period within which a claim for refund could be filed was changed from two to four years. Everyone thought at the time it was enacted that it applied to all internal revenue taxes, including stamp taxes. The comptroller said that for some queer reason it did not apply to stamp taxes, with the result that we could not refund stamp taxes unless the request was made within two years after the stamps were purchased. So as to put them all on a uniform basis, we have amended this act to allow stamp taxes to be refunded if claim is made within four years.

Turning now to section 3226 of the Revised Statutes, on page 323, there is only one change and it is in lines 14, 15, and 16. The result of the change is this: Under the existing law it is probable, although the courts have not finally passed upon it, that a suit for the recovery of an excessive tax paid can be maintained only if the tax was paid under protest. The result of that is that those taxpayers who are well advised and who pay every cent of their taxes under protest, as most of them do now, can sue to recover it back; but the individual taxpayer, who is not so well advised, reads the regulations and pays his tax accordingly, can not bring suit for recovery because of his failure to pay under protest. The matter of paying under protest has nothing to do with the merits of the case, and the Treasury recommends that it be changed.

It is proposed to repeal section 3225 of the Revised Statutes. It is a section which was carried over from the Civil War, and it has no right to be in any revenue act. It provides that where a case is tainted with fraud, no refund on that case can ever be made. The Government examines the return and where it is fraudulent assesses an additional tax. Sometimes those assessments are much too large. We may overassess the taxpayer and then indict him criminally and get the ad valorem penalty, and if an excessive tax was collected he can never get it back. It seems to the Treasury that we have penalties for fraud that are sufficient and that the excessive tax which the taxpayer in such a case paid should not be withheld from him. That is an additional penalty which is not warranted.

Senator KING. You seldom prosecute criminally for fraudulent returns, do you?

Mr. GREGG. Quite often, whenever it is discovered within the statutory period and we think we have sufficient evidence to convict. It is very hard, of course, to get evidence on which to convict.

Senator KING. The point is, if he does make a fraudulent return and you overassess him, that he ought to be permitted to recover the old assessments?

Mr. GREGG. Yes; he is punished by the fraud penalty.

Senator KING. Then, this does not affect the fraud penalty. He has to pay that?

Mr. GREGG. Yes.

Senator KING. You may attach your fraud penalty and then reassess him too much?

Mr. GREGG. The assessment is sometimes very high.

Section 1016 is new. It amends the section of the Revised Statutes dealing with distraints. That section allows distraints on obligations and notes and other property, but does not specifically include bank accounts. Taxpayers have contended that we had no right to collect the tax by distraint of the bank account. It is perfectly obvious that if the taxpayer has money in the bank we should be allowed to go after it the same as we can go after stocks, bonds, and other property in order to enforce the collection of taxes. We have amended section 3187 of the Revised Statutes to allow distraints on bank accounts.

On page 325, section 1302 (a) of the existing law imposes a specific penalty of $1,000 for failure to make a return on time, although there is no fraud and no willfulness on the part of the taxpayer. The penalty is very harsh and out of proportion to the crime. The result is that the Government has to compromise the penalty. We recommend the abolition of that penalty entirely, but the retention of the penalty where the failure to make return is fraudulent or willful.

Senator MCLEAN. Should there not be some small penalty?

Mr. GREGG. Oh, yes; we have penalties. There is a flat penalty of 25 per cent of the tax.

I do not think there is any necessity for reading section 1017 (a). It imposes a penalty for willfulness. Paragraph (b) also is the same as the existing law. So is (c). There is no necessity for reading those.

Senator KING. That $10,000 penalty is rather heavy, is it not?

Mr. GREGG. That is heavy. These are specific penalties that can be collected only by going into court. We usually compromise them.

There are no changes in sections 3164, 3165, 3172, and 3173 of the Revised Statutes. That brings us over to pages 331 and 332.

Section 3176 we have already been over.

Senator WATSON. These all refer to penalties?

Mr. GREGG. They refer to the making of returns, lists, assessments, etc. They are all very old. They have been in the statutes for years.

The next thing is on page 334, line 24.

Senator JONES of New Mexico. Well, now, if you are just copying a lot in here for the purpose of having it all in one act, why did you just amend this section over here [indicating] without reinserting it?

Mr. GREGG. We have done this, Senator Jones: In 1921 you attempted to get together all of the important provisions and place them in one act. Those provisions which are in the 1921 act we have also put in this act. The section over here with reference to distraint is not in the 1921 act, and it is a very long and involved section, and we did not want to bring it over into this act.

This matter of interest on refunds and judgments and interest on refunds and credits, on pages 334 and 335, is very important. In the 1921 act Congress adopted the policy for the first time of paying interest on refunds made to the taxpayer. That was limited, however, to cases where the taxpayer had paid the tax under specific protest or where he paid it as the result of an additional assessment, and after six months from the filing of a claim. Some inequalities resulted. One taxpayer who was well advised would get his interest on a refund, while another taxpayer who equally overpaid but who blindly followed the regulations and rulings of the department, and did not pay under protest, would get the refund, but no interest. It is a very inequitable provision, and we recommend that it be amended so as to allow interest on all refunds. It puts the taxpayer and the Government on the same basis. When we assess an additional tax we charge 5 per cent—6 per cent now—although there was no fault, no fraud, or anything of that kind on the part of the taxpayer. Correspondingly, it seems to me, we should pay back interest to the taxpayer when we refund an excessive tax.

Senator KING. Is not the Government entitled to a little better rate?

Senator JONES of New Mexico. I do not know about this change, whether it should be changed to 6 per cent. You are not dealing with the same taxpayer; it is not offsetting one rate of interest against another. This is simply a question of paying back a refund where the taxpayers have paid too much, to cover a case where they paid it without protest, and it seems to me that on these refunds here we ought not to pay over 5 per cent.

The CHAIRMAN. It is the same principle.

Senator JONES of New Mexico. No; is is not the same principle, because the other is a case where the taxpayer himself has been somewhat to blame, and you charge a rate of interest. But here he is not to blame.

Mr. GREGG. The taxpayer is not necessarily to blame at all. There is no negligence or anything of that sort on his part. It seems to me that if the Government charges the taxpayer 6 per cent when he has

underpaid that it is only fair to give him the same rate of interest where he has overpaid.

Senator JONES of New Mexico. The trouble of it is that you are not dealing with the same individual at all.

Senator KING. There is a further point: The Government would charge the taxpayer a little more than it could go out and borrow money for, so as to assure earnestness and zealousness and fidelity upon his part in making the proper payment. It is a sort of a penalty. It is to exact of him greater care, scrutiny, and caution in seeing that he makes a proper return.

Senator WATSON. Suppose he does not make the return. Suppose he gets a lawyer and the lawyer makes a mistake and the taxes are erroneously assessed, as happens occasionally. Why should he be penalized?

The CHAIRMAN. More than likely the taxpayers would have to pay more than 6 per cent to secure the money to pay the Government.

Senator KING. That is the reason we raised it to 6 per cent?

The CHAIRMAN. No; this is where he overpays. He is also at the expense of getting it back.

Senator CURTIS. That seems fair.

Senator JONES of New Mexico. The man who is getting the refund has overpaid and in the other case the fellow has not paid enough. They are two separate individuals.

Senator MCLEAN. He, then, is the same individual who overpays and gets his interest when the Government rectifies his mistake.

Senator JONES of New Mexico. No, not the same individual.

Senator MCLEAN. Suppose I overpay my tax and I get a refund. The Government pays me, the same individual, 6 per cent on the overpayment.

Senator JONES of New Mexico. No; that is what we were talking about. You who have overpaid and get your refund are in an entirely different position from those who have underpaid and have to give something more.

The CHAIRMAN. If you underpay in one year, say in 1921, they would charge you 6 per cent interest, but if in 1922 you overpaid they would only give you 5 per cent, and you would be at the expense of getting it back from the Government, of hiring an attorney and of assuming all the expenses that are attached to it.

Senator JONES of New Mexico. This is the only case I know of where the Government pays interest at all on just claims against it. We decline absolutely to pay any interest whatsoever. The Senate passed a claim the other day of a man who had an account against the Government which was based on work he did in 1904, and we did not pay that fellow a cent of interest on his account.

Senator WATSON. Here is a case where the Government makes an assessment. It is on an erroneous statement made by the agent of the company. They take this money away from the company illegally and then the company hires an attorney and shows that it was illegally collected and the Government gives it back to him without interest. This is just, 5 per cent.

Senator JONES. This, then, covers everything, even where a man himself makes a mistake and pays too much.

Mr. GREGG. That is a very rare case, where he himself does it.

Senator WATSON. There must be a good many of these cases, are there not?

Mr. GREGG. Yes, sir.

Senator KING. With my present view, I should be opposed to paying any interest at all. It seems unjust, but the Government on the question of taxation has to be a little arbitrary, apparently.

Senator WATSON. You see, this provides for interest on a tax erroneously and illegally assessed. The Government by force goes in and illegally collects an excessive amount. You do not want to penalize the Government, for that is the Government's wrong; that is not the wrong of the taxpayer.

Mr. GREGG. The interest on additional assessments, it seems to me, is not a penalty. We have a penalty for every violation of law. It is a charge against them for the use of the money. It seems to me that the logic applies with equal force where the Government has had the use of the money.

Senator WATSON. I think so.

The CHAIRMAN. It looks to me that they ought to be the same.

Senator JONES of New Mexico. Well, it really does not amount to much, but I can not see the logic of saying that if the Government is going to collect money at a certain rate that when it pays interest it must pay at the same rate. It is just a question of how much interest the Government ought to pay on these refunds.

The CHAIRMAN. Well, under the existing law it is 6 per cent.

Senator KING. You have to pay 6 per cent now?

Mr. GREGG. Yes.

The CHAIRMAN. And we changed the 5 per cent to 6 per cent.

Senator WATSON. You do not care, do you, Senator Jones?

Senator JONES of New Mexico. Oh, no.

Mr. GREGG. There are no changes of substance in sections 1020, 1021, 1022, and 1023. That is likewise true as to section 1024.

Senator WATSON. Speaking generally, do these changes that you have made in the law simplify the return?

Mr. GREGG. Nothing will ever simplify an income tax law the rates of which run as high as the rates of this law. For this reason, because of the high rates, you have to have as near exact justice in individual cases as you can get. You can not dismiss a few cases by saying that there is hardship in those few cases and that there are not a great many of them. As a result you have complications and exceptions and special provisions that apply to comparatively few cases. You have a net-loss provision that takes up six pages of the act, to allow a taxpayer to carry a net loss of one year against the income of a succeeding year. It is a necessary provision. You have the capital-gain and capital-loss sections, which complicate almost every provision of the statutes, but made necessary again by your high rates of taxation. As long as you have rates that are so high, you have got to have almost exact justice, and that results in complications.

Senator WATSON. Does England have a simpler tax return than we have.

Mr. GREGG. I can not understand the provisions of the English law. In this country we try to collect the tax imposed by Congress, but in England they deal on very much of a compromise basis. A high official of the bureau of inland revenue is authority for the

statement that they collect about 70 cents on the dollar, to put it in terms of our money.

The CHAIRMAN. France does not collect 50 cents on the dollar. They bargain there.

Senator WATSON. I had understood that the English system in a general way was more simple than ours.

Mr. GREGG. It is arbitrary also. They have a lower rate on earned income. The rate applies to taxpayers having incomes of less than a fixed amount. If the taxpayer has an income in excess of the amount, he does not get the relief with respect to any of his income. You will find such things all through the English law.

Senator KING. But they do not have capital gains and capital losses?

Mr. GREGG. No, sir. I can not say that this bill materially simplifies things as far as any change in the form of the return goes. The pending bill does do this, however, it makes the tax liability definite and certain. In other words, the bill will cover a given case definitely and certainly. Under the existing law there are hundreds of cases where nobody knows the effect of the transaction upon the tax. This law is definite enough so that taxpayers will be able to tell the effect of a given transaction; that does not shorten the act any, however.

Senator KING. What if we should cut out that difference, that provision about earned and unearned incomes?

Mr. GREGG. Yes; it would simplify the bill. The elimination of any provision of that sort will simplify things somewhat.

(Whereupon an informal discussion of the record followed, after which the committee adjourned, at 11.48 o'clock a. m., to meet again Tuesday morning, March 11, at 10 o'clock a. m.)

WEDNESDAY, MARCH 12, 1924.

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met in executive session at 10 o'clock a. m., in the hearing room of the Senate Finance Committee, 310 Senate Office Building, Hon. Reed Smoot (chairman) presiding.

Present: Senators Smoot (chairman), McLean, Curtis, Watson, Reed of Pennsylvania, McCormick, Ernst, Stanfield, Simmons, Jones of New Mexico, Gerry, Reed of Missouri, Walsh of Massachusetts, Harrison, and King.

There were also present Hon. Andrew W. Mellon, Secretary of the Treasury; Hon. Garrard B. Winston, Undersecretary of the Treasury; A. W. Gregg, special assistant to the Secretary of the Treasury; F. P. Lee, legislative draftsman of the Senate; M. Beaman, legislative draftsman of the House of Representatives; and J. S. McCoy, special adviser to the Finance Committee of the Senate.

The CHAIRMAN. The committee will please come to order. Secretary Mellon appears before the committee at this time at the request of the committee to answer whatever questions any member of the committee may desire to ask relative to the estimated expenditures of the Government and the estimated receipts of the Government, and any other questions as to rates or administrative features provided in H. R. 6715.

Mr. Secretary, if you have any preliminary statement to make or any statement along these lines, the committee will be glad to hear from you.

STATEMENT OF HON. ANDREW W. MELLON, SECRETARY OF THE TREASURY, WASHINGTON, D. C.

Secretary MELLON. I have a statement covering comments on the bill as it has passed the House, and, if it is agreeable, Mr. Winston might read it.

The CHAIRMAN. Is it a prepared statement?

Secretary MELLON. It is just a prepared statement.

The CHAIRMAN. Mr. Winston may read it for the Secretary.

Senator SIMMONS. Is this an argument for one bill or against another?

Secretary MELLON. No; it comments on the bill as it passed the House, the bill that is before you now.

Senator SIMMONS. But I thought the Secretary had come here to give us testimony, not for the purpose of presenting an argument in favor of one scheme or against another.

Senator WATSON. As I understood it, this is a preliminary statement, and afterwards the Secretary expects to answer any questions about these rates.

Secretary MELLON. This is in a way an argument, to an extent anticipating the questions that are likely to be asked.

Senator SIMMONS. It is not exclusively a statement of facts relating to the rates, but it is a statement of facts accompanied by an argument?

Senator ERNST. Just have it read, and then we will ask questions.

Mr. WINSTON (reading):

Tax reduction must depend, in the first instance, on the probable revenue of the Government for the years when the reduction is to take effect. It is estimated that the bill in the form in which it passed the House of Representatives, after giving effect to any increase in revenue through additional taxation and through changes which hinder avoidance of income tax, will mean a loss in revenue of some $450,000,000. The estimated surplus for the fiscal year 1925, which will feel the first effects of this tax reduction, is $395,000,000. This figure is based upon a reduction in ordinary expenditures from approximately $3,300,000,000 actual in 1923 to $3,050,000,000 estimated in 1924 and $2,815,000,000 estimated in 1925. This reduction in expenditures will require persistent effort and great economy. If extraordinary liabilities are incurred by the Government, then it is obvious that the surplus of $395,000,000 can not be relied upon. While the exact figures of expenditures and receipts for years subsequent to 1925 have not been worked out, it is the belief of the Treasury that, assuming that there is no substantial correction of surtax rates, the surplus in 1926 will be less than in 1925, and still further decreases may be expected in the years following. It must be clear, therefore, that in your consideration of tax reduction you must bear in mind, first, that the absolute loss of revenue based on income estimated on present rates should not be greater than your available surplus; and, second, that your plan of taxation should be sound in its essential features and not destroy the source of revenue.

On the bill as it passed the House of Representatives and is now before your committee I have the following comments to make:

1. The loss of revenue will be $450,000,000. There will be no stimulation to revenue-producing transactions, because there is no material reduction in surtaxes. If this bill should become a law, a deficit would inevitably result, and it would be necessary to find other means of raising revenue.

2. *Surtaxes.*—My reasons for believing that a scientifically graduated surtax rate with a maximum of 25 per cent will both stimulate business and yield ultimately more revenue to the Government have been so frequently stated that I need not repeat them here. In the bill as it left the House there is reduction but not reform in taxation. The surtax rates start at 1½ per cent at $10,000, reach 36 per cent at $100,000, and 37½ per cent at $200,000. If the rates had been properly scaled in the 1921 act, it might be possible to make an intelligent percentage reduction, but the bill simply continues the defect in the present law and penalizes principally middle incomes. Here, with unscientific tax rates, the burden is borne by the man of initiative attempting to make money—not by wealth in existence. It is my opinion that the 25 per cent scale down of surtaxes will have no material bearing on releasing capital, but, on the contrary, the flight of capital will continue. Particularly is this true since Congress has refused to recommend a constitutional amendment to prevent further issuance of tax-exempt securities. As an example, under the proposed rates a business has to pay 8 per cent to equal in net return a 4½ per cent municipal based on the proposed rates. This is too wide a margin.

3. The definition of earned income has been extended to include, in cases where the income is the result of the use of capital in connection with personal services, an amount representing a reasonable salary for the personal services rendered. The department for the years of excess profits taxes experienced the greatest administrative difficulties in determining what was a reasonable salary in cases of closely owned corporations. The present definition means that in every case where there is any personal service whatsoever, the department must determine what is a reasonable salary for those particular services. This would bring up for determination by the department several hundred thousand separate cases each year, and you can easily understand the difficulties

the department will have in administering such a law. I believe that with the provision that all income under $5,000 shall be considered earned, substantial justice will be done and the administration of the law should not be complicated by enlarging the definition. There is, of course, absolutely no reason for a $20,000 limitation on earned income. If the distinction between unearned income and earned income is good, it is good in every bracket. If the tax on unearned incomes in excess of $20,000 is at the proper rate, then the same rate is too high for earned incomes.

4. *Publicity of returns.*—So far as I know, in all other nations having income-tax laws the privacy of returns is respected. In every State in the United States privacy of returns is guaranteed by law. There is one exception—Wisconsin, where the privacy provision of the act has been repealed, but I am informed that the validity of the law has been attacked, and the lower court has ruled against the law. The provision in the present bill removes this privacy so far as certain committees of Congress are concerned. This would not be objectionable if the returns were submitted to the committees only in executive session and mention of the returns on the floor of Congress and the publication thereof in the Congressional Record prevented. But there is no privacy if the returns are discussed in open committee or on the floor and publication of such returns made under privilege.

5. *Estate taxes.*—Without other than a discussion on the floor of the House and with no hearing before a committee, there was incorporated in the revenue bill an increase in inheritance taxes from a maximum of 25 per cent to a maximum of 40 per cent. In my opinion, such legislation is most unwise. The right of the Federal Government to tax inheritances is based upon no specific constitutional power, but upon the theory of an excise tax. They have heretofore been used only as war taxes and should be preserved for such use.

Inheritance taxes are properly sources of revenue for the States. They are a material element in a State budget; they are a comparatively small element in the Federal budget. To deprive the States of this source of revenue—properly their own—is to compel the States to increase taxes and to resort to their principal source of income, which is levies on land. The far-reaching economic effect of high inheritance taxes is not properly understood. These taxes are a levy upon capital. There is no requirement in our law, as there is in the English law, that the proceeds from estate taxes shall go into capital improvements of the Government. In other words, capital is being destroyed for current operating expenses and the cumulative effect of such destruction can not help but be harmful to the country. Again, estates have to be liquidated to the extent necessary to provide for taxes, and the forced sale of property and securities tends to bring down not only the value of such property and securities but values everywhere. The ultimate effect of this is to bring down the very values upon which the tax is levied and ultimately to destroy the productivity of the tax, both to the State and to the Federal Government. The provision that State inheritance taxes may be credited to the Federal tax to the extent of 25 per cent is in effect a partial payment by the Government to the States of the inheritance tax collected by the Government, and works a discrimination between States having different rates of tax.

6. *Tax on gifts.*—This tax also is a tax on capital, the proceeds of which do not go into capital and, therefore, work a destruction of the total capital of the country. Any annual tax on gifts is susceptible of evasion by spreading the gifts over a period of years. It will mean practically nothing by way of revenue to the Government. It will be extremely difficult to detect and enforce. It has a most peculiar incidence, unlike any other tax that I know of—the one who gives pays the tax, and not the one who receives.

7. *Miscellaneous taxes.*—The reduction of these taxes depends entirely upon the available revenue of the Government. Since this revenue is unequal to the proposed reduction, some modification in these respects should be made.

The CHAIRMAN. Is there any other statement that you desire to make?

Secretary MELLON. No general statement.

The CHAIRMAN. Then I think it is more than likely that the committee will desire to ask you questions about your statement here, also for a more detailed statement than the committee had as to how you arrived at the estimates of income and expenditures for the coming fiscal year. Senator Walsh, you asked when you were here for the

estimated revenue for the first year after the passage of the revenue act of 1921 as compared with the actual returns for the fiscal year 1922. That estimate has been prepared, and I will put it into the record at this time, so that if you or any other member of the committee desires you may ask questions respecting it.

Under "source of revenue" the estimate for customs was $275,000,000, and the actual receipts were $357,544,712. I may say in that connection, Senator, that a part of that increase came from the emergency tariff bill that was enacted at the time, and you will notice that there was $82,000,000 more than was estimated for customs.

Internal revenue—income and profits tax: The estimated amount was $2,110,000,000; the actual amount collected, $2,086,918,465. That fell a little short of the estimate there.

Miscellaneous: The estimated receipt was $1,214,000,000; the actual amount collected was $1,121,239,843.

As to miscellaneous taxes, the amount estimated was $487,000,000, and the actual amount collected was $538,038,906.

As to the total of those sources of revenue as read, the estimated amount was $4,086,000,000, and the actual amount collected was $4,103,741,927.

Senator WATSON. A difference of how much?

The CHAIRMAN. About $17,741,927.

Senator REED of Pennsylvania. The estimate was accurate within one-half of 1 per cent.

The CHAIRMAN. Yes; a little less than that. Senator Walsh, did you want to ask the Secretary any questions?

Senator WALSH of Massachusetts. No questions, just yet.

The CHAIRMAN. Now, Mr. Secretary, we find that the reduction of the national debt for the calendar year 1923 amounted to $1,072,250,610.83. So that the Senators may know of the reductions and the increases of the different bonds and Treasury certificates during the calendar year 1923 resulting in this reduction of $1,072,250,610.83, I will read the various items so that if you wish you may ask the Secretary any questions while he is here.

Senator KING. That is for what calendar year?

The CHAIRMAN. 1923.

Bonds, not changed—that is, just as they were during the whole year—$822,010,030.

Panama Canal, 1961, 3's were outstanding on December 30, 1922, in the amount of $50,000,000 as against $49,800,000 at the end of 1923, a decrease of $200,000.

The postal savings are shown as $11,851,000 at the end of 1922 and $11,877,900 on December 30, 1923, or a gain in the obligation of the Government of $26,900.

Now, the Liberty bonds. The first Liberty bond issue, 1932–47, was outstanding at the end of 1922 in the amount of $1,951,812,350. At the end of 1923 the corresponding figure is $1,951,605,700, or a decrease of $206,650.

The second Liberties, 1927–42, were outstanding at the end of 1922 in the amount of $3,269,148,800, as against $3,105,619,150 at the end of 1923, or a decrease of $163,529,650.

The Liberty thirds, maturing in 1928, were outstanding as of December 30, 1922, in the amount of $3,448,273,900, as against $3,266,775,400 at the end of 1923, or a reduction of $181,498,500.

The fourth Liberty loan, 1933–38, was outstanding at the end of 1922 in the amount of $6,330,860,300, as against $6,325,782,400 at the end of 1923, a reduction of $5,077,900.

Treasury bonds, 1947–52, outstanding as of December 30, 1922, $763,861,100; as of December 30, 1923, $763,952,300, an increase of $91,200.

Now we come to the notes, the Victories of 1923. There was outstanding at the end of 1922, $854,859,400. They were all paid in 1923, but this statement will indicate how they were paid.

The next are the Treasury notes. Series A, 1924, was outstanding December 30, 1922, in the amount of $311,191,600, and it has been reduced $103,000 at the end of 1923.

Series B of 1924 was outstanding at the end of 1922 in the amount of $390,706,100, and has been reduced at the end of 1923 by $13,025,000.

Series A of 1925, outstanding on December 30, 1922, $691,599,300, decreased a year later in the amount of $4,263,600.

Series B, 1925, outstanding on December 30, 1922, $835,184,500, and they were decreased $35,470,600.

Series C, 1925, was outstanding at the end of 1922 in the amount of $435,740,209.46, and had been decreased a year later in the amount of $29,709,209.46.

Series A of 1926 was outstanding on December 30, 1922, in the amount of $617,769,700, and had been reduced one year later in the amount of $2,061,800.

Series B, 1926, is shown as outstanding at the end of 1922 in the amount of $461,939,900. This amount was reduced $47,017,600.

Series A of 1927 was not outstanding on December 30, 1922, but on December 30, 1923, had been issued in the amount of $355,779,900, or an increase over 1922 in that amount. Likewise, on December 30, 1922, no amount is recorded for series B, 1927, but on December 30, 1923, $668,201,400 was outstanding, which results in an increase in that amount.

Series A and series B bonds were issued, I suppose, to take up some of the other bonds that were paid.

Senator KING. Is this the 1922 debt?

The CHAIRMAN. This is the 1922 debt, Senator.

Senator MCCORMICK. Can you tell us as a summary how much it was reduced during the last fiscal year and the year preceding?

The CHAIRMAN. For the calendar year it was reduced $1,072,250,610.83.

Senator MCCORMICK. It was reduced by $1,000,000,000 in one year?

The CHAIRMAN. Yes; and we will ask the Secretary to tell you how it was reduced and how those payments were to be made.

Then, there were the Treasury certificates. At the end of 1922 there was $1,090,485,900, which amount had been reduced $170,261,900 a year later.

The war savings securities, that is, Treasury savings securities, were outstanding at the end of 1922 in the amount of $729,726,334.80, and they were reduced a year later $353,071,983.50.

The matured debt upon which interest has ceased was, at the end of 1922, $248,101,000.26, and that was reduced $215,476,310.

The noninterest-bearing debt was $261,746,393.57 and that was reduced during the year $21,016,907.87.

This makes a total reduction, taking into consideration the increases and the decreases of the debt of the United States, of $1,072,250,610.83.

Senator McCORMICK. In one year?

The CHAIRMAN. In the calendar year 1923.

Senator McCORMICK. Is that what the taxpayers of this country did in one year?

The CHAIRMAN. That is what the debt of the United States has been reduced in one year, in the calendar year 1923.

Now, in order that the committee may know from just what sources this reduction was made possible, I want the Secretary at this time to put a statement in the record showing just where the money comes from to make this reduction.

Senator McCORMICK. What was the reduction for the calendar year preceding?

Mr. WINSTON. I have the fiscal year——

Senator McCORMICK (interposing). I would like to know how much the public debt has been reduced for 24 months.

Mr. WINSTON. I have not the calendar year; I have the fiscal year.

The CHAIRMAN. Will you send it up to the committee?

Mr. WINSTON. Yes, sir; of course, we have the fiscal year figures now.

The CHAIRMAN. And if it will not take too long, the committee would like to have you go back for five or six years.

Mr. WINSTON. I have here that information for the fiscal years.

The CHAIRMAN. We want it for the calendar years, so that we can compare it.

Senator GERRY. Will you give me those figures for the Panama Canal bonds?

The CHAIRMAN. There was $50,000,000 on the first day of January, 1923, and during the year 1923 $200,000 of that was paid.

Senator WALSH of Massachusetts. Was there an increase in the postal-savings obligations?

The CHAIRMAN. Of course, those bonds are subject to withdrawal. They are received in different parts of the country, and the deposits are more than the withdrawals.

Secretary MELLON. In that total reduction of $1,072,000,000 for the calendar year 1923 there were included sales of surplus war materials, etc.; in other words, special receipts rather than those which are continuing.

Senator WALSH of Massachusetts. How much does that amount to?

Secretary MELLON. It is not separated in the statement which I have here.

Senator SIMMONS. Mr. Secretary, you show a reduction in the debt of over a billion dollars. We would like to have the items showing where you got the money to make these payments; what you got from this source and from that source.

Mr. WINSTON. Shall I read these?

Senator SIMMONS. If we could get these figures written down before us we could follow them more easily and work out the problem so much better.

Mr. WINSTON. Based on the daily Treasury statements for the calendar year 1923, there was a reduction of the gross debt of $1,072,000,000, as Senator Smoot said. That comes from three principal

sources. First, from the sinking fund, foreign repayments, and other debt repayments chargeable against ordinary receipts, $472,000,000.

Senator McCORMICK. You mean of the revenues of the Government?

Mr. WINSTON. I will describe that a little in detail later.

Senator SIMMONS. That $472,000,000 which you applied to the payment of the debt came from what source?

Mr. WINSTON. Sinking fund, foreign payments, and other debt retirements chargeable against ordinary receipts.

Senator SIMMONS. One of them was the interest from Great Britain?

Mr. WINSTON. Yes; part of it came from that.

Senator SIMMONS. I would like to get it as we go on.

Mr. WINSTON. May I just give an outline of it and then give the details?

Four hundred and seventy-two million dollars came from those items chargeable against ordinary receipts. From surplus moneys in the Treasury there came $387,000,000; and from reduction in the general balance fund—that is what we call our working capital—$212,000,000. That makes a total of $1,072,000,000. Now, take these items up in the reverse order because it is a little more simple. The reduction in the general balance is $212,000,000; that is, instead of having cash on hand in the bank we have less debt in January, 1923.

The CHAIRMAN. That is, you are not carrying the amount of cash on hand that you were at the beginning of the year, and for that cash that was lying on deposit either in the Treasury or in the banks of the country you purchased obligations of the Government?

Mr. WINSTON. Yes; on December 30, 1922, December 31 being Sunday, there was $537,000,000 in the general fund. On that date there were still outstanding and due $236,000,000 of Victory notes which had been called on December 15, and $622,000,000 of war-savings certificates which matured on January 1, 1923. So the general fund was large at that particular time in order to meet these maturities. On December 31, 1923, which is the end of the period, the general fund was $324,000,000. There were some Treasury savings certificates maturing, but nothing like the maturities we had a year ago. We did not need as much money in the general fund and we did not have it. That makes a difference of $212,000,000.

Senator JONES of New Mexico. In this total indebtedness here, at the end of December, 1922, the Treasury balance was figured in the statement just the same as the Treasury balance is figured at the end of 1923?

Mr. WINSTON. Yes; but there is a difference in amounts.

Senator JONES of New exico. That is wholly immaterial when you come to consider the net debt of the Government.

Mr. WINSTON. I will show you how material it is. For my own satisfaction, instead of taking December 31, 1922, and December 31, 1923, I moved a month on to see what the debt reduction would be there. The debt reduction, taking the calendar year ending December 31, 1923, is $1,072,000,000. The debt reduction, taking the 12 months beginning with February 1, 1923, and ending with January

31, 1924, is only $888,000,000. The principal difference is entirely accounted for by a drop in your general fund balances. We had the cash, and we used it to pay debt.

The CHAIRMAN. It is just the same if you had money in the bank and notes outstanding. Instead of leaving the money in the bank, you paid the notes off.

Senator JONES of New Mexico. It seems to me to be wholly immaterial. After taking all the indebtedness at the beginning of the year, and the receipts during the year and applying them, we find this reduction in the total indebtedness of $1,072,000,000. Now, as I take it, it does not mean much to simply move the matter forward, because your receipts for the calendar year 1924 do not come in in great quantities in January of 1924.

Mr. WINSTON. They come in in the biggest quantity in March and June, so the proper period to take would be the fiscal year and not the calendar year at all. It is purely arbitrary to take the calendar year.

The CHAIRMAN. Well, then, so the committee may have it, I would like to have the fiscal years 1921, 1922, 1923, and 1924.

Senator HARRISON. Was the amount of cash on hand December 31, 1922, exceptionally large?

Mr. WINSTON. Exceptionally large, for the reason that we had maturities of $858,000,000 in securities to meet.

Senator JONES of New Mexico. All of that was calculated against the indebtedness of the Government at the end of 1922. Applying that whole balance in the Treasury at the end of 1922, the net indebtedness of the Government was $22,986,000,000 plus. Now, then, taking the receipts during 1923 and applying them to the indebtedness, we find this reduction of $1,072,000,000, and the amount in the Treasury at the end of one year, it seems to me, has no relation whatever to this statement here, because it shows that the receipts during 1923 reduced the net indebtedness of the Government by $1,072,000,000.

Mr. WINSTON. That is not accurate, because the receipts did not do it. Suppose you had no money at all on December 15, 1922, and you borrowed $1,000,000 for one year. You had $1,000,000 of debt and $1,000,000 of cash on January 1, 1923. When you come to January 1, 1924, this indebtedness has been paid off, but you are in the same net position as one year earlier.

Senator JONES of New Mexico. Then, I do not understand these figures here. At the end of 1922, did not the Government owe this $22,986,000,000 without applying the amount in the Treasury?

Mr. WINSTON. It does not show the real position.

Senator JONES of New Mexico. Then, this does not mean anything?

Mr. WINSTON. It does not.

Senator JONES of New Mexico. Why was the statement prepared?

Mr. WINSTON. It shows in detail what particular bonds were affected, but it is not material in showing the financial status of the country.

Senator JONES of New Mexico. That is what I want and that is what I supposed we had here, the net indebtedness of the country at the end of 1922 after applying the cash in the Treasury.

Senator REED of Pennsylvania. He is just explaining that the net indebtedness, after deducting the cash balance, is reduced by $800,000,000.

Senator JONES of New Mexico. I do not take it that that is what he means, Senator.

Let us have the Treasury statement for the end of December, 1922, and let us look at it to see whether or not it applied the cash balance.

Mr. WINSTON. It is made up in two forms. The comparative statement is at the bottom of that Treasury statement [handing it to Senator Jones], and if you will look you will see it states the gross debt and then it states the net balance in the general fund and gives you the third item, the gross debt less balance in the general fund, which shows the financial status of the country.

Senator MCCORMICK. Would it be difficult to tell in brief how much the net debt was decreased during either period of 12 months, and how much of that decrease was due to receipts from taxation or from payments by the Allies?

Mr. WINSTON. Not a bit. That appears, Senator, at the end of the public debt statement. It is just a question of subtraction.

Senator REED of Pennsylvania. Senator Jones and I have just compared these statements of the net debt at the end of 1922 and the end of 1923, and we find there a reduction of $859,000,000 in the net debt.

Mr. WINSTON. Which is the proper figure to consider.

Senator JONES of New Mexico. Then, this table is of no value whatever. I think you will concede that it means nothing to us unless we know the actual indebtedness of the country.

The CHAIRMAN. This is how it happens: We have had that much less debt, but in that amount of decrease they had taken $212,000,000 of money that was counted as a reserve before.

Senator KING. They diminished the resources to that extent.

Secretary MELLON. Yes; that is right.

Senator JONES of New Mexico. What we really want is to know the actual deduction of obligations of the Government after applying the Treasury balance. That shows what we received during the year and it is the only way that I know of to give an accurate statement of the condition of the Treasury.

The CHAIRMAN. Now, the eight hundred million and odd dollars did not come from the taxpayers altogether. Some of it did.

Senator REED of Pennsylvania. That is what he is about to give us.

Mr. WINSTON. I will take up the second item. We have discussed the reduction in the general fund balance, and I think it is clear that it is not material in this situation. The surplus moneys in the Treasury worked a deduction in the calendar year of 1923 of $387,000,000. Now, that is purely automatic. We borrow in the Treasury every three months. When we come to the 15th of March we calculate how much we have got to pay on obligations maturing in the next three months and what we are going to get by way of taxes, and then we borrow enough money to carry us through to June 15. If we have surplus moneys in the Treasury, we borrow less. If we do not have those moneys in the Treasury, we have to borrow more. So, automatically, every three months that extra cash in the Treasury is converted into a reduction of the debt.

Senator JONES of New Mexico. I think we all understand that.

Mr. WINSTON. Now, that surplus money in the Treasury is the surplus which is available for tax reduction.

Senator JONES of New Mexico. It seems to me that the thing we wanted to find out is how much tax was received from contributing sources.

Mr. WINSTON. The debt reduction from these surplus moneys in the Treasury is automatic. That is the money which is available for tax reduction or for any other expenditures. That is your surplus. To put it another way, assume you were in business and you owed money to the bank on 90-day notes. You were making considerable money but not enough to pay the notes at maturity. As you reached the due dates on those notes you would renew part of them and pay part of them. Now, that is exactly what we do.

Senator KING. And you reduce in the bank any money that you might carry there for the meeting of maturing obligations.

Senator REED of Missouri. I know what you mean, if you put it that way. You reduce this floating debt.

Mr. WINSTON. It is a floating debt.

The CHAIRMAN. And the amount of reduction is what?

Mr. WINSTON. In the calendar year it was $387,000,000.

The CHAIRMAN. That is what you actually received from the taxpayers over and above what your estimate of expenditures was during the year?

Mr. WINSTON. Yes, sir; this is the calendar period, and we use the fiscal period for various reasons.

The CHAIRMAN. Necessarily so. Now, there is still another item there.

Mr. WINSTON. I am coming to the third item.

The CHAIRMAN. This is what was saved and what we can safely make in the way of reduction of the taxes imposed upon the individuals and businesses of the country.

Mr. WINSTON. Except that you can not take the figure for January 1 as being the correct figure. We reached it on a fiscal year basis.

The CHAIRMAN. You are going to furnish us the fiscal year figures.

Mr. WINSTON. And the fiscal year estimate for this fiscal year is $329,000,000, which is a surplus. It happens to be the surplus at this period and it may be less or greater in other periods.

Senator KING. There is always a balance of money in the Treasury of the United States which is coming from various sources, principally from taxation. You avail yourself of a considerable portion of that to meet floating obligations when they arise, so that in estimating the taxes we can figure on that fact, that there will be a small amount in the Treasury which is available as a fund to meet maturing obligations.

Mr. WINSTON. It is a surplus of our receipts over our expenditures.

Senator REED of Missouri. There are some 90-day debts that the Government owes, are there not?

Mr. WINSTON. Yes; and we owe a lot of long-time debts, too. These do not vary except in their maturity.

Senator REED of Missouri. But you are borrowing money on these short-time obligations, for the purpose of carrying the Government during those periods when there is not enough cash in the Treasury?

Mr. WINSTON. That is right.

Senator GERRY. Does it not mean, practically, that when you reduce your working capital you have got to borrow; that you need a certain balance?

Mr. WINSTON. As we accumulate in the Treasury too much working capital we just renew our obligations for less amount and automatically the debt is reduced and your working capital is cut down.

Senator GERRY. Then, as I understand it, you consider this $329,000,000 is more than you need for your working capital?

Mr. WINSTON. Oh, yes; that is your surplus. It has no bearing on your working capital.

Senator MCCORMICK. May I ask the Undersecretary if he will not conclude his analysis of sources from which they make the net reduction of $859,000,000.

Mr. WINSTON. This is one item of it that I have just been discussing.

Senator REED of Missouri. I would first like to know the answer to this question, which I will state in my own way. We, of course, have a bonded debt running for a considerable period of time. Then, in order to get money to run the Government you have sold these short-time securities in large amounts from time to time, and there is a lot of them still outstanding?

Mr. WINSTON. Yes, sir.

Senator REED of Missouri. How much?

Mr. WINSTON. About $5,000,000,000. There is about $4,000,000,000 of notes maturing in the next three years, and I think that when we get through with this financing there will be about $700,000,000 or $1,000,000,000 in certificates.

Senator REED of Missouri. If we were to meet those obligations as they came in, it would exhaust all the money you had in the Treasury and a great deal more, of course?

Mr. WINSTON. There are eighty-five hundred million dollars of securities maturing in the next four years.

Senator REED of Missouri. How much interest do we pay on these short-time securities?

Mr. WINSTON. On the issue we are putting out now, 4 per cent.

Senator REED of Missouri. What was the interest on the others?

Mr. WINSTON. The issue in December we sold—they were six-months certificates—for 4 per cent, and the year certificates at 4½ per cent.

Senator REED of Missouri. What does it cost you to sell those?

Mr. WINSTON. We do not pay anything to sell them.

Senator REED of Missouri. But you have agents out selling those?

Mr. WINSTON. We pay the expenses of the Federal reserve banks. We do not pay any commission.

Senator REED of Missouri. What are the expenses, then? I will put it in that way.

Mr. WINSTON. I have not the figures before me, because the Federal reserve banks do not separate the expenses attached to the sale of these certificates from their ordinary expenses in handling other matters for the Government.

Secretary MELLON. It is not a very material item at all.

Senator REED of Missouri. What would it amount to, Mr. Secretary?

Secretary MELLON. It just covers the necessary expenses of telegrams and everything in that direction in distributing these notes. The notes are offered publicly and subscriptions come to the Federal

reserve banks from other banks and individual subscribers and investors generally.

Senator REED of Missouri. Do they not have agents out that sell these?

Secretary MELLON. Oh, no.

Senator REED of Missouri. They did have, did they not?

Secretary MELLON. During the war there were these committees and voluntary organizations, etc., but all these notes are placed at par through public offerings and they are subscribed for and the expenses you refer to are the ordinary expenses of distributing them.

Senator REED of Missouri. I did not have that in mind. I thought that there were paid agents.

Secretary MELLON. No, no.

Senator WALSH of Massachusetts. What is the highest rate in all these notes that you paid?

Mr. WINSTON. On notes I think it was 5¾ per cent.

Senator GERRY. When were they issued?

Mr. WINSTON. Issued June 15, 1921. In the early part of this administration rates were much higher. We had to pay on the notes which ran from two to four years something like 5¾ per cent, and then the Treasury certificates which were issued were something under 5 per cent.

Senator REED of Missouri. Why did we have to pay that when an individual bank would lend for less at that time?

Mr. WINSTON. The individual could not borrow for less at that time. He had to pay higher rates.

Senator REED of Missouri. I borrowed money at 5½ per cent.

The CHAIRMAN. In 1921?

Senator REED of Missouri. Yes.

Mr. WINSTON. Mr. McAdoo paid 6 per cent on some of his short-term certificates.

Secretary MELLON. It is absolutely necessary to meet the market, because you have to sell on the basis of prevailing rates. After they are sold there is always an open market.

The notes are traded in always; that is, people who buy them may want to sell them and very frequently the people who have invested in them sell at a slight loss. The market fluctuates.

The CHAIRMAN. Let me ask this question. Take series A and B of 1924. You have redeemed all of those, as you know. What rate of interest were they drawing?

Mr. WINSTON. Five and three-quarters and 5½ per cent.

The CHAIRMAN. They have all been redeemed, I understand.

Mr. WINSTON. These particular issues are due in June and September of this year.

Senator SIMMONS. Mr. Winston, you said that in December you had a surplus of $387,000,000 odd. That was money in bank. That was the surplus of that year.

Mr. WINSTON. That was not money in bank. That was surplus money over expenditures which had gone in and retired debt during that calendar year. The debt was reduced by $387,000,000 from that source.

Senator SIMMONS. Well, you had a paper surplus?

Mr. WINSTON. At that period; yes.

Senator SIMMONS. What I want to ask you is this. Was that much money left over after paying all the expenses of the Government and all the debts contracted during that year?

Mr. WINSTON. No; that simply meant that we had, as I explained, too big a working balance on December 31, 1922, and we just cut that balance down and borrowed less money in March, 1923, and in June, September, and December, 1923.

Senator SIMMONS. What I was trying to get at is, was that the surplus you had from money you had collected from taxes after you had paid out the obligations of that year?

Mr. WINSTON. That was the difference between the receipts and the expenditures up to that time, extra money in the Treasury which had been used to retire debt.

Senator SIMMONS. You issued during the year of 1922 a number of Treasury certificates, did you?

Mr. WINSTON. Yes; we did.

Senator SIMMONS. Well, now, that brought money into the Treasury.

Mr. WINSTON. Yes.

Senator SIMMONS. Were those certificates paid during that year?

Mr. WINSTON. All certificates have to mature in a year or less, so we have no certificates outstanding beyond a 12-month maturity.

Senator SIMMONS. But I want to find out what part of the money you borrowed that year was paid back during that year. The money you borrowed went into the Treasury, swelled the Treasury receipts. Now, I want to find out what part of the borrowed money was paid out during that year. I might increase my surplus at the end of the year by borrowing and letting a part of it go over to the next year.

Senator JONES of New Mexico. Let me see if I can not clear up this situation a little. Let me see if I can get the answer.

Mr. WINSTON. Let me see if I understand you correctly.

Senator JONES of New Mexico. You collected so much money in 1922 from taxes. That went into the Treasury. You got so much money in the Treasury from the sale of certificates. Now, I want to know what part of that money that you secured on certificates and was put in the Treasury was paid out of the Treasury during that year, and what part was carried over. For example, I have a certain income during the year. I pay my debts, but I go out and borrow a lot of money and give my notes for it to pay the operations of that year, and I use all of that money during that year or keep it in the Treasury or the bank. Now, I want to know what my actual surplus at the end of that year is, in short, what I have left over after paying my debts.

Senator WATSON. In other words, how much money you borrowed that year and paid that year.

Senator SIMMONS. That part of that which I do not pay is a debt still hanging over, and so it is with the Government.

Mr. WINSTON. In other words, what you want to know is whether you made a profit or a loss? Well, that $387,000,000 that we are discussing——

Senator MCCORMICK (interposing). The Senator from New Mexico here, after a conference with the Senator from Pennsylvania, made the statement that the net debt of all sorts had been reduced by $859,000,000. Am I not right?

Mr. WINSTON. There are certain items which we have not yet touched upon. I am now coming to the other items which are chargeable against ordinary receipts and were used to reduce the debt during the calendar year 1923 to the extent of $472,000,000.

Senator JONES of New Mexico. I think we can clarify this situation. The Treasury has got a lot of short-term obligations and a working balance in the Treasury, and as the receipts come in it takes care of the short-term obligations with the balance in the Treasury, whatever that may be. If the Treasury has the money, it does not borrow. The question for us to determine is how much revenue do we want to raise in order to take care of a reasonable reduction in the public debt. We reduced it last calendar year by $859,000,000. Assuming that our receipts for the year 1924 will be the same and that the expenses other than the public debt will be the same, why, we would have for this year $859,000,000 to apply upon our public indebtedness.

The CHAIRMAN. The sinking fund would have to be taken out of that.

Senator JONES of New Mexico. But, Senator, I think there you are confused.

The CHAIRMAN. I do not think so.

Senator JONES of New Mexico. The sinking fund goes to reduce the debt.

Mr. WINSTON. $472,000,000 is the item left. We had, first, the general fund balance of $212,000,000; second, the surplus moneys which constitute the surplus for that calendar year, which is exactly the equivalent to the $329,000,000 estimated surplus for the fiscal year 1924.

Senator JONES of New Mexico. That assumes that we want to continue raising the amount of money for retirement of the interest indebtedness at the rate you have specified.

Mr. WINSTON. Now, I am coming to the third item. The first item, the general fund balance, is immaterial. The second item, the surplus, is what we were just considering. The third item——

Senator JONES of New Mexico (interposing). Right in there it is not to be assumed that we are all agreed that we are going to reduce that permanent interest indebtedness by the amount which the sinking fund and the English debt would amount to.

Mr. WINSTON. Take the calendar year 1923—and of course, taking the calendar year is not very accurate, because we work on a fiscal year basis—there was spent for sinking fund purposes, to reduce the debt during that year, $219,647,950. That is the sinking fund, if you understand what the sinking fund is.

Senator JONES of New Mexico. I know what it is.

Mr. WINSTON. The next item is $69,605,900 for foreign repayments. The third item is bonds received under debt settlements, $160,611,150. That is the British debt settlement principally, about $160,000,000, and then some miscellaneous items of $22,000,000, making up a total of $472,000,000. The sinking fund provision is contained in the Victory Liberty Loan Act and was based on 2½ per cent of the bonds not represented by foreign indebtedness.

Senator WATSON. That amounted to what?

Mr. WINSTON. At that time approximately $10,000,000,000; and $10,000,000,000 in bonds was to take care of the loans to foreign governments.

Secretary MELLON. Approximately half of the debt.

Mr. WINSTON. The sinking fund was calculated at the time it was made to retire that part of the war bonds in about 31 years. The sinking fund is comprised of two parts, the original credit of 2½ per cent and the secondary credit, which is the interest saved on the bonds which are retired from the sinking fund. When it was started it was $250,000,000, and this fiscal year it is approximately $300,000,000. As you buy more bonds you save interest and your sinking fund goes up. At the same time it was assumed that the $10,000,000,000 represented by foreign debt would be paid by payment of the foreign debt.

Senator MCCORMICK. That was ingenuous on the part of the fiscal authorities of the United States.

Mr. WINSTON. No, sir; this sinking fund is as much a part of the contract that we have with our bondholders as the date of payment.

Senator JONES of New Mexico. Well, now, you are entering into an argument there. Assuming that to be true, there was no contract with those bondholders that we would not replace that sinking fund with the English debt, was there?

Mr. WINSTON. No.

Senator JONES of New Mexico. We are at perfect liberty to cut down the reduction in that debt as we see fit.

Mr. WINSTON. That is not correct, because it is assumed that this sinking fund takes care of only half of the debt.

Senator JONES of New Mexico. The bondholders have no interest in that.

Mr. WINSTON. It was an implied contract with them.

The CHAIRMAN. Congress said that they would do it, that they would take 2½ per cent of the amount of the debt as a sinking fund.

Senator JONES of New Mexico. That was the only contract with the bondholders. This English debt business has come in since and is a matter to handle as Congress chooses. The bondholders were interested only in that 2½ per cent of that indebtedness.

Mr. WINSTON. But they hold twenty billions.

Secretary MELLON. And that only applied to one-half.

Senator REED of Pennsylvania. Did the original Liberty bond law provide that all repayments by foreign governments should be applied to the reduction of the debt? That is just as much in the law as the sinking fund.

Secretary MELLON. Yes.

The CHAIRMAN. At the time the bill was passed the sinking fund, 2½ per cent, amounted to $40,000,000. It is in the law.

Secretary MELLON. Here are the terms of the act which called for that.

Senator JONES of New Mexico. My recollection fails me if you find it there.

The CHAIRMAN. It is there.

Mr. WINSTON. It is the Secretary's authority—

to receive on or before maturity payment for any obligations of such foreign governments purchased on behalf of the United States, and to sell at not less than the purchase price any of such obligations and to apply the proceeds thereof, and any payments made by foreign governments on account of their said obligations, to the redemption or purchase at not more than par and accrued interest of any bonds of the United States issued under authority of this act; and if such

bonds are not available for this purpose the Secretary of the Treasury shall redeem or purchase any other outstanding interest-bearing obligations of the United States which may at such time be subject to call or which may be purchased at not more than par and accrued interest.

The CHAIRMAN. Now, will you give us the items from the third bracket?

Mr. WINSTON. The next item——

Senator SIMMONS (interposing). What did you say you received from the foreign indebtedness?

Mr. WINSTON. I have not come to that yet. This is simply a sinking fund that we discussed.

Senator SIMMONS. Now you are coming to foreign debts?

Mr. WINSTON. Now I am coming to foreign repayments.

We received $69,605,900 during that year.

Senator SIMMONS. From whom?

Mr. WINSTON. From England. $61,000,000 was received in payment of obligations incurred to purchase silver.

Senator SIMMONS. That had nothing to do with bond interest.

Mr. WINSTON. This was an extra indebtedness.

Senator SIMMONS. You took that money and applied it to the debt?

Mr. WINSTON. Yes; and there was $7,000,000 received from Cuba. Cuba paid up the rest of what she owed. Those items, of course, will not occur again.

Senator GERRY. Was there not a payment by the English of certain back debts, to make an even sum?

Mr. WINSTON. I will come to that later.

The CHAIRMAN. That was not a very large amount, Senator.

Senator GERRY. What was the amount?

The CHAIRMAN. Four million six hundred thousand, I think.

Mr. WINSTON. Four million one hundred and twenty-eight thousand. Now, during that same year 1923 we received from the foreign governments under the debt settlement $160,611,150. Now, there is a small debt settlement with Finland involved in there, but the principal item was the British refunding.

Senator KING. Where did you get that $160,000,000 from?

Mr. WINSTON. Most of it from Great Britain. The British refunding agreement provides that they may pay principal and interest in bonds of the United States, and as long as our securities are below par England will buy them and turn them in to us. Let me tell you what that actually means. On December 15, when the last payment was made of something over $90,000,000, England turned over to us bonds and $22.16 in cash. The only cash we received was $22.16.

Senator REED of Pennsylvania. How much did England pay for them?

Mr. WINSTON. I do not know when she bought them.

Senator WATSON. What was the actual amount of the sinking fund last year? At the same time let me ask you the further question with respect to what figure you propose to fix it for next year?

Mr. WINSTON. Last fiscal year it was $284,000,000. For this fiscal year it is $297,000,000. For the fiscal year of 1925 it is $310,000,000, but this is estimated, of course.

Senator REED of Missouri. Is that the amount you put in each year or is that the aggregate?

Mr. WINSTON. That is the aggregate amount of the sinking fund.

Senator REED of Missouri. Have you not been increasing that sinking fund by taking out 2½ per cent each year, and then, as you pay the bonds, you save interest in the future?

Mr. WINSTON. On the bonds you retire, that interest which you save goes in to increase the amount of the sinking fund.

Senator REED of Missouri. You started out with $250,000,000. Now, the next year you had that $250,000,000 and also the interest you had saved.

Mr. WINSTON. The interest we saved on the bonds we retired with the $250,000,000.

Senator REED of Missouri. Then you put in $250,000,000 more?

Mr. WINSTON. Yes.

Senator REED of Missouri. How much have you get in the sinking fund now?

Mr. WINSTON. It is not put in, but it is used to retire bonds during the year, during the fiscal year. During 1922 we actually retired out of the sinking fund $276,000,000. In 1923 we retired $284,000,000. In 1924 it is estimated we will retire $297,000,000. Of course, you can not give exact figures, because you do not know what you are going to pay for your bonds.

The CHAIRMAN. In order that this may be paid out in 31 years instead of 40 years, they have got to use that money in order to cut that time down.

Senator REED of Missouri. You are using this money to retire the bonds and in this way cut down the general aggregate of the debt?

Mr. WINSTON. It is required by the law.

Senator REED of Pennsylvania. What will be the amount received from Finland and the British Government in the year 1925?

Mr. WINSTON. From the British, about $162,000,000; from Finland it is about $315,000.

Senator REED of Pennsylvania. Out of your sinking fund in this next fiscal year you will retire $310,000,000 of debts. Out of your foreign debt settlements you will retire $162,000,000 more; so that from those two sources you are going to retire a total of $472,000,000. Assuming that our income and current expenditures exactly match one another your debt will be reduced $472,000,000 from these two items which do not enter into ordinary receipts.

Mr. WINSTON. They do enter into ordinary expenditures.

Senator REED of Pennsylvania. They are not taken into account in calculating your surplus?

Mr. WINSTON. Yes.

Senator REED of Pennsylvania. The surplus of $329,000,000 is what you expect that the present rates of taxation, if persisted in, will yield in excess of what the Government will spend? That is correct, is it not?

Mr. WINSTON. Yes.

Senator REED of Pennsylvania. In addition to that, the sinking fund will provide $310,000,000 more, and the foreign debt settlements $162,000,000.

Senator KING. You must get your sinking fund from taxation.

Senator REED of Pennsylvania. Now, let us assume we do not change taxes at all. On the present estimates, sinking fund and debt settlements will reduce the debt $472,000,000, and the surplus will

reduce it $329,000,000 more; so if we do not do anything in the way of changing taxation the net debt reduction in the next year will be $801,000,000. That is right, is it not?

Secretary MELLON. Yes.

Senator REED of Pennsylvania. Well, now, we have got to take care of the sinking fund. Our levying of taxes does not affect the income from the debt settlements, but we have a surplus estimate of $329,000,000 with which we may deal in tax reduction.

Mr. WINSTON. Yes; there is only one point there, and that is that these receipts from the British debt settlement appear in our receipt column as well as in our expenditure column. They are not just extra funds coming in from outside.

Senator REED of Missouri. Stated coldly, out of our revenue we can take care of our sinking fund, and we can take care of all of the expenses for the year. We are going to have $300,000,000 left and it is safe to make a reduction approximately to that extent, in your opinion?

Mr. WINSTON. Yes.

Senator MCCORMICK. There is one point that I keep trying to press home. It may amount to nothing. I never discovered how much accrued to the Government from sales and such miscellaneous receipts as are not likely to recur during the next year.

Senator REED of Pennsylvania. That is included in your $22,000,000 of estimated receipts?

Mr. WINSTON. That works out in two ways. You take the War Finance Corporation. Now, we loaned them originally, I think, $500,000,000 to be invested in their stock. As they get their money, however, it comes right into the Treasury to the credit of the corporation and has the same effect as receipts. The same is true with respect to the railroad situation. We estimate so much in the way of expenditures. Now, if some of the railroads pay their debts, it comes in as a cash receipt to us and reduces those expenses.

Senator REED of Pennsylvania. What did that aggregate last year, the receipts from all those sources?

Mr. WINSTON. $99,000,000 from railroad securities.

Senator REED of Pennsylvania. And have you made any estimate of what they are likely to amount to for the next year?

The CHAIRMAN. For the year 1924, $24,982,900.

Secretary MELLON. They used a certain amount of money and that is being replaced.

Senator MCLEAN. But you did not pay for that stock $500,000,000 of the War Finance Corporation? That is a mere credit. How much money did you give them?

Secretary MELLON. We borrowed the money, bought the stock, and owned it.

Senator MCLEAN. You paid $500,000,000?

Secretary MELLON. Yes.

The CHAIRMAN. That is what the law says.

Senator HARRISON. Senator Glass said on the floor of the Senate that you did not pay what you owed, that it was a matter of bookkeeping.

Secretary MELLON. We not only did it but acquired some of their bonds at one time.

Mr. WINSTON. They invested it in Liberty bonds until they needed it. We were paying interest on these Liberty bonds.

Senator McCORMICK. In this surplus of $329,000,000 did you include that salvage of $97,000,000?

Mr. WINSTON. Yes; it is all included.

Senator McCORMICK. Therefore, it will be reduced by the difference between the salvage last year and the estimated amount this year, $675,000,000?

Mr. WINSTON. For the fiscal year 1923 our actual receipts, ordinary receipts, were $4,007,000,000. We have estimated our receipts for 1924, which takes into account the payment back of such sums, as $3,894,000,000. That, you see, is $113,000,000 less. All these features were taken into account in making the estimate.

Senator REED of Pennsylvania. In estimating that you will have a surplus for the next fiscal year of $329,000,000, have you included any allowance for payments out of the Treasury on account of such projects as this pending Norbeck bill?

Mr. WINSTON. No.

Senator KING. Or the Bowlder Dam?

Mr. WINSTON. No.

The CHAIRMAN. Nor the McNary bill, $200,000,000.

Senator SIMMONS. There are various items that you paid last year that you will not have to pay this year, so that will about balance.

Senator McLEAN. What is the present situation with respect to the War Finance Corporation?

Mr. WINSTON. There is $37,000,000 outstanding out of the original $500,000,000 stock we bought. They have put back into the Treasury $463,000,000.

The CHAIRMAN. The profits do not go into the Treasury.

Senator McLEAN. You mean to say that the War Finance Corporation has only $37,000,000 that has not been liquidated?

Mr. WINSTON. There is this $37,000,000 of capital that has not yet been repaid by the War Finance Corporation, but when they finally liquidate there will be an addition to that to be paid back to the Treasury, the accumulated profits that they have made in their operations.

Senator KING. Assume that they shall have some losses.

Secretary MELLON. Of course, there will necessarily be some losses, but there will be a net profit which will be in addition to the $37,000,000.

The CHAIRMAN. What is your estimate of the amount?

Mr. WINSTON. The balance-sheet profit is around $50,000,000, but that does not show a write-off for bad debts.

Senator KING. They have had an overhead expense, which we have paid by direct appropriation.

Senator REED of Missouri. You loaned them $500,000,000?

Mr. WINSTON. We bought the stock for that.

Senator REED of Missouri. You paid that out of the moneys you had?

Mr. WINSTON. We borrowed money to pay it.

Senator REED of Missouri. Now, they have paid back most of that money.

Mr. WINSTON. They have redeposited it with the Treasury.

Senator REED of Missouri. Well, now, have you taken up the obligations which you gave for this money?

Mr. WINSTON. Well, they were Liberty bonds and some notes, and they are still outstanding.

Senator REED of Missouri. But you have reduced the debt by that amount?

Secretary MELLON. The debt has been reduced.

Senator REED of Missouri. You count that as part of the reduction in debt?

Mr. WINSTON. No; as part of the general receipts.

Senator REED of Missouri. Part of our debt was that $500,000,000?

Mr. WINSTON. Yes.

Senator REED of Missouri. Now, when you talk about reducing the debt, do you credit the debt with this approximately $500,000,000 that has been returned?

Mr. WINSTON. I couldn't earmark it——

Secretary MELLON (interposing). The effect of it is a reduction of the debt.

Senator REED of Missouri. So it would appear on the books that we have made a reduction of the debt of the United States by $500,000,000, when, as a matter of fact, we had loaned $500,000,000 and charged it into our debt column and taken over certain assets. Therefore, we did not really have an actual debt of that $500,000,000, because we had assets to balance it. Now, when the assets are paid in, then it appears that we have reduced our debt by $500,000,000 and nothing is said about the disposition of the assets.

Mr. WINSTON. No.

Secretary MELLON. That same principle applies also to railroad debts and to others.

Senator REED of Missouri. What I am trying to get at is this: You show for 1922 or for any other fixed period an aggregate debt of the United States of so much, a certain amount of money. Now, one of the items constituting that debt is $500,000,000 which you have loaned to the War Finance Corporation. It appears in the debt column. You have got some assets for that. Now, the next year you sell those assets and you apply it on the debt and you have taken up the whole $500,000,000 in that year. This is purely illustrative. It would then appear that your debt for that year had been reduced $500,000,000, but it was reduced by the disposition of assets. So that a statement that you had reduced your debt by $500,000,000 in that case would really be misleading.

Mr. WINSTON. Yes.

Senator REED of Missouri. Now, you had a similar transaction with the railroads. How much was that?

Senator REED of Pennsylvania. And a similar transaction with the British Government, for that matter.

Senator REED of Missouri. I want to get at the real assets. There is a great difference between reducing a debt by selling your cows to pay your mortgage and making money by milking your cows and paying the mortgage out of the profits on the milk.

Secretary MELLON. A large element of the reduction in debt has come from those assets.

Senator MCCORMICK. From the beginning of the Undersecretary's statement I have been trying to get him to analyze this reduction of $859,000,000. If he can not do it verbally, I submit it would be very convenient for him to bring up a statement showing how much accrued——

Senator REED of Missouri (interposing). I insist as a member of this committee that I have a right to an answer to my question, and

my brother here from Illinois will get to his matter in due course. I am trying now to find out the facts as to the actual reduction. We have found out about $500,000,000 of it. Now, what about the railroads?

Mr. WINSTON. We hold obligations of the railroads of about $487,000,000. We originally held equipment obligations and we sold those.

Senator REED of Missouri. What was your highest aggregate railroad debt?

Mr. WINSTON. I will have to look it up.

Senator REED of Missouri. I wish, then, if I may ask this, that you will furnish the committee with a statement that shows the amount of this debt which has been reduced from every source except the ordinary taxation revenues of the Government and the particular items with respect thereto.

Senator SIMMONS. You reduced the debt $1,072,000,000. Now, you told us where you got the money to pay for a part of it. You got so much from your surplus and you got so much from these foreign payments. Now, where did you get the balance?

Mr. WINSTON. Let me restate it. Two hundred and twelve million dollars came from the general fund; $387,000,000 came from your actual surplus. Now, the balance of $472,000,000 has to be accounted for. The sinking fund took care of $219,000,000 in that calendar year. The foreign payments took care of $69,000,000, and the debt settlement $160,000,000. That leaves to be accounted for $22,000,000. That $22,000,000 is made up of small items of which I have not the details. The principal one of these items has been the franchise tax from Federal reserve banks, that amounted in the fiscal year 1923 to something over $10,000,000; this year, $3,600,000. The statute provides that you shall use these franchise receipts to retire debts. The next item of any importance is the right of an executor of an estate to use the Liberty bonds and Treasury notes that may be in the estate to pay the estate tax if they have not been held by the decedent for six months prior to his death. That item is about $6,000,000. Then the balance is made up of forfeitures and gifts.

Senator KING. That $6,000,000 would come in in the form of paid taxes and it would seem to me that it should be credited as any other tax.

Mr. WINSTON. Instead of paying this $6,000,000 in cash these people have paid it off in bonds.

Senator SIMMONS. Your statement of annual receipts includes not only what you collected from taxes but money that the Government gets from all sources?

Secretary MELLON. Including the conscience fund.

Senator SIMMONS. So that if the Shipping Board pays you any money during the year, it is included in your statement of receipts, is it not?

Mr. WINSTON. Yes; the accounting is on a cash basis so that whatever is paid goes into the receipts.

Senator WALSH of Massachusetts. Will the Secretary bring to-morrow a detailed statement of the receipts from the Mellon bill and a detailed statement of the receipts from the bill as it passed the House?

Senator REED of Pennsylvania. Would that include the estimate from the tariff?

Secretary MELLON. Yes.

Senator REED of Pennsylvania. That will be set out?

Secretary MELLON. Yes.

Senator WALSH of Massachusetts. I meant the comparison between the Mellon plan and the House bill.

Senator REED of Missouri. I would like to have separately stated the amount you will get from the tariff.

(The statement referred to above is as follows:)

Estimated revenue for the calendar year 1925, under the provisions of H. R. 6715, as passed by the House of Representatives, compared with the present law, and the Mellon proposal, together with the estimated customs receipts for the same period.

Source.	Present law.	House bill.	Mellon bill.
Income tax:			
Individual—			
Normal	$391,000,000	$261,000,000	$206,000,000
Surtax	541,000,000	391,000,000	386,000,000
Capital gain provision		[1] 10,000,000	[2] 30,000,000
Capital loss provision		[2] 25,000,000	[1] 10,000,000
Limit on certain deductions		[2] 35,000,000	[2] 35,000,000
Earned income provision		[1] 90,000,000	[1] 90,000,000
Corporation tax	875,000,000	875,000,000	875,000,000
Miscellaneous internal revenue:			
Estate tax	110,000,000	122,000,000	110,000,000
Gift tax		2,000,000	
Telegraph and telephone	34,000,000		
Beverages, nonalcoholic, and constituent parts	10,000,000		10,000,000
Tobacco and manufactures of	325,000,000	325,000,000	325,000,000
Admissions and dues	85,000,000	52,000,000	9,000,000
Automobiles, etc.—			
Trucks	11,000,000	6,300,000	11,000,000
Others	105,000,000	105,000,000	105,000,000
Accessories, parts, and tires	42,000,000	21,000,000	42,000,000
Cameras	750,000	750,000	750,000
Photographic films	800,000	800,000	800,000
Firearms, shells, etc	4,500,000	4,500,000	4,500,000
Smokers' articles	400,000	399,000	400,000
Automatic slot-vending machines	150,000	150,000	150,000
Candy	13,000,000		13,000,000
Knives, dirks, daggers, etc	30,000		30,000
Liveries, etc	140,000		140,000
Hunting, shooting, and riding garments	180,000		180,000
Yachts and motor boats (sale)	319,000		319,000
Art works	850,000	850,000	850,000
Carpets, rugs, trunks, purses, etc	1,800,000		1,800,000
Jewelry, etc	22,000,000	8,000,000	22,000,000
Corporation capital stock	85,000,000	85,000,000	85,000,000
Stamp taxes—			
Sale of produce on exchanges	8,000,000	4,000,000	8,000,000
Drafts, promissory notes, etc	2,150,000		2,150,000
Playing cards	3,500,000	4,200,000	3,500,000
Bonds, transfers, stock issues, etc	52,350,000	52,350,000	52,350,000
Theaters, circuses, shows, etc	1,600,000		1,600,000
Yachts (use)	215,000	215,000	215,000
Billiard and pool tables and bowling alleys	1,050,000		1,050,000
Miscellaneous taxes (including occupational taxes and receipts under prohibition and narcotic laws)	12,000,000	12,000,000	12,000,000
Total internal revenue	2,739,784,000	2,293,514,000	2,344,784,000
Customs revenue	490,000,000	490,000,000	490,000,000

[1] Loss. [2] Gain.

The CHAIRMAN. The committee will now adjourn until 10 o'clock to-morrow morning.

(Whereupon, at 12 o'clock noon, the committee adjourned to meet again Thursday morning, March 13, at 10 o'clock a. m.)

THURSDAY, MARCH 13, 1924.

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to adjournment on yesterday, at 10.30 o'clock a. m. in the Finance Committee room, Hon. Reed Smoot (chairman) presiding.

Present: Senators Smoot (chairman), McLean, Watson, Reed of Pennsylvania, McCormick, Ernst, Stanfield, Simmons, Jones of New Mexico, Gerry, Reed of Missouri, Walsh of Massachusetts, and King.

The CHAIRMAN. If the committee will come to order, we will continue the hearing. The Assistant Secretary, we understand, was asked yesterday to furnish certain information. Each Senator will find it on the table, but I think that it ought to go into the record at this point. It consists of a comparative summary of securities owned by the Government on June 30, 1920, and December 31, 1923, together with other information that was asked for yesterday as to the public debt, and if there is no objection we will have each one of these statements put into the record at this point.

STATEMENT BY THE HON. GARRARD B. WINSTON, UNDERSECRETARY OF THE TREASURY, WASHINGTON, D. C.

Comparative summary statement of securities owned by the United States Government on June 30, 1920, and December 31, 1923.

	June 30, 1920, (revised).	Dec. 31, 1923.
Foreign obligations (principal amount)	$10,092,054,122.73	$10,555,454,718.39
Capital stock of war emergency corporations	340,582,376.57	110,943,674.75
Railroad obligations	444,847,195.00	487,297,855.11
Federal land bank securities	174,040,510.00	104,319,385.00
Federal intermediate credit bank securities		20,000,000.00
Miscellaneous securities	7,085,192.00	72,545,119.17
Total	11,058,589,396.30	11,350,550,752.42

Capital and special receipts and expenditures for fiscal years 1920 to 1923, inclusive.

	Fiscal year 1920.	Fiscal year 1921.	Fiscal year 1922.	Fiscal year 1923.	Total.
CAPITAL AND SPECIAL RECEIPTS.					
Decrease of capital stock United States Grain Corporation and return of funds under section 19, act Aug. 10, 1917, and section 8, act Mar. 4, 1919		$100,000,000.00	$25,000,000.00		[1] $125,000,000.00
Principal payments on foreign loans, act Sept. 24, 1917	$71,045,188.47	83,678,223.38	49,114,107.46	$31,656,907.64	235,494,426.95
Liquidation of capital stock of Federal land banks	610,299.00	954,835.00	1,057,830.00	2,556,775.00	5,179,739.00
Disposal of United States Housing Corporation properties	1,433,801.35	2,000,524.42	1,740,999.68	961,965.90	6,137,291.63
Principal on loans, United States Housing Corporation	40,312.94	97,032.33	86,789.47	1,561,975.93	1,786,110.67
Sale of farm loan bonds			44,400,000.00	36,750,000.00	81,150,000.00
Dividends of the United States Sugar Equalization Board on capital stock owned by the United States		30,000,000.00			30,000,000.00
Return of advances made to the reclamation fund		1,000,000.00	1,000,000.00	1,000,000.00	3,000,000.00
Funds deposited for construction loans under section 11, merchant marine act, 1920				50,000,000.00	50,000,000.00
Sales of war supplies	314,313,749.10	184,720,193.04	90,181,442.54	82,605,681.57	671,821,066.25
Total capital and special receipts	387,443,350.86	402,450,808.17	212,581,169.43	207,093,306.04	[2] 1,209,568,634.50
CAPITAL AND SPECIAL EXPENDITURES.					
Railroads:					
Net excess of expenditures	1,036,672,157.53	730,711,669.96		14,847,306.11	1,782,231,133.62
Net excess of receipts (deduct)			139,469,450.82		139,469,450.82
War Finance Corporation:					
Net excess of expenditures			94,428,001.01		94,428,001.01
Net excess of receipts (deduct)	228,472,105.61	22,028,452.12		109,436,238.13	359,936,876.86
Shipping Board	530,565,649.61	130,723,288.26	87,205,732.12	57,023,838.18	805,518,488.17
Purchase of obligations of foreign governments	421,337,028.09	73,896,697.44	717,834.36		495,951,559.89
Purchase of Federal farm loan bonds	29,643,546.17	16,781,320.79			46,424,866.96
Subscription to stock, Federal intermediate credit banks				12,000,000.00	12,000,000.00
Total capital expenditures	1,789,746,194.79	930,084,504.35	42,382,116.67	[3] 25,565,093.84	2,737,147,721.97
Excess of capital and special receipts over capital expenditures			169,699,052.76	232,658,399.88	402,357,452.64
Excess of capital expenditures over capital and special receipts	1,402,302,843.93	527,633,696.18			1,929,936,540.11
Net excess of capital expenditures over capital and special receipts					1,527,579,087.47

[1] Capital stock of Grain Corporation was $500,000,000, of which $350,000,000 was withdrawn and returned in fiscal year 1920; $50,000,000 was withdrawn in 1918; and $100,000,000 in 1919. Further returns were made of $100,000,000 in 1921 and $25,000,000 in 1922, leaving a balance of $25,000,000 which was written off in fiscal year 1923 upon delivery to Treasury of $56,858,902.49, face amount of foreign obligations received on account of final liquidation.

[2] Excess of credits, deduct.

Statement showing, on basis of daily Treasury statements, public debt retirements from specific sources for each fiscal year from 1920 to 1923, inclusive.

[War debt reached its peak of $26,596,701,648.01 in the fiscal year 1920 on August 31, 1919.]

June 30—	Public debt retirements chargeable against ordinary receipts.							Surplus of receipts.	Decrease in general fund balance.	Total debt reduction.	Total gross debt.
	Sinking fund.	Foreign repayments.	Bonds received under debt settlements.	Received for estate taxes in bonds and notes.	Franchise tax receipts.	Miscellaneous gifts, forfeitures, etc.	Total.				
1919											$25,484,506,160
1920		$72,669,900		$3,141,050	$2,922,450	$12,950	$78,746,350	$212,475,198	$893,963,145	$1,185,184,693	24,299,321,467
1921	$261,100,233	73,939,300		26,348,950	60,724,500	168,500 4,842,066	422,261,500 4,842,066	86,723,772	[1] 191,976,423	321,870,915	23,977,450,552
1922	276,046,000	64,837,900		21,084,850	60,333,000	392,850	422,694,600	313,801,651	277,572,593	1,014,068,844	22,963,381,708
1923	284,018,800	32,140,000	$68,752,950	6,568,550	10,815,300	554,891	402,850,491	309,657,460	[1] 98,833,608	613,674,343	22,349,707,365
Total	821,165,050	243,587,100	68,752,950	57,143,400	134,795,250	5,971,257	1,331,415,007	922,658,081	880,725,707	3,134,798,795	

Retirements from:
- Charges against ordinary receipts $1,331,415,007
- Surplus of receipts 922,658,081
- Reduction in general fund balance 880,725,707
- Total reduction in gross debt 3,134,798,795

Total gross debt June 30, 1919 ..... $25,484,506,160
Total gross debt June 30, 1923 22,349,707,365
Total decrease 3,134,798,795

[1] Increase in net balance in general fund—operates as an increase in total gross debt.

NOTE.—The above detailed figures of retirements chargeable against ordinary receipts for the fiscal year 1921 include $4,842,066.45 written off the debt Dec. 31, 1920, on account of fractional currency estimated to have been irrevocably lost or destroyed in circulation.

Statement showing, on basis of daily Treasury statements, public debt retirements from specific sources for each calendar year from 1920 to 1923, inclusive.

[War debt reached its peak of $26,596,701,648.01 in fiscal year 1920, on August 31, 1919.]

Calendar year—	Public debt retirements chargeable against ordinary receipts.							Surplus of receipts.	Decrease in general fund balance.	Total debt reduction.	Total gross debt.
	Sinking fund.	Foreign repayments.	Bonds received under debt settlements.	Received for estate taxes in bonds and notes.	From franchise tax receipts.	Miscellaneous gifts, forfeitures, etc.	Total.				
1919											$25,837,078,807.38
1920	$20,390,250	$47,422,050		$11,390,600	$2,922,450	{$143,400.00 {4,842,066.45	$82,268,750.00 4,842,066.45	$1,285,279,757.32	$482,464,065.45	$1,854,854,639.22	23,982,224,168.16
1921	468,756,700	50,056,350		29,981,000	63,343,500	55,450.00	612,193,000.00	[1] 86,137,048.25	17,183,865.05	543,239,816.80	23,438,984,351.36
1922	271,460,050	49,643,950		10,597,900	57,714,000	386,650.00	389,802,550.00	112,957,375.85	[2] 50,093,592.58	452,666,333.27	22,986,318,018.09
1923	219,647,950	69,605,900	160,611,150	10,797,400	10,815,300	586,591.10	472,064,291.10	387,232,259.23	212,954,060.50	1,072,250,610.83	21,914,067,407.26
Total	980,254,950	216,728,250	160,611,150	62,766,900	134,795,250	6,014,157.55	1,561,170,657.55	1,699,332,344.15	662,508,398.42	3,923,011,400.12	

Retirements from:	
Charges against ordinary receipts	$1,561,170,657.55
Surplus of receipts	1,699,332,344.15
Reduction in general fund balance	662,508,398.42
Total reduction in gross debt	3,923,011,400.12

Total gross debt Dec. 31, 1919	$25,837,078,807.38
Total gross debt Dec. 31, 1923	21,914,067,407.26
Total decrease	3,923,011,400.12

[1] Deficit in receipts.
[2] Increase in net balance in general fund—operates to increase total gross debt.

NOTE.—The above detailed figures of retirements chargeable against ordinary receipts for the calendar year 1920 include $4,842,066.45 written off the debt Dec. 31, 1920, on account of fractional currency estimated to have been irrevocably lost or destroyed in circulation.

Public debt retirements for fiscal year 1923.

1. Public debt retirements chargeable against ordinary receipts:	
Sinking fund	$284,018,800.00
Purchase from foreign repayments	32,140,000.00
Received from foreign governments under debt settlements	68,752,950.00
Received for estate taxes	6,568,550.00
Purchases from franchise tax receipts (Federal reserve banks)	10,815,300.00
Forfeitures, gifts, etc	554,891.10
Total	402,850,491.10
2. Public debt retirements from surplus money (surplus was $309,657,460.30, but only $210,823,851.85 was used to retire debt in fiscal year 1923, the remainder, $98,833,608.45, being added to general fund balance and used to retire debt in the next fiscal year, 1924)	210,823,851.85
Total	613,674,342.95
Total gross debt June 30, 1922	22,963,381,708.31
Total gross debt June 30, 1923	22,349,707,365.36
Decrease	613,674,342.95
General fund balance June 30, 1923	370,939,121.08
General fund balance June 30, 1922	272,105,512.63
Increase June 30, 1923	98,833,608.45

Senator JONES of New Mexico. I think, Mr. Chairman, one of the first things we had better settle on is the question of how much we must raise for the retirement of the public debt. Senator McCORMICK is evidently interested in that. I was looking over that statute, which Mr. Winston furnished me yesterday, and we have not been proceeding in accordance with that statute, in my judgment. I don't think that that statute is binding upon the Government, but that is a matter which I think the committee ought to determine. There is some question about it. It is not clear, one way or the other.

Senator MCCORMICK. We have one statute here. Where is the other?

The CHAIRMAN. I don't know which statute the Senator has.

Senator MCCORMICK. This is the one with regard to the funding of the Liberty loan.

The CHAIRMAN. The 2 per cent sinking fund was in the act itself, in the revenue act.

Senator JONES of New Mexico. I think we ought to get that before us, too.

Senator MCCORMICK. Senator Jones brought out, if I remember, the distinction between our obligation, setting aside 2.5 per cent on account of the $10,000,000,000 of—let us call it the domestic debt—and any obligation which might arise with regard to the foreign debt. We ought to have the text of that.

Senator JONES of New Mexico. I am not undertaking to say that the Secretary of the Treasury was unauthorized to do everything that has been done by way of retirement of the public debt, but the point I am getting at is whether we could not modify that if we saw

fit to do so. It strikes me, in view of the extraordinary expenses which the Government has had during the past few years, and the depression in the country at this time—or, certainly, in some sections of the country—that if we could consistently do so, we might curtail our reduction of the indebtedness of the country more than we are doing.

I am not criticizing anything that has been done at all, but I am just suggesting the policy of our going into the question and ascertaining if we can cut this retirement of the debt, if we think it is advisable to do so.

I am not convinced from a reading of that statute that we are under an obligation to make the retirements which have been made. They have been all authorized by law, but I think we are free to modify that law if we care to do so. We have been retiring this debt at a tremendous rate.

Secretary MELLON. In the retirement of the debt there were the surplus supplies, etc., which will not be a continuing receipt to be used in that direction.

Senator JONES of New Mexico. That is quite true, but according to this statement which you furnished us this morning, I observe that the capital expenditures since 1920 have been very great as compared with the capital receipts, showing that we have been taking care of a very extraordinary situation, and in addition to that making these very substantial retirements, and it occurred to me that we might lessen the tax burden at this time to some extent by reducing the amount of the retirement of the public debt.

Secretary MELLON. Exactly, but the point I was making was that these retirements are a large factor in the reduction.

Senator JONES of New Mexico. That is true, but at the same time we have been making capital expenditures. For instance, you are estimating here $68,000,000 for the settlement of the railroad situation. That is what might be termed a capital expenditure, or an extraordinary expense, at any rate, and it seems to me——

Mr. WINSTON (interposing). Well, if you think we should use the receipts from the railroads when they are paid back by the railroads——

Senator JONES of New Mexico. I don't think we should consider the application of any particular fund to any particular purpose. I think we should reach a conclusion as to how much there should be paid in the retirement of the public indebtedness each year, and then estimate our receipts. I don't think this Government has reached the point where it can apply any specific receipts to any specific purpose, but it is a question of total receipts and total expenditures, and how much we want to apply on the public indebtedness.

Mr. WINSTON. It must always be borne in mind that certain representations were made by the Government when it sold these bonds.

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

Mr. WINSTON. It is necessary to carry out those representations.

Senator JONES of New Mexico. I understand that. That is why I suggested that we get these statutes before us and find out whether there is any obligation to reduce this debt by the amount by which it is being reduced.

Mr. WINSTON. There is no obligation, of course, to reduce the debt out of surplus moneys. That is surplus, and you can do with that as you please.

Senator WATSON. In other words, you think the indebtedness each year should be reduced by the amount of the sinking fund——

Senator JONES of Mexico. That is the question I want to bring up for discussion.

Senator WATSON. I want your opinion.

Senator JONES of New Mexico. I think that would be enough, in my opinion. I think $250,000,000 on the actual reduction would be a substantial amount.

Mr. WINSTON. You must remember that when that was passed it was assumed that we would take care of the other half of the debt.

Senator JONES of New Mexico. I understand that, but the question is whether under our obligations to the bondholders we are required to keep up retirements to that extent.

The CHAIRMAN. Well, the act says we shall. I will read all three acts affecting the sinking fund and the application of payments made by foreign countries, and our obligations.

Senator JONES of New Mexico. If you will allow me first to explain that statute which we were looking at yesterday regarding the application of receipts from foreign obligations, I think I can make it somewhat clearer that we have not followed the act at all.

The CHAIRMAN. I don't know.

Senator JONES of New Mexico (interposing). The act itself says that all of these receipts shall be applied to the payment of the bonds issued under that act when they are available, at par or less. Those are the 3½ per cent bonds. We were not pursuing that at all. We have changed the thing so that the receipts from the English Government, for instance, were turned in on the second 4¼ and the fourth 4¼. In other words, we have not been complying with that act at all, and therefore I assumed we were not obligated to do it. These 3½ per cent bonds have been available right along at par or less, and I think on one or two occasions they have gone above par, but as the rule they have been under par and have been available under that act at the price fixed, but we have not applied the money received from the foreign indebtedness to the retirement of that bond issue, so that we have not been complying with that law, and I take it we are under no obligation to do that.

Mr. WINSTON. The sinking fund is carried into the second Liberty loan act and the sinking fund applies to all the bond issues.

Senator JONES of New Mexico. That is your construction of it.

The CHAIRMAN. Let us put the whole thing in right at this time. Your statement applies to the first Liberty loan act, but not to the second.

Senator JONES of New Mexico. And the first Liberty loan act is the only one I know anything about which relates to the foreign indebtedness.

The CHAIRMAN. I know that the Senator is wrong there. There is a later act, and I will read the provisions of the act.

Senator JONES of New Mexico. There was this treaty settlement with Great Britain.

The CHAIRMAN. This is the act.

(The act in question is as follows:)

[First Liberty bond act, approved April 24, 1917.]

SEC. 3. That the Secretary of the Treasury, under such terms and conditions as he may prescribe, is hereby authorized to receive on or before maturity payment for any obligations of such foreign Governments purchased on behalf of the United States, and to sell at not less than the purchase price any of such obligations and to apply the proceeds thereof, and any payments made by foreign governments on account of their said obligations to the redemption or purchase at not more than par and accrued interest of any bonds of the United States issued under authority of this act; and if such bonds are not available for this purpose the Secretary of the Treasury shall redeem or purchase any other outstanding interest-bearing obligations of the United States which may at such time be subject to call or which may be purchased at not more than par and accrued interest.

Senator JONES of New Mexico. What I was calling attention to is this fact; that we have not complied with that act. The Congress is responsible for it, because in the ratification of the settlement with Great Britain we made another provision, so that the receipts from the Great Britain settlement were not used for the retirement of that first issue, as it says.

The CHAIRMAN. But it goes on to say "for the purchase of any other outstanding obligations."

Senator JONES of New Mexico. If not available at par. They have been in the market, as we all know, available at par and less.

The CHAIRMAN. I am now going to call attention to the second Liberty loan act.

(The second Liberty loan act was read, as follows:)

[Second Liberty bond act, approved September 24, 1917.]

SEC. 3. That the Secretary of the Treasury is hereby authorized, from time to time, to exercise in respect to any obligations of foreign Governments acquired under authority of this act or of said act approved April twenty-fourth, nineteen hundred and seventeen, any privilege of conversion into obligations bearing interest at a higher rate provided for in or pursuant to this act or said act approved April twenty-fourth, nineteen hundred and seventeen, and to convert any short-time obligations of foreign Governments which may have been purchased under the authority of this act or of said act approved April twenty-fourth, nineteen hundred and seventeen, into long-time obligations of such foreign Governments, respectively, maturing not later than the bonds of the United States then last issued, under the authority of this act or of said act approved April twenty-fourth, nineteen hundred and seventeen, as the case may be, and in such form and terms as the Secretary of the Treasury may prescribe; but the rate or rates of interest borne by any such long-time obligations at the time of their acquisition shall not be less than the rate borne by the short-time obligations so converted into such long-time obligations; and, under such terms and conditions as he may from time to time prescribe, to receive payment, on or before maturity, of any obligations of such foreign Governments acquired on behalf of the United States under authority of this act or of said act approved April twenty-fourth, nineteen hundred and seventeen, and, with the approval of the President, to sell any of such obligations (but not at less than the purchase price with accrued interest unless otherwise hereafter provided by law), and to apply the proceeds thereof, and any payments so received from foreign Governments on account of the principal of their said obligations, to the redemption or purchase, at not more than par and accrued interest, of any bonds of the United States issued under authority of this act or of said act approved April twenty-fourth, nineteen hundred and seventeen; and if such bonds can not be so redeemed or purchased, the Secretary of the Treasury shall redeem or purchase any other outstanding interest-bearing obligations of the United States which may at such time be subject to redemption or which can be purchased at not more than par and accrued interest.

Senator JONES of New Mexico. It uses the same language, substantially, as the first act.

The CHAIRMAN. No; it is broader than that.

Senator JONES of New Mexico. It extends itself.

The CHAIRMAN. Yes; this is extended to all obligations. It goes on here, "or of said acts of April 24, 1917, and if such funds can not be so redeemed." This is broader than the first one, which provided that the Secretary of the Treasury shall redeem or purchase any other outstanding interest-bearing obligations of the United States which may at that time be subject to redemption or which can be purchased at not more than par and accrued interest, so that under that he can purchase any obligation of the Government.

Senator JONES of New Mexico. He can do it under the first act if the bonds issued under the act are not available at par or less, but those bonds under the first act and the second act have been available at par or less right along in the market. Under our settlement with Great Britain, however, we have been diverting that fund to any of the bonds of the United States which Great Britain may see fit to purchase.

Secretary MELLON. But isn't there authority in this second act to do so?

Senator JONES of New Mexico. I don't think there is if the bonds issued under the act are available at par or less. It provides for the purchase of those bonds at par or less, and what we did in our settlement with Great Britain was to violate both of those acts.

The CHAIRMAN. No; it was in the act, and in the settlement with Great Britain there is a specific provision under which we can redeem any of the obligations.

Senator JONES of New Mexico. That is what I say. The Congress itself in framing the settlement with Great Britain ignored those two statutes. Those two statutes were passed for the purpose of retiring bonds issued under these acts if they were available at par or less, and in our act ratifying the settlement with Great Britain we ignored those statutes entirely.

The CHAIRMAN. We extended the power.

Senator JONES of New Mexico. No, no; you made it so that Great Britain has been purchasing bonds other than those.

Mr. WINSTON. They turned into us last year in debt settlement $160,000,000 of second Liberty bonds.

Senator GERRY. Didn't they have a lot of those bonds on hand?

Mr. WINSTON. I don't know.

Senator JONES of New Mexico. But that is aside from the point we are discussing. The act confirming the Great Britain settlement does not require that they shall purchase the second Liberty bonds.

Mr. WINSTON. But the third Liberty bonds and the other bonds are all part of the second Liberty loan act, as an amendment to that act.

Senator WATSON. How do you construe that, Mr. Secretary, in applying the $162,000,000?

Secretary MELLON. That which the chairman has just read gives the authority.

The CHAIRMAN. Well, Mr. Secretary, the act of settlement specifically states there that we can take any bonds of the United States.

Senator JONES of New Mexico. It does.

Senator WATSON. Then, it was the fault of the Congress in the passage of that act, not in the interpretation given it by the Secretary.

Senator JONES of New Mexico. Yes; I am not criticizing anything the Treasurer has done in this matter. I think that the settlement act with Great Britain authorizes everything that has been done, and the Secretary of the Treasury has been quite within the act of Congress, but the point that I am making is that we have not considered those statutes which have been read as absolutely binding upon the Congress of the United States.

Senator WATSON. I think you are right about that.

Senator MCLEAN. Because they have been modified by law.

Senator JONES of New Mexico. Well, then, if we had authority to modify these acts, we have authority still to modify them if, in our judgment, they should be modified.

The CHAIRMAN. We can not modify the contract.

Senator MCCORMICK. Along the line of the suggestion of the Senator, I ask for the convenience of the Senators of the committee that the text of the two acts may be copied and put at the desk of each Senator to-morrow.

The CHAIRMAN. Do you mean the whole act?

Senator MCCORMICK. No; just that part which has to do with this matter.

The CHAIRMAN. The first Liberty loan act will be found in section 3. The second Liberty loan act will be found in section 3 also. In fact, you might just as well put the two sections in. I did not read "that the Secretary of the Treasury is authorized," etc. I just read the substance of it.

Senator MCCORMICK. I wonder if we could have a supplementary statement from the Treasury showing how much, if any, the national debt has been reduced in excess of the provisions of the law to which allusion has been made.

Senator WATSON. I was going to ask that question. In the payment of the debt, Mr. Secretary, you construed that you had the right to use sums equivalent to the sinking fund?

Secretary MELLON. Yes.

Senator WATSON. Plus the sum you received from Great Britain?

Secretary MELLON. Yes, sir.

Senator WATSON. Plus the extraordinary sums that came in over and above the receipts you ordinarily get?

Secretary MELLON. Yes.

The CHAIRMAN. The Senator from Illinois wanted the provisions of the sinking fund. That is found in the act of March 3, 1919, in section 6, and I ask that this section 6 of that act be printed following the two other sections of the bond act.

Senator JONES of New Mexico. And I wish you would read that.

The CHAIRMAN. I will read it right at this time. This is the act of March 3, 1919. This is the act to amend the Liberty bond act and the War Finance Corporation act, and for other purposes.

(The act was read, as follows:)

[Victory Liberty loan act, approved Mar. 3, 1919.]

SEC. 6 (a). That there is hereby created in the Treasury a cumulative sinking fund for the retirement of bonds and notes issued under the first Liberty bond act, the second Liberty bond act, the third Liberty bond act, the fourth Liberty bond act, or under this act, and outstanding on July 1, 1920. The sinking fund and all additions thereto are hereby appropriated for the payment of such bonds and notes at maturity, or for the redemption or purchase thereof before maturity by the Secretary of the Treasury at such prices and upon such terms and conditions as he shall prescribe, and shall be available until all such bonds and notes are retired. The average cost of the bonds and notes purchased shall not exceed par and accrued interest. Bonds and notes purchased, redeemed, or paid out of the sinking fund shall be canceled and retired and shall not be reissued. For the fiscal year beginning July 1, 1920, and for each fiscal year thereafter, until all such bonds and notes are retired there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purposes of such sinking fund, an amount equal to the sum of (1) 2½ per centum of the aggregate amount of such bonds and notes outstanding on July 1, 1920, less an amount equal to the par amount of any obligations of foreign governments held by the United States on July 1, 1920, and (2) the interest which would have been payable during the fiscal year for which the appropriation is made on the bonds and notes purchased, redeemed, or paid out of the sinking fund during such year or in previous years.

The Secretary of the Treasury shall submit to Congress at the beginning of each regular session a separate annual report of the action taken under the authority contained in this section.

Senator JONES of New Mexico. Now, the point I make there is that that act was not passed for the benefit of any special bondholders, and it is only within the discretion of the Congress whether we shall continue it or not.

The CHAIRMAN. There is no doubt about that.

Mr. WINSTON. It is for the benefit of all bondholders.

Senator JONES of New Mexico. But it was passed for the benefit of bondholders who bought the bonds before the act was passed.

Mr. WINSTON. No; the bonds are being dealt in every day. It is not only the original purchaser who has a contract with the Government.

Senator JONES of New Mexico. I know, but if you will let me do the arguing, I think we will get along better. As a proposition of law, it is my contention that we have a legal right to modify that statute if we see fit to do it, as with the other statutes which have preceded it, and therefore the question, as an original one, before us now, is how much we want to retire the public debt each year. I think we have a perfect legal right to modify that funding act, and we have already ignored the other acts, and the matter is now before us to be dealt with as, in the judgment of the Congress, it should be dealt with.

Senator WALSH of Massachusetts. Wasn't it the purpose of this act, and did it not result in the stabilizing of the price of bonds?

Senator JONES of New Mexico. It did have that effect. I favored the passage of the act at the time it was passed, and I think it has served a good purpose and has been handled in a very proper way.

Senator WALSH of Massachusetts. I don't think there is any doubt about our right to change the law. Does anybody question that?

Mr. WINSTON. I do not question your right to change the law. You can repudiate the debt completely. It is entirely within the right of the Government to do that.

Senator WALSH of Massachusetts. Oh, no.

The CHAIRMAN. Yes.

Mr. WINSTON. It is entirely legal. If you change this sinking fund, you are changing a part of your representations to the public. You may change the sinking fund or you may say, "We will only pay 70 per cent of the principal." There is no difference.

Senator GERRY. Do you claim it is a part of a contract with the public?

Mr. WINSTON. Yes; the public bought these bonds with knowledge.

Senator WATSON. The question is one of policy as to whether this debt should be paid just as rapidly as possible or spread over many years.

Senator SIMMONS. Nobody would consider any change in the sinking-fund provision.

Senator WATSON. That is what I tried to get at awhile ago; that the Secretary had paid the sinking fund, plus the money from Great Britain, plus the extraordinary receipts, and he construes the act as authorizing that.

Secretary MELLON. If you take into account those extraordinary receipts, the reductions from those receipts, the difference, or the amount of the public debt which has been reduced in excess of the sinking fund and those receipts, it is not very much.

Senator WATSON. Of course, the actual net reduction of public debt last year was in excess of a billion dollars; $212,000,000 was cash on hand, the remainder from England, the sinking fund, and extraordinary receipts.

Mr. WINSTON. That is right. There was about four hundred and odd million from England and the sinking fund.

Senator WATSON. $212,000,000 was cash on hand. There you have six hundred and some million and the remainder you got from extraordinary receipts.

Secretary MELLON. Of course, the cash on hand is not of that nature. The cash on hand is just what happens to be in the account through the operation of taking care of the floating debt, but it is not a permanent reduction. There is just that much less borrowing that was done at that time.

The CHAIRMAN. Senator Watson, it simply means this, that the Treasury used the money they had on hand and stopped the interest so far as they could.

Senator WATSON. I understand that thoroughly.

The CHAIRMAN. And some time in the future they have got to raise the money from some source.

Senator WALSH of Massachusetts. But we do want to decide how much we are going to pay of this debt during the present generation. Personally, I think we are paying off too much.

The CHAIRMAN. Personally, I don't think we are.

Senator SIMMONS. With regard to the application of this money to the liquidation of the bonds, outside of the sinking fund, I don't regard that in the nature of a contract with the purchasers of those bonds. I think in construing that, and the purposes of the Government, we have to consider the conditions that confronted us then. We were in a war, or about to enter the war, and nobody knew how much money we would have to spend.

The CHAIRMAN. We were in the war.

Senator SIMMONS. Nobody knew what the volume of debt the Government would have to take on would be, and it was thought there might be fears about the solvency of the Government, about its ability to meet these obligations, and to quiet those fears we put this provision in in the nature of—while they are mandatory in terms—in the nature of directions or promises that the Government would protect these bonds against depreciation. Those fears were quieted; the bonds were sold. The war is ended. There isn't any apprehension on the part of any purchaser of these bonds as to the ability of the Government to meet its obligations in that respect, and I think it is perfectly legitimate if the Government wants to—it is not violating any contract with the people; it is not reducing their securities at all; it is not impairing their values at all for the Government to say, as a matter of policy: "We want to change that much of the law."

Now, so far as the contract with Great Britain is concerned, if that is different, as the Senator from Utah says it is, I don't think we have any right to change the law as it is now written so as to affect those bonds.

The CHAIRMAN. We can't; that contract is made.

Senator JONES of New Mexico. No; but what we could do is to consider the bonds which Great Britain turns over to us as applying to the sinking fund.

Mr. WINSTON. Your argument goes to the proposition that you say it is no longer necessary for this sinking fund?

Senator SIMMONS. No; I do not. I said it was absolutely necessary that the sinking fund should be maintained, and I said that my argument was not directed toward the sinking fund at all. Of course, the Government ought not to change that. I regard that in the nature of a contract.

Senator JONES of New Mexico. If we want the retirement of the public debt, we can do so and be within the spirit of the sinking fund by applying the bonds Great Britain turns over to us to this sinking fund account. That was about $160,000,000 a year, and we could purchase with our sinking fund those bonds from Great Britain, and in that way reduce the amount applicable to the debt if we saw fit.

The CHAIRMAN. Senator Jones, I had no such idea as that at all in the passage of this law, and it was never mentioned on the floor of the Senate. The question was this: "How long do we want to take, by the establishment and maintenance of a sinking fund, to pay the Government's obligations off?" The 2½ per cent provided for was to take care of some ten billions to eleven billions of dollars, and that would be paid off, with the amount of the sinking fund, based on 2½ per cent, within 33 years and 5 months, as I remember the exact time. Now, the balance of the obligations of the Government was to be paid off by retirement of foreign obligations. Or, in other words, the amounts we had advanced to foreign countries were to take care of the other obligations. Now, we gave England 62 years to pay that off. If we undertake to take that money and put it into the sinking fund, we will not have half of the obligation paid off for 62 years or more.

Senator JONES of New Mexico. The chairman is quite right as to our reasoning in the past regarding those laws, but we never figured

that that constituted a part of the consideration for these bonds which we sold on the market. Now, what I am getting at is this: In addition to what I have said, assuming we do not want to curtail the reduction of the permanent debt, the indebtedness of the country, I think that we should reduce this so-called floating debt rather than these long-term bonds which are being purchased. This floating debt is costing us a great deal more than these long-term bonds.

Senator McCORMICK. How much more?

Senator WALSH of Massachusetts. Five and a half per cent in some cases.

Secretary MELLON. Some are less.

Senator WALSH of Massachusetts. There are some 5½ per cent outstanding.

Senator JONES of New Mexico. Mr. Secretary, here is where I think there may be a suggestion which you do not at present have in your mind. These floating certificates are usually held by banks, are they not, and other corporations?

Secretary MELLON. And investors, too.

Senator JONES of New Mexico. But in the main by the banks and trust companies, and so on?

Secretary MELLON. Yes, sir.

Senator JONES of New Mexico. They are absolutely nontaxable in the hands of those institutions, so that really this floating indebtedness is nontaxable in practical effect.

Senator SIMMONS. Senator Jones, let me make this suggestion: As I understand, you have provided a sinking fund applicable to a part of this debt, the part which is not foreign. That amounts to ten or eleven billions of dollars. That sinking fund is upon the basis of final payment in about 20 years, isn't it?

The CHAIRMAN. It would be paid in 31 years and 5 months from the time we began.

Secretary MELLON. Thirty-one years.

Senator SIMMONS. That is the basis on which it was figured. Why can we not pass another act providing for a sinking fund for the foreign debt on the basis of 62 years, that being the time of the settlement made with Great Britain and I presume will be the terms of our settlements with other foreign governments.

Mr. WINSTON. You mean to change the law?

Senator SIMMONS. No; let the present law, which applies only to our domestic bonds, continue as it is. Do not disturb that. We can not disturb it and ought not to disturb it. But as to the foreign indebtedness, my understanding is we have not made any provision for a sinking fund at all. Am I right about that?

The CHAIRMAN. No; we have not.

Senator SIMMONS. We made no arrangement for a sinking fund, but we have an arrangement with Great Britain, to begin with, for the settlement of those, based on 62 years. Why can't we pass an additional sinking fund providing a sinking fund to pay this foreign indebtedness based upon a period of 62 years?

Senator REED of Missouri. I think that Senator Simmons is mistaken. We have not got any foreign debt and any domestic debt. We have a domestic debt here of approximately twenty billions. We incurred that debt when we issued those bonds to the American people. The American people took them, or substantially all, and

we provided in the law under which they were issued that there should be a sinking fund created to pay those bonds.

Senator SIMMONS. No; we excluded from that sinking fund provision these obligations of the foreign Governments.

The CHAIRMAN. But we did provide, Senator, that wherever there was a payment made from a foreign country it should apply to the obligations of our Government.

Senator REED of Missouri. And it provided further that the bonds should be similar in terms as to time of payment and everything else. We have already violated that.

Secretary MELLON. It was contemplated in that provision with regard to the repayment by foreign Governments that those payments would be made; that they would be received.

Senator SIMMONS. We did do this, Mr. Secretary; we did provide a sinking fund for a part of our bonds.

Secretary MELLON. And, as I say, at that time it was contemplated that the foreign debt, principal and interest, would be received.

Senator SIMMONS. That ought to be a part of any provision for a sinking fund to take up those debts that we hold abroad.

Secretary MELLON. Suppose, for instance, all of the foreign debt should become obsolete or impossible of collection. Then wouldn't it, under the policy adopted, be the obligation of the Government to increase that sinking fund from 2½ per cent to 5 per cent? I mean, suppose the foreign debt should be wiped out for some reason.

Senator SIMMONS. That would be a question of policy, I should say.

Secretary MELLON. But I mean the policy as adopted in the sinking fund act.

Senator WATSON. In other words, his contention is that the $10,000,000,000 of obligation here at home, which we call our domestic debt, should be taken care of with the sinking fund, and that the other be taken care of by the actual payment of the money by these foreign countries.

The CHAIRMAN. With a sinking fund providing only the amount England is paying it will take 62 years to pay her part of it, but there are $6,000,000,000 and over besides that.

Senator REED of Missouri. Is the clause or provision with reference to the sinking fund written on the face of our bonds?

The CHAIRMAN. No.

Senator REED of Missouri. It is merely in the statute?

Senator JONES of New Mexico. No; it was passed subsequently to the three issues.

Senator REED of Missouri. Then, of course, there is no contract. I want to say this about this debt. Of course, I opposed this British settlement. I thought we had no right to make it under the law, as I thought the law under which we issued our bonds to the American people was a contract with the American people, and that law provided that the foreign bonds should absolutely take the place of the domestic bonds; that is, they would be similar in terms, time of payment, interest, and everything else, which was the intent. It was the intent that one hand should wash the other. Now, we have violated that. I think we made a very bad contract, but it is made.

The CHAIRMAN. You couldn't make it again to-day.

Senator REED of Missouri. We are paying 4½ per cent on our bonds. What is England paying?

The CHAIRMAN. 3 per cent.

Senator REED of Missouri. I said then it was a bad trade, and I say so now, and will continue to say so.

The CHAIRMAN. If we hadn't made it we would not have any contract now.

Senator REED of Missouri. Then we would have had a fight. This thing of somebody saying he won't do something makes me tired.

The CHAIRMAN. Well, we would have plenty of places to fight.

Senator REED of Missouri. We will have if America does not show her teeth a little bit. If she doesn't she will be robbed, and I am getting tired of being an international chump. While we are discussing this thing, and aside from any present emergency, I think this debt of the American Government ought to be reduced just as fast as it can, even if it draws some blood while we are doing it. We have a good deal of talk about preparation. I would rather take the United States without a ship on the ocean, without a soldier in the field, and free of debt and have her enter a great war, than to have her enter a great war with all the soldiers and all the navies you could get and in debt 40 or 50 billions of dollars. Of course, we are not in debt that much. I would rather have that condition exist, because if you are not conquered in the first 90 days, on the last end it is a question of the fellow with the good bank account that wins these wars. I don't want to burden the people. My present impression, which is a very strong one, although I do not think it is the final one, is that this money that comes in from Great Britain ought to be used to wipe out that British debt.

Senator WALSH of Massachusetts. In addition to the sinking fund?

Senator REED of Missouri. Yes; we ought to keep up our sinking fund. We ought to save some money by cutting down expenses.

Senator JONES of New Mexico. Let me make this suggestion. We have extraordinary expenses still going on. For instance, here it is estimated that we will pay $68,000,000 to the railroads, and you know that our Veterans' Bureau is under unusual expense. The expenses of that bureau are being reduced, but we not only have been, but still are, under the necessity of providing extraordinary expenses, and the thought occurred to me that while we were paying those extraordinary expenses we might cut down our public debt to some extent.

Senator WATSON. It would be pretty hard for us to raise this program until we knew what Congress is going to do. Here is this Norbeck bill carrying an appropriation of $50,000,000. Here is the McNary bill, carrying $200,000,000, to say nothing of the bonus.

Senator JONES of New Mexico. I think we should consider the advisability of not providing so much for the payment of our public debt at this time.

Senator REED of Missouri. Well, if there is an absolute emergency and an unusual thing, that is one question, and that is not going to come again, but my experience down here has been long enough so that I am getting to the point where I can call myself an old resident—it has been long enough to know that if there is money down here in this Treasury in some way or other it is going to be raided, and the only safe way in the world to save this money is to pay it

out just as soon as we get it on some debt and get the debt wiped out. The railroad claim may be an unusual claim this year, and there may be something in that argument, but don't let us establish the policy that we are going to take this money that we get back on these bonds and use it for some other purpose. Let us use it to wipe out that infernal debt, because I repeat, if we ever get into a war, and we are going to get into a war some of these days—I don't mean necessarily in my lifetime, but a man is not fit to be a member of the Government who does not think at least 50 years ahead. This Government can be free of debt and all the rest of the governments in debt, and it would be the best means of preventing war in the world, because they will say: "There is a fellow over there who has unlimited credit. They don't owe anybody any money, and we don't want that job on our hands."

I think we really made a contract with the American people when we needed these bonds, that so far as the $10,000,000,000 was concerned, that we proposed to take from those nations to which we loaned it, bonds exactly like our bonds, due in exactly the same time, bearing the same rate of interest, and if we had to change our rate of interest to a higher rate, then their bonds were to go up.

The first fatal mistake we made was by giving them the money until we got the bonds. I don't have any hesitancy in saying that any man who was a party to that ought to have been impeached. I said so then. He had no more right to give that money out without the bonds than he had to give it out without anything, but we are in this fix, and the best way to get out of it is to take what we do get in and cut that other debt down.

Senator JONES of New Mexico. Of course, as Senator Reed says, all of those bonds which we issued during the war, whether money for the use of our Treasury, or money to be loaned to foreign governments, were taken up by our own people, and held by our people, and they are all entitled to the same consideration from the Government.

Now, we provide for the payment of interest. We had to do that. We provided for a sinking fund for a part of them. Now, if we should extend the present sinking fund law so as to include all of our bonded indebtedness incurred on account of the war, and then segregate, or rather allocate, such moneys as we get from foreign governments, first to the payment of the interest charges and next to be applied to the sinking fund, wouldn't that be a much better arrangement than the one we have now?

The CHAIRMAN. Senator, it would not pay the additional sinking fund.

Senator JONES of New Mexico. If it did not, we would have to raise the money to pay it, but so much of it, as far as it will go, should be applied first to the payment of interest.

Mr. WINSTON. Let me find out if I understand you correctly. The present sinking fund was calculated to retire one-half of the war debt in 31 years?

Senator JONES of New Mexico. Yes.

Mr. WINSTON. You propose to create an additional sinking fund which will retire the other half in the same period?

Senator JONES of New Mexico. Exactly.

Mr. WINSTON. In other words, the sinking fund will be just double what it is to-day?

Senator JONES of New Mexico. Yes.

Mr. WINSTON. Instead of reducing it by the British refund of $160,000,000, we would reduce it by $300,000,000 or more, so that our sinking fund would be $600,000,000 instead of less than $400,000,000.

Senator JONES of New Mexico. But if we got any money from the foreign governments that would be applied to reducing the sinking fund.

Mr. WINSTON. But that would make us reduce the debt faster than we are doing it to-day.

Senator JONES of New Mexico. I don't know whether it would or not. Would it, if we got the money from Great Britain?

The CHAIRMAN. We get $160,000,000 a year. The very highest amount that will occur at any time is about $172,000,000, and that is about 20 years off. The Senator's proposition is this: The sinking fund would be even more than it is now.

Senator SIMMONS. I understand that. It would be more for the present, but as these governments refund the debt, and we get the money from them, it will be reduced. My idea was, just along the line of Senator Jones's, that it is very desirable to determine definitely how much money we are going to use in this country for the purpose of retiring these bonds. That fixes it definitely.

The CHAIRMAN. Why not leave the sinking fund as it is, also the law as it is, and if you want to restrict the payments to foreign obligations, do it by a reduction of taxes. Then they can't get away from it.

Senator WALSH of Masschusetts. I personally think we should fix as definitely and as absolutely as possible the amount of money we are going to pay on our debt each year, and let the rest of the money we do not use for current expenses be kept in the pockets of the American people.

Secretary MELLON. That is virtually accomplished by what Senator Simmons proposes.

Senator WALSH of Massachusetts. I don't think the Secretary of the Treasury should be tempted—and I am not talking now about the present secretary, or any secretary—to keep up taxes so that he could make a good showing and be able to put two billion or three billion dollars a year into the paying of the debt. It should be fixed as to how much he could apply to the debt, and the rest should be kept in the pockets of the American people.

The CHAIRMAN. That is what I wanted to try to arrive at before we begin on the rates in this bill.

Secretary MELLON. That can be accomplished by the plan which Senator Simmons has proposed; that is, making the sinking fund adequate to cover the whole debt.

Senator WALSH of Massachusetts. Exactly.

Secretary MELLON. But if that had been done, our reduction of indebtedness would have been substantially the same as it has been. I don't think we have exceeded that.

The CHAIRMAN. We are under it.

Secretary MELLON. No; we have not. We are below it.

Senator SIMMONS. Take what Great Britain has paid——

Mr. WINSTON (interposing). That is $160,000,000. The sinking fund is $298,000,000. If you had just double that, you would have practically six hundred million as against two hundred and ninety-eight million plus one hundred and sixty million.

The CHAIRMAN. It would be $132,000,000 short.

Senator SIMMONS. But you would be retiring then some part of all the bonds of the United States issued for war purposes.

Mr. WINSTON. We are doing it now.

Senator SIMMONS. You did it last year by taking $300,000,000 and odd surplus and applying it.

The CHAIRMAN. That is what is going to reduce taxes.

Senator SIMMONS. We would have to apply money from the taxes only to the extent of the difference.

The CHAIRMAN. Thank the Lord there are some $300,000,000 of our debt paid.

Senator WALSH of Massachusetts. We all want it paid.

The CHAIRMAN. We are here now for the purpose of reducing the sinking fund.

Senator STANFIELD. We are only providing a sinking fund for half of our debt. That is not an intelligent way to do.

Senator SIMMONS. Those bonds are held by American people and they ought to be treated all alike.

Senator JONES of New Mexico. They are all treated alike.

The CHAIRMAN. Senator Simmons, would you agree to a proposition of that kind, for a sinking fund?

Senator SIMMONS. I think I would. I am merely discussing it now, however.

Senator REED of Missouri. As I understand it, it will make our burdens greater instead of less.

The CHAIRMAN. But our debt would be paid in less time.

Senator SIMMONS. It would be greater until we began to get money from foreign governments.

The CHAIRMAN. If you got the money from France and Spain and Belgium.

Mr. WINSTON. It would add $140,000,000 to your expenditures.

Senator MCLEAN. How much could we reduce taxes?

Mr. WINSTON. On the basis of $395,000,000, if you add $140,000,000 expenditures, you would have $255,000,000 to reduce taxes.

Senator SIMMONS. But we would be certain then that we were going to reduce this indebtedness so much every year, and we would be not certain then that no more than that amount was to be applied. You wouldn't be taking this fund and that fund and investing it.

The CHAIRMAN. I will agree that that kind of a proposition go into the law.

Senator SIMMONS. I am not talking about agreeing to anything at the present time. I am simply inquiring about it.

Senator REED of Missouri. We started out with the idea that we would borrow $20,000,000,000 and loan half of it to foreign countries and get back bonds similar in terms, and we would never have to pay that $10,000,000,000; that one hand would wash the other, and we created a sinking fund as to the $10,000,000,000 we did expect to have to pay. Since that time we have made an arrangement with Great Britain with reference to four and one-half billion that they owe us and that is a long-term payment.

Now, would there be anything wrong in providing for a sinking fund of $10,000,000,000 for what I will call the "domestic" debt, although it is all domestic, and then providing a sinking fund or a method to wipe out the entire foreign debt?

Senator SIMMONS. That was my first proposition, Senator.

Senator REED of Missouri. In 62 years on that same basis. It seems to me, assuming that the other Governments will come in and make an agreement like Great Britain, we would then be on a business basis, wouldn't we, Mr. Secretary?

Secretary MELLON. We would.

The CHAIRMAN. If all the other countries would pay their money.

Senator REED of Missouri. If they do not come in, of course, we would have to meet that condition here in this country, but I would like to see how it would figure out on that basis.

Secretary MELLON. You would be on a fixed basis, but you wouldn't be on a basis to provide an adequate sinking fund.

The CHAIRMAN. You would take care of the English debt, because they have made a settlement.

Senator WALSH of Massachusetts. You would take care of our bonds as they mature.

Secretary MELLON. But you would not have an daequate sinking fund to do so.

Senator WATSON. I understand your proposition is to credit the sinking fund with the foreign payments.

Senator SIMMONS. Yes.

Senator WATSON. Put the foreign payments into that sinking fund as we receive them?

Senator SIMMONS. Yes.

Senator WATSON. That would not enable us to reduce taxes, would it?

Senator STANFIELD. Yes; $160,000,000, as we got from the figures yesterday. For the next fiscal year the present sinking fund is $310,000,000, and you are going to get in addition $162,000,000 from foreign governments. Now, then, if you have a double sinking fund to provide for, there is $148,000,000 additional to take out of our present surplus and put into the sinking fund, and that will leave us $180,000,000 of surplus which we can apply to a reduction of taxes.

Senator WALSH of Massachusetts. Does this mean that if we double this sinking fund that in 31 years the entire thing will be wiped out?

The CHAIRMAN. Thirty-one years from the time the 5 per cent begins.

Senator WALSH of Massachusetts. I am opposed to wiping this out in 31 years..

Senator SIMMONS. Have we entered into an agreement with any bondholders; is there anything in the law that is tantamount to an agreement that they are to be paid within a certain period?

The CHAIRMAN. You mean their debt?

Senator SIMMONS. Yes.

The CHAIRMAN. Oh, yes; all those bonds are to be paid on due date. There isn't a bond that we have issued that is not payable between now and 1947.

Senator SIMMONS. Is there anything sacred in the figures that we have used there as to the sinking fund? Could we not, if we wanted

to, provide a sinking fund for all indebtedness? Is there anything in the law that we would not be at liberty to change, reducing the amount of the sinking fund?

Senator JONES of New Mexico. The present sinking fund does apply to the whole indebtedness.

Senator SIMMONS. But it is not made sufficient to take care of more than half.

Senator JONES of New Mexico. It is just a question of what length of time.

Secretary MELLON. It was made up in contemplation of its being supplemented by this additional.

The CHAIRMAN. It says so in the law.

Senator JONES of New Mexico. No; that is only a basis for calculation; 2½ per cent of the amount of the bond issue, less the foreign indebtedness. It is merely a basis of calculation.

The CHAIRMAN. I know that.

Senator SIMMONS. If we wanted to include the whole indebtedness and provide a sinking fund, would it be necessary for us to fix the 2½ per cent, or could we change it to 2 per cent if we wanted to?

Senator JONES of New Mexico. Yes.

Secretary MELLON. But you would not then have the debt retired in the time contemplated.

Senator JONES of New Mexico. But half of it is not expected to be retired under 62 years.

Secretary MELLON. It was contemplated that that debt would be retired in the same time that the other half is.

Senator SIMMONS. I thought you said 62 years.

Secretary MELLON. That was the arrangement with Great Britain and had nothing to do with the obligation of the Government.

Senator SIMMONS. That simply affects Great Britain's debt to us.

Senator GERRY. As I understand that, the $10,000,000,000 which were issued, which we can call the domestic debt, for the sake of ease in explanation, that $10,000,000,000 is to be paid for within 31 years.

Secretary MELLON. Yes.

Senator GERRY. By the payment into the sinking fund of 2½ per cent?

Secretary MELLON. Yes.

Senator GERRY. Then, besides that, we loaned another $10,000,000,000 to the Allies.

Secretary MELLON. Yes.

Senator GERRY. And we issued our own bonds for that?

Secretary MELLON. Yes.

Senator GERRY. And there was no definite time set in which that indebtedness was to be paid off; it was left for future adjustment?

Secretary MELLON. No; the time was set in those foreign obligations.

The CHAIRMAN. In the act.

Secretary MELLON. The money was loaned to the foreign governments under the same terms, the retirement to be identical with the retirement of our domestic debt.

The CHAIRMAN. Bond issue.

Senator GERRY. They were under an obligation, I recollect now, to pay us at a definite period?

Secretary MELLON. And at the same rates of interest.

Senator GERRY. Then we came in and made a settlement with the British Government and extended that period?

Secretary MELLON. Yes.

Senator GERRY. So we have already established a precedent for extending the period of these foreign indebtednesses, if we see fit?

Secretary MELLON. Excepting that that does not extend to take care of the obligation to our people who have purchased the bonds, our domestic bondholders.

Senator GERRY. In other words, you think as part of the consideration of the contract for the sale of these bonds, that the bondholder, when he bought a bond, took into consideration the fact that they were to be paid back by the foreign government in a certain time?

Secretary MELLON. The same time.

Senator WALSH of Massachusetts. The way to stop paying so much on our debt is to reduce taxes or to make the surplus less.

The CHAIRMAN. That is what I said.

Mr. WINSTON. Senator Smoot, there are some exhibits presented here that I thought it might be well to explain at this time.

The CHAIRMAN. We will put them in the record. I had them put in the record.

Mr. WINSTON. There is one exhibit here showing on the basis of the fiscal year. I think it would be simpler if we start with June 30, 1923, daily Treasury statement, and on the second page of that you will find the receipts and expenditures. Now, the Treasury accounts are kept on a purely cash basis. If we give the War Finance Corporation $1,000,000 to loan out, it is an expense. If that loan is paid back, it is a receipt, so on these receipts and expenditures you will find on the receipt side, for instance, the payment of principal and interest of foreign obligations, and on the expenditure side, down under public-debt retirement, the same item. That shows your receipts from all sources, customs, internal revenue, miscellaneous receipts, foreign obligations, and so forth, and the expenditure side shows just what went out.

Now, part of the expenditures are these public-debt retirements chargeable against ordinary receipts which appear in the last half of the expenditures. You will find there sinking fund, purchases from foreign repayments, received from foreign governments under debt settlements, received for estate taxes, purchases from franchise taxes, receipts, forfeitures, gifts, etc.

Now, you will find the difference between all those expenditures and the receipts constituted your surplus for 1923, which, if you will look just under the receipt column you will find $309,000,000 as your excess of ordinary receipts over expenditures. That is surplus. This year that is estimated at $329,000,000. That is the difference between that four billion and seven million just above it, total ordinary receipts, and $3,697,000,000 total expenditures chargeable against ordinary receipts. That is the surplus.

Secretary MELLON. That is the margin which may be available to make a reduction in taxes.

Senator SIMMONS. Last year you had a surplus of $313,600,000, and you took that surplus and used it in the retirement of the public debt.

Mr. WINSTON. If you will refer now to two of these photostats, you will find one is based on the fiscal year. That shows the reduc-

tion for the last four years. It shows for the fiscal year period the reduction of your debt and the source from which that reduction came. The first item is the sinking fund. The next item is the foreign repayments; bonds received under debt settlements; received for estate taxes; franchise taxes receipts; miscellaneous items; and that is totaled.

Now, the surplus of receipts—that is to say, we use the surplus as it is generally understood in the reduction of our debt, and it is that amount which is available for tax reduction. If you will go back to that daily Treasury statement which you just looked at, you will see $309,000,000 surplus, and $309,000,000 was used in that year out of surplus of receipts in the reduction of the debt, and you will find in 1922 on your daily Treasury statement there were $313,000,000 of surplus, and you will find here that $313,000,000 was used in the reduction of your debt.

Senator SIMMONS. Do I understand that you have already used the $309,000,000 for 1923?

Mr. WINSTON. This is the last fiscal year, ended June 30 of last year. This is on the fiscal year basis. When you come to the decrease in the general fund balance—that is what we discussed yesterday—that is immaterial because you will notice where those things are starred, instead of decreases they are increases.

The CHAIRMAN. That is where they are marked "A" and "B"?

Mr. WINSTON. Where it is marked with stars. Now, in those particular years there was an increase. You get your total debt reduction for that fiscal year and your total gross debt left as debt without reduction of general fund balance.

Now, the next long sheet shows exactly similar statements worked out on the calendar year basis. That is where you get your $1,072,000,000. That is worked out from December 31 to December 31. The best basis to use is, of course, the fiscal year, because that is the way our books are kept.

Senator GERRY. Mr. Secretary, I would like to ask you this question: If you reduce the amount of revenue that you receive, you will not be able to pay off the same amount of indebtedness, naturally. Therefore, if you should reduce the surplus, it would not be possible to pay off the same amount of the foreign indebtedness you mean?

Mr. WINSTON. You mean of all indebtedness?

Senator GERRY. Well, you would have to look after that sinking fund on the first $10,000,000,000.

Mr. WINSTON. That is chargeable against ordinary receipts before you find the surplus.

Senator GERRY. Then on the question of the foreign indebtedness, if you do not have as much revenue, you can not pay off as big a percentage.

Mr. WINSTON. The bonds included here in the account are included in the receipts and again included in the expenditures.

Senator GERRY. What I am driving at is this, that if you reduce the amount of your revenue, it won't be possible to pay off the amount of money you loaned to Great Britain in 31 years.

Mr. WINSTON. If you reduce your surplus so that you do not have enough money to pay your expenditures, you may not have enough money to pay your sinking fund, or you may not have enough money to pay salaries.

Senator GERRY. Suppose you have enough money to pay your sinking fund, the 2½ per cent on the first ten billion, which we call the "domestic," for the purpose of convenience, but you don't have enough to pay on the same proportion, 2½ per cent, on the second ten billion, the money we loaned to the Allies.

Mr. WINSTON. You are assuming a change in the present situation, or as it exists in the law?

Senator GERRY. I am leaving the law as it is. I am coming to the question of the amount of your revenue. You say that if you do not want to pay so much off on the debt, reduce that revenue. If we should reduce the amount of revenue that the Government is receiving by a reduction of taxes, it would then follow that you would not have enough to pay off this indebtedness.

Mr. WINSTON. This $162,000,000, you mean?

Senator GERRY. No, not the $162,000,000; the whole indebtedness. In other words, you pay off the 2½ per cent sinking fund on the $10,000,000,000. Then you would pay off the amount of bonds that the British Government pays in, and any payment of their indebtedness, and the result of that would be that the indebtedness of the British Government to us would not be paid back in 31 years.

Mr. WINSTON. Quite right.

Senator GERRY. That would then be an answer to the contention that there was a contract with the American bondholders, that this indebtedness should be paid out in 31 years. I am not contending that there is such a contract.

Mr. WINSTON. We are eliminating the sinking fund entirely. Assume there is a contract so far as the sinking fund is concerned. The other agreement was to use the proceeds from the repayment of these foreign loans in a further reduction of the debt, and it was originally contemplated that they would come in fast enough to pay that debt as it matured.

Senator GERRY. And now you find it won't?

Mr. WINSTON. Therefore, we made the best bargain we could.

Senator GERRY. Then, as I understand, from the Secretary's statement, he considered that there was an obligation on the part of the American Government to the bondholders to pay off those bonds in the same period as the other bondholders, in the 31 years.

Mr. WINSTON. And you entered into this debt settlement agreement, which has changed that contract.

Senator GERRY. We had a debtor, and we made a contract with our bondholders that we would use anything that we got out of that debtor in the payment of our bondholders.

Mr. WINSTON. In our original dealings with that debtor he was to pay on a certain date. He did not pay on that certain date, and we made the best bargain we could, and, having made the best bargain we could, we apply everything we get from that debtor in the payment of these bonds.

Senator GERRY. Very well. Then, you have already changed what you have contended was part of the contract with the bondholder and lengthened that period?

Mr. WINSTON. We have changed it only to the extent——

Senator GERRY. But you have changed it?

Secretary MELLON. But the contract with the American bondholder provided the very thing we are doing; that is, that the sinking

fund was provided there for that part of the debt which was not to be taken care of by the foreign bondholder, and then it stated for that that all of the receipts from the foreign debtor were to be used to take care of that debt in the same proportion. That was the arrangement.

Senator GERRY. I am not contesting that, Mr. Secretary. That is not the point I am driving at. The point I am driving at really is that you do not contend that you have to pay off the foreign indebtedness in 31 years.

Secretary MELLON. The point you are making is this: Are we called upon by reason of the fact that we can not obtain that retirement in 31 years, are we under obligations to increase our sinking fund in order to make it all good?

Senator GERRY. Exactly, Mr. Secretary; that is my point.

Secretary MELLON. Well, that is not what was entered into in the contract with the bondholders.

Senator GERRY. Then, I misunderstood your former statement. I thought you contended you had to do that.

Secretary MELLON. No.

Senator GERRY. Then you do not contend that we have to pay off that indebtedness in 31 years?

Secretary MELLON. That was contemplated and what was expected at the time, but on the other hand the method by which it was to be accomplished was by making use of the repayments from abroad, but that has failed.

Senator GERRY. And therefore you consider that contract no longer exists?

Secretary MELLON. But we can carry out the contract entered into even with that failure, in part, because we do that which is provided in the contract.

Senator WATSON. Mr. Chairman, the concrete proposition we are considering here is a reduction of taxes. The question, it seems to me, that is first to be determined is the basis upon which we are to operate. Now, if the Secretary of the Treasury uses the sinking fund, plus the receipts from Great Britain, how much would it reduce the taxes on that basis, if that be the policy. On the other hand, if we accept the policy proposed by Senator Simmons, how much would it reduce the taxes on that proposition?

Senator REED of Missouri. Now, as bearing on that, I asked yesterday for a statement as to how much this reduction of our debt had been from general revenue, what had been from extraordinary sources, such as the reduction of capital or securities, which we might have had, and extraordinary sources of revenue.

Mr. WINSTON. That is this last exhibit. May I explain that? It is, of course, very difficult to pick out exactly what are capital expenditures and what are capital receipts in the Government. If we spend money on a building in a corporation, that is considered a capital expenditure. But we can not consider it such here. That is one of our normal expenditures.

Senator REED of Missouri. I am talking about receipts——

Mr. WINSTON. We have picked out—it would take about two weeks to get all the figures—but we picked out what we could last night on these principal items, and we took them for the last four fiscal years, as is shown in this square photostat. The first column

is receipts, and we have the item of decrease of capital stock, United States Grain Corporation. In the two years they paid us $100,000,000 and then $25,000,000. I think most of these items are fairly clear.

Senator REED of Missouri. Does that wind up the Grain Corporation; close up its business?

Mr. WINSTON. It has been closed up.

Senator REED of Missouri. I mean are we going to get any more out of them.

Mr. WINSTON. No.

Senator REED of Missouri. I didn't get your answer. Do you mean that we will not get any more?

Mr. WINSTON. We will not get any more.

Senator REED of Missouri. I am interested in this, but I have been called to my office. I will take it up again. What I want to get at is really this; you have been reducing the debt and you have had two general sources from which to get the money to do it; one of them has been the taxes that have been flowing in, and the other has been from repayment to the Treasury of certain sums of money, advances, or savings.

Mr. WINSTON. The first two years are very short, and I can cover this. In 1920 and 1921, in order to be fair, we have to determine also what our capital expenditures were during that period, because it is the net difference which gives the figures you want. In these first two years we were still running into the war period expenditures. Later the receipts exceeded the expenditures. For instance, in 1923 we got a net of $232,000,000 in extraordinary receipts. Now, our surplus during that year was $309,000,000. If we hadn't had those receipts we would have had only about $80,000,000 surplus, and we would have reduced the debt by $80,000,000 instead of $300,000,000 out of surplus revenue.

Senator SIMMONS. Mr. Chairman, I want to make a statement. Senator Watson said a moment ago, in speaking about the discussions we have just had as to the sinking fund, that I had made a certain proposition. I am making no proposition that we do one thing or another. I am making a suggestion for the purpose of discussing it with the Secretary to get at the facts about it. I do feel, however, that we ought to fix, and do it now, definitely the amount of money that we are to annually use for the liquidation of our bonded indebtedness. I discover here upon examination of these figures that Mr. Winston has submitted that last year we paid on the debt $1,072,000,000, in round figures.

Senator WALSH of Massachusetts. Senator Simmons, may I interrupt you for a moment?

Secretary MELLON. We used the money that was surplus in banks.

Senator SIMMONS. We used that to retire these bonds.

Senator WALSH of Massachusetts. These figures show, when you compare the gross debt of June 30, 1919, with June 30, 1922, that if we continue the rate at which we are paying that debt in 20 years it will be wiped out.

Secretary MELLON. Oh, no; you are wrong.

Senator WALSH of Massachusetts. We have paid four billion now.

Secretary MELLON. But those receipts are not recurring receipts.

Senator WALSH of Massachusetts. If we continue the financial policy we have pursued for the last 4 years, in 20 years the debt will be wiped out.

Senator KING. Oh, no; we have had extraordinary receipts in the past which we will not have in the future.

Senator WALSH of Massachusetts. Unless you cut taxes.

Secretary MELLON. You understand we started at the beginning of this period with about $1,000,000,000.

Senator WALSH of Massachusetts. When did you start that?

Secretary MELLON. In 1919, part of it in 1920. We reduced the debt by $482,000,000 in 1920 by simply cutting down our bank balance. That was not a reduction of debt; that was not a reduction of the net indebtedness.

Senator WALSH of Massachusetts. Then, in what time would this debt be paid? In what time would it be paid if not 20 years?

Senator KING. About 31 years.

Secretary MELLON. Under present conditions, with the law remaining as it is, it would take about 31 years, and the extent to which we can reduce it by the receipts from foreign countries.

Senator WALSH of Massachusetts. Somewhere between 20 and 31 years.

Mr. WINSTON. No; between 30 and 40 years.

Secretary MELLON. Say that the money to be received from abroad is 62 years instead of 31, then it is somewhere between 31 years and 62.

The CHAIRMAN. And the effect of the interest would be to reduce that time from 62 years down?

Senator KING. However, that would contemplate that our operating expenses do not rise to higher levels.

The CHAIRMAN. Just let me finish that. It also is understood that we would get all our foreign obligations on the same basis as we have got obligations with England. Then, if we counted the interest on the payments they made, their interest is included in that payment, and that would not be $4,600,000,000 that England had to pay, but at the end of 62 years she will pay us about $12,000,000,000.

Senator SIMMONS. I started to make a statement because I wanted it to be clarified. I stated when I was interrupted, and I want to get this statement together, that I had merely been discussing with the Secretary some method by which we could stabilize and fix the amount of money that we were to apply to the retirement of these war obligations, and not with a view to committing myself to any particular scheme. I recognize that the people of the country want a reduction in taxation, and I want them to have it. I think they are overburdened, and it appears to me that part of the burden that can be taken off of them is just these amounts that we are now applying to a liquidation of these debts. I think we are trying to pay it off too fast.

Senator WALSH of Massachusetts. I agree with that.

Senator SIMMONS. It appears from this statement that there was $1,072,000,000 applied to this purpose during the calendar year 1913. It also appears that of that fund $387,000,000 in round numbers was a surplus of receipts; that $215,000,000 was a decrease in the general fund, so that you apply this nearly $600,000,000 and then you apply

the amounts that are a part of the sinking fund; then you apply the amount that you received from foreign countries; and all of that fund went into the liquidation of our obligations last year. If I am incorrect about it, correct me when I get through.

Now, that presents this situation. The Secretary of the Treasury now has no limitation upon the amount that he may apply to this debt. Whenever he can find any money that under the law is applicable to it, that he can spare, he applies it, and the amount of retirement is indefinite. It is uncertain and depends upon circumstances and conditions. I think it ought to be fixed. We ought either to do this—we ought either to content ourselves with the present provisions with reference to the sinking fund and apply that much to this debt and stop there, or we ought to supplement that fund so as to make it adequate and apply more. That is the thought I have in mind, and I want it set out.

Secretary MELLON. In answer to that, it is definitely fixed to the extent that the statutory sinking fund applies the receipts from the foreign governments makes that apply to it. The law has provided for a reduction of the debt, and it is fixed to that extent.

Senator SIMMONS. Exactly. I have said that.

Secretary MELLON. Now, then, these extraordinary receipts of war materials, etc., will not occur in the future, and if you follow that out instead of making the reduction of debt at too rapid a rate, it makes it at a lesser rate than would be provided by the ordinary sinking fund of 2½ per cent. In other words, it is fixed now by the law to that extent.

Senator SIMMONS. The law fixes what funds you may apply to this indebtedness but it does not fix the amount.

The CHAIRMAN. Senator, that is what the Secretary comes and tells us. He tells us that they have taken a certain amount of money for the sinking fund and that they have applied all the payments made by Great Britain upon the repayment of our foreign obligations, and that they have $387,000,000 now that they are asking what disposition shall be made of.

Senator SIMMONS. I understand that. That is the very point. There are $387,000,000 which he had as a surplus last year which he applied, and if we have a surplus and do not change this law—have a surplus this year and do not use it for the purpose of reducing taxes—he can apply that. If we use this year what is now a surplus to reduce taxes and next year it turns out that these estimates are wrong, and instead of having enough money on hand to pay all the expenses out of tax collections, we have got another big surplus, there is nothing to prevent the Secretary from taking that.

Senator WALSH of Massachusetts. Nothing at all, except to reduce these taxes below his recommendation.

Secretary MELLON. The part you call a reduction of debt is not a reduction of debt at all. Suppose to-day we borrowed for the Treasury $500,000,000. That would be increasing the debt to that extent. Suppose to-morrow we paid that. You wouldn't call it a reduction of debt, in that sense.

Mr. WINSTON. You are using this difference in the general fund balance as though it was a reduction in debt. I showed you yesterday a statement ended the last of January instead of the last of

December, and instead of showing $1,072,000,000, it showed $888,000,000. The whole difference is in the general fund balances.

Senator SIMMONS. All that I have in mind. How to bring it about, I do not know—and this is a matter of discussion—is that we ought to fix a certain amount annually for application to this purpose.

Secretary MELLON. It is pretty definitely fixed now.

The CHAIRMAN. We will adjourn this hearing until 10 o'clock to-morrow morning.

(Whereupon, at 12.05 o'clock p. m., the hearing was adjourned until 10 o'clock to-morrow, Friday, March 14, 1924.)

FRIDAY, MARCH 14, 1924.

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to adjournment on yesterday, at 10 o'clock a. m., in the Finance Committee room, Senator Reed Smoot (chairman), presiding.

Present: Senators Smoot (chairman), McLean, Curtis, Watson, Reed of Pennsylvania, Ernst, Simmons, Jones of New Mexico, Gerry, King, and Harrison.

The CHAIRMAN. The meeting will come to order. Mr. Winston, have you any further statement to make?

Mr. WINSTON. No; Mr. Chairman.

The CHAIRMAN. Then, if any of the Senators desire to ask questions of Mr. Winston, that had better be done now.

Senator JONES of New Mexico. Who makes up these statements?

Mr. WINSTON. The estimates of expenses are made up by the Budget. The estimates of receipts are made up for the customs by the customs people, the internal revenue by the internal revenue people.

There are other miscellaneous receipts which we get from the other departments of the Government. There are these miscellaneous things and then, of course, the Treasury itself works out the figures as to the receipts from foreign Governments and things of that kind.

The CHAIRMAN. Mr. Winston, you mean that the Budget submits the estimates?

Mr. WINSTON. The expenditures are prepared by the Budget.

The CHAIRMAN. Yes; and submitted to Congress.

Mr. WINSTON. You are talking about the estimates now?

The CHAIRMAN. Yes.

Mr. WINSTON. And the receipts are submitted by the Treasury, so far as the Treasury has any control over it, by the various branches of the Treasury that have particular charge of it. They are coordinated in the Treasury and then sent up to the Budget and included in the Budget, and in the Secretary's annual report.

Senator JONES of New Mexico. Take the first item here in receipts by customs. Who made up that estimate?

Mr. WINSTON. That was an estimate made up, in the first instance, by Mr. Camp, who is in charge of that; as I recall, these estimates are gone over by Mr. Hand and Mr. McCoy. Mr. Hand is in the receipt end of the Treasury; Mr. McCoy is the actuary.

Senator JONES of New Mexico. I observe here for the fiscal year 1923 receipts of $561,000,000 and over—practically $562,000,000—and is estimated for the fiscal year 1924, $570,000,000, but for the fiscal year 1925, the one with which we are dealing now largely, it is only $493,000,000. I would like to have some one come before the committee who can explain the basis on which these estimates are made.

Senator KING. Would Mr. McCoy know anything about that?

Mr. WINSTON. Mr. McCoy, I think, knows more about that estimate than anybody.

Senator JONES of New Mexico. Who made up this estimate here?

Mr. WINSTON. Mr. McCoy made up that particular $493,000,000 on figures furnished him by the customs and on his own observation of different conditions and as to what would be the result of those conditions.

Senator JONES of New Mexico. You think that Mr. McCoy will be the best man to give that information?

Mr. WINSTON. Yes.

Senator JONES of New Mexico. I think we might as well ask Mr. McCoy then.

The CHAIRMAN. Ask him right now. He is here.

Senator JONES of New Mexico. Now, Mr. McCoy, I wish you would tell us how these estimates are made up.

STATEMENT OF J. S. McCOY, GOVERNMENT ACTUARY, TREASURY DEPARTMENT

Mr. McCOY. The estimates under the tariff bill of 1922, as the bill was prepared in the committee, estimated the amount of imports under each item in the tariff bill and also the amount of revenue that would be collected. That was the first full year after the tariff bill was in effect. Now, when we want to get the fiscal year——

Senator SIMMONS. Just one question right there. How near did you come to the actual results?

Mr. McCOY. Well, the entire estimate, I can not tell just how near. I have not compared the figures with the first full year under the tariff bill. The bill passed late in 1922, September something, and it would be about the calendar year 1923, the first 12 months.

The CHAIRMAN. Well, the emergency tariff bill came in there.

Mr. McCOY. The emergency tariff bill also came in. My estimate for 1922 was $275,000,000, but the emergency tariff bill came in after I made my estimate and brought in quite additional tariff revenue. The actual receipts were $356,000,000.

Senator SIMMONS. There were no estimates after the emergency tariff bill was passed?

Mr. McCOY. There was an estimate printed after the emergency tariff bill was passed. The estimate for 1923 was based, part under the emergency bill and part under the new tariff. You see, a calendar year is the 12 calendar months, but the fiscal year is six months out of one calendar year and six months out of the other calendar year, so you have to break the revenue up. Some was collected under the emergency tariff bill and some under the new tariff bill for the year 1923.

The year 1923 ended June 30, 1923, and in estimating this it was estimated for 1923, in October 1922. We already had for that fiscal year, July, August, September, actual collections from the daily statement.

Senator SIMMONS. Well, at that time, wasn't there an emergency tariff in existence?

Mr. McCOY. No, sir; the emergency tariff ended as soon as the new tariff went into effect in September, 1923.

Senator SIMMONS. I know, but we had an emergency tariff up to that time. It was changed somewhat and put in the new law.

Mr. McCOY. Yes, sir.

Senator SIMMONS. But there had been an emergency tariff up to the life of the present tariff act.

Mr. McCOY. Yes.

The CHAIRMAN. That is why the increase in the fiscal year 1922 is more than the estimate by about $80,000,000?

Mr. McCOY. Yes; just $80,000,000.

Senator GERRY. When did that emergency tariff pass?

Senator JONES of New Mexico. In May, 1921.

The CHAIRMAN. That is the calendar year of 1921. This refers to it.

Senator SIMMONS. The original emergency tariff bill was in operation when you made this estimate?

Mr. McCOY. The original one. Yes, in 1921. The estimates for 1922 were made in the summer of 1921.

Senator SIMMONS. The original emergency act was a pretty broad measure.

Mr. McCOY. Yes, sir.

Senator SIMMONS. It was slightly enlarged, but I don't think very materially.

Mr. McCOY. Yes; and it brought in considerably more revenue than was anticipated.

Senator SIMMONS. Well, you have to anticipate liberally in making an estimate.

Mr. McCOY. Yes.

Senator SIMMONS. And that is the question we have got up now; whether you can always anticipate correctly.

The CHAIRMAN. Well, the estimate for the fiscal year 1922 was made in the summer of 1921. The emergency bill was passed toward the last day of May of 1921, and so it had only been in operation but a short time when these estimates were made.

Senator SIMMONS. When was the first estimate?

Mr. McCOY. In the summer of 1921.

Senator SIMMONS. In December of 1921?

Mr. McCOY. No; not December, 1921; the summer of 1921. It has to go to Congress on the opening of Congress, and it is made two months before Congress opens.

The CHAIRMAN. The law says before November 30.

Mr. McCOY. Yes.

Senator SIMMONS. When was the estimate under the new tariff act made?

Mr. McCOY. The first estimate was made when the bill was in formation.

Senator SIMMONS. What did you estimate it would bring when the bill was reported out? Is that what you mean?

Mr. McCoy. Yes; something over $500,000,000.

Senator Simmons. Didn't you make an estimate after the bill was passed?

Mr. McCoy. No; only the estimate that was made for the Secretary's report.

Senator Simmons. Didn't you make an estimate for the benefit of the conference committee?

Mr. McCoy. I doubt it.

The Chairman. We used the same estimate that was made.

Mr. McCoy. Generally the final estimate, the full estimate, is made for the report of the Finance Committee. Then, if there are any changes, it is an informal, piecemeal estimate.

Senator Simmons. How did your estimates that were made then compare with the results?

Mr. McCoy. I can't tell you exactly, only I know that they were somewhat under the results.

Senator Simmons. Less than the results?

Mr. McCoy. Less than the results. The difficulty in making estimates on the tariff just at that time was that the world was in an abnormal condition.

Senator Jones of New Mexico. Isn't it the general policy to always estimate on the safe side, from the Treasury point of view?

Mr. McCoy. Well, when I am estimating I don't know which is the safe side. I try to get as near the facts as possible, and if they don't like my estimates they don't need to use them. I don't know which is the best side. These estimates for 1923 were made based on the actual receipts under the new tariff for a very few months.

Senator Jones of New Mexico. Have you made any estimates that fell short of your estimates in actual results?

Mr. McCoy. I have made estimates for 1923. They are not printed here, but the estimates I made would fall short.

The Chairman. Yes; they did fall short.

Senator Jones of New Mexico. Your estimates for 1923?

Mr. McCoy. They fell short.

Senator Jones of New Mexico. Your estimates for 1923?

Mr. McCoy. They fell short, though not quite as much as they fall short here.

Senator Jones of New Mexico. On the customs?

Mr. McCoy. On the customs.

Senator King. You mean the customs exceeded your estimates?

Mr. McCoy. They exceeded everybody's estimates. The most optimistic estimates made were exceeded by the customs.

Senator Simmons. How much?

Mr. McCoy. Oh, fifty million, probably.

Senator Watson. They exceeded by more than $50,000,000 your estimates?

Mr. McCoy. Yes.

The Chairman. I thought that I was rather wild on the floor of the Senate when I said $450,000,000. So did all the others.

Mr. McCoy. The real reason for that is, there was no other place in the world to send goods that could be paid for, and they were sent here.

The Chairman. In answer to the statement as to your estimates, whether they were always under, I will call your attention to the income and profit tax, your estimate for the fiscal year 1922.

Senator SIMMONS. Let us get through with this first.

The CHAIRMAN. This is the same thing, Senator. You estimated $2,110,000,000, but your receipts were $2,086,000,000.

Mr. McCOY. That estimate was an estimate made for the Finance Committee. There were changes made after that. If you will compare the statement printed in the Secretary's report for 1921 and then compare the actual receipts for 1922, you will find less than $1,000,000 difference in the estimate.

The CHAIRMAN. I am only taking the estimates for the Finance Committee. And your miscellaneous tax was $1,214,000,000, and the actual receipts were $1,121,000,000. But the whole estimate that you gave to the Finance Committee, on all of the items, was $4,086,000,000, and we actually received $4,103,000,000.

Mr. McCOY. Yes, I didn't estimate quite enough as a total.

The CHAIRMAN. Very, very close.

Senator WATSON. I notice for the fiscal year 1923 you have customs, $561,000,000 plus; 1924, $570,000,000 plus, and then your estimate for 1925 runs down to $493,000,000. On what do you base your estimate of loss of customs?

Mr. McCOY. Well, it is hard to explain the reasons for basing an estimate. The 1923 estimate was based on partial returns; 1924 was based on partial returns. As to 1925, we have no idea. There is nothing to actually base it on, but the collections are abnormally large, and in my opinion they must fall. I think they are just about at a standstill now. I don't believe they are increasing. I believe they are just ready to fall.

The CHAIRMAN. If you take the last two months, I think they are a little less than $50,000,000, considerably less.

Mr. McCOY. Yes, they are ready to fall now. We have reached the peak. We can not depend on $570,000,000 for another year beyond 1925.

Senator JONES of New Mexico. Then, your reduction there is based on the prophecy that the receipts are going to fall off.

Mr. McCOY. A reduction in customs, of course, is based on the assumption that the custom receipts are going to fall off.

Senator JONES of New Mexico. What is there in the import trade that leads to that belief?

Mr. McCOY. Well, the foreign nations are beginning to produce more than enough for their home consumption. That will force them to find markets for their surpluses that are now being supplied by the United States, so our export trade will fall off. Naturally, as a consequence, the import trade will fall off. Trade follows trade.

Senator JONES of New Mexico. Well, in view of the fact that exchange the world over is in favor of the United States, isn't that always an inducement to try to get goods into the United States?

Mr. McCOY. It is. They get every dollar's worth of goods into the United States that they possibly can get in. That is why those receipts are so extraordinarily large. That is about $5 tax paid into the customs house for every man, woman and child in the United States, which is a pretty high tax.

Senator WATSON. Under the present tariff law, 60 per cent of all our imports come in free, do they not?

Mr. McCOY. A very large amount comes in.

Senator KING. You mean in quantity or value?

Senator WATSON. Fifty per cent of the value. Isn't that right?

Mr. MCCOY. I think so. It is something like that. One reason for the large revenue collected here is that a great many articles are dutiable now that used to come in on the free list, because they are absolutely necessary to manufacture. It is not the finished article that has to pay this revenue, but articles partly finished and absolutely necessary for manufacture. They find they can import them cheaper with the duty on than to produce them in this country.

Senator WATSON. Have you any reason to believe that that sort of importation will fall off?

Mr. MCCOY. It will fall of to this extent; that our foreign market will fall off, and we won't produce quite as much.

Senator JONES of New Mexico. How are you able to put that into figures, as to how much it will fall off?

Mr. MCCOY. Well, it takes a great deal of experience. I have studied the tariff every year for the last 20 years and nothing will happen that hasn't happened before. The only thing is I never experienced what has happened in the last three years, but now I have had that experience.

Senator SIMMONS. Do you feel that you are able to determine when the world conditions that have brought about the increase will be changed from what they are now?

Mr. MCCOY. No; I can not tell exactly when they will change, but I can see when they are changing. It is absolutely certain that unless another great disturbance comes, foreign nations will produce more than they have been producing lately.

Senator SIMMONS. Do you calculate that the conditions in Europe are going to grow better or grow worse? That seems to be a very much mooted question.

Mr. MCCOY. For a large part of Europe they will grow better. For other parts of Europe, I can not see how they can grow any worse.

Senator SIMMONS. In France they have grown very much worse very recently.

Senator KING. Mr. McCoy, you are assuming a substantial continuity of the present level of trade with South America and Mexico, are you not, in those figures?

Mr. MCCOY. Not exactly. I anticipate that we will lose some trade with South America.

Senator KING. In Mexico, do you think we will increase?

Mr. MCCOY. I don't know about Mexico. They form a small part of our trade.

Senator KING. How have you figured with respect to Canada?

Mr. MCCOY. Canada will continue to increase. Of course, a large amount of this increased duty is due to increased prices, and the prices must come down later.

Senator KING. And you have taken into account the general settling of prices throughout the world?

Mr. MCCOY. Yes; every element that I am familiar with is taken into account.

Senator KING. Have you figured that Japan, during the next two or three years, because of the catastrophe which she suffered, will ship less to us and buy more from us, we making capital investments there?

Mr. McCoy. There has been no estimate made as to that catastrophe.

Senator Watson. You think that for the purpose of framing revenue legislation it is safe for us to count on $493,000,000?

Mr. McCoy. Well, within $20,000,000 of that.

The Chairman. I want to call attention to the estimate made by Mr. McCoy for the year 1923 and the fiscal year 1924. For 1923 it was $370,000,000, as against actual receipts for 1923 of $561,928,666.66. That shows that he estimates for 1924 an amount over and above the actual receipts of 1923 of $8,071,134. Now, this is what is shown up to March 8, in comparison of the two years. On March 8 of the fiscal year 1923 we had collected $358,274,646.92, and for the fiscal year ending March 8, 1924—just the other day—we had collected $374,380,914.62. That shows that we have collected for the fiscal year 1924 up to March 8 more than we did up to March 8, 1923, by $15,806,267.70, or, in other words, you are not going to be very far off in the estimate of the increase.

Mr. McCoy. No; because the increase is falling off now.

The Chairman. Falling off. I see the daily balances are falling off now.

Senator King. It would seem from the figures that you have just given that for the fiscal year 1924 there would be considerably less than $570,000,000.

Mr. McCoy. No; we are $15,000,000 ahead.

The Chairman. We are $15,000,000 ahead if the same ratio is kept up, but we are falling off, and we have to make $8,000,000 more, so if we do not fall off more than $7,000,000 more from now until June 30, the estimate will be absolutely correct.

Mr. Winston. Senator Smoot, on the daily statement up to March 11, which I have just received, it shows for the month of March a falling off of customs receipts of one million and a half to date.

The Chairman. Then, of course, it may fall a little short.

Mr. McCoy. Take three months and you will come very close to my $8,000,000 increase, so you won't be far out for the fiscal year 1924.

The Chairman. Very close.

Senator Jones of New Mexico. I would like to get a statement for the fiscal years 1921, 1922, and 1923, the estimates which were made and the actual results, and get a statement of the estimate made for the fiscal year 1924 and the results up to date as far as we can get them with regard to the customs.

Now, Mr. Winston, who can tell us about the income and profit tax?

STATEMENT BY HON. GARRARD B. WINSTON, UNDERSECRETARY OF THE TREASURY, WASHINGTON, D. C.—Resumed.

Mr. Winston. Those figures were furnished us by the Internal Revenue Bureau. Mr. Nash is the deputy commissioner and is probably more familiar with them than anyone else.

Senator Jones of New Mexico. I would just like to have a note made, Mr. Clerk, that we have Mr. Nash here.

The Chairman. Mr. Winston, will you tell Mr. Nash to come up?

Mr. Winston. To-morrow morning?

The Chairman. Yes.

Senator WATSON. Nash is ill and can not come here. I asked him to come up before our Senate committee, and he can not leave the house.

Senator JONES of New Mexico. As to the miscellaneous internal revenue, who can tell us about that?

Mr. WINSTON. Those figures are ascertained, in the first instance, by the Budget for the various parts of the Government. Oh, miscellaneous internal revenue?

Senator JONES of New Mexico. Yes.

Mr. WINSTON. That is Nash also. I was looking at miscellaneous receipts.

Senator KING. He has a man down there in his absence, Mr. Winston, who can furnish that information.

Mr. WINSTON. I have only dealt with Nash. There is Deputy Commissioner Mires. Shall I have him here to-morrow?

Senator JONES of New Mexico. If he knows about it.

Mr. WINSTON. I will look that up and see if he does.

The CHAIRMAN. Well, whoever does know about it.

Mr. JONES of New Mexico. On the miscellaneous receipts I see you have here the principal on foreign obligations.

Mr. WINSTON. Well, for the fiscal year 1924, those were the two obligations of Great Britain, repayments for silver which we expected to receive.

Senator JONES of New Mexico. Do you know about them?

Mr. WINSTON. Yes, sir.

Senator JONES of New Mexico. What was the estimate for that? I would like the same statement with regard to those various items as I asked for in respect to customs.

Mr. WINSTON. You mean statements as to what we estimated and what we actually received?

Senator JONES of New Mexico. Yes; for these various years, and give the results up to date for this fiscal year as late as you can get it.

The CHAIRMAN. And while you are doing it, make a number of copies, or mimeograph it, so that every member of the committee can have one.

Senator JONES of New Mexico. In that $60,533,000 for the fiscal year 1924—has that amount been collected up to date?

Mr. WINSTON. If you will take our daily statement up to March 11, it shows we have received on that account, $60,993,000, as against $60,533,000 estimated.

Senator JONES of New Mexico. Do you expect to receive any more during the fiscal year?

Mr. WINSTON. No, sir; there is nothing more due.

Senator JONES of New Mexico. How did you arrive at that estimate for the fiscal year 1925?

Mr. WINSTON. That is the British repayment plus the Finland repayment; the two funding agreements we have had.

Senator JONES of New Mexico. There is nothing on the principal here of any of the other countries?

Mr. WINSTON. Nothing has been advanced far enough with the Debt Commission to justify any assumption.

Senator JONES of New Mexico. Well, the next item there of interest. Does that come only from Great Britain?

Mr. WINSTON. No; there is $20,000,000 coming from the French; there is the French indebtedness to us on account of the sale of war

supplies to France that they are paying $20,000,000 a year interest on, so that item is made up of Finnish, British, and French interest.

Senator JONES of New Mexico. Well, I see that you reduce the amount of interest over there for the fiscal year 1925 a small amount.

Mr. WINSTON. As the British pay their principal, their interest goes down.

The CHAIRMAN. Every year, Senator, it gets just a little less.

Senator JONES of New Mexico. Yes; I understand.

Mr. WINSTON. Also the principals that were paid in regard to the Pittman Act involved in that $60,000,000 above have been paid, and there is no more interest becoming due on that principal, but that doesn't mean any change. It does not mean that we are expecting any default of interest on any agreement that we have.

Senator KING. You expect no interest from France or any other country?

Mr. WINSTON. We expect $20,000,000 interest a year on this one French obligation.

Senator KING. Nothing from Greece or Italy or those other countries?

Mr. WINSTON. No, sir.

Senator JONES of New Mexico. Now, "railroad securities," I notice they are falling off rapidly. For the fiscal year 1923 you actually received a little less than $100,000,000. The estimate for the present fiscal year dropped down to $60,500,000. How is that estimate arrived at?

Mr. WINSTON. This item includes only loans under section 210, and interest, as you will see by the footnote. It is the loans under the revolving fund which, as I understand it, are gradually being reduced.

Senator JONES of New Mexico. Who made that estimate of $16,500,000?

Mr. WINSTON. I think those came from the Interstate Commerce Commission. They are the people that have charge of that loan.

Senator JONES of New Mexico. Well, I wish you would find out about that.

Mr. WINSTON. I will find out.

Senator WATSON. Don't they come from Davis's Railroad Commission?

Mr. WINSTON. No; that particular item came from the Interstate Commerce Commission.

The CHAIRMAN. This was in section 10 of the transportation act of March 20 as amended, and that, Senator, had more particularly to do with the purchase, I think, of rolling stock and equipment, and a great deal of that has been paid off and, of course, as it is paid off the interest will be less. Mr. Winston, if you will get data upon the matter suggested by Senator Jones, and then in addition have the Interstate Commerce Commission furnish you, and you the committee, with a complete statement of our dealings; that is, the Government's dealings with the railroads; the amount we have advanced them and the amount they have repaid, that will be useful to the committee.

Mr. WINSTON. There is a report of the director general, which I will get.

Senator KING. Showing exactly the status between the Government and the railroads?

Mr. WINSTON. Of course, the securities held by us appear on the debt statement.

Senator JONES of New Mexico. Now, "all other securities," I suppose——

Mr. WINSTON. Part of that is for farm loan bonds. When the farm loan act was passed and the constitutionality of the tax exempt feature in doubt, they could not sell the bonds, and the Treasury had to take them. They have been gradually taking them from us and those are the securities represented by that item?

Senator KING. Are those all farm loan?

Mr. WINSTON. Well, no, they include also some miscellaneous indebtedness to some other departments, like sales by the Navy of war material, and things of that sort.

Senator JONES of New Mexico. Who made that estimate? I see you received on that account in 1923 something over $46,000,000. You estimate for this year about $31,000,000 and for next year $29,000,000 plus.

Mr. WINSTON. About $40,000,000 of that $46,000,000 in 1923 was from the farm loan bonds taken off our hands—farm loan bonds which we had in the Treasury.

Senator JONES of New Mexico. How many of those farm loan bonds have you got now?

Mr. WINSTON. About $102,000,000. I see here "Federal farm loan bonds on the 31st of December." There are practically $102,000,000.

Senator KING. Still unpaid?

Mr. WINSTON. We still hold them, and they are 4½ per cent bonds, and the present market on farm loans is 4¾, so I don't know when they will be taken off our hands.

Senator WATSON. How rapidly have they been redeemed?

Mr. WINSTON. They are not due. If you will turn to the daily statement of March 11 you will notice that on this account we have collected to date only $6,000,000. There is an estimate that we will get $25,000,000 of these farm loan bonds by the 30th of June. I don't know whether the farm loan banks will be in position to take those over off our hands or not.

Senator KING. Of course, you can sell them on the market at probably a discount.

Mr. WINSTON. It would be quite a discount, as we would have to sell them on a 4¾ basis, and they are 4½ per cent bonds.

Senator JONES of New Mexico. Where do you get this estimate then of $31,000,000—$30,000,000 plus?

Mr. WINSTON. Well, the $25,000,000 that the Farm Loan Board said they thought they would be able to take out of the Treasury during 1924, fiscal year, and about $6,000,000 by the other——

Senator JONES of New Mexico (interposing). Why do they think that, if the rate of interest is running as you indicate?

Mr. WINSTON. Well, I don't know exactly what reason they would have for taking them, but they have heretofore done it. Of course, the Treasury had to take them off their hands to support this situation when they could not sell them, and morally they ought to relieve us of them as soon as they can.

Senator KING. Are those $42,190,000 plus estimated for the fiscal year 1923 to be paid from a redemption of some of those bonds, or is that largely to come from——

Mr. WINSTON (interposing). $25,000,000 of that $42,000,000 is an estimate by the Farm Loan Board that they will take that many bonds from us.

Senator KING. The rest will be Navy obligations? That is, the sale of property for the Navy?

Mr. WINSTON. Well, miscellaneous things.

Senator JONES of New Mexico. In the $42,000,000, Senator King—I am talking about the line above that.

Mr. WINSTON. He was looking at the fiscal year 1925.

Senator JONES of New Mexico. We were talking about "all other securities" here on the line above, and if we have got switched, I would like to know it.

Mr. WINSTON. You are right. That was $29,000,000. Senator, if you will refer to page 128, you will find a little more detail as to these exact figures. This is a condensed statement. If you will look down about 2 inches, where it says "repayment of investment," if you skip the principal of foreign loans, because that is stated separately in here, you will find these other small items we are discussing—liquidation of capital stock, Federal land banks, repayment of principal loaned to railroads, sale of farm loan bonds, return of advances made to reclamation fund, principal of loans by United States Housing Corporation.

Senator JONES of New Mexico. Well, I think that might have——

Mr. WINSTON (interposing). The reason I used page 107 is that it is condensed, and it runs in the same way as the daily statement, so that you could compare rapidly the figures for the estimates in 1924 with the actual results to-day and get a fair idea as to how they were coming out.

Senator JONES of New Mexico. Well, now, there we have the actual and the estimated.

Mr. WINSTON. We have the actual for 1923, the estimated for 1924, and the estimated for 1925. It is the same as we have on page 107. We have the actual for 1922, 1923, and the estimated for 1924 and 1925.

Senator JONES of New Mexico. Well, now, let us start over again, there. On page 127 the first item is the interest on loans to foreign governments. We received during 1923 over $179,000,000, and you estimate for 1924 something over $138,000,000, a difference there of forty-odd million.

Mr. WINSTON. That represents $50,000,000 cash of one installment, $50,000,000 in another installment, on the indebtedness before the funding took place, and one payment under the funding of the British debt.

The CHAIRMAN. That is the year 1924?

Mr. WINSTON. 1923.

The CHAIRMAN. Not the calendar year 1923.

Mr. WINSTON. No; we are talking entirely about the fiscal year. It was in the calendar year 1922. Now, that has become fixed by the funding agreement, and we can estimate that accurately.

The CHAIRMAN. Certainly. You know what that is. That sale of war supplies you estimated for the fiscal year at $16,440,000. Does that include the sale of whole ships?

Mr. WINSTON. No; those are estimates furnished us by the War Department.

The CHAIRMAN. Just the War Department?

Mr. WINSTON. Yes.

Senator JONES of New Mexico. I think we had better start over there, Mr. Winston, on page 127.

Senator WATSON. You mean in the estimates for 1925, Senator?

Senator JONES of New Mexico. For 1925.

The CHAIRMAN. Shall we cut out all that is in the record up to this point?

Senator JONES of New Mexico. No; leave that in there. That was general explanation. Now, I notice down there an item of interest on loans to railroads. That is deducted from expenditures in 1923. What do you mean by that?

Mr. WINSTON. The Budget has a system on certain items of deducting the receipts that come in against the expenses.

The CHAIRMAN. That is, in submitting the Budget report to Congress they do that.

Mr. WINSTON. No; it is the result of the method in keeping the accounts by appropriations. Under certain laws, as I understand it, the receipts can be used against the expenditures. Where that exists the receipts are deducted against the expenditures and they appear in the expenditure column as simply less expenditures, and sometimes an actual credit. The War Finance Corporation is an example of that. For instance, this year to date they have paid us back more than $48,000,000, more than they spent, and it appears in the expenditure column of our statement as an excess of receipts, so it is deducted from the actual expenditures. It is a method of keeping accounts, simply.

Senator KING. Isn't that system of bookkeeping misleading? It doesn't show all the returns to the Treasury and all that goes out.

Mr. WINSTON. It misled me when I started in at the Treasury. I didn't understand it at first.

Senator JONES of New Mexico. How much fund has the War Finance Corporation now?

Senator KING. The railroads or the War Finance?

Senator JONES of New Mexico. The War Finance.

Mr. WINSTON. We have taken into the Treasury as receipts all of their property except about $37,000,000, on the 31st of December last, plus whatever profits they have. I don't know what they are.

Senator JONES of New Mexico. Yesterday or the day before someone said that they had a surplus of something like $50,000,000.

Senator WATSON. Against which, however, there were certain deductions to be made. What do they amount to?

Mr. WINSTON. It was said two days ago——

Senator WATSON. Certain losses.

Mr. WINSTON. That they had about a $50,000,000 surplus, but they had not written off what might be losses.

Senator JONES of New Mexico. Where do you estimate the amount you may receive from the War Finance Corporation?

Mr. WINSTON. If you will look at page 129, about the middle of the page, under operations in special accounts, War Finance Corporation, you will find $60,000,000, with a little reference down at the bottom of the table. You will find there excess of credits deducted,

which means that they will pay us back $60,000,000 more than they spend in 1924.

Senator JONES of New Mexico. You estimate nothing for 1925.

Mr. WINSTON. I talked with Mr. Meyer, and he said he thought it was just about balanced; that they would keep this amount of money there. The War Finance Corporation has been extended for another year. They have this situation in the Northwest to meet, and the repayment of loans to them and their own advances should balance; so it is not expected we will get anything back in 1925.

Senator JONES of New Mexico. Have you got the report of the War Finance Corporation of its activities?

Mr. WINSTON. There is one published. I can get you one.

Senator JONES of New Mexico. I would like to know something about their assets and liabilities.

Mr. WINSTON. There is a balance sheet in the report. If you will refer to this $60,000,000 for the fiscal year 1924 and to our daily balance sheet for March 11, 1924, you will see that up to date this year we have $48,000,000 of that $60,000,000 in.

The CHAIRMAN. You are short——

Mr. WINSTON. $12,000,000.

The CHAIRMAN. Yes; $12,000,000.

Senator KING. You don't mean to say that the War Finance Corporation in its operations has earned $50,000,000?

The CHAIRMAN. That was the interest that was paid on the loans and investments.

Mr. WINSTON. It earns because the Treasury advanced them $500,000,000 and charged them nothing for it.

Senator KING. It is fair to call it a surplus.

Mr. WINSTON. No; we were paying $21,250,000 a year for the money invested in that company.

Senator JONES of New Mexico. That is just what I was trying to get at. How much of that $500,000,000 have they paid back?

Mr. WINSTON. They have paid back—it appears in our debt statement of the 31st of December, 1923—all but $37,000,000.

The CHAIRMAN. $463,000,000.

Senator WATSON. You mean that they have paid back of the original $500,000,000, $463,000,000, and only $37,000,000 is outstanding?

Mr. WINSTON. Yes, sir.

Senator KING. But they have paid no interest. We have to pay the expenses. We have made appropriation for the machinery of their organization, which amounts to several million dollars, and we are out all the interest the Government has to pay for the $500,000,000 which it loaned them.

Senator JONES of New Mexico. As I understand the situation, the $500,000,000 was put to the credit of the War Finance Corporation in the Treasury.

Mr. WINSTON. Yes; and they used it to buy Government bonds, so that the situation, after the corporation was organized, as I understand it, was that the corporation had $500,000,000 of stock that the Government owned, and the corporation had $500,000,000 of Government bonds that the Government was paying interest on, and then as they needed the money they sold those bonds and loaned the money out.

Senator JONES of New Mexico. And in that way they have accumulated that surplus of $50,000,000 or approximately that?

Mr. WINSTON. Yes.

Senator JONES of New Mexico. And they still have assets, then, according to your judgment, of eighty million and odd dollars?

Mr. WINSTON. Somewhere around there.

Senator KING. How much would the interest on those $500,000,000 bonds which the Government issued and has had to pay, how much would the aggregate interest be that the Government has had to pay out to advance them that $500,000,000?

Mr. WINSTON. I think most of them were Liberty bonds, and they paid 4¼ per cent.

Senator KING. How many years?

Mr. WINSTON. I don't know how long they held them, but it is as broad as it is long. We had to raise a half billion and had to pay 4¼ per cent for it.

Senator KING. What was the date when they got that $500,000,000, what year?

The CHAIRMAN. On the passage of the act.

Senator KING. 1918, wasn't it?

The CHAIRMAN. It was either 1918 or 1919. I don't know which.

Senator KING. The net result of that transaction will be that if they should pay back the $37,000,000 and should pay back $50,000,000 paper credits, the Government would still be out?

Mr. WINSTON. Well, that would require a little calculation.

Senator KING. Because the Government has had to pay practically $20,000,000 a year for four years, interest upon those bonds, so there is from $60,000,000 to $80,000,000 the Government has paid out on the interest charge.

Mr. WINSTON. But we have had the use of a good part of that money for some time. We would have to analyze how much money had been paid in, and would have to analyze what the expenditures of the War Finance Corporation were.

The CHAIRMAN. As we pay all the expenses of the War Finance Corporation and they do the collecting of the interest, we ought to have the surplus of whatever the interest might be, and that surplus ought to be the same as the interest, providing there are no losses and the interest is paid.

Mr. WINSTON. Of course, the interest on their loans is higher than the interest we pay.

Senator WATSON. Those were Victories at 4¼ per cent. At what rate did they lend this money?

Mr. WINSTON. That varied, because they have been in so many different projects.

Senator WATSON. Did they get as high as 6 per cent at once?

The CHAIRMAN. I think that they had some street railroads or interurban railroads where the rate was as high as 7 per cent.

Senator WATSON. It looks to me as though they ought to have made a clear profit.

Senator KING. On one road they lost $14,000,000.

Mr. WINSTON. They were not organized as a profit-making corporation. They were organized to help out in various emergencies, which I think they have done very effectively.

Senator WATSON. They loaned all of it, however, at a higher rate than they paid?

Senator KING. My prediction is that when the final settlement is made the Government will be out several million dollars.

Mr. WINSTON. It is the same situation as with the Grain Corporation. They claimed there was a profit in that. Then, what paper profit there was, they gave to Russia and other countries of Europe under authorizations of law, receiving foreign obligations for the greater part.

Senator KING. So that when they talk about $50,000,000 of the Grain Corporation, that is all fiction.

Mr. WINSTON. It is, unless you think they can realize on some of these obligations which were turned over in return for the $50,000,000.

Senator WATSON. That is the first time I ever heard that. I thought that was a real surplus.

The CHAIRMAN. They were not charged a cent of money. The Government furnished the money and has paid the interest.

Senator ERNST. I would like to be president of a corporation that received its assets in that manner.

Mr. WINSTON. We have other assets—$4,000,000 from Rumania, $24,000,000 from Austria—and the payment of that has been postponed, hasn't it?

The CHAIRMAN. Yes.

Mr. WINSTON. About $3,000,000 from Czechoslovakia; $1,500,000 from Hungary, and $24,000,000 from Poland.

Senator JONES of New Mexico. Well, now, when was it that they began to turn back this money?

Mr. WINSTON. If you will turn over to page 510 you will find a report running from 1917 on, showing "War Finance Corporation under subheading of operations in special accounts." They drew about $50,000,000 in 1918 on their stock, $300,000,000 in 1919, and $150,000,000 in 1920. Now, you can see the expenditures.

Senator JONES of New Mexico. That is when they got the money?

The CHAIRMAN. It was in 1917 it was passed, instead of 1918.

Mr. WINSTON. That is when they got the money, but when you get to 1920 you see here it is beginning to be paid back. That item 12 is excess of credits. In other words, they paid back into the Treasury in 1920 over $200,000,000 more than they took out. In 1921 it was $22,000,000.

In 1922 it was the other way around. In 1922 the corporation was revived, and they spent in excess of what they turned back, $94,000,000, and in 1923 they were again contracting and turned into the Treasury in excess of $109,000,000 over what they spent.

Senator KING. You don't show in the 1917 column any money that they obtained.

Mr. WINSTON. They were not in existence in 1917.

Senator KING. Have you anything in the Treasury showing that the Alien Property Custodian has now something like $1,000,000 as a floating fund?

Mr. WINSTON. Well, the Alien Property Custodian cash funds are invested by the Treasury—about $170,000,000—invested by the Treasury except the amount he needs for his working capital in making the repayments back on these $10,000 trusts. It runs now about $2,000,000 in cash and $171,000,000 is now invested in Government securities and bonds.

Senator KING. Doesn't he carry a floating account in his own name which he checks on?

Mr. WINSTON. I don't know of anything of that kind.

Senator KING. I wish you would look into that—a fund which up until the new administration was carried in a different column or under a different name, a trustee fund, and which was ordered by President Harding transferred to the Alien Property Custodian and is carried now in his personal name.

Mr. WINSTON. You see, the Alien Property Custodian is one of those independent agencies which it is very difficult for the Treasury to tell what is going on in. We don't know of any such fund, Mr. Hand, who has charge of that, tells me. We have a fund of about $2,000,000 in the Treasury, which is a special deposit account and used to check against to pay these $10,000 items or to pay certain trust expenses of the Alien Property Custodian.

Senator JONES of New Mexico. I see here that the net earnings of the corporation are over $60,000,000 instead of $50,000,000.

Mr. WINSTON. Well, I was not entirely clear there. As I say, I don't know to what extent they have written off the losses.

Senator JONES of New Mexico. I referred to this statement.

Mr. WINSTON. Yes; that is the balance sheet.

Senator KING. The same account shows, doesn't it, that they did not pay interest to the Government on the $500,000,000 that they obtained, nor do they pay the expenses which they have incurred?

Mr. WINSTON. This is a balance sheet, not a profit and loss account.

Senator KING. Have you any reason to believe, from investigations which any of the officials in the Treasury Department have made since the publication of this report, that the estimate of over $2,000,000,000, which appears here, is too little or too much?

Mr. WINSTON. For 1925?

Senator KING. Yes.

Mr. WINSTON. No; we have nothing new on that.

Senator KING. There is nothing to change your opinion.

Mr. WINSTON. No.

Senator KING. No information has come to the officials of the department which would cause them to modify the statement which they have submitted for 1925 as to the receipts for that year?

Mr. WINSTON. Nothing that I have seen.

Senator KING. And the department comes to us then with the expression of their opinion that that may be relied upon so far as they are able to estimate.

Mr. WINSTON. So far as we are able to tell now, yes. Of course, as to 1924, we keep on getting closer and closer to it each day.

Senator KING. But I repeat, if you will pardon me, nothing up to this time has led the Secretary of the Treasury, his confidential officers, or his experts, to modify the estimate which is found over on page 107, of $2,727,585,000.

Mr. WINSTON. No; I occasionally have an opinion of my own as to whether we are going to get the $25,000,000 from the Farm Loan Board, or things like that, but I have no further information than that. Until we know what our taxes are going to be for 1924, we can not very well do anything.

Senator KING. Is there any information in the department with reference to business activities as they appear now and as they appear

for the beginning of the next fiscal year showing that the taxes on the income from profits and so on will be exactly as you have estimated it?

Mr. WINSTON. For 1925?

Senator KING. Yes.

Mr. WINSTON. We have nothing on that. It is too early.

Senator KING. You have simply used the experience of the past and so on to determine those estimates?

Mr. WINSTON. We have used estimates given us, like Mr. McCoy's on the customs, and by the Internal Revenue Bureau on the other.

Senator WATSON. Who makes the estimates in the Internal Revenue Department?

Mr. WINSTON. Well, Nash has had charge of them.

Senator JONES of New Mexico. I see you estimate the Federal reserve bank franchise tax at $6,000,000 for the present and succeeding years.

Mr. WINSTON. Well, it is only three million and something this year. That estimate was made before the figures were in. They pay us on December 31.

Senator JONES of New Mexico. You got only $3,000,000?

Mr. WINSTON. A little over $3,000,000, about $3,600,000.

Senator JONES of New Mexico. Well, that next item, "Profit on coinage," and "Bullion deposits," and so forth, over $25,000,000 this year, and you estimate it at $11,000,000 next year. What is the cause of that difference?

Mr. WINSTON. The principal item of that is what is known as seignorage. In coining these Pitman silver dollars you don't put a dollar's worth of silver into a silver dollar.

Senator JONES of New Mexico. You simply estimate you will coin less?

Mr. WINSTON. Yes; because we are getting caught up with our silver.

The CHAIRMAN. They have purchased now all the silver that was loaned.

Mr. WINSTON. We have only got 32,000,000 of silver bullion left, and we sold 200,000,000 ounces which we had to buy back.

The CHAIRMAN. Well, the Government has purchased all that it was obligated to under the act of Congress.

Mr. WINSTON. Yes; but having less silver to coin, we will have less receipts from seignorage.

Senator JONES of New Mexico. That next item, "Funds deposited for construction loans, section 11, merchant marine act, March 19, 1920." You show there $50,000,000 received in 1923 and nothing estimated for the other two years.

Mr. WINSTON. That is accumulated, as I understand, from the operations of the Shipping Board and the sale of ships, and the fund of $50,000,000 which under the act was set up in the Treasury to their credit and the cash paid to us. We received the $50,000,000. It is something that will probably not occur again.

I have to correct that. They were given the right under the act to set up $25,000,000 a year over a period of five years. They have the privilege of setting up $25,000,000 a year. and they set up two years in 1923. It is not expected that they will set up any in 1924 or 1925.

Senator JONES of New Mexico. This is put down here as a receipt.

Mr. WINSTON. Yes; because when they put the money in the Treasury it was taken in as a receipt, although it may be to their credit in the same manner as an appropriation. It is somewhat the same way as with this War Finance Corporation money.

Senator JONES of New Mexico. Is this $50,000,000 to the credit of that fund?

Mr. WINSTON. Yes; but it is taken in as a receipt.

Senator JONES of New Mexico. Where do you get it?

Mr. WINSTON. The Shipping Board paid it to us.

Senator JONES of New Mexico. You have the obligation of the Shipping Board?

Mr. WINSTON. No; they paid us the money; actually paid us the cash.

Senator JONES of New Mexico. Where did they get the money?

Mr. WINSTON. Selling ships and other property, and the profit on the operations. I assume that is a paper profit.

The CHAIRMAN. Well, the appropriations were made by Congress for it.

Mr. WINSTON. Principally, I guess, from the sales of some of their ships.

Senator JONES of New Mexico. You don't expect to get anything from them this year?

Mr. WINSTON. Nor next year. There doesn't seem to be much further sale of ships.

Senator SIMMONS. I saw a statement some time ago that they were going to sell pretty nearly all their ships.

Mr. WINSTON. I don't think so.

The CHAIRMAN. They are only selling—all they get is what the scrap iron is worth.

Mr. WINSTON. I don't know about that situation, except we take their report on what they are likely to turn in. That is where we got that. Bear in mind, we have gone through most of this year and they have not turned in anything at all.

Senator SIMMONS. But you actually got during 1923 this $50,000,000?

Mr. WINSTON. Yes; but they tell us that they are not going to pay us anything in the next two years.

Senator JONES of New Mexico. What do they do with their receipts?

Mr. WINSTON. I imagine that they do not have any real operating profit.

The CHAIRMAN. No; it is a loss.

Senator JONES of New Mexico. They use whatever they get in the sale of ships in operating expenses?

Mr. WINSTON. I am not familiar with their accounts.

The CHAIRMAN. No; that has to go into the Treasury, Senator, whatever they sell.

Senator SIMMONS. I want to ask Mr. Winston if he can furnish us with that information. Mr. Winston, there have been various and sundry estimates emanating from the Treasury Department with reference to large deficits in the revenue. You will recall when the President delivered his message to the Congress, in connection with the bonus bill, that there was a statement that contained an

estimate of a deficit. You will remember, too, even last year, I think, there were one or two estimates from the Treasury Department published in the press throughout the country estimating that there would be large deficits. I think the first estimate was about $800,000,000. Then, I think—but my recollection is vague about that—that there was a subsequent estimate that it would not be quite so much, but it still would be a very large deficit. I have no doubt there are records in the Treasury Department as to those estimates that were made to the press and used by the President in his message in reference to the bonus, and I would like to have you give the committee all of those estimates as to deficits that have been issued by the Treasury Department or given to the press or to the President or otherwise, or for other purposes made by the Treasury Department during the last two years or since the present law was passed.

Mr. WINSTON. The Secretary was asked by the Literary Digest to answer some statements made by Mr. Quinn, of the American Legion, and one of the questions was on this subject of surplus.

Senator SIMMONS. I don't want the statement of the Secretary about it in the form of an argument.

Mr. WINSTON. I am stating facts. Mr. Quinn stated in 1922 the Treasury estimated the deficit to be $650,000,000 for the fiscal year ended June 30, 1923, whereas at the end of the fiscal year there was a surplus of $313,000,000. That was Quinn's statement, that we estimated that in December. The President used figures which showed a possibie deficit of $697,000,000 in a speech delivered in July, 1922, to the business organization of the Government. That was his (Budget) speech. This figure was made up from tentative figures furnished by the Treasury and other departments and establishments and did not include the estimated expenditure of $125,000,000 for accrued discount on War Savings certificates. In other words, the Treasury thought at that time that this $697,000,000 would be more than that by $125,000,000 because this accrued discount should be considered in it. Those figures were for the fiscal year ended June 30, 1923, and were therefore made a year in advance of the close of the fiscal year. They were not made in December as it was stated.

Senator SIMMONS. I understand that. You say these figures were made a year in advance of the close of the fiscal year?

Mr. WINSTON. Yes, sir.

Senator SIMMONS. Well, are not Mr. McCoy's figures, or the Treasury's figures, now made a year in advance for 1925?

Mr. WINSTON. Yes; as to 1925, they are more than a year in advance. They are made in November, 1923, for the fiscal year ended June 30, 1925.

Senator SIMMONS. Let me ask you about that. Those estimates that the President incorporated in his message with reference to a deficit were furnished him by the Treasury Department?

Mr. WINSTON. And other departments of the Government.

Senator SIMMONS. Well, they were furnished by the Treasury Department.

Mr. WINSTON. No; they were furnished in the first instance to the President by the Budget. A deficit is the difference between your expenditures and your receipts.

Senator SIMMONS. Surely.

Mr. WINSTON. The Treasury Department furnished estimates as to probable receipts, but did not furnish estimates as to the expenditures. Those were furnished by the Budget. At the time of the Secretary's annual report in November, 1922, sufficient improvement had been made in the general business condition of the country to require a reconsideration of those tentative figures.

Senator SIMMONS. When was that?

Mr. WINSTON. In November, 1922. The original one was made the 1st of July, 1922, and the estimated deficit for the fiscal year ending June 30, 1923, was reduced to $273,000,000.

Senator SIMMONS. That was the result of the improvement in business?

Mr. WINSTON. Yes; we could see the improvement in business and the new tariff law coming into effect, which had happened since July, and a surplus or deficit is the difference between the receipts and the expenditures of the Government, and is affected by a change either in the receipts or in the expenditures. The recovery of the country from the depression of 1921 was much more rapid than had been anticipated.

Senator SIMMONS. Now, you see in answer to my question for information you are proceeding to make an argument explaining it away.

Mr. WINSTON. I am just reading this. It is only one paragraph.

Senator SIMMONS. I know it is only one paragraph. I ask for information and get an argument.

Mr. WINSTON. I will skip this and read the next.

On account of these two changes in conditions which brought additional revenue to the Government, the actual revenues were some $400,000,000 in excess of the revenues estimated in 1922.

Senator SIMMONS. Let us see, then. In November, 1923, you estimated that the deficit would not be as great as you had estimated in July.

Mr. WINSTON. Yes.

Senator SIMMONS. What was the last date you gave there?

Mr. WINSTON. It was November, 1922.

Senator SIMMONS. In November, 1922——

Mr. WINSTON (interposing). That the deficit would be $273,000,000.

Senator SIMMONS. Instead of $600,000,000, or about that.

Mr. WINSTON. Yes.

Senator SIMMONS. Later you discovered that you were still wrong.

Mr. WINSTON. On account of these two changes in conditions, the actual result at the end of June, 1923, was that there were actual revenues of some $400,000,000 in excess of the revenue estimated in November, 1922. A like, but not so marked, change took place in expenditures. The principal item was the saving of $220,000,000 in expected expenditures on account of railroads by a reduction in what was actually spent and a realization on railroad securities owned.

Senator SIMMONS. And all of those things changed it from $600,000,000 deficit in July to a surplus of how much?

Mr. WINSTON. About $313,000,000.

Senator SIMMONS. All of those changes were not anticipated at the time of making the estimate.

Mr. WINSTON. There were two changes. One was the increase in your receipts and the other the decrease in your expenditures.

Senator SIMMONS. Those things you did not consider in your first estimate, did not anticipate in your first estimate, and the result was that the difference between your estimate in July and in November was $700,000,000, and the difference in your estimate and the actual result shown in July, 1923, changed this $600,000,000 deficit to a surplus of $313,000,000.

Mr. WINSTON. Yes; you will recall business conditions when these estimates were first made. We were just getting out of a slump.

Senator SIMMONS. As a matter of fact, you can not always anticipate what business conditions are going to be?

Mr. WINSTON. Nobody can. And you can not anticipate that the present good conditions will continue.

Senator SIMMONS. And you can not make any definite estimate, any estimate that you can rely upon, because you are not able to determine in advance what is going to be the business condition?

Mr. WINSTON. Well, of course, you can not make any accurate estimate. You can not make any estimate that is necessarily final. You can not tell what may happen to the world.

Senator SIMMONS. Can you give any reason why you could make a more accurate estimate for 1925 in 1924 than you did for 1923 in 1922?

Mr. WINSTON. We were just recovering from a very severe slump about that period.

Senator SIMMONS. We haven't got quite settled conditions now, have we?

Mr. WINSTON. No; but we have very good conditions. If they change, they will probably change not for the better but for the worse.

Senator SIMMONS. And the better conditions get the more revenue you are going to get?

Mr. WINSTON. But when you are on a high level, as we are now, of prosperity, the changes are more likely to be down than they are to be up, and if you go down your surplus decreases.

Senator SIMMONS. We are on a pretty good level now, although the Secretary says that these high rates that are obtaining now on taxes in the future will drive capital out of business.

Mr. WINSTON. Well, they have done it.

Senator SIMMONS. It doesn't seem to have done it this year.

Mr. WINSTON. They have done it. I have seen it in private practice, certainly.

Senator SIMMONS. Business, you said, was on a high level.

Mr. WINSTON. It is. General prosperity is on a high level.

Senator SIMMONS. It got on a high level with a 50 per cent maximum surtax.

Mr. WINSTON. Yes; and the prosperity of this country and the want of prosperity abroad—how long do you think those unsettled conditions abroad will remain?

Senator SIMMONS. All these things, you say, you can not tell with absolute certainty in advance.

Mr. WINSTON. Of course not.

Senator SIMMONS. And you say that because you can not tell these things with absolute certainty in advance that you made this big mistake in 1923?

Mr. WINSTON. That had to do with the receipts. Now, the estimates, the expenditures, and the change in the railroad situation

were not brought about by any change in conditions, but by different business.

The CHAIRMAN. You don't know what Congress will do, either.

Senator SIMMONS. I don't want to get into an argument at this time about this matter. I have discovered that when you ask the Treasury Department for information, you are apt to get into an argument. I want the information.

Mr. WINSTON. We are pleased to give it to you.

Senator SIMMONS. You can file that if you want to, your explanation of it, if you insist on explaining it. This committee is entitled to facts.

Mr. WINSTON. What facts do you want?

Senator SIMMONS. The facts I want are your statement—I am perfectly willing that you file your statement and your argument—but I want the facts with regard to that estimate.

Mr. WINSTON. I have already got a note to get those.

Senator SIMMONS. That estimate for 1923, all the estimates; the one made in July, the one made in November, and the final result. Now, I want to get some additional estimates. My recollection is that some time last summer the Treasury Department got out some estimate f an anticipated deficit of $800,000,000.

Mr. WINSTON. No, sir; last summer?

Senator SIMMONS. I think it was last year. I won't say last summer.

Mr. WINSTON. Oh, no. That is the same one you are talking about in the summer of 1922. There was no estimate this summer that I know of.

Senator SIMMONS. Are those the only estimates that you have given out to the public, except such as are given to committees of Congress?

Mr. WINSTON. The only estimates given are given by the Treasury and are these estimates in the annual reports.

Senator SIMMONS. These estimates we are talking about now, the one given to the President upon which he based his speech, and the other given out in November. Those were estimates that came from the Treasury Department, not at the request of the committee, and not for the information of the committee, but they were given to the general public. Now, are they the only estimates that you have promulgated?

Mr. WINSTON. Yes; they tell me they are. Of course, I wasn't here at that time and I don't know.

Senator SIMMONS. All of those were 1923.

Mr. WINSTON. 1922, you mean?

Senator SIMMONS. You promulgated no estimate in 1923?

Mr. WINSTON. We had in the annual report in November, this year, $323,000,000 surplus estimated for 1924, and $395,000,000 for 1925——

Senator SIMMONS. That was surplus?

Mr. WINSTON. Surplus. That is the difference between the estimated receipts and expenditures.

Senator SIMMONS. You have promulgated no other estimates as to deficits except the ones that you referred to a little while ago, the one in July and the one in November?

Mr. WINSTON. Not that I know of.

Senator SIMMONS. I would like to have you inquire whether you haven't. I have a vague recollection that some other estimate was given out by the Treasury Department.

Mr. WINSTON. You must remember, Senator, that originally the Secretary estimated the receipts and expenditures. Then the Budget was created and the Budget gets up the estimates of the receipts and the expenses from the different departments and establishments. The Budget works out its own figures on expenditures. They call on the Treasury for estimates of receipts, which are peculiarly within the Treasury's knowledge.

Senator SIMMONS. Now, if the Budget gave out any estimate, then you did furnish the Budget with an estimate of receipts?

Mr. WINSTON. Yes; we did.

Senator SIMMONS. Well, now, I would like to add if any estimate was promulgated by the Budget, I would like to have that added to what I have requested.

The CHAIRMAN. The Budget gives one out once a year.

Mr. WINSTON. Of course, the Budget's estimate and the Treasury's estimate in November were the same.

Senator SIMMONS. Don't the Budget give out an estimate of a deficit?

Mr. WINSTON. In what period?

Senator SIMMONS. In 1923.

Mr. WINSTON. Do you mean the fiscal year 1923 or the calendar year 1923?

Senator SIMMONS. I mean during the calendar year 1923.

Mr. WINSTON. I don't think so.

Senator SIMMONS. I think the Budget or the Treasury did, and I would like you to investigate that. I may be mistaken about that, but I think either one or the other got out an estimate that indicated a much larger deficit than had been spoken of before. Just investigate that and see what the facts are.

The CHAIRMAN. Mr. McCoy calls attention to the fact that in the last speech delivered by President Harding before he went on his trip, he had called the departments together, and as the estimates by the departments were made there was a deficit. That is why he made the statement that the departments had to cut to the bone, and the Budget went to work and all these estimates were cut.

Mr. MCCOY. That was within two weeks of his going on his trip to Alaska. It was addressed to the business organizations of the Government. I happened to hear it. He said that there still existed a deficit but that they were in hopes of overcoming that and turning out a surplus.

Senator SIMMONS. Get me the statement that was furnished him. I suppose he gave the public the same estimate that was furnished him by the department. I want to get that estimate.

Mr. MCCOY. If you just accumulate what the departments say they want as appropriations each year and use that as your basis of expenditures, you will always show a deficit. It is the duty of the Budget to cut that down.

The CHAIRMAN. This was an address that the President gave before the department heads in which he requested and demanded that the expenses of the Government be cut to the bone.

Mr. WINSTON. And they have been cut.

The CHAIRMAN. They have.

Mr. WINSTON. And that is the reason why we have a surplus.

Senator SIMMONS. Let me have the estimates and then we can argue about it.

The CHAIRMAN. The committee will stand adjourned until Monday morning at 10 o'clock.

(Whereupon at 12.05 o'clock p. m., the committee adjourned until 10 o'clock a. m., Monday, March 17, 1924.)

MONDAY, MARCH 17, 1924

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to adjournment on Saturday, at 10.30 o'clock a. m., in the Finance Committee room, Senator Reed Smoot presiding.

Present: Senators Smoot (chairman), McLean, Curtis, Reed of Pennsylvania, Elkins, Watson, Ernst, Simmons, Jones of New Mexico, Gerry, Harrison, and King.

The CHAIRMAN. If the committee will come to order, we will proceed. Mr. Gregg, you have a statement that you want to put into the record?

STATEMENT BY A. W. GREGG, SPECIAL ASSISTANT TO THE SECRETARY OF THE TREASURY.

Mr. GREGG. Last week Senator Simmons asked me the number of cases in the Income Tax Unit not yet closed. I gave you a statement based on the latest figures I had, prepared about the 1st of December. I have since then had this statement prepared as of March 10, showing that for 1917 there are 9,000 cases unclosed. Expressed in percentage, there are 99.7 per cent of the cases for 1917 which are closed, and then the figures are here going on through for 1917.

The CHAIRMAN. Ninety-nine and seven-tenths per cent closed?

Mr. GREGG. Yes.

Senator SIMMONS. That means 9,000 unclosed?

Mr. GREGG. I should like to put that in the record. It is a complete statement.

Senator JONES of New Mexico. Let us see if that can be true. Commissioner Blair gave these same figures to the other committee that I am on. Afterwards I got thinking about it. There are 9,000 cases, but they are 99.7 per cent closed. Do you mean to say that 9,000 cases constitute only 0.3 of 1 per cent of all of them?

Mr. GREGG. There were about 5,000,000 returns, you see.

Senator JONES of New Mexico. I guess that is right.

Senator KING. Mr. Blair testified there were 500 cases unaudited and 9,000 appeals which were unsettled. All that data we will have in our hearings and a great deal more. We ought to be careful, if we print, not to duplicate.

Mr. GREGG. Inasmuch as I was asked the question the other day, I wanted to get the accurate figures.

(The statement referred to above is as follows:)

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, March 10, 1924.

Exhibits A and B show the status of the work in the Income Tax Unit in Washington alone. A large number of returns of net incomes of $5,000 or less are audited and closed in the collectors' offices.

The status of the work in the entire bureau, including the Income Tax Unit in Washington and the collectors' offices, from the years 1917 to 1922, inclusive, is shown by the following table:

Year	Returns filed	Audited and closed	In process of audit	Percentage audited and closed
				Per cent
1917	3,824,316	3,915,181	9,135	99.7
1918	4,742,693	4,723,626	19,067	99.5
1919	5,652,958	5,589,861	63,097	98.8
1920	7,605,539	7,438,294	167,245	97.8
1921	8,716,072	8,407,418	308,654	96.5
1922	7,575,927	6,537,170	1,038,757	86.3

EXHIBIT A

Status of audit Income Tax Unit March 1, 1924

1917 RETURNS

Division of Unit	On hand	Audited			In process	
		In 250 (d)	Protest	Reopened by claims	Protected by waivers	Unprotected
Personal audit	3,227	854	2,173	2	158	40
Corporation audit	1,984	496	1,476	3	9	.....
Consolidated returns	612	31	293	272	14	2
Special assessment	1,374	745	364	200	59	6
Special adjustment	264	71	86	45	56	6
National resources audit	1,368	474	606	195	71	22
Valuations	231	.....	106	61	60	4
Total	9,060	2,671	5,104	778	427	80
Total field	75	.....	.....	.....	75	.....
Total Income Tax Unit	9,135	2,671	5,104	778	502	80

1918 RETURNS

Personal audit	4,766	1,598	2,742	1	292	133
Corporation audit	5,139	1,535	3,552	4	39	9
Consolidated returns	1,911	668	949	267	19	8
Special assessment	2,991	355	370	1,566	550	150
Special adjustment	483	131	116	70	145	21
National resources audit	2,727	1,131	699	496	307	94
Valuations	525	.....	247	54	224	.....
Total	18,542	5,418	8,675	2,458	1,576	415
Total field	525	.....	.....	.....	525	.....
Total Income Tax Unit	19,067	5,418	8,675	2,458	2,101	415
Total 1917 and 1918 cases outstanding	28,202	8,089	13,779	3,236	2,603	495

EXHIBIT B

Status of work—March 1, 1923

Divisions	Returns in section				In files	In field	Total pending	Total audited to date
	In process	In 250 (d) file	In protest	Total				
Personal audit:								
1917	200	854	2,173	3,227	.....	40	3,267	887,362
1918	426	1,598	2,742	4,766	.....	275	5,041	815,119
1919	5,510	2,090	2,532	10,132	.....	4,606	14,738	971,413
1920	11,398	3,047	2,599	17,044	.....	40,045	57,089	900,345
1921	5,532	2,438	756	8,726	69,726	2,066	80,538	704,462
1922	.....	.....	.....	.....	671,757	.....	671,757	128,243
Total	23,066	10,027	10,802	43,895	741,483	47,052	832,430	4,406,944
Corporation audit:								
1917	12	496	1,476	1,984	.....	30	2,014	289,179
1918	52	1,535	3,552	5,139	.....	205	5,344	308,424
1919	13,218	2,616	3,478	19,312	.....	3,390	22,702	263,864
1920	30,802	3,395	3,643	37,840	.....	35,600	73,440	307,615
1921	9,128	579	431	10,138	169,768	1,507	181,413	83,446
1922	.....	.....	.....	.....	320,000	.....	320,000	.....
Total	53,212	8,621	12,580	74,413	489,768	40,732	604,913	1,252,528
National resources audit:								
1917	268	474	606	1,368	231	.....	1,599	51,567
1918	897	1,131	699	2,727	525	.....	3,252	40,137
1919	11,300	459	172	11,931	3,939	.....	15,870	28,525
1920	12,294	269	95	12,648	11,643	.....	24,291	10,709
1921	1,216	62	16	1,294	33,602	.....	34,896	104
1922	.....	.....	.....	.....	35,000	.....	35,000	.....
Total	25,985	2,395	1,588	29,968	*84,940	.....	114,908	128,042
Consolidated returns and special sections:								
1917	660	847	743	2,250	.....	5	2,255	44,488
1918	2,796	1,154	1,435	5,385	.....	45	5,430	34,637
1919	7,428	890	769	9,087	.....	700	9,787	24,492
1920	11,203	410	362	11,975	.....	450	12,425	11,633
1921	3,456	133	99	3,688	8,119	.....	11,807	193
1922	.....	.....	.....	.....	12,000	.....	12,000	.....
Total	25,543	3,434	3,408	32,385	20,119	1,200	53,704	115,443
All divisions:								
1917	1,160	2,671	4,998	8,829	231	75	9,135	1,272,596
1918	4,171	5,418	8,428	18,017	525	525	19,067	1,198,317
1919	37,456	6,055	6,951	50,462	3,939	8,696	63,097	1,235,294
1920	65,687	7,121	6,699	79,507	11,643	76,095	167,245	1,230,302
1921	19,332	3,212	1,302	23,846	281,215	3,593	308,654	788,205
1922	.....	.....	.....	.....	1,038,757	.....	1,038,757	128,243
Grand total	127,806	24,477	28,378	180,661	1,336,310	88,984	1,605,955	5,902,957

STATEMENT OF HON. GARRARD B. WINSTON, UNDERSECRETARY OF THE TREASURY

Senator JONES of New Mexico. Mr. Winston, who is it in your office that compiles data as the basis for the estimates?

Mr. WINSTON. As to what particular feature of it?

Senator JONES of New Mexico. The whole.

Mr. WINSTON. The expenditures we get from the Budget.

Senator JONES of New Mexico. But somebody takes the expenditures from the Budget and the receipts from your department and puts them together.

Mr. WINSTON. Mr. Hand, who is with me, has been preparing those figures.

Senator JONES of New Mexico. Then, let us examine Mr. Hand.

Mr. WINSTON. I would like to explain these exhibits we are presenting to-day.

This first large sheet, "Estimates of receipts and expenditures and actual receipts and expenditures for the fiscal years 1921 to 1923, inclusive," I will explain. Under the law the Secretary, and, since then, the Budget has been required in their annual report which is presented to Congress when it meets in December, to present a statement of the estimated receipts and expenditures for the current year; that is, for the year ending June 30 subsequent to the report and for the subsequent year—the fiscal year ending June 30, a year and a half from the time of the report. In other words, in 1921 they submit a report which contains estimated receipts and expenditures for the fiscal year ending June 30, 1922, and in addition for the fiscal year ending June 30, 1923.

Now, this first sheet shows those estimates as made in the report. The estimate for the fiscal year 1921 was made in the report submitted in December, 1919; then the same estimates in the report submitted in December, 1920, and then the actual results of 1921, and for the three fiscal years 1921, 1922, and 1923.

I just want to call your attention to the fact that so far as the Treasury is concerned the Treasury has control of the estimates only to the extent of the receipts. The estimates as to the expenditures are either presented by the departments to the Treasury or presented by the departments to the Budget and by the Budget collated and adjusted and then submitted to the Treasury, so that the Treasury itself handles only the more important items of receipts and not the expenditures.

In connection with the way these receipts and expenditures work out, there are one or two other points. So far as the receipts go for the subsequent year—that is, when you make a report in 1919 for the year ending June 30, 1921, that is a year and a half away. Those receipts are liable to change because of a change in the tax law in the meantime. And, of course, as to the expenditures, the expenditures are liable to change as to the year in which you make your report as well as the subsequent year, because in the current year there are still six months for legislation, and in the subsequent year the whole year for legislation which may change the receipts.

It also should be borne in mind, in considering how close these estimates are, that there are two things that affect your surplus. One of them is whether your receipts go up or down; the other is whether your expenditures go up or down. If your receipts go up and your expenditures go down, you have a wider divergence as to your original estimate as to what the result will be. If those two elements balance each other, you will come out right, although you may have estimated wrong on the particular features.

Now, on these estimates of receipts for the current fiscal year of 1921, the estimate was within 2 per cent of the actual result. In 1922 they were within 3.5 per cent of the actual, and in 1923 about 11 per cent of the actual. It was easy, of course, to show less divergence when our revenue was considerably less, because 10 per cent of $1,000,000,000 is only $100,000,000, but 10 per cent of $5,000,000,000 is $500,000,000.

That is the first sheet, and the items are divided just as they are in the Secretary's annual report.

I think Senator Simmons asked me about the various estimates for the fiscal year 1923. This sheet which is headed, "Estimates of receipts and expenditures for the fiscal year 1923," gives the estimates made on the dates shown compared with actual results. Those are in millions.

Now, the Budget report and the Secretary's annual report submitted November 28, 1921, give an estimate of the receipts for the fiscal year 1922 and also for the subsequent fiscal year. That is a year and a half ahead. That estimate appears in the Budget message of December 5, 1921, and in the Secretary's annual report of November 28, 1921, as the estimate of receipts and expenditures for the year ending June 30, 1923. All those estimates are for the year ending June 30, 1923.

The second, the July 11 estimate, was presented in the speech made by the President on that date.

The third one is in the annual Budget report and in the Secretary's annual report of December, 1922, showing receipts and expenditures for that current year. That is the year ending June 30 subsequent to that date.

On January 29, 1923, the President made another speech to the business organization of the Government in which the fourth column of estimates was used.

On April 1, 1923, General Lord made a speech in which the estimates were those appearing in the fifth column, and on May 1, 1923, General Lord made another speech in which the sixth column estimates were used. I understand that no detailed figures as to these two estimates were made public.

On May 7, 1923, in connection with the sale of some securities, the Treasury made an estimate which is the seventh column.

On June 18, 1923, the President made another speech to the business organization of the Government, in which the eighth column was used, and the ninth column shows the actual results for that period.

Senator SIMMONS. So that there was during that year all these variations in the estimates?

Mr. WINSTON. Yes, sir.

Senator SIMMONS. And that is likely to take place in any year with the two essential factors you mentioned a little while ago varying; that is, the receipts varying or the expenditures varying.

Mr. WINSTON. Yes.

Senator SIMMONS. As a result of additional legislation on the one hand, or as a result of increased expenditures on the other hand, or economies.

Mr. WINSTON. Well, as a result of either economies or new legislation that affects the expenditures, or as affecting the receipts, such as a change in the business conditions, which would affect the receipts, or a change in legislation.

Senator SIMMONS. This first estimate was made after the act of 1921 was passed?

Mr. WINSTON. That is in December, 1921. When was that act passed?

Senator SIMMONS. What was the date of the passage of that act?

The CHAIRMAN. Which one?

Senator SIMMONS. The 1921 revenue act.

The CHAIRMAN. In November sometime.

Senator REED of Pennsylvania. November 23, 1921.

Mr. WINSTON. It should be borne in mind that was an estimate not for the current year, but the subsequent year.

Senator SIMMONS. I am speaking about legislation. There was no change in the legislation after the estimate of December 5.

Mr. WINSTON. No; that does not affect these estimates.

Senator SIMMONS. The great change you rely upon is the expenditures?

Mr. WINSTON. And the change in business conditions in 1921, 1922, and 1923.

Senator SIMMONS. I did not understand you referred so much to business conditions before. You said a change by virtue of legislation, changing rates, or changing conditions.

Mr. WINSTON. It appears more in the three-year estimate than it does in this estimate.

Senator SIMMONS. Of course, we all understand that changes in business conditions may affect an estimate.

Mr. WINSTON. Oh, yes.

Senator SIMMONS. But you spoke a while ago with reference to the two fundamental things that might bring about a change in actual result.

Mr. WINSTON. Yes.

Senator SIMMONS. There is legislation, affecting the amount of revenue, and you said the other was expenditures affecting the amount of money we might have under or above the amount estimated.

Mr. WINSTON. Yes, sir.

The CHAIRMAN. But I think the change in business conditions had something more to do with it than legislation or expenditures.

Senator SIMMONS. Well, I was simply referring to the factors he mentioned.

Senator JONES of New Mexico. That first column is the Budget estimate of 1923?

Mr. WINSTON. All of these estimates are for the fiscal year 1923.

Senator JONES of New Mexico. I see you have this first column headed, "The Budget, 1923." Do you mean that the Budget estimated the receipts?

Mr. WINSTON. The Budget estimates and the Treasury estimates are printed at the same time and agree. The Budget collects the receipts from the Treasury, so the Treasury is really responsible for the major part of the estimate of receipts. There are some minor items from other departments.

Senator JONES of New Mexico. Your first column was the ordinary annual estimate?

Mr. WINSTON. Yes, sir; you will find the annual estimate given in the third column in the subsequent year.

Senator JONES of New Mexico. Well, that second column—you said that that was a special estimate made up for the President?

Mr. WINSTON. That was made up for the President, and that was made up in June for that July speech and covered the period of a year in advance.

Senator JONES of New Mexico. And the third column is the annual estimate?

Mr. WINSTON. Again for the same year.

Senator JONES of New Mexico. That which you have here as made up by the Budget is the same as the Treasury?

Mr. WINSTON. The same as the Treasury.

Senator JONES of New Mexico. Now, take the fourth column, January, 1923.

Mr. WINSTON. That was the speech by the President to the business organization of the Government.

Senator JONES of New Mexico. That was the date of the speech?

Mr. WINSTON. That was the date of the speech.

Senator JONES of New Mexico. When was that made up?

Mr. WINSTON. That was made up shortly prior to that time.

Senator JONES of New Mexico. And the fifth column, April 1, 1923, what was the occasion of that estimate?

Mr. WINSTON. That was a speech made by General Lord, the Budget officer.

Senator JONES of New Mexico. And May 1, 1923?

Mr. WINSTON. That was a speech by General Lord also.

Senator JONES of New Mexico. Then you have the Treasury estimate of May, 1923?

Mr. WINSTON. That was an estimate for use by the Treasury in connection with the sale of certain Treasury securities, in a statement that was gotten up by the Treasury.

Senator JONES of New Mexico. That was a statement by Mr. Mellon?

Mr. WINSTON. Yes, sir; by Mr. Mellon.

Senator JONES of New Mexico. And then this June 18, 1923, what was the occasion for that?

Mr. WINSTON. That was another speech by the President.

Senator SIMMONS. You said a Treasury estimate?

Senator JONES of New Mexico. Secretary Mellon got out a statement and that was made up for his use.

Senator HARRISON. As to all the statements issued by the Treasury Department, you have copies that are issued to the press?

Mr. WINSTON. Yes.

Senator HARRISON. I wonder if we could get copies of all estimates issued by the Treasury touching surpluses or deficits?

Mr. WINSTON. We can certainly get those.

Senator HARRISON. I know you have these, but what I mean are certain statements given to the press, through your publicity department, I imagine?

Mr. WINSTON. I don't know of any others except in the annual reports. We have made no estimates of surplus since I have been there in July of this year; and this includes all the estimates up until July.

Senator HARRISON. I have read in the papers from time to time that the Treasury had a surplus of so much; at other times the papers would say they had a deficit. Those things are issued by the publicity department, I imagine.

Mr. WINSTON. They come through my office.

Senator HARRISON. I was wondering if you did not have copies of everything given to the press.

Mr. WINSTON. As I say, these are the only estimates that have been given to the press from any governmental source on 1923 surplus, or receipts and expenditures. Since I have been there in July no estimates have gone out as to receipts and expenditures for the fiscal year 1924 or 1925, except those that appear in the Secretary's annual report.

Senator CURTIS. Have you a publicity department?

Mr. WINSTON. No, sir.

Senator CURTIS. And isn't it likely the newspapers get their statements from the circulars sent out every day or every month, at least?

Mr. WINSTON. You are right. They take the daily statements and work out their own figures without any reference to the Treasury at all.

Senator HARRISON. Here is something—no, I see that is the Finance Committee. I thought you issued statements like that occasionally from the Treasury.

Mr. WINSTON. We do. We issue statements from time to time, but as I say, there have been no statements issued on receipts and expenditures except those statements referred to here and the annual report of the Secretary and the annual Budget message.

Senator HARRISON. Can we get those statements that were issued? I know they are issued in that form, but the statements you issued and which I have in mind were somewhat in this form here, were they not?

Mr. WINSTON. Yes; but the only statement issued here by the Treasury that was not a part of the annual report of the Treasury is this statement of May 7. Now, we can get a copy of General Lord's speech, I assume, and a copy of the President's speech of these dates, or of the other public announcements.

Senator SIMMONS. Isn't it quite unusual to issue during the same fiscal year as many different statements of estimates as this?

Mr. WINSTON. Well, I don't know what was usual, but it has not been done this year so far as I have seen.

Senator SIMMONS. You mean that for the present year you have not issued so many. How many have you issued?

Mr. WINSTON. The only estimate I know of is the estimate in the President's speech of June 18, 1923. I think he covered it then.

Senator SIMMONS. So that in comparing these estimates you would have to make a comparison with the estimate of December 5 or of July 11, or December 4, or of January 29? You haven't any fixed estimate that year; you made so many.

Mr. WINSTON. Of course, these estimates are made from time to time as conditions change. As I say, this was a period in which there was a very sharp recovery of business and the new tariff act.

Senator SIMMONS. Suppose we wanted to compare your estimate for 1924 or you wanted to compare the estimate made by Secretary Mellon in support of his plan with the estimate made in 1922, you wouldn't know what estimate you were comparing with. You made so many you wouldn't know what estimate to compare it with. You would have to compare it with an estimate made at one time and then compare it with an estimate made at a different time.

Mr. WINSTON. The estimates and these figures taken from the annual report are comparable, because they are made at the same time each year. They are made at the end of October or early in

November and published in December, and they give the estimate for the current year in which the estimates are made, five months of which have run when the estimate is made, and they give it for the subsequent year, the close of which is a year and seven months past the date of the estimate. Those are comparable, and those are on that one big sheet.

Senator JONES of New Mexico. This next to the last column here, Budget estimate, June 18, 1923, what was the occasion for that estimate?

Mr. WINSTON. That was a speech made by the President.

The CHAIRMAN. That was the speech delivered in Salt Lake City, I think.

Mr. WINSTON. That was a speech delivered to the business organization just before he left.

The CHAIRMAN. I know; and he repeated the speech in Salt Lake City.

Senator SIMMONS. In 1922 there seem to be six estimates; are there not?

Mr. WINSTON. Yes, sir; and if you will look at this, the first one was made a year and seven months before the end of the year, the next was made about a year, the next seven months, the next five months, the next was made three months, the next two months, and the last was June 18—practically the end of the year.

The CHAIRMAN. Every estimate, outside of the regular estimates, was made at the request of the President?

Mr. WINSTON. Yes; except the one statement that the Treasury made in 1923 in connection with the sale of some securities and the two used in speeches of General Lord on April 1 and May 1, 1923, respectively.

Senator SIMMONS. In comparing the estimates made with reference to the Mellon plan you would compare that with the estimate made in January, 1923, wouldn't you?

Mr. WINSTON. No, Senator; you would compare that with the figures in the annual report for 1923.

Senator SIMMONS. I was speaking about these estimates. Which one of the estimates would you compare it with?

Mr. WINSTON. With what is called the Budget estimate, December 4, 1922, if you are comparing 1924 receipts and expenditures. If you are comparing 1925 receipts and expenditures, then it is the first estimate, because it is made a year and a half in advance.

Senator SIMMONS. That is December, 1922?

Mr. WINSTON. December 5, 1921.

Senator HARRISON. They fall off worse on the July 11, 1922, estimates, do they not?

Mr. WINSTON. They did. They fell off both in receipts and expenditures and their effect was cumulative.

The CHAIRMAN. What time was it that the President vetoed the bonus bill?

Mr. MCCOY. Early in September, 1922.

The CHAIRMAN. That brought about a revival of business as much as anything else, and that shows in this statement.

Senator HARRISON. What was that, Senator?

The CHAIRMAN. The veto of the bonus bill.

Mr. WINSTON. There is a big item in expenditures. Look at the railroad amount. That is something that the Budget could not control. There were $284,000,000 estimated expenditures. The actual net expenditures were $15,000,000. The other big item, of course, is the $350,000,000 customs receipts which ran up to $562,000,000, and the income and profits tax which was $1,300,000,000 and ran up to $1,679,000,000.

Senator JONES of New Mexico. It is rather a strange situation there that the estimate made December 5, 1921, was more nearly correct than any of those other estimates except the one made on June 18, 1923.

Mr. WINSTON. The reason for that is, as I say, they estimated wrong on their receipts in that year. They estimated $1,715,000,000 from income and profits taxes and they only got $1,679,000,000.

Senator JONES of New Mexico. That is only a difference of about $35,000,000.

Mr. WINSTON. And then they estimated miscellaneous receipts——

Senator JONES of New Mexico (interposing). July 11, 1922, that income and profits tax was reduced to $1,300,000,000. They cut off $415,000,000.

Mr. WINSTON. In the six months. If you will recall, at that time business was pretty bad and it was just beginning to get on its feet again.

Senator JONES of New Mexico. Business was bad during 1921?

Mr. WINSTON. And in June, 1922.

The CHAIRMAN. Oh, my, yes; until the fall of 1922.

Senator JONES of New Mexico. But the income and profits tax——

Mr. WINSTON (interposing). This illustrates very well what happened. In the Budget estimate for 1923, made December 5, 1921, it estimated total receipts of $3,338,000,000. We got $3,842,000,000.

Senator JONES of New Mexico. That was largely due to the change in the law. We put the emergency tariff law into effect.

Mr. WINSTON. Yes; but there was $500,000,000 difference in that. When you come down on the expenditure side, the ordinary expenditures which are controllable, run about as estimated. The railroad account—that was a new law and that is where that $284,000,000 came in.

Senator HARRISON. You carried the Emergency Fleet Corporation in July 11, 1922, estimate at $137,000,000 and it only cost $57,000,000, I believe, actual expenditures. Was that due to the defeat of the ship subsidy?

Mr. WINSTON. I don't recall, Senator, because I was not here.

Senator REED of Pennsylvania. Mr. Winston, business was very bad in 1921, wasn't it?

Mr. WINSTON. Yes, sir.

Senator REED of Pennsylvania. And that was reflected in the reduced income-tax receipts throughout the calendar year 1922; that is right?

Mr. WINSTON. Yes, sir.

Senator REED of Pennsylvania. And the business being better in 1922 the income-tax receipts in the last half of this fiscal year were much bigger than they were during the first half?

Mr. WINSTON. Do you mean the last half of 1923?

Senator REED of Pennsylvania. The fiscal year 1923.

Mr. WINSTON. Yes; that is right.

Senator REED of Pennsylvania. Much more income tax was received than during the first half?

Mr. WINSTON. Yes.

Senator REED of Pennsylvania. When President Harding spoke on July 11 he could not have had any knowledge of that increase in the income tax that was to be received during the first six months of the calendar year 1923?

Mr. WINSTON. He could not have had that knowledge until after the payments were made in March, 1923, which would show what the income was for 1923.

Senator REED of Pennsylvania. In that connection, are you able to give us any accurate information as to how our income-tax receipts are going to run during the present calendar year?

Mr. WINSTON. The difficulty with that this year is that ordinarily we receive about 75 per cent in number of personal returns paid in full on the first installment. We get normally on personal income tax about 60 per cent of the personal income tax, in amount, on the first two installments, March and June, which go into the fiscal year then closing. The corporations are pretty well spread out through this period and they come in about 50 per cent in the first six months and about 50 per cent in the last six months of the calendar year. The total result is that about 55 per cent of the receipts normally of the calendar year come in the first six months of the calendar year. This year there are confusing elements. People who ordinarily would pay their income taxes in full on the first installment have held off because they thought they were going to get a 25 per cent reduction. On the other hand, it is reported to me that a large number of people are paying 75 per cent on the first installment. Now, whether those will wash themselves, and we will get just about as much in these two payments, March and June, as we did last year, I don't know.

Senator REED of Pennsylvania. I am not so much interested at the moment in knowing how the income tax will be divided through the four periods as in knowing how much the total income and profits taxes during this calendar year will be, and how they will compare with those of the last calendar year. Have you been able to make any comparisons?

Mr. WINSTON. We can not yet, Senator Reed, because they are just coming in. We do not get until the last of this week the major part of the March 15 payments, and with those confusing elements we are not as sure this year as we would be in other years as to how much we are going to have.

Senator REED of Pennsylvania. When will you be able to make an estimate of that?

Mr. WINSTON. We can have a little more accurate idea of it toward the end of this month. These payments string out all through March.

The CHAIRMAN. This statement shows exactly the conditions existing and why that estimate was cut down $1,715,000,000 to $1,300,000,000. When the Budget estimate of December 5, 1921, was made, no returns had been made. There was no information at all. When the Budget estimate of July 11, 1922, was made, they had the returns at that time.

Senator JONES of New Mexico. Wouldn't it have been better if they had not had them, because they could have made a much better estimate without them than with them. They came within $35,000,000 when they didn't have it, and they missed it nearly $400,000,000 when they did have it.

The CHAIRMAN. If you had waited until I had finished, I think I would have covered the whole subject. They did have the information on July 11, 1922, and business being in a bad condition, they only paid during that year, the first quarter, generally. The amount collected was not nearly as much as it had been during the year previous, and they thought, of course, from the information they had at that time the income and excess-profits tax was going to drop.

Senator JONES of New Mexico. We will find out from the fellow who prepared it why he did it.

Mr. WINSTON. The third exhibit is simply a comparison of the estimates for the fiscal year 1924 as contained in the Secretary's report published in December, 1923, and the actual receipts and expenditures to February 29, 1924. It is simply to let you see what we have actually collected, and what we have estimated we will collect on those various items.

You also asked for a statement of the railroad situation. There is a message from the President to the Congress, transmitting the report of the director general, which is printed in a little pamphlet. In addition, there is the March 1, 1924, report of the Treasury, showing the total payments and what has been done to date, under sections 204, 209, and 210 of the transportation act 1920, as amended.

The CHAIRMAN. I suggest that all of this go into the report and be printed at this particular time, and now, Senator Jones, I suppose you desire to ask Mr. Winston or some one else what were the particular amounts named in the report.

Senator JONES of New Mexico. Yes.

(The documents referred to above are as follows:

Estimates of receipts and expenditures and actual receipts and expenditures for each fiscal year from 1921 to 1923, inclusive, appearing in annual reports of the Secretary of the Treasury for the fiscal years 1919 to 1923

[Figures given below are in even thousands]

	Fiscal year 1921			Fiscal year 1922			Fiscal year 1923		
	Estimates in annual report for—		Actual for 1921	Estimates in annual report for—		Actual for 1922	Estimates in annual report for—		Actual for 1923
	1919	1920		1920	1921		1921	1922	
RECEIPTS									
Customs	$325,000	$350,000	$308,564	$350,000	$275,000	$356,443	$330,000	$450,000	$561,929
Internal revenue:									
Income and profits tax	3,000,000	3,200,000	3,206,046	2,625,000	2,110,000	2,068,128	1,715,000	1,500,000	1,628,607
Miscellaneous internal revenue	1,190,000	1,500,000	1,390,381	1,375,000	1,104,500	1,145,125	896,000	900,000	945,955
Miscellaneous receipts	905,000	689,565	719,942	509,530	478,953	539,408	404,182	579,863	655,525
Total ordinary	5,420,000	5,739,565	5,624,933	4,859,530	3,968,453	4,109,104	3,345,182	3,429,863	3,841,926
EXPENDITURES									
Legislative establishment	19,727	18,862	18,983	18,494	15,964	17,088	16,265	14,289	14,104
Executive	2,146	2,111	210	2,763	227	219	227	364	349
State Department	13,006	10,208	8,781	12,865	11,406	9,657	10,433	15,960	14,372
Treasury Department	304,938	465,741	504,977	425,008	129,592	209,823	133,745	142,518	140,989
War Department	988,857	823,530	1,101,615	231,963	389,091	454,731	69,902	326,039	371,432
Department of Justice	17,800	16,000	17,206	18,000	16,826	17,889	18,416	18,364	21,528
Post Office Department	2,050	2,097	5,230	2,327	3,276	3,384	3,357	15	147
Navy Department	575,000	651,222	650,374	658,756	478,850	476,775	431,754	349,192	323,735
Interior Department	305,661	345,000	349,815	366,000	326,541	331,814	326,682	346,266	347,220
Department of Agriculture	77,207	80,000	119,837	100,900	153,637	142,695	173,197	156,587	126,358
Department of Commerce	25,768	24,399	30,829	25,170	20,132	21,688	19,940	21,495	21,038
Department of Labor	9,565	5,075	8,502	10,762	4,797	6,227	6,302	6,770	6,606
United States Veterans' Bureau	[1]	[1]	[1]	[1]	438,122	376,750	455,233	464,185	445,114
Other independent offices and commissions	55,540	112,375	119,943	101,230	21,740	43,872	29,564	25,193	28,312
District of Columbia	20,320	21,660	22,553	23,651	22,275	23,732	25,071	24,800	23,686
Increase of compensation		35,000			35,000				
Total	2,417,615	[2] 2,613,280	2,958,856	2,696,795	[3] 2,067,497	2,136,353	2,019,438	1,912,087	1,885,115
Deduct unclassified items			923			[3] 232			111
Total	2,417,615	2,613,280	2,957,933	2,696,795	2,067,497	2,136,585	2,019,438	1,912,038	1,885,004

[1] Included under Treasury Department prior to fiscal year 1922.
[2] Amount of $35,000,000 of increase of compensation covering all departments and establishments, not distributed among departments and establishments as in other fiscal years
[3] Add.

Estimates of receipts and expenditures and actual receipts and expenditures for each fiscal year from 1921 to 1923, inclusive, appearing in annual reports of the Secretary of the Treasury for the fiscal years 1919 to 1923—Continued

[Figures given below are in even thousands]

	Fiscal year 1921			Fiscal year 1922			Fiscal year 1923		
	Estimates in annual report for—		Actual for 1921	Estimates in annual report for—		Actual for 1922	Estimates in annual report for—		Actual for 1923
	1919	1920		1920	1921		1921	1922	
EXPENDITURES—continued									
Interest on public debt	$1,017,500	$975,000	$999,145	$922,650	$975,000	$991,001	[7]$1,100,000	$1,100,000	$1,055,924
Refunds of receipts	48,048	54,013	54,013	31,997	40,279	82,826	35,252	141,421	154,000
Postal deficiency		36,895	130,128	68,500	48,172	64,346	21,510	31,503	32,527
Panama Canal	18,245	13,527	16,461	15,876	7,220	3,025	7,359	6,900	3,588
Operations in special accounts:									
Railroads		1,078,505	730,712	(4)	337,679	[5] 139,469		234,980	14,847
War Finance Corporation			[5] 22,028			94,428		[5] 125,000	[5] 109,436
Shipping Board	34,590	63,130	130,723	140,693	73,911	87,206	50,496	38,509	56,893
Alien property funds						1,826			[5] 1,366
Sugar Equalization Board						[5] 15,279			2,482
Grain Corporation			90,353		25,000	32,000			
Investment of trust funds:									
Government life insurance fund		16,949	20,325	20,909	22,022	24,599	26,162	27,183	28,672
Civil service retirement fund			8,000		8,000	9,283	8,000	6,000	8,091
District of Columbia teachers' retirement fund			162		200	231	200	200	191
Total ordinary	[6] 3,535,998	4,851,299	5,115,928	3,897,419	3,604,980	3,372,608	[7] 3,268,416	3,373,713	3,129,418
Public debt retirements chargeable against ordinary receipts:									
Sinking fund	287,500	253,405	261,100	265,755	272,442	276,046	283,839	283,839	284,019
Purchases from foreign repayments		70,138	73,939		30,500	64,838	30,500	31,250	32,140
Received from foreign governments under debt settlements									68,753
Received from estate taxes		10,000	26,349	10,000	25,000	21,085	25,000	5,000	6,569
Purchases from franchise tax receipts (Federal reserve banks)		55,000	60,725	50,000	60,000	60,333	30,000	10,000	10,815
Forfeitures, gifts, etc	300	350	168	100		393			555
Total public debt retirements chargeable against ordinary receipts	287,800	388,893	422,281	325,855	387,942	422,695	369,339	330,089	402,851
Total expenditures chargeable against ordinary receipts	[6] 3,823,798	5,240,192	5,538,209	4,223,274	3,992,922	3,795,302	[7] 3,637,754	3,703,802	3,532,269
Estimated deficit of ordinary receipts					24,469		292,572	273,939	
Estimated and actual surplus of ordinary receipts	1,596,202	499,373	86,724	636,256		313,802			309,657

[4] No estimate made under railroads.
[5] Excess of repayments, deduct.
[6] Includes no estimate under railroads and incomplete estimates under War, Navy, Treasury, public debt, etc.
[7] Includes additional amount of $125,000,000 accrued discount on war savings certificates, series of 1918.

Miscellaneous estimates of receipts and expenditures for the fiscal year 1923, made on dates shown below, compared with actual results

[In millions of dollars]

	Budget estimate July 11, 1922	Budget estimate Jan. 29, 1923	Budget estimate Apr. 1, 1923	Budget estimate May 1, 1923	Treasury estimate May 7, 1923	Budget estimate June 18, 1923	Actual, June 30, 1923
RECEIPTS							
Customs	$350	$475	$500	$540	$540	$550	$562
Income and profits tax	1,300	1,500	1,500	1,600	1,650	1,650	1,679
Miscellaneous internal revenue	900	900	900	915	910	925	946
Miscellaneous receipts	524	607	577	627	630	630	655
Total receipts	3,074	3,482	3,477	3,682	3,730	3,755	3,842
Surplus				62	150	200	310
Deficit	822	93	180				
EXPENDITURES							
Ordinary, subject to administrative control	2,111	2,089	2,099	2,125	2,085	2,080	2,063
Capital outlays, and operations in special accounts:							
Emergency Fleet Corporation	137	[1] 5	50	50	65	50	57
Railroad account (net)	284	149	63	25	12	25	15
War Finance Corporation	[1] 100	[1] 125	[1] 100	[1] 115	[1] 110	[1] 110	[1] 109
Federal intermediate credit banks			12	12	15	12	12
Redemption of the public debt	330	331	405	405	403	405	403
Interest on public debt	1,100	1,100	1,095	1,085	1,075	1,060	1,056
Investment of trust funds	34	36	33	33	35	33	35
Total expenditures	3,896	3,575	3,657	3,620	3,680	3,555	3,532

[1] Excess of credits—deduct.

Statement showing actual and estimated receipts on account of customs and internal revenue for the fiscal years 1921, 1922, 1923; estimated receipts for the fiscal years 1924 and 1925; and supporting details of such estimates submitted by the Government actuary, the Commissioner of Internal Revenue, and the Director of Customs

[In thousands of dollars]

	Fiscal year 1921		Fiscal year 1922		
	Actual, 1921	Estimate in annual report for 1920	Actual, 1922	Estimate in annual report for—	
				1920	1921
OFFICIAL ESTIMATES IN SECRETARY'S ANNUAL REPORTS					
Customs	$308,564	$350,000	$356,433	$350,000	$275,000
Internal revenue:					
Income and profits tax	3,206,046	3,200,000	2,068,123	2,625,000	2,110,000
Miscellaneous internal revenue	1,390,380	1,500,000	1,145,125	1,375,000	1,104,500
Total	4,904,990	5,050,000	3,569,686	4,350,000	3,489,500
ESTIMATES CONSIDERED BY TREASURY					
1. Government actuary:					
Customs		350,000		350,000	275,000
Internal revenue:					
Income and profits tax		3,200,000		2,750,000	2,110,000
Miscellaneous internal revenue		1,500,000		1,375,000	1,127,000
2. Commissioner of Internal Revenue:					
Income and profits tax		3,200,000		2,750,000	2,110,000
Miscellaneous internal revenue		1,500,000		1,375,000	1,127,500
3. Director of Customs:					
Customs					

Statement showing actual and estimated receipts on account of customs and internal revenue for the fiscal years 1921, 1922, 1923; estimated receipts for the fiscal years 1924 and 1925; and supporting details of such estimates submitted by the Government actuary, the Commissioner of Internal Revenue, and the Director of Customs—Continued

[In thousands of dollars]

	Fiscal year 1923			Fiscal year 1924		Fiscal year 1925
	Actual, 1923	Estimate in annual report for—		Estimate in annual report for 1922	Estimate in annual report for 1923	Estimate in annual report for 1923
		1921	1922			
OFFICIAL ESTIMATES IN SECRETARY'S ANNUAL REPORTS						
Customs	$561,929	$330,000	$450,000	$425,000	$570,000	$493,000
Internal revenue:						
Income and profits tax	1,678,607	1,715,000	1,500,000	1,500,000	1,850,000	1,800,000
Miscellaneous internal revenue	945,865	896,000	900,000	925,000	933,585	927,585
Total	3,186,401	2,941,000	2,850,000	2,850,000	3,353,585	3,220,585
ESTIMATES CONSIDERED BY TREASURY						
1. Government actuary:						
Customs		330,000	425,000	425,000	540,000	493,000
Internal revenue:						
Income and profits tax		1,770,000	1,450,000	1,450,000	1,937,000	1,953,000
Miscellaneous internal revenue		948,000	900,000	925,000	965,000	941,000
2. Commissioner of Internal Revenue:						
Income and profits tax		1,770,000	1,450,000	1,450,000	1,850,000	1,800,000
Miscellaneous internal revenue		948,000	900,000	925,000	933,585	927,585
3. Director of Customs:						
Customs			445,000	455,000	570,000	575,000

Estimated receipts and expenditures for the fiscal year 1924, and actual receipts and expenditures from July 1, 1923, to February 29, 1924

	Estimated fiscal year 1924	Actual, July 1, 1923, to Feb. 29, 1924
RECEIPTS		
ORDINARY		
Customs	$570,000,000.00	$359,986,283.28
Internal revenue:		
Income and profits tax	1,850,000,000.00	902,174,755.37
Miscellaneous internal revenue	933,585,000.00	665,462,462.92
Miscellaneous receipts:		
Proceeds of Government-owned securities—		
Foreign obligations—		
Principal	60,533,000.00	60,993,206.14
Interest	160,488,004.00	91,091,065.59
Railroad securities	[1] 16,500,000.00	36,585,403.26
All other securities	30,987,325.00	5,654,671.02
Trust fund receipts (reappropriated for investment)	34,655,870.00	20,126,783.06
Proceeds sale of surplus property	57,618,092.00	32,676,894.69
Panama Canal tolls, etc	19,009,000.00	18,176,759.49
Receipts from miscellaneous sources credited direct to appropriations	(2)	20,270,301.51
Other miscellaneous	161,301,421.00	146,162,809.65
Total ordinary receipts	3,894,677,712.00	2,359,361,395.98

[1] Includes only estimated receipts on account of principal and interest on loans to railroads under section 210, transportation act, 1920, as amended. Corresponding figures for period from July 1, 1923, to February 29, 1924, include all receipts on account of railroad securities as published in daily Treasury statements.

[2] Corresponding figures for period from July 1, 1923, to February 29, 1924, represent cash receipts and have not been deducted from expenditures, as in the estimated figures.

Estimated receipts and expenditures for the fiscal year 1924, and actual receipts and expenditures from July 1, 1923, to February 29, 1924—Continued

	Estimated fiscal year 1924	Actual, July 1, 1923, to Feb. 29, 1924
EXPENDITURES		
ORDINARY		
General expenditures:		
Legislative establishment	$13,961,066.00	$9,471,511.11
Executive proper	416,894.00	296,042.44
State Department	16,054,963.00	11,477,424.05
Treasury Department	126,622,366.00	92,962,018.28
War Department	307,600,390.00	236,446,295.67
Department of Justice	19,322,200.00	13,871,762.27
Post Office Department		141,470.19
Navy Department	341,873,550.00	227,514,318.88
Interior Department	321,283,333.00	222,695,044.90
Department of Agriculture	148,657,700.00	104,509,901.93
Department of Commerce	21,692,000.00	14,406,345.17
Department of Labor	7,747,744.00	4,071,160.96
United States Veterans' Bureau	451,053,424.00	277,583,078.53
Other independent offices and commissions	25,718,016.00	18,306,579.75
District of Columbia	26,105,308.00	17,401,932.26
Total	1,828,138,954.00	1,251,176,907.39
Deduct unclassified items		1,140,451.66
Total	1,828,138,954.00	1,230,036,455.73
Interest on public debt	940,000,000.00	504,714,864.00
Refunds of receipts:		
Customs	28,515,000.00	14,806,098.90
Internal revenue	106,875,000.00	67,590,833.51
Postal deficiency	24,679,673.00	12,476,314.18
Panama Canal	6,584,000.00	5,185,563.76
Operations in special accounts:		
Railroads	68,486,299.00	18,300,287.63
War Finance Corporation	[3] 60,000,000.00	[3] 48,672,521.68
Shipping Board	54,635,167.00	70,919,685.67
Alien property funds		653,147.55
Sugar Equalization Board		
Capital stock, Federal intermediate credit banks	[4] 8,000,000.00	
Loans to railroads	6,000,000.00	9,571,000.00
Investment of trust funds:		
Government life insurance fund	34,440,870.00	19,986,797.30
Civil service retirement fund	6,500,000.00	8,527,460.70
District of Columbia teachers' retirement fund	215,000.00	139,985.76
Total ordinary	3,053,069,968.00	1,984,134,973.01
Public debt requirements chargeable against ordinary receipts:		
Sinking fund	297,144,300.00	268,739,900.00
Purchases from foreign repayments	37,854,500.00	88,509,150.00
Received from foreign Governments under debt settlements	160,969,325.00	91,858,200.00
Received for estate taxes	10,000,000.00	7,570,750.00
Purchases from franchise tax receipts (Federal reserve banks)	6,000,000.00	3,634,550.00
Forfeitures, gifts, etc		62,350.00
	511,968,125.00	410,374,900.00
Total expenditures chargeable against ordinary receipts	3,565,038,093.00	2,344,509,873.01
Excess of ordinary receipts over total expenditures chargeable against ordinary receipts	329,689,624.00	14,851,522.97

[3] Excess of credits—deduct.
[4] Corresponding figures for period from July 1, 1923, to February 29, 1924, in amount of $8,000,000 are included in expenditures under Treasury Department.

Estimates of receipts and expenditures for the fiscal year 1923, made on dates shown below, compared with actual results

[In millions of dollars]

	Budget 1923, Dec. 5, 1921	Budget estimate, July 11, 1922	Budget 1924, Dec 4, 1922	Budget estimate, Jan. 29, 1923	Budget estimate, Apr. 1, 1923	Budget estimate, May 1, 1923	Treasury estimate, May 7, 1923	Budget estimate, June 18, 1923	Actual, June 30, 1923
RECEIPTS									
Customs	330	350	450	475	500	540	540	550	562
Income and profits tax	1,715	1,300	1,500	1,500	1,500	1,600	1,650	1,650	1,679
Miscellaneous internal revenue	896	900	900	900	900	915	910	925	946
Miscellaneous receipts	397	524	580	607	577	627	630	630	655
Total receipts	3,338	3,074	3,430	3,482	3,477	3,682	3,730	3,755	3,842
Surplus						62	150	200	310
Deficit	167	822	274	93	180				
EXPENDITURES									
Ordinary, subject to administrative control	2,077	2,111	2,093	2,089	2,099	2,125	2,085	2,080	2,063
Capital outlays, and operations in special accounts:									
Emergency Fleet Corporation	50	137	38	[1] 5	50	50	65	50	57
Railroad account (net)		284	235	149	63	25	12	25	15
War Finance Corporation		[1] 100	[1] 125	[1] 125	[1] 100	[1] 115	[1] 110	[1] 110	[1] 109
Federal intermediate credit banks					12	12	15	12	12
Redemption of the public debt	369	330	330	331	405	405	403	405	403
Interest on public debt	975	1,100	1,100	1,100	1,095	1,085	1,075	1,060	1,056
Investment of trust funds	34	34	33	36	33	33	35	33	35
Total expenditures	3,505	3,896	3,704	3,575	3,657	3,620	3,580	3,555	3,532

[1] Excess of credits—deduct.

[H. Doc. No. 148, Sixty-eighth Congress, first session]

DISPUTES ARISING INCIDENT TO FEDERAL CONTROL THAT HAVE BEEN LIQUIDATED

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING A COMMUNICATION FROM THE DIRECTOR GENERAL OF RAILROADS AND AGENT OF THE PRESIDENT SUBMITTING A SUMMARY OF THE PROGRESS MADE TO DECEMBER 31, 1923, IN LIQUIDATING "ALL MATTERS, INCLUDING COMPENSATION, AND ALL QUESTIONS AND DISPUTES ARISING OUT OF OR INCIDENT TO FEDERAL CONTROL," AS PROVIDED FOR IN SECTION 202 OF THE TRANSPORTATION ACT OF 1920

To the Congress of the United States:

I transmit herewith, for the information of the Congress, a communication from the Director General of Railroads and agent of the President submitting a summary of the progress made to December 31, 1923, in liquidating "all matters, including compensation, and all questions and disputes arising out of or incident to Federal control," as provided for in section 202 of the transportation act of 1920.

CALVIN COOLIDGE.

THE WHITE HOUSE,
January 7, 1924.

WASHINGTON, D. C., *January 3, 1924.*

Mr. PRESIDENT: I herewith submit a summary of the progress made to December 31, 1923, in liquidating "all matters, including compensation, and all questions and disputes arising out of or incident to Federal control," as provided for in section 202 of the transportation act of 1920.

The claims presented against the Government, arising out of the 26 months of Federal control of railroads, can be roughly divided into two classes:

1. The claims of those carriers whose property was actually taken over and actively operated by the director general.
2. All other claims.

I

CLAIMS OF CARRIERS WHOSE PROPERTY WAS ACTUALLY TAKEN OVER AND ACTIVELY OPERATED BY THE DIRECTOR GENERAL

These claims represent the demands of all carriers whose property was actually taken over and actively operated by the director general, and, in addition to railroad property, include the Pullman Co., coastwise and inland steamship lines, floating equipment used in harbors by railroads, sundry private car lines, elevators owned and operated by railroads, a number of electrically operated lines, and three water-works companies owned and operated by railroads furnishing water to municipalities.

The property taken over represented 241,194 miles of first main track, and, including additional main line, passing tracks, and switching yards and tracks, there was a total of 366,197 miles of track.

There were 532 properties taken over and actually operated. In some instances a number of separate properties were operated as one system. There were 181 standard contracts executed, which included 313 separately owned properties. The property of 219 carriers was taken over and no contract made with the companies.

These carriers filed claims against the Railroad Administration in the total sum of $1,014,397,446.72. During the investigation of these claims sundry voluntary reductions were made, and the administration paid to carriers sums on account. This reduced the aggregate amount of the claims, as finally presented for adjustment, to $769,974,783.35.

Up to December 31, 1923, $763,106,521.24 of these claims had been finally adjusted, or definite tentative agreements made looking to final adjustment. The principal items involved in these claims were compensation, material and supplies, retirements, replacements, depreciation, maintenance of way and structures, and maintenance of equipment.

In making these adjustments there was paid or is to be paid cash to creditor roads $242,828,947.42, and there was received or is to be received from debtor roads in cash and interest-bearing obligations $192,946,209.34, making the net cost to the Government of the settlements to date (exclusive of overhead) $49,882,738.08. This represents 6.537 per cent on the claims as finally presented for adjustment. These settlements cover 99 per cent of all mileage taken over.

Every railroad or other company whose property was actually taken over presenting a claim has been given a full hearing. All Class I roads have been finally settled with except five. Of these five, three are in the hands of receivers; one, an electric line, is being operated by its bondholders, and one company was not given a hearing until the last of December. Negotiations looking to an adjustment with these five companies are in progress.

The outstanding feature of this liquidation, now so nearly completed, is the fact that same has been accomplished without litigation. As each claim presented many items with large amounts in dispute and the legal rights of the parties were wholly without precedent, this result could not have been accomplished without fair cooperation on the part of the representatives of the carriers in reaching amicable conclusions.

II

ALL OTHER CLAIMS

These claims consist largely of the demands of third persons—employees and the traveling and shipping public. They are for loss and damage to freight, overcharges and reparation in freight transportation, personal injuries, and fire. There are also the claims of certain short-line railroads whose properties were never actually operated by the Government, and were formally relinquished within six months from the commencement of Federal control. There is also the liquidation of the American Railway Express Co.'s claims growing out of its relations with the United States Railroad Administration during the period of Federal control.

In addition, there remains a final checking of what are known as the trustee accounts between the roads actually operated and the United States Government and the collection of outstanding accounts in the field.

Much progress has been made in disposing of these controversies, and the great bulk of them should be finally adjusted during the calendar year 1924. This adjustment will be made with a greatly reduced overhead, and, as shown in the succeeding paragraph hereof, the current receipts of the Railroad Administration should be more than sufficient to take care of all of these adjustments and the expenses attending same.

III

FINANCIAL CONDITION OF THE RAILROAD ADMINISTRATION

As of December 31, 1923, the following is a brief summary of the finances of the United States Railroad Administration:

Balance unexpended appropriations to the credit of the administration (this includes avails of equipment trust certificates and interest and principal payments on other obligations of carriers reappropriated for liquidation purposes under section 202 of the transportation act)	$280, 736, 204. 05
Balance of $40,000,000 tentatively set aside, to pay judgments, decrees, and awards from the revolving fund provided for in sections 206 and 210 of the transportation act	13, 527, 595. 93
Deposits in United States Treasury and banks	42, 660, 065. 76
Total cash assets	336, 923, 865. 74
Obligations of carriers held by Railroad Administration:	
Bonds	28, 626, 300. 00
Equipment trust notes	36, 181, 600. 00
Notes of carriers, practically all secured by collateral	231, 230, 000. 00
Notes to be taken, but not actually delivered, awaiting completion of details	12, 200, 000. 00
Total carrier obligations	308, 237, 900. 00

This makes the assets of the Railroad Administration, cash and definitive obligations of carriers, $645,161,765.74.

The obligations of the carriers, taken and to be taken, aggregating, as above stated, $308,237,900, all bear and will bear 6 per cent interest, payable semi-annually. As the important claims, requiring large cash expenditures, have been adjusted, the receipts from interest on these obligations and the collection of assets in the field should be more than sufficient to liquidate and adjust all of the outstanding claims growing out of Federal control, including all overhead, and from January 1, 1924, the Railroad Administration will be an income-producing asset of the Government instead of a liability.

IV

COST OF FEDERAL CONTROL

At this time there can be stated with reasonable accuracy the cost to the Government growing out of Federal control and the six months' guaranty period immediately following the end of Federal control, which is as follows:

Congress appropriated, to pay cost of operation and to provide funds for liquidation, a total of	$1, 750, 000, 000
Under sections 206 and 210 of the transportation act, provision is made for the payment of judgments, decrees, awards, and reparation out of the revolving fund under the jurisdiction of the Interstate Commerce Commission. The expenditure in this matter is estimated at	40, 000, 000
This makes a total direct appropriation by Congress for the Railroad Administration of	1, 790, 000, 000

The Railroad Administration should return to the Treasury, in unexpended appropriations, cash, and definitive obligations of the carriers, as shown in paragraph III hereof, in round figures	$645,000,000
This leaves the cost of Federal control, including the liquidation of liabilities succeeding that period	1,140,500,000
To find the total cost to the Government of Federal control there should be added to this amount the claims arising under what is known as the guaranty period, being the six months immediately following Federal control. The Interstate Commerce Commission estimates that this will cost	536,000,000
There should also be added the cost of reimbursement of deficit roads (short lines) under section 204 of the transportation act. The Interstate Commerce Commission estimates this will cost	15,000,000
Making the total cost to the Government of the 26 months of Federal control and the 6 months guaranty period	1,696,000,000

A detailed report of the matters above referred to, under the jurisdiction of the United States Railroad Administration, is in course of preparation.

Respectfully submitted.

JAMES C. DAVIS,
Director General of Railroads and Agent of the President.

Hon. CALVIN COOLIDGE,
President of the United States.

TREASURY DEPARTMENT,
Washington, D. C., March 1, 1924.

Since last announcement, dated February 1, 1924, payments under sections 204, 209, 210, and 212 of the transportation act, 1920, as amended, have been made by the Treasury as follows:

Sec. 204:	
Amador Central R. R. Co	$35,835.06
Birmingham & Southeastern Ry. Co., receivers	20,429.11
Delaware & Northern R. R. Co., receivers	51,965.56
Freeo Valley R. R. Co	6,498.52
Sec. 209:	
Central Indiana Ry. Co., receiver	48,173.78
Chicago Great Western R. R. Co	22,660.60
Chicago, West Pullman & Southern R. R. Co	5,897.87
Delaware & Northern R. R. Co., receivers	9,987.83
Mount Hood R. R. Co	18,095.26
Nezperce & Idaho R. R. Co	1,274.44
Total	220,818.03

Total payments to Feb. 29, 1924:		
(*a*) Under sec. 204, as amended by sec. 212 for reimbursement of deficits during Federal control—		
(1) Final payments, including partial payments previously made	$8,714,710.38	
(2) Partial payments to carriers as to which a certificate for final payments has not been received by the Treasury from the Interstate Commerce Commission	350,046.73	
(3) Payments due from carriers account of overcertification in Interstate Commerce Commission certificates	47,636.49	
Total payments a/c reimbursement of deficits		9,112,393.60

Total payments to Feb. 29, 1924—Continued.		
(b) Under sec. 209, as amended by sec. 212 for guaranty in respect to railway operating income for first six months after Federal control—		
(1) Final payments, including advances and partial payments previously made	$297,756,373.32	
(2) Advances to carriers as to which a certificate for final payment has not been received by the Treasury from the Interstate Commerce Commission	156,244,723.00	
(3) Partial payments to carriers as to which a certificate for final payment has not been received, as stated above	50,187,922.09	
(4) Payments due from carriers account of overcertification in Interstate Commerce Commission certificates	54,897.82	
Total payments account of said guaranty		$504,243,916.23
(c) Under sec. 210 for loans from the revolving fund of $300,000,000 therein provided	347,200,667.00	
Less repayments on loans	148,706,521.89	
		198,494,145.11
Total		711,850,454.94

The carriers to which final payments have been made by the Treasury of the guaranty under section 209 and the aggregate amounts severally paid to them on the guaranty including advances and partial payments previously made are as follows:

Abilene & Southern R. R. Co	$61, 731. 17
Adirondack & St. Lawrence R. R. Co	10, 679. 78
Alabama Central Ry. Co	5, 246. 20
Alabama Central R. R. Co	933. 48
Alabama, Mississippi R. R. Co., receiver	16, 543. 61
Alabama, Northern Ry. Co	3, 196. 65
Alabama & Vicksburg Ry. Co	187, 744. 92
Alton & Southern R. R. Co	202, 680. 44
Andalusia, Florida & Gulf Ry. Co	453. 80
Angelina & Neches River R. R. Co	5, 587. 33
Ann Arbor R. R. Co	315, 261. 85
Apalachicola Northern R. R. Co	20, 802. 29
Aransas Harbor Terminal Ry	30, 093. 95
Arizona Eastern R. R. Co	463, 499. 24
Arkansas Central R. R. Co	33, 378. 31
Arkansas & Louisiana Midland Ry. Co., receiver	5, 429. 65
Asheville & Craggy Mountain Ry. Co	1, 224. 19
Atlanta & St. Andrews Bay Ry. Co	27, 541. 75
Atlantic Coast Line R. R. Co	8, 131, 967. 40
Atlantic Northern Ry. Co	1, 904. 43
Atlantic & Western R. R. Co	19, 338. 51
Atlantic & Yadkin Ry. Co	64, 751. 33
Baltimore & Ohio R. R. Co	26, 072, 416. 08
Baltimore & Ohio Chicago Terminal R. R. Co	1, 171, 829. 36
Bauxite & Northern Ry. Co	6, 430. 32
Bennettsville & Cheraw R. R. Co	16, 319. 94
Birmingham & North Western Ry. Co	31, 638. 57
Birmingham & Southeastern Ry. Co., receiver	2, 387. 56
Bloomsburg & Sullivan R. R. Co	2, 961. 03
Blue Ridge Ry. Co	27, 991. 20
Boston & Maine R. R	11, 220, 615. 46

Boyne City, Gaylord & Alpena R. R. Co	$63, 871. 17
Bridgton & Saco River R. R. Co	2, 995. 70
Brownwood North & South Ry. Co	6, 551. 27
Buffalo Creek R. R., lessees	232, 252. 77
Buffalo, Rochester & Pittsburgh Ry. Co	1, 754, 864. 47
Bullfrog Goldfield R. R. Co	21, 954. 88
Carolina & Northeastern R. R. Co	17, 553. 99
Carolina & Northwestern R. R. Co	90, 813. 10
Carolina & Tennessee Southern Ry. Co	4, 434. 82
Carrollton & Worthville R. R. Co	12, 051. 55
Central of Georgia Ry. Co	3, 923, 924. 32
Central Indiana Ry. Co., receiver	128, 173. 78
Central New England Ry. Co	1, 551, 874. 09
Central New York Southern R. R. Corporation	48, 277. 25
Central West Virginia & Southern R. R. Co	8, 574. 89
Central Vermont Ry. Co	1, 465, 148. 63
Charleston Terminal Co	60, 351. 89
Charlotte Monroe & Columbia R. R. Co	8, 597. 55
Charleston & Western Carolina Ry. Co	699, 878. 78
Chesapeake & Ohio Ry. Co	4, 378, 841. 30
Chesapeake Western Ry. Co	16, 804. 15
Chesterfield & Lancaster R. R. Co	22, 194. 38
Chicago, Burlington & Quincy R. R. Co	12, 288, 463. 98
Chicago & Eastern Illinois R. R. Co	2, 223, 982. 56
Chicago Great Western R. R. Co	3, 332, 660. 60
Chicago Junction Ry. Co	1, 565, 319. 54
Chicago, Kalamazoo & Saginaw Ry. Co	17, 840. 50
Chicago, Milwaukee & St. Paul Ry. Co	23, 111, 528. 05
Chicago & North Western R. R. Co	16, 533, 520. 55
Chicago, Palatino & Wauconda R. R. Co	1, 110. 23
Chicago, Peoria & St. Louis R. R. Co., receiver	541, 372. 69
Chicago, Rock Island & Gulf Ry. Co	273, 076. 76
Chicago, Rock Island & Pacific Ry. Co	7, 725, 578. 49
Chicago, St. Paul, Minneapolis & Omaha Ry. Co	2, 460, 096. 82
Chicago, Terre Haute & Southeastern Ry. Co	132, 092. 00
Chicago Tunnel Co	31, 312. 53
Chicago Warehouse & Terminal Co	46, 806. 40
Chicago, West Pullman & Southern R. R. Co	27, 897. 87
Chicago & Western Indiana R. R. Co	93, 033. 06
Cincinnati, Indianapolis & Western R. R. Co	662, 081. 00
Cincinnati, Burnside & Cumberland River Ry. Co	1, 956. 53
Cincinnati Northern R. R. Co	25, 100. 41
Cleveland, Cincinnati, Chicago & St. Louis Ry. Co	3, 434, 911. 86
Coal Belt Electric Ry. Co	17, 024. 11
Colorado-Kansas Ry. Co	3, 598. 56
Colorado Springs & Cripple Creek Ry. Co	170, 921. 69
Columbus & Greenville R. R. Co	387, 231. 02
Coudersport & Port Allegany R. R. Co	3, 811. 18
Cumberland R. R. Co	15, 827. 79
Cumberland & Pennsylvania R. R. Co	140, 066. 28
Danville & Western Ry. Co	37, 548. 74
Dayton & Union R. R. Co	27, 449. 07
Deering Southwestern Ry. Co	7, 623. 67
Delta Southern Ry. Co	72, 392. 58
Delaware & Northern R. R. Co., receiver	41, 487. 83
Denison & Pacific Suburban Ry. Co	18, 040. 86
The Denver & Rio Grande R. R. Co., receiver	1, 415, 453. 32
Detroit, Bay City & Western R. R. Co	107, 813. 36
Detroit, Grand Haven & Milwaukee R. R. Co	1, 105, 433. 98
Detroit & Huron Ry. Co	19, 390. 37
Detroit & Mackinac Ry. Co	116, 678. 28
Detroit Terminal R. R. Co	189, 171. 38
Duluth & Northeastern R. R. Co	61, 296. 87
Duluth, South Shore & Atlantic Ry. Co	459, 959. 94
Durham & Southern R. R. Co	70, 166. 99
East and West Coast Ry	21, 329. 84
Elberton & Eastern R. R. Co	5, 856. 29

Electric Short Line Ry. Co	$59, 993. 67
Electric Short Line Terminal Co	3, 158. 56
El Paso & Southwestern Co	1, 191, 408. 32
Emmittsburg R. R. Co	2, 497. 62
Evansville & Indianapolis R. R. Co	228, 594. 35
Fernwood, Columbia & Gulf R. R. Co	71, 480. 05
Flint River & Northeastern R. R. Co	5, 238. 91
Florida Central & Gulf Ry. Co	37, 015. 07
Fort Worth Belt Ry. Co	30, 931. 54
Fort Worth & Rio Grande Ry. Co	251, 885. 67
Fort Smith, Subiaco & Rock Island R. R. Co	5, 059. 23
Fourche River Valley & Indian Territory Ry	19, 413. 43
Frankfort & Cincinnati Ry. Co	12, 651. 56
Franklin & Pittsylvania R. R. Co	16, 672. 36
Fulton Chain Ry. Co	3, 410. 56
Gainesville & Northwestern R. R. Co	17, 155. 31
Galveston, Harrisburg & San Antonio Ry. Co	500, 148. 14
Galveston Wharf Co	170, 742. 96
Georgia, Florida & Alabama Ry. Co	175, 450. 03
Georgia Northern Ry. Co., The	7, 132. 37
Georgia Southern & Florida Ry. Co	496, 737. 96
Glenmora & Western Ry. Co	391. 84
Grand Trunk Railway Co. of Canada, account of Atlantic & St. Lawrence R. R. Co.; Chicago, Detroit & Canada Grand Trunk Junction; Cincinnati, Saginaw & Mackinaw R. R. Co.; Lewiston & Auburn R. R. Co.; Michigan Air Line Ry	1, 363, 392. 09
Grand Trunk Western Ry. Co	2, 171, 829. 18
Green Bay & Western R. R. Co	141, 811. 30
Gulf, Florida & Alabama Ry. Co., receiver	253, 684. 92
Gulf, Mobile & Northern R. R. Co	778, 259. 68
Gulf Ports Terminal Ry. Co	4, 978. 01
Gulf & Ship Island R. R. Co	425, 969. 75
Gulf Texas & Western Ry., receiver	102, 560. 43
Hamilton Belt Ry. Co	4, 051. 14
Harriman & Northeastern R. R. Co	10, 547. 80
Hartwell Ry. Co	6, 739. 89
Hawkinsville & Florida Southern Ry. Co	75, 000. 00
Hill City Ry. Co	2, 942. 98
Houston East & West Texas Ry. Co	242, 652. 76
Houston & Shreveport R. R. Co	28, 023. 39
Houston & Texas Central R. R. Co	903, 572. 11
Houston & Brazos Valley Ry. Co., receiver	78, 658. 91
Iberia & Vermilion R. R. Co	12, 430. 47
Illinois Central R. R. Co. and its subsidiaries	13, 689, 078. 57
Illinois Northern Ry. Co	90, 307. 96
Indiana Harbor Belt R. R. Co	1, 797, 228. 54
Jefferson & Northwestern Ry. Co	48, 362. 49
Kanawha & West Virginia R. R. Co	56, 183. 21
Kanawha & Michigan Ry. Co	303, 412. 87
Kane & Elk R. R. Co	1, 532. 22
Kansas City, Clinton & Springfield Ry. Co	86, 228. 29
Kansas City, Mexico & Orient Ry. Co. of Texas	554, 715. 19
Kansas City, Mexico & Orient R. R. Co., receiver	478 904. 17
Kansas, Oklahoma & Gulf Ry. Co., including Kansas, Oklahoma & Gulf Ry. of Texas	302, 770. 22
Kentwood & Eastern Ry. Co	12, 932. 18
Kentwood, Greensburg & Southwestern R. R. Co	24, 067. 38
Kingston Carolina R. R. Co	3, 779. 32
Knoxville, Sevierville & Eastern Ry. Co., receiver	22, 280. 07
Lake Charles & Northern R. R. Co	44, 477. 00
Lake Erie & Eastern R. R. Co	135, 404. 05
Lake Erie & Western R. R. Co	500, 918. 65
LaSalle & Bureau County R. R. Co	375. 09
Lawndale Railway & Industrial Co	3, 893. 57
Leavenworth & Topeka R. R. Co	6, 363. 35
Lehigh & Hudson River Ry. Co	384, 750. 94
Lehigh & New England R. R. Co	179, 461. 88

Liberty-White R. R. Co., receiver	$8,104.28
Little Kanawha R. R. Co	9,472.26
Live Oak, Perry & Gulf R. R. Co	27,712.08
Long Island R. R. Co	1,628,990.54
Lorain & West Virginia Ry. Co	36,237.40
Louisville Henderson & St. Louis R. R. Co	226,274.77
Louisiana & Pacific Ry. Co	44,511.78
Louisville & Nashville R. R. Co	8,931,061.69
Louisville & Wadley R. R. Co	7,419.78
Lufkin, Hemphill & Gulf Ry. Co	10,851.76
Macon, Dublin & Savannah R. R. Co	106,337.16
Maine Central R. R. Co	2,872,823.10
Manchester & Oneida Ry. Co	5,486.80
Manistique & Lake Superior R. R. Co	36,686.60
Marion Ry. Corporation	1,570.18
Marion & Rye Valley Ry. Co	12,883.32
Marion & Southern R. R. Co	2,923.72
Maryland & Pennsylvania R. R. Co	82,063.16
Maxton Alma & Southbound R. R. Co	7,406.04
Meridian & Memphis Ry. Co	44,553.49
Michigan Central R. R. Co	2,049,827.80
Middletown & Unionville R. R. Co	13,803.90
Middle Tennessee R. R. Co	20,864.90
Midland Ry., receiver	34,724.00
Millers Creek R. R. Co	10,046.73
Mineral Point & Northern R. R. Co	8,174.48
Mineral Range R. R. Co	193,167.95
Minneapolis Eastern Ry. Co	19,139.63
Minneapolis, St. Paul & Sault Ste. Marie Ry. Co	5,127,467.82
Minneapolis Western Ry. Co	20,096.67
Minnesota Northwestern Electric Ry. Co	3,383.00
Mississippi Central R. R. Co	283,581.46
Mississippi Eastern Ry. Co	12,994.77
Mississippi River & Bonne Terre Ry	74,629.28
Mobile & Ohio R. R. Co	1,930,735.85
Monongahela Ry. Co	432,819.43
Monson R. R. Co	3,268.58
Montana, Wyoming & Southern R. R. Co	14,090.19
Montpelier & Wells River R. R. Co	89,037.43
Morenci Southern Ry. Co	19,380.92
Morgan's Louisiana & Texas Railroad Steamship Co	11,077.38
Morgantown & Kingwood R. R. Co	76,293.17
Moshassuck Valley R. R. Co	19,206.78
Montana & Western Ry. Co	7,019.21
Mount Hood R. R. Co	18,095.26
Mount Hope & Mineral R. R. Co	3,675.81
Mount Jewett, Kinzua & Riterville R. R. Co	18,220.83
Muncie Belt Ry. Co	12,661.47
Nacogdoches & Southeastern R. R. Co	620.80
Natchez, Columbia & Mobile R. R. Co	3,722.91
Natchez & Southern Ry. Co	10,998.41
Nashville, Chattanooga & St. Louis Ry	1,543,961.30
Nevada-California-Oregon Ry	20,719.09
New Orleans Great Northern R. R. Co	366,555.93
New Orleans, Natalbany & Natchez Ry. Co	16,805.46
New Orleans, Texas & Mexico Ry. Co	817,018.75
New York Connecting R. R. Co	757,677.95
New York Dock Ry	86,343.49
New York, New Haven & Hartford R. R. Co	14,708,406.26
New York Central R. R. Co	25,282,637.82
New York, Ontario & Western Ry. Co	695,010.38
New York & Pennsylvania Ry. Co	27,579.24
Nezperce & Idaho R. R. Co	7,274.44
Norfolk Southern R. R. Co	1,311,700.63
Northampton & Bath R. R. Co	36,899.06
Northern Alabama Ry. Co	69,711.61
Northwestern R. R. Co. of South Carolina	15,186.15

Ocilla Southern R. R. Co. (receiver)	$36, 684. 00
Oil Fields Short Line R. R. Co	11, 588. 35
Owasco River Ry	5, 200. 42
Pacific Coast Ry. Co	21, 558. 36
Pacific Coast R. R. Co	32, 342. 79
Paris & Great Northern R. R. Co	23, 111. 00
Paris & Mt. Pleasant R. R. Co	81, 105. 81
Penn Yan & Lake Shore Ry., receiver	3, 631. 66
Peoria & Pekin Union Ry. Co	384, 329. 87
Philadelphia & Beach Haven R. R. Co	4, 648. 79
Philadelphia & Reading Ry. Co	9, 506, 060. 80
Pickens R. R. Co	3, 239. 47
Pittsburgh, Chartiers & Youghiogheny Ry. Co	140, 705. 12
Pittsburgh & Shawmut R. R. Co	71, 739. 32
Pittsburgh, Shawmut & Northern R. R. Co	200, 281. 91
Pittsburgh & Lake Erie R. R. Co	4, 275, 409. 14
Pontiac, Oxford & Northern R. R. Co	173, 700. 93
Port St. Joe Dock & Terminal Ry. Co	1, 410. 22
Quanah, Acme & Pacific Ry. Co	72, 226. 86
Quincy, Omaha & Kansas City R. R. Co	252, 363. 98
Raleigh & Charleston R. R. Co	22, 656. 71
Randolph & Cumberland Ry. Co., receiver	17, 788. 09
Rapid City, Black Hills & Western R. R. Co	23, 685. 30
Raquette Lake Ry. Co	14, 715. 60
Raritan River R. R. Co	104, 305. 19
Ray & Gila Valley R. R. Co	111, 057. 30
Rio Grande Southern R. R. Co	121, 536. 24
Rock Island Southern Ry. Co	58, 711. 84
Rockingham R. R. Co	8, 952. 11
Rome & Northern R. R. Co	2, 270. 61
Rutland R. R. Co	620, 646. 31
Salina Northern R. R. Co., receiver	22, 086. 24
The San Antonio & Aransas Pass Ry. Co	556, 354. 39
San Antonio, Uvalde & Gulf R. R. Co	192, 718. 43
Sandy River & Rangeley Lakes R. R	36, 534. 07
Santa Maria Valley R. R. Co	10, 513. 78
Savannah & Statesboro Ry. Co	7, 424. 66
Seaboard Air Line Ry. Co	7, 475, 188. 43
Sharpsville R. R. Co., receiver	20, 374. 23
Sioux City Terminal Ry. Co	21, 623. 22
Southern Pacific Co	8, 435, 301. 01
South San Francisco Belt Ry	8, 286. 69
Stanley, Merrill & Phillips Ry. Co	32, 482. 71
Staten Island Rapid Transit Ry. Co	409, 823. 33
St. Joseph Belt Railway Co	70, 526. 97
St. Joseph & Grand Island Ry. Co	536, 867. 32
St. Louis, San Francisco & Texas Ry. Co	314, 967. 63
St. Louis-San Francisco Ry. Co	5, 385, 449. 76
Stewartstown R. R. Co	2, 163. 06
Sullivan County R. R	34, 317. 82
Susquehanna & New York R. R. Co	79, 950. 61
Sylvania Central Ry. Co	12, 299. 17
Tallulah Falls Ry. Co	40, 979. 24
Tampa & Gulf Coast R. R. Co	126, 953. 79
Tampa Northern R. R. Co	49, 819. 02
Tennessee, Alabama & Georgia R. R. Co., receiver	40, 359. 66
Tennessee Central R. R. Co., receiver	300, 499. 46
Terminal Railroad Association of St. Louis	1, 693, 960. 75
Toledo & Ohio Central Ry. Co	619, 686. 90
Toledo, Saginaw & Muskegon Ry. Co	180, 278. 57
Trans-Mississippi Terminal R. R. Co	186. 950. 23
Texas-Midland R. R	158, 367. 54
Texas & New Orleans R. R. Co	165, 714. 97
Texas & Pacific Ry. Co., receiver	2, 043, 041. 77
Texas Short Line Ry. Co	9, 275. 67
Toledo, Angola & Western Ry. Co	2, 507. 34
Toledo, Peoria & Western Ry. Co	214, 104. 25

Tonopah & Goldfield R. R. Co	$96, 683. 34
The Ulster & Delaware R. R. Co	314, 250. 00
The Ursina & North Fork Ry. Co	4, 150. 90
Tug River & Kentucky R. R. Co	4, 754. 50
Union Pacific R. R. Co., account of Los Angeles & Salt Lake R. R. Co.; Oregon Short Line R. R. Co.; Oregon-Washington Railroad & Navigation Co	374, 293. 41
Virginia Blue Ridge Ry. Co	780. 11
Virginia Southern Ry. Co	8, 489. 94
Virginian Railway Co	165, 985. 63
Wabash, Chester & Western R. R. Co	21, 759. 36
Wabash Ry. Co	7, 195, 287. 71
Waupaca-Green Bay Ry	6, 940. 85
Union Freight R. R. Co	18, 504. 04
Union Ry. Co	255, 545. 06
Union Stock Yards Co. of Omaha (Ltd.)	69, 780. 81
Vermont Valley R. R. Co	56, 959. 49
Wadley Southern Ry. Co	57, 767. 15
Washington & Choctaw Ry. Co	2, 201. 99
Washington & Lincolnton R. R. Co	9, 175. 61
Washington & Vandemere R. R. Co	3, 628. 03
Waterville Ry. Co	938. 59
Waycross & Southern R. R. Co	4, 577. 72
Western Allegheny R. R. Co	84, 226. 17
West Virginia Northern R. R. Co	5, 244. 66
Wheeling & Lake Erie Ry. Co	1, 826, 068. 86
White Sulphur & Huntersville R. R. Co	2, 451. 02
Wichita Northwestern Ry. Co., receivers	38, 870. 17
Winfield R. R. Co	16, 011. 18
Winston-Salem Southbound Ry. Co	150, 768. 36
Wisconsin & Michigan R. R. Co	12, 895. 61
Wisconsin & Northern R. R. Co	73, 366. 57
Wood River Branch R. R. Co	2, 372. 02
Woodstock Ry. Co	7, 123. 47
Woodworth & Louisiana Ry. Co	2, 679. 93
Wrightsville & Tennille R. R. Co	101, 079. 39
Yadkin R. R. Co	11, 007. 59
York Harbor & Beach R. R. Co	16, 237. 83
Zanesville & Western Ry. Co	48, 832. 28
Total	297, 756, 373. 32

The carriers to which payments have been made by the Treasury for loans under section 210 and the aggregate amounts severally paid to them in this respect are as follows:

Alabama, Tennessee & Northern R. R. Corporation	$489, 000
Alabama and Vicksburg Ry. Co	1, 394, 000
Akron, Canton & Youngstown Ry. Co	212, 000
Ann Arbor R. R. Co	650, 000
Aransas Harbor Terminal Ry	50, 000
Atlanta, Birmingham & Atlantic Ry. Co	200, 000
Baltimore & Ohio R. R. Co	3, 000, 000
Bangor & Aroostook R. R. Co	200, 000
Birmingham & Northwestern Ry. Co	75, 000
Boston & Maine R. R.	26, 705, 479
Buffalo, Rochester & Pittsburgh Ry. Co	1, 000, 000
Cambria & Indiana R. R. Co	250, 000
Carolina, Clinchfield & Ohio Ry. Co	10, 000, 000
Central of Georgia Ry. Co	237, 000
Central New England Ry. Co	300, 000
Central Vermont Ry. Co	193, 000
Charles City Western Ry. Co	140, 000
Chesapeake & Ohio Ry. Co	9, 097, 000
Chicago & Eastern Illinois R. R. Co., receiver	785, 000
Chicago Great Western R. R. Co	2, 685, 373
Chicago, Indianapolis & Louisville Ry. Co	200, 000
Chicago, Milwaukee & St. Paul Ry. Co	70, 340, 000

Chicago, Rock Island & Pacific Ry. Co	$9, 862, 000
Chicago & Western Indiana R. R. Co	8, 000, 000
Cisco & Northeastern Ry. Co	236, 450
Cowlitz, Chehalis & Cascade Ry. Co	45, 000
Cumberland & Manchester R. R. Co	375, 000
Erie R. R. Co	11, 574, 450
Evansville, Indianapolis & Terre Haute Ry. Co	400, 000
Fernwood, Columbia & Gulf R. R. Co	33, 000
Flemingsburg & Northern R. R. Co	7, 250
Fort Dodge, Des Moines & Southern R. R. Co	200, 000
Fort Smith & Western R. R. Co., receiver	156, 000
Gainesville & Northwestern R. R. Co	75, 000
Georgia & Florida Ry., receiver	792, 000
Great Northern Ry. Co	33, 496, 000
Greene County R. R. Co	60, 000
Gulf, Mobile & Northern R. R. Co	1, 433, 500
Hocking Valley R. R. Co	1, 665, 000
Illinois Central R. R. Co	4, 440, 000
Indiana Harbor Belt R. R. Co	579, 000
International & Great Northern Ry. Co., receiver of	194, 300
Des Moines & Central Iowa R. R., formerly the Inter-Urban Ry. Co	633, 500
Kansas City, Mexico & Orient R. R. Co., receiver	5, 000, 000
Kansas City Terminal Ry. Co	580, 000
Lake Erie, Franklin & Clarion R. R. Co	25, 000
Long Island R. R. Co., The	719, 000
Louisville & Jeffersonville Bridge & Railroad	162, 000
Maine Central R. R. Co	2, 373, 000
Minneapolis & St. Louis R. R. Co	1, 382, 000
Missouri, Kansas & Texas Ry. Co. of Texas, receiver	450, 000
Missouri & North Arkansas Ry. Co	3, 500, 000
Missouri Pacific R. R. Co	10, 071, 760
National Railway Service Corporation	11, 437, 880
New Orleans, Texas & Mexico Ry. Co	234, 000
New York Central R. R. Co	26, 775, 000
New York, New Haven & Hartford R. R. Co	24, 130, 000
Norfolk Southern R. R. Co	1, 666, 000
Northern Pacific Ry. Co	6, 000, 000
Pennsylvania R. R. Co	12, 480, 000
Peoria & Pekin Union Ry. Co	1, 799, 000
Rutland R. R. Co	61, 000
Salt Lake & Utah R. R. Co	1, 000, 000
Seaborad Air Line R. R. Co	15, 457, 400
Seaboard-Bay Line Co., The	4, 400, 000
Shearwood Ry. Co	29, 000
Tampa Northern R. R. Co	100, 000
Tennessee Central Ry. Co	1, 500, 000
Terminal Railroad Association of St. Louis	896, 925
Toledo, St. Louis & Western R. R. Co., receiver	692, 000
Trans-Mississippi Terminal R. R. Co	1, 000, 000
Virginia Blue Ridge Ry. Co	106, 000
Virginia Southern R. R. Co	38, 000
Virginian Ry. Co., The	2, 000, 000
Waterloo, Cedar Falls & Northern Ry. Co	1, 320, 000
Western Maryland Ry. Co	3, 422, 800
Wheeling & Lake Erie Ry. Co	3, 460, 000
Wilmington, Brunswick & Southern R. R. Co	90, 000
Wichita Northwestern Ry. Co	381, 750
Total	347, 200, 667

Repayments on loans under section 210 have been made as follows:

Alabama, Tennessee & Northern R. R. Corporation	$55, 000. 00
Ann Arbor R. R. Co	240, 000. 00
Atlanta, Birmingham & Atlantic Ry. Co	20, 000. 00
Baltimore & Ohio R. R. Co	100, 000. 00
Bangor & Aroostook R. R. Co	48. 000. 00

Boston & Maine R. R.	$5,000,000.00
Cambria & Indiana R. R. Co.	250,000.00
Carolina, Clinchfield & Ohio Ry. Co.	10,000,000.00
Central of Georgia Ry. Co.	47,580.00
Central Vermont Ry. Co.	26,000.00
Chesapeake & Ohio Ry. Co.	1,023,976.03
Chicago Great Western R. R. Co.	480,000.00
Chicago, Indianapolis & Louisville Ry. Co.	45,000.00
Chicago, Milwaukee & St. Paul Ry. Co.	35,340,000.00
Chicago & Western Indiana R. R. Co.	281,000.00
Fernwood, Columbia & Gulf R. R. Co.	8,000.00
Great Northern Ry. Co.	31,888,000.00
Greene County R. R. Co.	12,000.00
Indiana Harbor Belt R. R. Co.	579,000.00
Illinois Central R. R. Co.	4,440,000.00
International & Great Northern Ry. Co., receiver	194,300.00
Kansas City, Mexico & Orient R. R. Co., receiver	2,500,000.00
Lake Erie, Franklin & Clarion R. R. Co.	6,250.00
Long Island R. R. Co.	719,000.00
Louisville & Jeffersonville Bridge & Railroad Co.	15,000.00
Missouri, Kansas & Texas Ry. Co. of Texas receiver	60,000.00
Missouri Pacific R. R. Co.	4,602,000.00
National Railway Service Corporation	1,338,090.86
New Orleans, Texas & Mexico Ry. Co.	234,000.00
New York Central R. R. Co.	26,775,000.00
New York, New Haven & Hartford R. R. Co.	200,000.00
Norfolk Southern R. R. Co.	57,700.00
Northern Pacific Ry. Co.	6,000,000.00
Pennsylvania R. R. Co.	12,480,000.00
Peoria & Pekin Union Ry. Co.	2,000.00
Rutland R. R. Co.	61,000.00
Salt Lake & Utah R. R. Co.	111,700.00
Seaboard Air Line Ry. Co.	500,000.00
Seaboard Bay Line Co.	318,000.00
Tampa Northern R. R. Co.	100,000.00
Terminal Railroad Association of St. Louis	896,925.00
Toledo, St. Louis & Western R. R. Co., receiver	92,000.00
Trans-Mississippi Terminal R. R. Co.	1,000,000.00
Waterloo, Cedar Falls & Northern Ry. Co.	60,000.00
Western Maryland Ry. Co.	500,000.00
Total	148,706,521.89

The carriers which have paid into the Treasury excess earnings during the guaranty period pursuant to the provisions of section 209(d) of the transportation act, 1920, as amended, and the amounts severally paid by them to the United States are as follows:

Ahnapee & Western Ry. Co.	$2,940.39
Barre & Chelsea R. R. Co.	25,391.33
Carolina R. R. Co.	910.78
East Tennessee & Western North Carolina R. R. Co.	10,473.42
Ironton R. R. Co.	1,932.77
Kewaunee, Green Bay & Western R. R. Co.	260.50
Lake Tahoe Railway & Transportation Co.	5,004.23
Louisiana Western R. R. Co.	168,397.58
Massena Terminal R. R. Co.	7,399.44
South Manchester R. R. Co.	1,079.16
Total	223,789.60

NOTE.—The payments above mentioned are in addition to disbursements made to carriers by the Director General of Railroads.

STATEMENT OF ROBERT G. HAND, COMMISSIONER OF ACCOUNTS AND DEPOSITS, DEPARTMENT OF THE TREASURY

Senator JONES of New Mexico. Mr. Hand, who was it that made up the estimates of the income and profits taxes for the regular Budget estimate of December 5, 1921?

Mr. HAND. My recollection is that that was the Government actuary's estimate.

Senator JONES of New Mexico. Who is that? Give his name.

Mr. HAND. Mr. McCoy.

Senator JONES of New Mexico. Who made up that estimate for July 11, 1922, income and profits tax?

Mr. HAND. Mr. McCoy, the Government actuary, as I recall it.

Senator JONES of New Mexico. Well, as you recall it; you are the one who compiles these various estimates and makes up the totals in the department?

Mr. HAND. No, sir; I get for the Undersecretary estimates for the income and profits taxes from the Government actuary, Mr. McCoy, and from the Commissioner of Internal Revenue. Now, if those estimates do not agree, then they are laid before the Undersecretary with the request that he call a conference of those men and talk over the matter with them, and see the basis on which the estimates were prepared and try to get the estimates to come together as near as possible, or find out the basic reasons for the difference. The same situation exists with respect to estimates for the customs, where the director of customs submits estimates and the Government actuary submits estimates of customs receipts.

Senator JONES of New Mexico. Well, now, was there any difference between the Budget estimate and the actuary's estimate for that report of December 5, 1921, on the income and profits tax?

Mr. HAND. I don't think so, in 1921.

Senator JONES of New Mexico. Is there any difference between the actuary and the Director of the Internal Revenue Bureau?

Mr. HAND. No; my recollection is that the estimates were the same. In fact, they corresponded exactly. That is, the Internal Revenue Bureau's estimates and the Government actuary's estimates all through, up to the fiscal year 1921, coincided.

Senator JONES of New Mexico. Was the bureau's estimate and the actuary's estimate of July 11, 1922, the same?

Mr. HAND. I can't recall that, Senator.

Senator JONES of New Mexico. I wish you would furnish us—you have those estimates in your files, haven't you? You have those estimates of both the actuary and the bureau?

Mr. HAND. Yes, sir.

Senator JONES of New Mexico. Well, I wish you would furnish us those estimates for each one of those dates—the estimate of the actuary and the estimate of the bureau for each one of those dates; and where they differed regarding any of these items, furnish us with the estimates of both, if there was any difference between the estimate of the bureau and the estimate of the actuary regarding any of these figures on any of these estimates.

Mr. HAND. Yes, sir; I will have to get some of those from the Budget, because as to some of these unofficial estimates I don't know what the basis was.

Senator JONES of New Mexico. Do you mean that the Budget makes up a separate estimate of the whole thing from the department?

Mr. HAND. At times they may make their own estimates of how things are going, for unofficial purposes.

Senator JONES of New Mexico. For unofficial purposes?

Mr. HAND. Yes; like the speech of the Director of the Budget. It might state "from present indications of collections of customs and from the internal-revenue receipts, it would appear that the surplus for the present fiscal year will change to the extent of such and such a figure." He has his own employees working on those things.

Senator JONES of New Mexico. How can he get at the receipts?

Mr. HAND. They are published each day in the daily Treasury statement. He watches them from that and he has the files of prior statements and can form his own conclusons.

Senator JONES of New Mexico. Then, are we to understand that the regular annual estimates are made up by getting reports from the Budget and from your actuary, but these unofficial statements are gotten up by the Budget alone?

Mr. HAND. In some cases they have been, Senator, and in others they have not. For instance, in the case of this speech of July 11 by the President before the business organization of the Government, the Director of the Budget called on each department for estimates of receipts and expenditures for the fiscal year 1923. The Treasury at that time got official figures from the Internal Revenue Bureau, the Government actuary, and the director of customs, to go into those figures.

Senator JONES of New Mexico. Who got that?

Mr. HAND. The Undersecretary of the Treasury, to go into the figures for July 11, 1922.

Senator JONES of New Mexico. I would like those figures from the different bureaus.

Mr. HAND. We can furnish those.

Senator JONES of New Mexico. And the actuary's figures. I want to just see who made up the estimates on those items for each one of those estimates in order to find out how they differed, if they differed at all.

Mr. HAND. From the actual?

Senator JONES of New Mexico. No; how the estimates of the different bureaus and the actuary's differed, if at all, in making up these different estimates.

Mr. HAND. The estimates in the annual report of the Secretary of the Treasury and in the Budget are the real official estimates. Now, may I present those separate and distinct from these unofficial estimates?

Senator JONES of New Mexico. What I want to get at is to know how each one was made up. Now, if the official estimates which went into the report were all made up in the same way, I think it would be very well to have those put together and then the unofficial estimates, a statement regarding them, as to how they were made up and who did it.

Mr. HAND. Yes.

Senator JONES of New Mexico. The reason——

Senator HARRISON. When did the President veto the soldier bonus bill?

The CHAIRMAN. In the fall of 1922.

Senator HARRISON. Were these estimates of July 11, 1922, in the speech in which he discussed the bonus and said because of the great deficit it would be impossible, and that we should not pass the bill?

Mr. HAND. I don't recall. Those speeches were published.

Senator SIMMONS. This estimate for July 11, 1922, was made for the benefit of the President to enable him to make this speech.

Mr. HAND. Simply for him to make this speech before the business organization of the Government.

The CHAIRMAN. That was the first meeting called by the President of all the heads of the departments and the organizations of business of the department.

Senator JONES of New Mexico. The President made a speech in the Senate on the 8th of August, 1922, if I recollect correctly, in which he referred to the deficit, and so on. That is when he requested that the bonus bill be re-referred to the committee. Was there any estimate made up for that speech? Was there any estimate made up at that time other than the July 11, 1922, estimate?

Mr. HAND. No, Senator; no other than we have furnished you here. We have combed the department and found every estimate given out for the fiscal year 1923 that we could find any record of, whether unofficial, official, or what not.

Senator JONES of New Mexico. Then, when the President on August 8 made his speech in the Senate, the estimate on which he based his statement at that time was this estimate of July 11, 1922?

Mr. HAND. Well, we have no knowledge of any other having been made in the meantime.

Senator JONES of New Mexico. I don't think it is necessary for me to try to go any further until we get those statements.

Mr. WINSTON. Senator Smoot, we have here Mr. Nash, who was asked to come here from the Internal Revenue Department in connection with the estimate for the miscellaneous taxes for 1925.

The CHAIRMAN. Senator Jones asked him to come up.

Senator KING. Before that is done, may I inquire in regard to the President's message transmitting Mr. Davis's report, the Director General of Railroads, in regard to the item of $600,000,000, which it is claimed the Railroad Administration should return to the Treasury in unexpended balances, cash, and definitive obligations. Do you expect any part of that for the current fiscal year, and if so, how much?

Mr. WINSTON. That cash has not gone out of the Treasury, so it is not considered.

Senator KING. That may not be considered an asset upon which we may draw for the expenditures of the fiscal year 1925?

Mr. WINSTON. No; that is not an asset. That is money they have not used that they might have used. Those receipts that come in from the sale of securities are used as a reduction of expenditures and not as separate receipts.

Senator JONES of New Mexico. Mr. Hand, in a letter to Mr. Fordney, dated April 30, 1921, reference is made to a revised estimate of receipts and expenditures of 1921 and 1922. I wish you would give me some information regarding that revised estimate or any other revised estimates which were officially made for those years.

Mr. HAND. Yes, sir.

Senator JONES of New Mexico. And there was a letter also to Mr. Fordney, dated January 24, 1922, which refers to revised estimates. I wish you would get the same information regarding that, and in the Magazine of Wall Street, July 8, 1922, page 329, there was an interview given to Theodore M. Knappen, in which it was stated at that time:

It appears that there will be some surplus of receipts over expenditures in 1922, but a substantial deficit, $484,000,000, in 1923.

Mr. WINSTON. With whom was that interview?

Senator JONES of New Mexico. That was an interview given to Mr. Nappen. I have not the statement here as to who gave it, but I understand it was some one in the department.

Senator HARRISON. Mr. Knappen is the correspondent of that journal, I presume?

Senator JONES of New Mexico. Yes; and I would like to know about that estimate as well. On October, 1922, there was published in the Nation's Business, pages 14 and 15, the statement of Mr. Gilbert, Undersecretary of the Treasury. I should like to get at the basis of that estimate and who made it, and the same information regarding that as with reference to these other items.

Senator WATSON. Senator, I wonder if we couldn't take all these matters up with our subcommittee? I should think that, being a matter of inquiry and investigation upon these estimates, we could properly take it up there, because unless we expect to question the evidence on which we are basing the present bill, these answers do not bear on the proposition this committee has in hand. It might very properly be a subject for investigation as to erroneous estimates, but I thought our subcommittee might take it up.

Senator JONES of New Mexico. It is immaterial to me where it is taken up, just so it is taken up.

Senator WATSON. I am entirely willing that it be taken up by our subcommittee.

Senator JONES of New Mexico. There is a statement made June 30, 1922, in which the Budget was estimated at $845,000,000 deficit for 1923. That was published in the New York Times of July 1, 1922, and the Commercial and Financial Chronicle of July 15, 1922, at page 257.

Senator ERNST. Do they purport to be estimates made by the Treasury Department?

Senator JONES of New Mexico. From information obtained from the Treasury Department, there was a message to Congress vetoing the bonus bill, in which it was said, "There is an estimated deficit of more than $650,000,000." That was the message of the President vetoing the bonus bill, September 15, 1922. That was an estimate for the current fiscal year, and a further deficit for the next succeeding year. Whatever that statement was in the President's message vetoing that report, I would like to have the same information on that as to the others. Then, on January 29, 1923, the President read a message to the business organization of the United States Government.

Mr. WINSTON. That appears in the fourth column of this list submitted to you.

Senator JONES of New Mexico. In which the state of the finances was reviewed.

Mr. WINSTON. That is shown in that fourth column.

Senator JONES of New Mexico. That was read by the President, and is based on that estimate that was given at that time?

Mr. WINSTON. Yes, sir.

Senator JONES of New Mexico. Now, on July 3, 1922, the Treasury Department released a statement for publication reviewing the finances of the country.

Senator SIMMONS. What date?

Senator JONES of New Mexico. July 3, 1922.

Mr. WINSTON. Do you mean July 2, 1923?

Senator JONES of New Mexico. No; I mean July 3, 1922. The Treasury issued a statement which was released as of that date.

Mr. WINSTON. That is the usual statement as to the result of the fiscal year which we issue every year.

Senator JONES of New Mexico. Now, there was a statement given out by the Director of the Budget, General Lord, January 29, 1923.

Mr. WINSTON. That must be the same statement as read by the President.

Senator JONES of New Mexico. Yes; you are right about that. The Budget also made a statement March 1, 1923.

Mr. WINSTON. Is that March 1 or April 1?

Senator JONES of New Mexico. March 1, 1923, my informant fixes it. I wish you would see if there was such a statement. Now, Mr. Nash, who makes up these estimates of these various items here?

STATEMENT OF CHARLES R. NASH, ASSISTANT COMMISSIONER OF INTERNAL REVENUE

Mr. NASH. The estimates are prepared in the accounts and collections unit from statistics on file in that unit as to collections from these sources for previous years.

Senator JONES of New Mexico. Who is at the head of that?

Mr. NASH. Mr. Miers is the head of the unit.

Senator JONES of New Mexico. And to whom is this report given?

Mr. NASH. The report is submitted through my office over to the Secretary's office.

Senator JONES of New Mexico. What is your office?

Mr. NASH. Assistant to the commissioner.

Senator JONES of New Mexico. Of internal revenue?

Mr. NASH. Yes, sir.

Senator JONES of New Mexico. Now, what items do you compile in your office?

Mr. NASH. I go over, review, with Mr. Miers, the estimates which have been prepared in his office and approve them.

Senator JONES of New Mexico. Does his office cover the whole of the bureau?

Mr. NASH. Yes, sir.

Senator JONES of New Mexico. Including the income tax, etc.?

Mr. NASH. Yes, sir; it includes the supervision of all collections.

Senator JONES of New Mexico. Well, does he make up the estimate of the income-tax receipts?

Mr. NASH. The estimate of the income tax is prepared partly from the information on file in Mr. Miers's office, and partly from information furnished by the income-tax division.

Senator JONES of New Mexico. Who compiles it?

Mr. NASH. This estimate was prepared in Mr. Miers's office, and the income-tax estimate, I will say, I assisted somewhat in the preparation of at that time, and finally approved it.

Senator JONES of New Mexico. Did you prepare that estimate of July 11, 1922?

Mr. NASH. No, sir.

Senator JONES of New Mexico. Who did?

Mr. NASH. I don't know. I was not in the bureau at that time. That was prepared shortly after I came to Washington.

Senator JONES of New Mexico. Would Mr. Miers know who prepared it?

Mr. NASH. Mr. Miers, I do not believe, was in the unit at that time, either.

Mr. MIERS. I was in the unit but I had nothing to do with the preparation of that estimate.

Senator JONES of New Mexico. Who did have charge of the preparation of that estimate, either in office or out of office now?

Mr. NASH. Mr. Batson was deputy commissioner in charge of income-tax matters at that time.

Senator JONES of New Mexico. Where is he?

Mr. NASH. He is an attorney here in Washington. I don't know whether Mr. Batson prepared the estimate, but he was in charge of the income-tax unit at that time.

Senator JONES of New Mexico. Well, the data, as I understand from Mr. Hand, is still on file in the office and that can be shown.

Mr. NASH. Yes, sir; I assume it is.

Senator JONES of New Mexico. I don't think it well to go ahead with this matter until we get the data I requested of Mr. Hand.

Mr. WINSTON. Will you want Mr. Nash and Mr. Hand to come back at the next meeting, or will you send for them when you do want them?

Senator JONES of New Mexico. We will send for them when we want them. I want to examine that information first.

The CHAIRMAN. Is there anything else you wish of Mr. Winston?

Senator JONES of New Mexico. No; not of Mr. Winston. If there is anything, we can call him again.

(Whereupon, at 12.05 o'clock p. m., the committee adjourned until to-morrow, Tuesday, March 18, 1924.)

(The documents referred to above are as follows:)

ESTIMATES FORMING BASES OF SPECIAL ARTICLES AND LETTERS INDICATED BELOW, WITH SUPPORTING DOCUMENTS

1. Address of the President of the United States at the second annual meeting of the business organization of the Government, July 11, 1922, with an address also by Gen. H. M. Lord, Director of the Bureau of the Budget.

2. Article in Wall Street Journal under caption "Where the Treasury stands," by Theodore N. Knappen. Secretary's letter of April 14, 1922, to chairman of Senate Committee on Finance.

3. Article in Nation's Business of October, 1922, under caption "A report to United States stockholders," by S. P. Gilbert, jr., Undersecretary of the Treasury.

4. Secretary's letter of April 30, 1921, to the chairman of the Committee on Ways and Means.

5. Secretary's letter of January 24, 1922, to the chairman of the Committee on Ways and Means—without supporting documents, the estimates being the same as in Secretary's annual report for the fiscal year 1921, for which supporting documents have been rendered.
6. Treasury press release of July 3, 1922.

ADDRESSES OF THE PRESIDENT OF THE UNITED STATES AND THE DIRECTOR OF THE BUREAU OF THE BUDGET AT THE SECOND ANNUAL MEETING OF THE BUSINESS ORGANIZATION OF GOVERNMENT IN THE AUDITORIUM OF THE NEW NATIONAL MUSEUM, JULY 11, 1922

ADDRESS OF THE PRESIDENT

Gentlemen of the Government's business organization, it is with sentiments of especial satisfaction that I come before you to-day to address the second annual meeting of executives constituting the business establishment of the Government. It is a satisfaction, because I am privileged to acknowledge your very great accomplishments in behalf of better administration and of governmental economies which have been effected within the year by reason of this new step toward better business organization in the Government. To-day's is the third meeting of the representatives of the Government's routine organization and the second annual meeting. At this first milestone we pause to examine to what extent our early expectations have been realized. I think that due examination must show that we have been on the right track, and we may proceed with renewed assurance along the highways of governmental economy and efficiency.

The report of the Director of the Bureau of the Budget for the fiscal year ending June 30, 1922, is a record of real achievement of which you may all be proud, for without your intelligent and hearty cooperation this gratifying result would not have been possible. Last August it was estimated, on information furnished by those speaking for the spending agencies of the Government, that withdrawals from the Treasury for the fiscal year just terminated would be $4,554,000,000. The last Treasury estimate shows this figure was reduced to $3,795,000,000, a reduction of $759,000,000.

The best estimate of receipts for the current fiscal year is $3,074,000,000, while estimated expenditures are placed at $3,771,000,000, an apparent excess of expenditure amounting to $697,000,000.

But the past year's experience has demonstrated that we need not be unduly concerned over such prospective deficits when we have the benefit of the Budget organization and of your cooperation. Last year, in the annual report on the Budget, a deficit of $24,000,000 was forecasted; instead we closed that fiscal year with a surplus of receipts over expenditures amounting to $313,000,000. This despite that the Government's receipts in that year fell off $1,515,000,000. That is, the Government reduced by $1,515,000,000 the amount which it collected from the people, and yet, because it was able to prune its expenditures by $1,743,000,000, it produced an actual surplus. That is certainly a gratifying accomplishment, which ought to inspire every one of you to continuing and greater efforts in the coming year. There is an offset due to last year's operations of $272,000,000, which represents the general balance in the Treasury at the close of the fiscal year 1922.

The prospective net deficit of $425,000,000 for the current fiscal year is a challenge to us all. We must here resolve that through our efforts expenses will be kept within income. There must be utmost economy. There have been established those business principles and procedures which are capable of bringing further economy during the current year, and I look to the Government's executives for still closer scrutiny of their activities and attendant expenditures. If in your jurisdictions you find activities and expenditures that can properly be curtailed or eliminated, I admonish you to do it; if the laws do not leave it within your power to do this, submit it to the President for recommendation of congressional action. The business head of the Government does not and can not contemplate or expect that expenditures this year will exceed income. If they do, it will be regarded as most unfortunate; and therefore I bespeak your fullest cooperation.

The work of the coordinating boards has emphasized the great need to consider the Government's business as a whole rather than as an uncorrelated organization of loose parts. Every one of you needs to realize that your services belong to the Government as a whole, and not to the subordinate part of it to which you happen to be attached. We need broader vision to get this

full picture, and the coordinating boards have been helping us toward it. They have been developing a real esprit which was formerly almost completely lacking. Of this, General Lord, the new Director of the Budget, will tell you in more detail.

During the fiscal year just closed deficiency and supplemental estimates amounting to $661,251,409 were submitted to Congress. Many were unavoidable, because of war-time conditions; but as the war recedes we should have constantly less occasion for deficiency estimates. Congress chafes under these conditions, and executive policy can not countenance abuses in this direction. After the Civil War the deficiency habit became so strong that Congress enacted an "antideficiency act," with which you are all familiar, and with which the Executive expects a wholehearted compliance. I can not overstate the importance of this policy, and responsible officials will be held strictly to account for its observance.

In one Government department a portion of each appropriation is set aside at the beginning of the year as a "general reserve" against which no obligations can be set up except by the specific authority of the department's head. The department is then restricted to the balance remaining, the reserve being drawn upon only for unforeseen contingencies. I earnestly recommend this procedure to all of you.

The total estimated appropriations for 1923, including supplementals, were $3,911,448,000, including the Postal Service; while total appropriations amount to $3,747,035,000, a reduction of $164,413,000 from the estimates, exclusive of about $60,000,000 not estimated for in the Budget. The difference is relatively small, considering that estimates for the fiscal year just closed were nearly $1,000,000,000 more than the appropriations. It is hoped that with more experience, estimates and appropriations may be brought still closer together.

The alternative budget submitted under this act has brought together for the first time in one bill all the appropriated funds of each department, so that it is no longer necessary to search a number of bills in order to learn the appropriation for a department.

The Comptroller General has issued a classification of objects of expenditures which became effective July 1, and is the first step toward a uniform accounting system, so urgently needed.

The preparation of estimates for the fiscal year 1924 is the next immediate duty. For that year, estimated receipts are $3,198,000,000, or approximately $600,000,000 less than the appropriations for the current year plus authorizations for expenditure not included in the appropriations. We must all keep constantly in mind that the probable receipts for 1924 will not permit as liberal appropriations as for 1923. In that connection, I may say frankly to you that I will not send to Congress estimates exceeding the probable receipts of the Government, and I must warn you that unless you use your pruning knives, the Executive will be compelled to cut deeply the estimates presented.

Our country is one of the few in the world which is now paying its way as it goes, and I must regard with disfavor any tendency to interfere with this condition or to increase taxes.

As heretofore, the Director of the Bureau of the Budget will have the full support of the Executive, and I bespeak for him your cheerful and wholehearted support. The blazing of the path of economy is no easy task. Expenditure is too often applauded, where earnest watchfulness for economy goes unnoticed, except for complaint. But there is a great compensation for the service done. It lies in the consciousness of doing the thing necessary to make government more stable, to make burdens less difficult to bear, and to make our Government an example to others and an example to the citizenship which it is meant to serve.

ADDRESS OF GEN. H. M. LORD, DIRECTOR OF THE BUREAU OF THE BUDGET

Mr. President, gentlemen of the coordinating boards, and members of the business organization of the Government, June 10, 1921, the President approved an act of Congress which gave the United States Government a budgetary system. December 5, 1921, the President submitted to Congress the first Budget under this act.

This, however, was not the first real budget submitted to an American Congress. January 5, 1790, Alexander Hamilton, the then Secretary of the Treasury, submitted to Congress a complete actual budget—a detailed statement of ex-

pected income and proposed expenditure for that fiscal and calendar year. There were also in this budget statements covering the condition of the Treasury and recommendations for the raising of additional funds which would be necessary if the program of expenditure were approved by Congress. This budget of 1790 was enacted into law as one complete measure carrying all of the appropriations of the Government. This simple business procedure was continued until 1794, when a process of decentralization began. Some of the fundamental budgetary features were continued for 30 years, but the process of decentralization continued until the budget law of 1921 went into effect, when, instead of one appropriation bill covering the Government's activities, there were 14 independent bills considered by 8 independent committees.

Under this unfortunate decentralization of the Government's estimating and appropriating activities there was necessarily a lack of coordination in our Government's finances and its financial operations, which finally compelled the adoption of a system which in its fundamentals approximates the system instituted by Alexander Hamilton 132 years ago.

To get a proper conception of the problem that faced the administrators of the Budget and accounting act, it is necessary to discuss in some detail the procedures that obtained under the decentralized system of estimating, appropriating, and expending prior to the fiscal year 1922.

With the beginning of each fiscal year the work of preparing estimates for funds for the year which began 12 months later engaged the attention of departmental officials who were charged with this work. These great departments of the Government comprise within themselves many and varied activities. For the purposes of administration they are organized into divisions, branches, sections, and subsections. At the head of these divisions and branches were officials who had the definite conviction that the one urgent need of the hour was to secure sufficient funds to permit their activities to function to the fullest extent, without regard to the needs of other departments of the Government or the condition of the Treasury. While there were shining exceptions, in most instances the estimates as finally submitted to the head of the department reflected the collective opinion of various subordinates in the department interested almost exclusively in their own activities. I am not criticizing these faithful, able, and devoted Government officials because they are interested in the governmental activity with which they are connected. If they are not interested in their own special tasks, they are very indifferent Government servants and should be separated from the service. Their initiative and pride of accomplishment and sense of the dignity of their jobs should be controlled and directed, not eliminated, but until the establishment of the Bureau of the Budget there seemed to be no agency of direction or control. Congress recognized this condition of affairs, and in 1913 attempted to remedy it by enacting a law providing for the selection by the head of each department or independent establishment of an official charged with the duty of supervising the classification and compilation of estimates, but this law failed to accomplish in the measure expected the purpose for which it was enacted. There were, however, honest and intelligent attempts to study, classify, and modify the estimates, but it was rather expected that the estimating agencies would ask for all they thought they could get, and it was thought in many cases bureaus asked for more than they needed in order to allow for congressional reduction. As a result of this lack of systematic, scientific, and intelligent study, the estimates have very generally been much greater than the appropriations. From 1890 to 1922 the estimates submitted to Congress by the various spending agencies of the Government were $23,000,000,000 in excess of the amounts appropriated. In all these years Congress has been the only barrier between the Treasury and trouble.

These estimates from the various departments and bureaus, prepared in this unscientific way, were forwarded to the Secretary of the Treasury, who gathered them in a so-called Book of Estimates and, without further consideration, submitted them to Congress, which was all that he was expected to do and all that he could do under the authority given him; so that whatever may have been accomplished in the departments in the way of study and analysis of the estimates, there was absolutely no comparison of the estimates from one department with the estimates from the other departments, for the purpose of eliminating duplication of effort and consequent expenditure, and again there was no comparison of the estimates of proposed expenditure with probable revenues for the period for which the estimates were prepared with a view to the modification of such estimates and their adjustment to Treasury conditions.

CONGRESS AND THE ESTIMATES

These estimates, carrying various expensive schemes and costly experiments, swollen beyond reason in the endeavor to give Congress something to cut—these estimates brought together in the Book of Estimates—a collection, in many cases, of guesses without proper study, without comparison, with little or no pruning, compiled without regard for the condition of the Treasury, without consideration of the taxpayer and his troubles, without fitting into or having much of any relation to any definite Government policy, were dumped upon a suffering Congress, which then proceeded at great expense of time and labor to hold extended hearings, study the estimates in detail and make reductions apparently warranted.

As there had been no coordination between the estimating agencies in the executive bureaus, so because of the decentralized organization of the appropriation agencies of Congress there could be little or no coordination in the appropriating of funds.

UNCOORDINATED EXPENDITURES

As there was little coordination of estimating and little or no coordination of appropriating, so there was little or no coordination of expending. In process of time these estimates came out of Congress more or less battered and shot to pieces in the shape of appropriations and took their places on the statute books and the departments began an era of uncoordinated expenditure. During all of this faulty process these bills had not been permitted to cultivate any sort of real acquaintance with the Treasury; the appropriations were made, spending departments had their check books ready, and the Treasury must find the money no matter how great the amount. There was too seldom a definite fixed policy and too often little or no control in the Government departments of obligations and expenditures.

AUDIT OF EXPENDITURES

The law did, however, compel the submission of expenditure vouchers to the accounting officers of the Treasury for audit, but that audit was made after the obligations had been incurred and the expenditures made, and was limited to ascertaining whether or not the obligations had been incurred and the disbursements made in accordance with the law, whereas millions can be and have been wasted illegally. If a disbursing officer paid for a pair of shoestrings from the wrong appropriation, the error was invariably detected, reported, and corrected; but if an unnecessary purchase involving millions of dollars was effected or 10 times too much paid for an article, and settlement therefor made from the proper appropriation, neither the unnecessary expenditure of millions nor the extravagant, improvident price paid for the article called for action of any sort.

It is almost incomprehensible that those charged with the administration of governmental affairs should have allowed this lamentable condition of things to continue for so long. The reason probably is that what is everybody's business is nobody's business, and we were so wealthy that notwithstanding the defects of our obsolete financial system we generally ended the year with a balance on the right side of the ledger; then, too, in those palmy days we knew nothing of real taxation; but the World War changed all that. Inadequate and inefficient procedure and methods are deplorable when the amounts involved are confined to millions, but when millions swell into billions, failure to revise and correct such methods would be disastrous and indefensible.

In summarizing, as I have done, the conditions which existed prior to the commencement of operations under the Budget and accounting act my sole intent has been to make plain the revolution which has taken place in the business of the Government since the enactment of this legislation. A little more than one year ago a new era was inaugurated; the President for the first time in the history of this country took his logical place as the head of the business organization of Government and assumed all of the great responsibilities devolving upon this direct leadership. Through the machinery provided for him scientific methods were inaugurated in the estimating of funds and the expenditure thereof and coordination was established in the routine business organization. This has required Executive pressure, which must be maintained if from the admirable foundation already laid we are to continue the policies of greater economy and efficiency and carry them through until full and complete results have been achieved.

The Budget and accounting act is not itself a magic wand that waves out all these faulty procedures and beckons in the financial millenium. Habits, customs, regulations, laws that the passage of a hundred years or more has built into the very machinery of the Government are not eradicated over night. The most flagrant faults will be corrected first, but it must be a continuing process, that will require years of patient, persistent, and courageous endeavor, with the unwavering, vigorous support of the Executive.

THE NEW PROCEDURE

Under the new procedure instead of the many estimating agencies within the various departments and bureaus there is required by the Budget law the appointment of a Budget officer by the head of each department and independent establishment of the Government, who is charged with the preparation of all estimates. The creation of these Budget officers was considered of primary importance by those who were particularly responsible for the enacting of the Budget legislation, and the spirit of the act can not be fully carried out unless the men filling these important positions are officials of sterling ability, of standing in their branches, and are given an absolutely independent status as far as Budget operations are concerned. The Budget officer is the fiscal officer of his department. In matters pertaining to the Budget he must be subordinate to the head of his department alone, and should report to him directly.

PRIOR EFFORTS AT CORRECTION

We must not, however, overlook the fact that there were occasional John the Baptists crying in the wilderness of faulty government procedure and calling attention to a new and more excellent and effective way of doing these important things. President Taft, during his occupancy of the White House, succeeded in getting an appropriation from a reluctant Congress to make a study of Government organization with a view to establishing more efficient and economical procedures. He established a Commission on Economy and Efficiency, which submitted a careful and informative report to Congress and recommended the installation of a budgetary system in our Government. Congress pigeonholed the report and abolished the commission, but the money and effort involved in this attempt to remedy the flagrant condition of the Government's financial operations were not entirely unproductive, for out of that attempt was developed a strong sentiment among the people and the business organizations of the country in favor of a budgetary system for the Government.

The estimates prepared by the Budget officers and approved by the department heads are submitted to the Bureau of the Budget, where they are given microscopic examination and analysis by special investigators familiar with the organization and operations of the various agencies of the Government, acquainted with their functions and their mission, and who know what the bureaus have been doing with their appropriations. Here the estimates of one department are compared with the estimates of other departments, duplications eliminated, and reductions and modifications made so as to fit them into the approved administrative policy. These estimates are also studied with an eye upon the condition of the Treasury of the United States and tax conditions.

This carefully prepared estimate is then submitted by the President to Congress for action with a statement of expenditures for the last prior year for which a complete report is available and estimated expenditures for the current year. The estimates are also accompanied by statements showing the condition of the country's finances and expected receipts, and if funds over and above the yield from established sources of revenue are needed the law requires that the President shall recommend what steps in his opinion should be taken to provide such revenue.

CONGRESSIONAL PROCEDURE REVOLUTIONIZED

As a result of the enactment of the Budget law a great revolution has take place in the organization of the House and Senate along appropriating lines. To-day all appropriations of the Government are made on bills reported to Congress from one committee, the Appropriations Committee of the House and the Appropriations Committee of the Senate. This arrangement affords opportunity for comparing the estimates of one bureau with those of another, and permits consideration of the country's needs as one complete study by one committee atting for the House and for the Senate.

Under the operation of the Budget law the annual appropriations for each department now all appear in one act, and it is not necessary in order to find how much money is available for a department or agency to search through several different appropriation acts for that information. This is certainly a long step in advance along the road of adequate governmental financial procedure.

THE GENERAL ACCOUNTING OFFICE

The Budget and accounting act provides for a General Accounting Office with a Comptroller General at its head. This office is charged with the duty of auditing all disbursements of public money and the settlement of claims not paid by disbursing officers. It is not only to prescribe the forms of keeping and rendering public accounts but is charged with devising the forms and procedures of administrative accounting in all branches of the service.

Heretofore each department and establishment of the Government has devised and installed such methods of keeping its accounts as it found necessary or desirable. There has been no uniformity, with the result that there could be no satisfactory report of the receipts and expenditures of the Government as a whole. Financial statements were made in scores of annual and special reports from departments, bureaus, and other organizations, or by individual officers. Under the direction of the Comptroller General these conditions will soon change, and we shall have a complete picture of the Government's financial operations with a statement of audited receipts and expenditures soon after the close of each fiscal year.

The General Accounting Office and the Bureau of the Budget collaborated in the preparation of a system of uniform classification of objects of expenditure, which was put into effect July 1, and applies to every activity of the Government. This is the first step toward a uniform accounting system so necessary from the standpoint of economy and efficiency.

The General Accounting Office is an important part of the Budget and accounting machinery, and is independent of the executive departments. The tenure of office of the Comptroller General is such as to enable him to speak fearlessly and frankly. The information given by him to Congress and the public with reference to the receipt, disbursement, and application of public funds will be an important aid in improving conditions.

A PROVIDENTIAL SELECTION

We have completed one full year under the new Budget and accounting act and it proved a very full and eventful year. In June, 1921, President Harding drafted Gen. Charles G. Dawes, of the Central Trust Co. of Illinois, as Director of the Bureau of the Budget. I use the word "drafted" advisedly, for General Dawes, a man of large affairs and in no sense of the word a candidate for public office, yielded to the President's request as a call to public service, which, as a patriotic citizen, he could not well decline. The President's choice was providential. Probably there is no man living to-day who possessed in such full measure the equipment and qualifications necessary for that important position at that critical time. With a reputation for integrity, ability, initiative, and courage, a vigorous and forceful personality, with prior governmental service as Comptroller of the Currency, with an enviable record overseas for important work along constructive lines which contributed in no small measure to the success of our arms, he from the very first was the absolute master of his tremendous task, and made the Bureau of the Budget from its inception what it was intended to be by the Congress that created it—a dominant factor in the Government's routine business operations. His contributions to the public welfare have been unselfish, impersonal, and nonpartisan, and it is impossible to give adequate expression to the great importance of the service he has rendered this people and this country. And I do not wish to close this eulogy of General Dawes without a word of appreciation of those able men whom he drafted as his assistants. I think it is generally admitted that one of the most necessary qualifications of a great master of affairs is ability to select assistants wisely. This selective ability is one of the most notable of the Dawes traits. General Dawes, when called to this great task, sent calls in all directions for help, and there rallied around him some of the ablest business men of the country, who gave freely of their great talent to the public service. Preeminent among these was W. T. Abbott, a director in the Central Trust Co. of Illinois, of Chicago, who was the First Assistant Director of the Bureau of the Budget. Mr. Abbott brought to the solution

of the perplexing problems that faced him an extraordinary fund of common sense and a rich legal and financial experience that proved of the greatest help to the Government. After leaving the Budget he continued as a member of the Tax Simplification Board of the Treasury Department, and while serving in that capacity was stricken at his post in the Treasury Department and passed on. Mr. Abbott endeared himself to all who came within the sphere of his activity. Hopeful and helpful, those who knew him best loved him most, and it is certainly most fitting that at this meeting of the business organization of the Government appreciation of his services be included in the record.

His successor as Assistant Director of the Bureau of the Budget was Col. J. C. Roop, who most efficiently filled that position until his resignation June 23, 1922. Colonel Roop came under General Dawes's observation overseas where they were associated in great supply activities. He is a keen analyst, a man of most excellent judgment, and proved a tower of strength in the Budget.

AN ECONOMY CAMPAIGN

On of the primary duties of the Director of the Bureau of the Budget is to see that sufficient funds are secured from Congress to properly finance the operations of the Government in carrying out the policy of the President and the administration—sufficient funds and no more. When the present Budget law went into effect, however, the condition of the Treasury and the burden of taxation made an immediate campaign of retrenchment necessary. Congress was committed to a reduction in taxation and the people of the country expected it, but the estimated expenditures compared with the expected income was a threat rather of increased taxation than a promise of reduction. Looking at the situation as a business man the Director of the Bureau of the Budget reached a business man's conclusion, and that was that the Government's outgo must be within its income, either by actual savings or by a postponement of expenditures until the Treasury was in a better condition to meet them. Then was launched that retrenchment campaign which was to make governmental economy fashionable and extravagance dangerous. The representatives of the obligating and spending agencies of the Government were called into session by the President of the United States as the head of the Government's business organization, the condition of the Government's finances was presented, and the help of all present enlisted in a real savings movement.

REAL SAVINGS MOVEMENT

The Secretary of the Treasury in August, 1921, stated that the expenditures for the fiscal year just closed, as estimated by the executive bureaus, would be $4,554,000,000. The daily report of the Secretary of the Treasury for June 30, 1922, the end of the fiscal year, reports actual expenditures for the year of $3,795,000,000, a scaling down of $759,000,000, a most extraordinary and creditable achievement. This could not have been accomplished without vigorous Executive pressure, the great driving power of the first Director of the Budget and the cooperation of the executive bureaus. Of greater value, however, than any particular saving in dollars and cents is the permanent installation of a policy of economy in Government business, and the acceptance of this policy by the executive bureaus. The entire personnel of the Government must learn, if it has not already taken the lesson to heart, that economy is the approved policy and that extravagance of any sort is dangerous business. During this current fiscal year all proposed expenditures must be given the closest scrutiny, and no wasteful, extravagant, or unnecessary expenditures should be allowed to pass unchallenged, and, further, no obligation should be incurred this fiscal year that can be postponed without serious detriment to the public service. The President has substituted a competition in saving for a competition in spending, and where billions are involved this is a most timely and admirable substitution. Hereafter the measure of value and worth to the Government of a public official charged with the administration of public funds will be not the amount he spends but the amount he saves, and this saving to be made not with loss of efficiency but with gain in efficiency, and these two are not incompatible. The Budget law gave the President an agency for imposing policies of economy on the Government's many establishments, an agency which he is utilizing and proposes still to utilize for the purpose of saving millions of dollars of the people's money.

LACK OF COORDINATION

One of the most productive causes of waste in the transaction of the routine business of the Government was the entire absence of any coordinating authority. This demanded the setting up of coordinating machinery, which was effected by Executive order creating a Chief Coordinator and subsequent Executive orders establishing under him various coordinating agencies to deal with the larger functions of the Government's routine business.

SALES OF SURPLUS PROPERTY

The study by the Bureau of the Budget of sources of revenue revealed the fact that there was in possession of the various bureaus surplus property that had a marketable value. Some of this property was deteriorating and much of it held at a continuing expense for care and preservation. There was no uniform method of disposing of this accumulation of munitions. Each holding agency was carrying on its sales in its own individual way. Governmental agencies in some instances were buying in the market at the market price supplies that had recently been sold by other Government agencies at a sacrifice. To correct this condition of things there was established by the President, under the supervision of the Chief Coordinator, a Federal Liquidation Board to coordinate the sale of all surplus property, to provide for transfers between the various bureaus and agencies, to knit the sales activities of the several departments concerned in the liquidation of stocks into a Federal business association, and to install practical business methods in the Government's selling agencies.

In the General Supply Committee of the Treasury Department there exists complete lists of all surplus Government property, and Government agencies, before buying in the market, are required to first submit their needs to that office to ascertain whether the articles or suitable substitutes therefore are available and the transfer economical, due regard being given to location of stocks and point of requirement. In the event that the required articles or suitable substitutes can be provided from surplus stocks the money value thereof is saved to the Government and put back into the Treasury. There were transfers of this character during the last fiscal year valued at $147,297,000. The estimated savings on these transfers amounted to $44,546,335.

The following examples will prove interesting and informative:

The Engineer Department of the Army required certain dredges in its dredging operations which would have cost $349,500. Surplus boats in the hands of the Quartermaster Corps, which if sold would realize but a small fraction of their value, were transferred to meet this need and the money saved.

The Lighthouse Service of the Department of Commerce had an appropriation of $1,500,000 for the purchase of lighthouse tenders. The Lighthouse Service was furnished Army mine planters which were readily convertible into lighthouse tenders and the appropriation of $1,500,000 conserved. The Army mine planters had little or no market value, and if they had not been utilized for this purpose would have been left rotting at the docks under continuing expense to the Government.

In addition to its utilization of stock on hand, as shown by the records of the General Supply Committee, and by actual check of property in question for transfer to obviate expenditure, the Federal Liquidation Board has systematized and materially accelerated the sale of surplus property. One department of the Government had a large number of leather jerkins in its reserve stock. Through the investigation of the Chief Coordinator and his representatives it was found that these were deteriorating in storage. This matter was brought to the attention of the holding department. The jerkins were declared surplus and sold, and $1,740,650 turned into the Treasury as proceeds of the sale.

The attention of the War Department was called to the large portion of its reserve stock of nitrates occupying leased storage, with the result that the Ordnance Department declared surplus some 81,000 tons of nitrate, which was costing the Government annually $88,459, and sold it for the sum of $2,750,000, which sum was turned into the Treasury and the rental of $88,459 and other attendant expenses saved. At a later period, attention having been drawn to the matter of nitrates, the Ordnance Department of its own volition declared surplus an additional 40,000 tons, with corresponding resultant saving.

There was turned into the Treasury of the United States from sales of surplus supplies during the fiscal year just closed the splendid total of $90,000,000. The estimated total of prospective receipts from sales of surplus property for the current fiscal year as furnished by the selling departments amounts to $80,000,000.

It would seem, considering the enormous amount of surplus property held by the departments, particularly the war-making establishments of the Government and the United States Shipping Board, that this amount should be materially increased, and if it can be increased it certainly should be in view of the fact that the estimate of expenditures compared with the estimated receipts for the current fiscal year emphasizes the urgent need of additional revenue. I invited the attention of the Federal Liquidation Board to this condition of things with a view to giving new impetus and encouragement to its intelligent and patriotic effort to sell to the best advantage the Government's large accumulation of surplus property. I can think of no more constructive and helpful work for the Government at this time than the speeding up of the disposition of its surplus munitions, and I trust the efforts of the Federal Liquidation Board in this direction will have the enthusiastic cooperation of the departments and establishments holding this property. This activity—the conversion of surplus property into needed revenue—will have the especial consideration of the Director of the Bureau of the Budget.

FEDERAL PURCHASING BOARD

Another important activity in the work of coordination is that of Government purchasing. In the field of procurement the Government agencies have certainly run riot. In the Treasury Department there were found to be 26 uncoordinated purchasing agencies, in the Agricultural Department 18, and so on through the length and breadth of the Government service, with one or two exceptions, notably the Navy Department, where purchases were highly coordinated. It was only necessary to bring these matters to the attention of the departments concerned. In the Treasury Department, on the initiative of the Secretary of the Treasury, the various purchasing agencies are being consolidated and reorganized along efficient lines. In the Department of Commerce this consolidation has already been effected. In the Interior Department it is in progress. In the Department of Agriculture the organization has been set up and is rapidly becoming effective.

REAL ESTATE COORDINATION

There is no available consolidated record to-day of the real estate, buildings, blocks, warehouses, wharves, and other property belonging to the Government. The Government's annual storage and rental bill runs into millions, but until under the Budget a coordinator was appointed charged with the task, there was no person or agency to make an economical use, disposal, and distribution of such real estate and housing and storage facilities. In the same cities Government space controlled by one Government agency stood unutilized while another Government agency paid good Government money for rented space that was not so well suited for the purpose.

There is being prepared by the Real Estate Board a complete tabulated list of the Government's real estate holdings. This task, as gigantic as it is important, is to-day 80 per cent completed, and the Government will soon know for the first time in history how much realty it owns.

As a result of this coordinating work by the surveyor general of real estate and the Federal Real Estate Board operating under the Chief Coordinator, many thousands of dollars have been saved to the Government.

For example, space was found in the army depots at South Boston and South Brooklyn for the storage of seized liquor, enabling the Government to cancel leases for storage that were costing $275,000 annually. Government quarters were found for scattered Government activities in Chicago which permitted the cancellation of leases costing the United States $200,000 annually.

FEDERAL TRAFFIC BOARD

The Government's annual transportation bill is approximately $80,000,000, exclusive of the Post Office Department. One would think that somewhere, at at some time, some how there would have been established some agency to act for the Government as a whole and exercise supervision over this tremendous business, but as with all other important governmental activities so in this field of expenditure there was no agency whatever charged with the duty of protecting the interests of the United States. That has now been changed, for under the Director of the Bureau of the Budget, acting through the chief coordinator, there has been established a Federal Traffic Board, which has assumed intelligent and authoritative supervision over the 26 Government departments and

establishments authorized to obligate and expend Federal money for the transportation of supplies and persons.

Under the new method proposed routings of shipments are submitted to the Federal Traffic Board for recommendation, where they are studied in the light of experiences of other Federal agencies and submitted to the scrutiny of experts in traffic matters. Quite recently a Government department recommended the routing of 25 carloads of coal from Kentucky to Chicago. The Federal Traffic Board recommended a modified routing that saved the Government 17½ cents per ton.

A shipment was made of hospital supplies consisting of food containers, instrument tables, laundry bags, bed screens, and one human skeleton. No separate weights were shown and the total weight was given as 13,600 pounds. Because of the failure to properly classify, weigh, and ship, the rate of the skeleton, which was three time first-class rate, was applied to the entire lot, which was shipped at a minimum of 20,000 pounds.

Realizing that this carelessness in routing, failure to properly classify, failure to take advantage of land-grant rights, failure to utilize the most economical methods of shipment and routes, failure to properly discriminate between what should be expressed and what should be sent by freight—realizing this condition of things has obtained all through the years, we stand appalled at the thought of the waste that has resulted. Fortunately that era is ended, for to-day there is intelligent supervision over the Government's traffic activities.

A BOARD OF CONTRACTS AND ADJUSTMENTS

By far the greater portion of the vast sums paid by the Government for supplies is expended under contract. Yet in the operations of the Government not only has there been no coordination between the contracting agencies of the various departments and independent establishments but there has been absolutely no coordination in many cases between branches of the same department. The Government has no standard form of contract. There is no law prescribing the language of a contract, no agency of the Government to tell what language shall be used. Each department has its own methods and forms, and in some of the big departments the several bureaus therein have different forms and different methods. It is impossible to estimate the great waste that has resulted from this condition of things, and there is no more important need in all this coordination work than a revision of the Government's contracting activities.

The Board of Contracts and Adjustments has been organized to correct this serious condition. One of the most constructive results of the work of this board will be a contract manual which will serve all the contracting officers of the Government and will present to them the fundamental requirements of Government contracts.

Existing requirements of law governing contracts have also been given very careful study, and it is probable that recommendations will be made to Congress for legislation that will make procedures uniform for the various Government procuring agencies.

OTHER IMPORTANT COORDINATING ACTIVITIES

Time will not permit discussion of the many other important coordinating activities, like the Federal Board of Hospitalization, Federal Specifications Board, the coordination of the Government telephone and cable operations, the restriction, control, and coordination of Government printing plants and printing, nor to enter upon other fields of activity which are being cultivated diligently by the President's coordinating machinery. Only the fringe of these activities has been touched upon as yet, but certainly it is a field worth cultivating to the fullest extent. The report of the chief coordinator for the fiscal year just closed is in your hands, and you will find it not only informative but extremely interesting.

These coordinating agencies will continue to operate through this fiscal year, and more effectively than during the year just closed. If they accomplish nothing more than to develop among the various establishments of the Government that fealty and loyalty to the Government as a whole which is so necessary, and which has seemed so rare where the routine business of the Government is concerned, their existence and continued operation will be amply justified. The coordinating boards are your agencies, members of the business organization of the Government, composed of your personnel, who carry into their work for the General Government affection and loyalty for their own departments.

They have found the experience broadening, and I wish it might so be that you all could matriculate in this hard-working coordinating college and win degrees for attainment along the lines of unified national interests. We will never reach the high standard of governmental efficiency for which we aim until we learn to think habitually and involuntarily in terms of United States rather than in terms of departments, bureaus, and divisions.

FINANCES FOR THE CURRENT YEAR

The policy of economy, which so strikingly featured the history of the year just closed, will be the keynote of operations for this current year. I have here tables showing that the estimated revenues for the current year will be $697,000,000 less than the expenditures the executive bureaus estimate they will make. There is, indeed, a balance of $272,000,000 coming over from the last year, but as a matter of good business procedure there certainly should be left as much in the Treasury at the end of this current fiscal year for Treasury current operations as we received from 1922, so that our real problem is to provide for the apparent excess of expenditures of $697,000,000. Certainly the problem is big enough to inspire our best efforts.

Revised estimate of receipts, fiscal year 1923

Customs	$350, 000, 000
Internal revenue	2, 200, 000, 000
Miscellaneous receipts:	
Legislative	532, 700
State Department	5, 750, 400
Treasury Department	309, 009, 870
War Department	73, 756, 464
Panama Canal	12, 315, 000
Navy Department	5, 201, 000
Interior Department—	
Civil	15, 738, 490
Indians	21, 000, 000
Post Office Department	60, 000
Department of Agriculture	7, 133, 300
Department of Commerce	3, 421, 572
Department of Labor	4, 664, 500
Department of Justice	9, 155, 700
Independent offices—	
United States Veterans' Bureau	34, 470, 000
Housing Corporation	3, 443, 000
Other independent offices	108, 000
District of Columbia	17, 585, 315
Miscellaneous	490, 000
Total miscellaneous receipts	523, 825, 311
Total receipts	3, 073, 825, 311

Revised estimates of expenditures, fiscal year 1923

Ordinary expenditures not subject to Executive control: Legislative	$13, 643, 626
Ordinary expenditures for operation of the routine business of Government generally subject to Executive control:	
Executive office	334, 645
State Department	16, 207, 193
Treasury Department	132, 356, 986
War Department, exclusive of Panama Canal	305, 236, 200
Panama Canal	7, 147, 673
Navy Department	349, 706, 000
Interior Department proper	42, 911, 429
Indian Service	32, 487, 682
Department of Agriculture, exclusive of "good roads"	60, 023, 100
Department of Commerce	19, 200, 360

Ordinary expenditures for operation of the routine business of Government generally subject to Executive control—Contd.	
Department of Labor	$7, 192, 558
Department of Justice	4, 834, 450
Judicial	14, 979, 891
Independent offices—	
United States Veterans' Bureau	532, 168, 160
Shipping Board and Emergency Fleet Corporation	137, 031, 765
Federal Board for Vocational Education	5, 711, 042
All other	16, 825, 989
District of Columbia	23, 908, 012
	1, 708, 263, 135
Deficiencies in postal revenue	36, 004, 566
Operations in capital funds heretofore designated as ordinary expenditures:	
Railroad Administration and transportation acts	284, 453, 847
War Finance Corporation	[1] 100, 000, 000
	184, 453, 847
Expenditures fixed by Congress not subject to modification by Executive control:	
Customs and internal-revenue refunds	52, 962, 195
Pensions	271, 850, 000
Good roads	125, 684, 000
Increase of compensation	38, 735, 173
	489, 231, 368
Total expenditures, exclusive of interest and principal of the public debt and investments of trust funds	2, 431, 596, 542
Reduction in principal of public debt, payable from ordinary receipts:	
Sinking fund	284, 000, 000
Purchase of Liberty bonds from foreign repayments	31, 300, 000
Redemption of bonds and notes from estate taxes	5, 000, 000
Redemption of securities from Federal reserve bank franchise tax receipts	10, 000, 000
Total reduction in principal of public debt, payable from ordinary receipts	330, 300, 000
Investment of trust funds:	
Government life-insurance fund	26, 162, 000
Civil-service retirement fund and District of Columbia teachers' retirement fund	8, 200, 000
Total trust-fund investments	34, 362, 000
Interest on the public debt	975, 000, 000
Total expenditures, including interest and principal of public debt and investments of trust funds	3, 771, 258, 542

The setting aside of a Budget reserve from appropriated funds, as was done last year, with attendant saving of millions, is not contemplated at this time, for it is believed that after the admonition of the Chief Executive and after the experience of last year patriotic Government servants who are charged with the administration of Government funds will by their faithful performance in view of existing conditions make such a course unnecessary. If the executive bureaus have really taken to heart the lesson in economy and have fully and unreservedly

[1] Excess of credits, deduct.

accepted it as a fixed policy of the administration and the Government, the record at the end of the first quarter of the present fiscal year will give evidence thereof.

The plan of a departmental general reserve, however, as distinguished from the Budget general reserve of last year, will be put into effect this year, and will be found very helpful, not only as a preventive of deficiency bills but as a medium for economies and actual savings, and department heads under such a plan will have under personal control through the year funds which are not mortgaged by actual obligations or approved departmental projects and will have available funds with which to meet unforseen contingencies. Information regarding this plan can be obtained on application to the Director of the Bureau of the Budget, who will call later upon the departments for reports showing the amount of reserve set up under the various appropriation items and the manner in which the reserve is being administered.

In the continued stressing of the need of economy it is not contemplated that there will be any sacrifice of efficiency. There can be no real efficiency without economy, while extravagance is the inseparable handmaid of inefficiency.

For this and the next year and all succeeding years "Economy with efficiency" should be the battle cry of the personnel of the business organization of the Government.

ESTIMATES FOR NEXT YEAR

We are now confronted with the preparation of estimates for 1924, and here again the estimated Treasury receipts spell economy in capital letters. Your attention is invited to the fact that estimated receipts for the next fiscal year are approximately $600,000,000 less than appropriations for the current year plus authorizations for expenditure not included in these appropriations:

Estimated receipts, fiscal year 1924

Customs		$350,000,000
Internal revenue		2,350,000,000
Miscellaneous receipts:		
Legislative		555,000
State Department		5,770,900
Treasury Department		322,033,981
War Department		34,487,240
Panama Canal		13,312,000
Navy Department		3,044,000
Interior Department—		
Civil	$16,011,500	
Indians	20,708,500	
		36,720,000
Post Office Department		60,000
Department of Agriculture		7,187,500
Department of Commerce		3,436,550
Department of Labor		3,803,000
Department of Justice		9,155,700
Independent offices—		
United States Veterans' Bureau	$35,473,000	
Housing Corporation	4,008,000	
Other	110,000	
		39,591,000
District of Columbia		18,500,000
Miscellaneous		500,000
Total miscellaneous receipts		498,456,871
Total receipts		3,198,456,871

The conclusion is obvious. If there ever was a time when scientific estimating was needed, that time is now. May you approach your estimates with prayer and determination—prayer for intelligent guidance and determination to eliminate every nonessential and to restrict the essentials to the lowest point compatible with efficiency.

HONEST ESTIMATES

A member of the business organization of the Government informs me that there is prevalent among some of the bureaus a feeling that if a bureau submits an honest, cut-to-the-bone estimate it will be reduced by the Bureau of the Budget and again by Congress—that is, the estimate would suffer from a cutting competition between the Budget Bureau and Congress. The Director of the Bureau of the Budget is acting for the President of the United States; has no policy of his own, but reflects the policy of the administration. One of his primary duties is to see that the business policy of the Government, approved by the President, is properly financed. If the Director of the Bureau of the Budget pares down an appropriation he does it with the approval of the President. What Congress may do is not the business of the estimating agencies of the executive bureaus. One of the most important and necessary things to be accomplished at this time, in the interest of the Government as a whole, is for the executive bureaus to establish a reputation for honest dealing with Congress.

The first estimate I submitted to Congress was an honest, minimum estimate, without one penny of padding. I was new at the business and went before the House Appropriations Committee as innocently and as guilelessly as a dove. I shudder now when I recall what they did to that carefully drawn, unpadded estimate. I can illustrate it perhaps by the experience of the man who was accustomed to arrive home late from his club in a highly inebriated condition. The first night he went home sober his dog bit him. And that was what Congress did to me. In submitting honest estimates you may get bitten, but it's worth it if the executive bureaus succeed by such a policy in rehabilitating themselves in the estimation of the congressional committees.

THE BUDGET BUREAU A NONPOLITICAL AGENCY

There is one point that I wish to emphasize at this time, and that is that the Bureau of the Budget is in no sense of the word a political agency. In his address before the first semiannual meeting of the business organization of the Government General Dawes said: "The Bureau of the Budget must be impartial, impersonal, and nonpolitical," and of the many admirable statements made by him there is none more important and timely. The Budget movement in its inception, both in the country and in Congress, was absolutely nonpolitical. The proposal for the establishment of a national Budget system was advocated by chambers of commerce and other commercial bodies and trade associations throughout the country regardless of political or geographical division. It was favored by both President Taft and President Wilson, and received indorsement in the platforms of all political parties. When the Budget proposal was before Congress experienced leaders of both parties served on the select Budget committees of the House and Senate, and in the preparation of the bill party lines were completely obliterated. The measure was advocated with equal enthusiasm on the floor of the House and the Senate by Democrats and Republicans, and it passed the Senate without a dissenting vote, while only three votes were recorded against it in the House. No other conception of the Budget Bureau than that of a nonpolitical, impersonal agency is proper, and any attempt to construe its purposes otherwise than for the general good of the country irrespective of party would be most unfortunate and disastrous, and seriously hamper its legitimate activities.

May I suggest to you, in closing, members of the business organization of the Government, that it is a privilege and an honor for us all to participate in this constructive work of revising the Government's routine business procedures, of installing adequate and economical methods, and of putting more real business into the Government's operations. The Director of the Bureau of the Budget wishes only to be helpful, and he needs and asks your honest and hearty support. The policy of the Bureau of the Budget will be coordination and not domination, cooperation and not compulsion. Be friendly, for he needs every friend he can get. Every proponent of a project which feels the edge of his pruning knife will call him an obstructionist, while the great mass of the people who pays taxes and have no particular projects will think he is incompetent because he didn't cut deeper. His task is important and trying, and he will need your help.

As a fitting climax to this meeting, and following the admirable custom instituted by my predecessor, I now ask you, the representatives of the business organization of the Government here assembled, to rise and pledge anew your support to the President and his business policies.

Mr. President, under your wise and constructive direction, so ably supplemented by the courage and vision of the former Director of the Bureau of the Budget, the new budgetary and coordinating procedures have been firmly installed as an integral and indispensable part of the Government machinery; and with the inspiration of your leadership and the vigor of your authority, we guarantee new and signal triumphs in the field of governmental "Economy with efficiency."

The PRESIDENT. Permit me, while you are standing, to thank General Lord and you for your pledge of support and to thank the heads of Cabinet and independent departments for their presence and interest in our project. In a way it may sound prosaic and sometimes a little wearying to be talking about economy. But you are engaged in the most important work that can be pursued for your Government. No less than a score of citizens of foreign governments have said to me, "We are watching your work of reducing your expenditures in order to apply the system in our countries."

But more important than this is the effect it is having in setting an example to the States and municipalities. There is not a menace in America equal to the mounting State, county, and municipal expenditures undertaken without sense of financial responsibility. This practice leaves us in a state of no one knowing whither we are going in expenditures.

It is a great work, men and women, and I congratulate you on the work done so far and bid you go on to greater achievements under the leadership of General Lord.

TREASURY DEPARTMENT,
Wednesday, April 19, 1922.

Secretary Mellon to-day made public his letter of April 14, 1922, to the chairman of the Committee on Finance of the Senate, with the accompanying statements, written, in accordance with his request, in order to give the Treasury's latest revised estimates as to the receipts and expenditures of the Government for the fiscal years 1922 and 1923. Copies have been transmitted to the chairman of the Committee on Ways and Means of the House of Representatives. The letter and statements are as follows:

APRIL 14, 1922.

DEAR MR. CHAIRMAN: In accordance with your request, I am submitting herewith statements giving the Treasury's latest estimates of receipts and expenditures for the fiscal year 1922 and the fiscal year 1923, with supporting schedules for each year showing the details of the ordinary civil expenditures and fixed debt charges. These statements give estimates revised as of about March 31, 1922. For the fiscal year 1922 the estimates are based on the actual results of the first nine months, with the Treasury's estimates, as to receipts, for the last quarter of the year, and, as to expenditures, with the latest figures received by the Bureau of the Budget from the several departments and establishments as to estimated expenditures for the fiscal year.

The estimates as to the fiscal year 1923 are based on the estimates which appear in the Budget submitted in December, 1921, after taking into account, first, an indicated shrinkage in internal revenue collections of about $215,000,000; second, an estimated falling off of about $25,000,000 in Federal reserve bank franchise tax receipts; third, estimated additional miscellaneous revenue of about $200,000,000, on account of payment of interest by the British Government; fourth, estimated collections by the War Finance Corporation of about $100,000,000; and fifth, estimated additional expenditures on account of the railroads to the amount of about $200,000,000. The Budget for 1923, as submitted to Congress, did not include any item of expenditure on account of railroads, but the indications now are that owing to delayed settlements of matters arising out of Federal control and under the guaranty for the six months following Federal control there will be payments of about $100,000,000 under the Railroad Administration and about $100,000,000 under the Interstate Commerce Commission during the fiscal year 1923. The postponement of these payments to 1923 is, of course, reflected in a corresponding reduction of railroad expenditures for the fiscal year 1922, and partly on this account and partly on account of the proceeds of sale of about $230,000,000 of equipment trust notes of carriers, the item of railroad expenditures in the inclosed statement of estimated receipts and expenditures for 1922 shows an estimated credit of about $56,000,000, as compared with estimated expenditures of about $337,000,000 when the Budget was submitted. This shift in the situation as to railroad expenditures is offset in part by withdrawals of about $190,000,000 by the War Finance Corporation during

the fiscal year, but the net result is an indicated surplus of receipts over expenditures in the fiscal year 1922, with an indicated deficit in a correspondingly larger amount for the fiscal year 1923.

It appears from the estimates for 1922 that there should be an excess of receipts over expenditures of about $47,000,000 as compared with an indicated deficit when the Budget was submitted of about $24,468,703. For the fiscal year 1923 the statement submitted shows an indicated deficit of about $359,000,000 as compared with an indicated deficit when the Budget was submitted of 167,571,977. The Budget figures, however, did not take into account $125,000,000 of accumulated interest on war-savings certificates of the series of 1918, and, as explained in the footnote to the estimates for 1923, this item properly represents interest on the public debt and will appear as an ordinary expenditure. If this accumulated interest is taken into account, the indicated deficit on the basis of the figures now available would be $484,000,000 instead of $359,000,000, and the Budget deficit would have been $292,000,000 instead of the $167,000,000 indicated in the Budget as submitted.

Many of the important appropriation bills for the fiscal year 1923 have not yet been enacted into law and it is therefore impossible to estimate with precision the probable expenditures for that year. The figures given do, however, show the latest estimates available and as far as possible have been checked by the Treasury with the departments and establishments concerned. There are also uncertainties in the 1923 figures from the point of view of receipts. The Treasury has not, for example, had any official notification that interest will be paid in that year on the British obligations held by the United States, though there have been several official announcements in Great Britain of an intention to include that item of expenditure in the British budget for the current financial year. The estimates do not take into account any expenditures which may be made during the fiscal year 1923 under the proposed ship-subsidy legislation if it should be enacted into law, nor do they allow for any expenditures on account of rivers and harbors, public buildings, or good roads, beyond what is already authorized by existing law or under the regular annual appropriations.

Very truly yours,

A. W. MELLON, *Secretary.*

Hon. P. J. McCUMBER,
Chairman Committee on Finance,
United States Senate, Washington, D. C.

Estimated receipts and expenditures for the fiscal year 1922

[Revised March, 1922]

RECEIPTS

Ordinary:		
Customs		$330,000,000
Internal revenue—		
Income and profits taxes	$2,088,000,000	
Miscellaneous internal revenue	1,126,000,000	
		3,214,000,000
Miscellaneous revenue—		
Sales of public lands	1,500,000	
Federal reserve bank franchise tax receipts	59,975,000	
Interest on foreign obligations	25,000,000	
Repayments of foreign obligations	31,000,000	
Sale of surplus war supplies	141,200,000	
Retirement of capital stock of Grain Corporation	25,000,000	
Panama Canal	12,000,000	
Other miscellaneous	154,325,000	
		450,000,000
Total ordinary receipts		3,994,000,000

EXPENDITURES

I. Ordinary civil (exclusive of War and Navy)			$345, 000, 000
II. Special (including War and Navy):			
War Department		$389, 000, 000	
Navy Department		458, 000, 000	
Veterans' relief		477, 000, 000	
Pensions		256, 000, 000	
Indians		33, 000, 000	
War Finance Corporation		190, 000, 000	
Grain Corporation		32, 000, 000	
Good roads		105, 000, 000	
Refunding customs receipts	$27, 000, 000		
Refunding internal revenue receipts	66, 000, 000		
		93, 000, 000	
Postal deficiency		71, 000, 000	
Shipping Board		74, 000, 000	
Investments, trust funds		30, 000, 000	
Increase of compensation, all departments		35, 000, 000	
Colombian treaty payment		5, 000, 000	
			2, 248, 000, 000
III. Fixed debt charges:			
Sinking fund and other debt retirements chargeable against ordinary receipts		423, 000, 000	
Interest on public debt		1, 000, 000, 000	
			1, 423, 000, 000
			4, 016, 000. 000
IV. Special credits against expenditures:			
Railroads		56, 000, 000	
Sugar Equalization Board		13, 000, 000	
			69, 000, 000
Estimated net expenditures			3, 947, 000, 000
Excess of receipts			47, 000, 000

NOTE.—Figures as to receipts and expenditures are each $25,000,000 in excess of the estimates submitted by the Budget for the reason that the Treasury's figures include that amount applied to retirement of capital stock of the United States Grain Corporation effected in October, 1921, the retirement being made through the corporation's official check drawn on the Treasurer of the United States against balances standing to its credit with the Treasurer.

Details as to ordinary civil (1922)

Legislative	$16, 200, 000
Executive	200, 000
State Department	12, 000, 000
Treasury Department	134, 400, 000
Department of Justice	17, 200, 000
Interior Department	36, 800, 000
Post Office Department	3, 500, 000
Department of Agriculture	49, 700, 000
Department of Commerce	20, 000, 000
Department of Labor	5, 300, 000
Other independent offices and commissions	21, 600, 000
District of Columbia	22, 700, 000
Panama Canal	5, 300, 000
Total	344, 900, 000

Details as to fixed debt charges (1923)

Sinking fund	$274,000,000
Purchase of Liberty bonds from foreign repayments	64,000,000
Redemptions of bonds and notes from estate taxes	25,000,000
Retirements from Federal reserve bank franchise tax receipts	59,975,000
Total	422,975,000
Interest on the public debt	1,000,000,000
Total	1,422,975,000

Estimated receipts and expenditures for the fiscal year 1923

[Revised March, 1922]

RECEIPTS

Ordinary:		
Customs		$330,000,000
Internal revenue—		
Income and profits taxes	$1,500,000,000	
Miscellaneous internal revenue	896,000,000	
		2,396,000,000
Miscellaneous revenue—		
Sales of public lands	1,500,000	
Federal reserve bank franchise tax receipts	5,000,000	
Interest on foreign obligations	225,000,000	
Repayments of foreign obligations	31,000,000	
Sale of surplus war supplies	100,500,000	
Panama Canal	13,000,000	
Other miscellaneous	196,000,000	
		572,000,000
Total ordinary receipts		3,298,000,000

EXPENDITURES

I. Ordinary civil (exclusive of War and Navy)			341,000,000
II. Special (including War and Navy):			
War Department		370,000,000	
Navy Department		400,000,000	
Veterans' relief		500,000,000	
Pensions		252,000,000	
Indians		32,000,000	
Railroads		200,000,000	
Good roads		125,000,000	
Refunding customs receipts	$25,000,000		
Refunding internal revenue receipts	50,000,000		
		75,000,000	
Postal deficiency		22,000,000	
Shipping Board		50,000,000	
Investments, trust funds		35,000,000	
Increase of compensation, all departments		50,000,000	
Columbian treaty payment		5,000,000	
			2,116,000,000
III. Fixed debt charges:			
Sinking fund and other debt retirements chargeable against ordinary receipts		325,000,000	
Interest on public debt (see Note)		975,000,000	
			1,300,000,000

IV. Special credits against expenditures	$3, 757, 000, 000
War Finance Corporation	100, 000, 000
Estimated net expenditures	3, 657, 000, 000
Excess of expenditures	359, 000, 000

NOTE.—In addition there will be $125,000,000 accumulated interest on war savings certificates, series of 1918, due January 1, 1923, which is properly chargeable as interest on the public debt. Though it represents interest accrued over five years and might be apportioned, it must nevertheless be taken up in the accounts as ordinary expenditure of the fiscal year 1923. It can not be charged as a public debt redemption, because otherwise the accounts as to the principal of the public debt would be thrown out of balance (see Note 2 on page VII of the Budget for 1923). If this accumulated interest is taken into account, the total estimated expenditures for the fiscal year 1923 will be $3,782,000,000, and the estimated excess of expenditures over receipts $484,000,000, instead of $359,000,000.

Details as to ordinary civil (1923)

Legislative	$16, 300, 000
Executive	200, 000
State Department	10, 400, 000
Treasury Department	125, 000, 000
Department of Justice	18, 400, 000
Interior Department	41, 000, 000
Department of Agriculture	48, 200, 000
Department of Commerce	20, 000, 000
Department of Labor	6, 300, 000
Other independent offices and commissions	22, 600, 000
District of Columbia	25, 100, 000
Panama Canal	7, 400, 000
Total	340, 900, 000

Details as to fixed debt charges (1923)

Sinking fund	$284, 000, 000
Purchases of Liberty bonds from foreign repayments	31, 000, 000
Redemptions of bonds and notes from estate taxes	5, 000, 000
Retirements from Federal reserve bank franchise tax receipts	5, 000, 000
Total	325, 000, 000
Interest on the public debt	975, 000, 000
Total	1, 300, 000, 000

MARCH 29, 1922.

Hon. S. P. GILBERT, Jr.,
Undersecretary, Treasury Department.

SIR: Complying with your request of the 25th instant for revised estimates of receipts of the fiscal years 1922 and 1923 on account of internal revenue, desired by the Director of the Bureau of the Budget, you are advised that the following statement of such estimates is submitted:

	1922	1923
Income and profits taxes	$2, 068, 000, 000	$1, 385, 000, 000
Miscellaneous taxes	1, 126, 000, 000	896, 000, 000
Total	3, 214, 000, 000	2, 281, 000, 000

The above estimate of receipts for 1922 is based on the eight months' collections reported by collectors of internal revenue, together with the telegraphic reports of payment of the first installment of the 1921 income and profits tax, so far received in March.

Very truly yours,

D. H. BLAIR, *Commissioner.*

NOTE.—Increase of $115,000,000 was made in income and profits tax estimate for fiscal year 1923 to cover estimated increase in amount of back tax collections,

bringing the total income and profits tax collections to $1,500,000,000. In estimates subsequently submitted by the Government actuary and the Commissioner of Internal Revenue the estimated income and profits tax receipts for the fiscal year 1923, as published in the annual report of the Secretary of the Treasury for the fiscal year 1922, were given as $1,500,000,000.

R. G. HAND.

Estimated revenue of the United States from customs and internal revenue

[Revised March 28, 1922]

Source of revenue	Fiscal year 1922		Fiscal year 1923	
Customs		$330,000,000		$330,000,000
Internal revenue:				
Income tax—				
Individual	$870,000,000		$675,000,000	
Corporation	420,000,000		450,000,000	
Profits tax	600,000,000		120,000,000	
Back taxes	198,000,000		140,000,000	
Total income and profits taxes	2,088,000,000		[1] 385,000,000	
Miscellaneous internal revenue taxes	1,126,500,000		896,000,000	
Total internal revenue taxes		3,214,500,000		2,281,000,000
Total of above		3,544,500,000		2,611,000,000

[1] Increase of $115,000,000 was made in income and profits tax estimate for fiscal year 1923 to cover estimated increase in amount of back tax collections, bringing the total income and profits tax collections to $1,500,000,000. In estimates subsequently submitted by the Government actuary and the Commissioner of Internal Revenue the estimated income and profits tax receipts for the fiscal year 1923 as published in the annual report of the Secretary of the Treasury for the fiscal year 1922 were given as $1,500,000,000.

R. G. HAND.

The estimated revenue from income and profits taxes may be subdivided as follows:

Six months ending—	
Dec. 31, 1921	$1,240,000,000
June 30, 1922	848,000,000
Dec. 31, 1922	675,000,000
June 30, 1923	710,000,000
Dec. 31, 1923	575,000,000

JOS. S. MCCOY,
Government Actuary.

LETTER FROM THE SECRETARY OF THE TREASURY TO THE CHAIRMAN OF THE COMMITTEE ON WAYS AND MEANS

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 economics. 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 expenditures 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 $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 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 tax 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 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, suprlus 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 distrubed, 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 exprtes 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 April 27, 1921]

	Fiscal year 1921		Fiscal year 1922	
RECEIPTS				
Customs		$300,000,000		$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	60,724,500		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
DISBURSEMENTS				
Ordinary		5,005,545,496		4,014,522,168
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		4,565,877,033
Excess of disbursements over receipts		114,957,861		18,234,033

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			19,923,000	
Department of Labor		5,281,621			5,252,887	
Independent offices		112,459,569			133,391,516	
District of Columbia		21,510,938			22,187,663	
Miscellaneous		81,501,330	$723,231,937		60,407,500	$734,818,130
Postal deficiency		65,097,796			43,512,000	
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	112,565,886			99,457,795		
		447,584,904			466,810,834	
War Department		1,027,750,000			569,750,000	
Navy Department		697,500,000			545,225,000	
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			----------	
			4,282,313,559			3,279,704,038
Total ordinary			5,005,545,496			4,014,522,168
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
Aggregate			5,602,024,861			4,565,877,033

B.—*Preliminary statement showing classified expenditures of the Government from July 1, 1920, to March 31, 1921; with comparative figures and total expenditures for the fiscal year 1920*

[On basis of daily Treasury statements]

	July 1 to Sept. 30, 1920	Oct. 1 to Dec. 31, 1920	Jan. 1 to Mar. 31, 1921	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
Ordinary:									
Legislative establishment	$4,930,391.02	$4,908,522.01	$4,806,483.14	$14,645,396.17	$5,116,000.53	$5,216,888.01	$4,706,854.98	$15,039,743.52	$19,327,708.72
Executive proper	[1] 542,757.71	587,421.88	248,846.64	293,510.81	52,260.96	5,532,641.73	593,056.90	6,177,959.59	6,675,517.58
State Department	2,322,749.39	1,827,909.99	2,242,127.40	6,392,786.78	4,085,594.80	3,776,718.74	3,249,647.95	11,111,961.49	13,598,024.42
Treasury Department	96,098,410.19	82,724,413.76	181,790,477.00	360,613,300.95	102,695,955.91	41,329,800.46	120,478,294.40	264,504,050.77	322,315,627.43
War Department	274,367,808.97	268,000,064.23	307,518,350.95	849,886,224.15	653,552,919.00	397,718,762.29	250,334,207.14	1,301,605,888.52	1,610,557,380.66
Department of Justice	4,183,089.23	3,958,629.16	4,425,703.15	12,567,421.54	4,178,182.91	4,529,518.97	4,290,667.05	12,998,368.93	17,814,398.18
Post Office Department	1,407,168.05	10,602,201.47	25,956,317.37	37,965,686.89	813,691.33	18,397,559.58	9,463,235.56	28,674,736.47	50,049,295.07
Navy Department	161,294,823.36	166,805,503.61	177,462,791.62	505,563,118.59	286,498,328.16	174,495,117.79	160,373,006.63	621,364,450.58	736,021,456.43
Interior Department	87,118,246.55	82,244,026.35	82,520,943.00	251,883,215.90	70,176,555.60	70,726,075.22	69,374,034.98	210,276,665.80	279,244,660.87
Department of Agriculture	33,993,228.76	28,975,392.46	32,494,508.75	95,463,129.97	12,362,197.17	19,508,039.63	18,538,376.20	50,408,613.00	65,546,293.14
Department of Commerce	10,768,625.62	7,150,954.20	6,966,718.38	24,886,298.20	4,775,580.53	5,021,360.10	8,872,799.87	18,669,740.50	30,010,737.75
Department of Labor	2,153,590.97	2,783,299.26	1,977,469.34	6,914,359.57	1,494,698.48	1,169,488.51	1,985,647.11	4,649,834.10	5,415,358.40
United States Shipping Board	33,986,454.67	61,402,975.86	2,225,335.06	97,614,765.59	234,702,016.82	106,028,170.88	92,370,446.40	433,100,634.10	530,565,649.61
Federal control of transportation systems and transportation act, 1920	193,583,743.50	185,186,288.24	214,217,272.44	592,987,304.18	431,756,376.71	82,036,307.93	262,797,518.56	776,590,203.20	1,036,672,157.53
War Finance Corporation	22,238,355.21	[1] 23,510,031.64	[1] 6,367,886.74	[1] 7,639,563.17	[1] 9,475,735.42	158,043,854.33	[1] 3,605,406.26	144,962,712.65	[1] 228,472,186.61
Grain Corporation	90,353,411.42			90,353,411.42	204,062,450.80	[1] 95,356,575.54	[1] 91,002,300.12	17,703,575.14	350,328,494.70
Other independent offices and commissions	20,458,185.12	24,678,628.71	34,138,426.34	79,275,240.17	12,345,102.35	8,756,299.05	20,213,867.98	41,315,269.38	59,469,305.17
District of Columbia	5,015,212.98	5,899,200.33	5,226,871.18	16,141,284.49	5,778,521.84	4,933,274.01	4,804,866.59	15,516,622.44	19,987,398.41
Interest on public debt	136,351,254.07	342,067,610.37	171,906,101.93	650,324,966.37	136,902,789.29	330,048,776.70	197,971,746.28	664,923,312.27	1,020,251,622.28
Total	1,180,081,991.37	1,256,293,010.25	1,249,756,856.95	3,686,131,858.57	2,161,871,485.80	1,341,912,078.39	1,135,800,818.20	4,639,584,382.45	5,945,397,399.94
Deduct unclassified repayments, etc	[2] 898,151.75	8,457,743.63	[2] 2,571,299.54	4,988,292.34	8,014,830.75	[2] 5,189,657.34	4,970,611.11	7,795,784.52	4,399,847.00
Total	1,180,980,143.12	1,247,835,266.62	1,252,328,156.49	3,681,143,566.23	2,153,856,655.11	1,347,101,735.73	1,130,830,207.09	4,631,788,597.93	5,940,997,552.94
Panama Canal	2,965,341.14	3,063,590.56	5,921,980.58	11,950,412.28	1,504,343.86	3,701,469.35	3,461,482.71	8,667,296.92	11,365,714.01
Purchase of obligations of foreign governments	57,201,633.53		16,695,063.91	73,896,697.44	253,931,945.99	86,788,968.10	47,000,000.00	387,720,914.09	421,337,028.09

Purchase of Federal farm-loan bonds	9,702,438.86	6,265,919.22	812,962.71	16,781,320.79					29,643,546.17
Total ordinary	1,250,849,556.65	1,257,164,776.40	1,275,757,663.69	3,783,771,996.74	2,409,292,944.96	1,437,592,164.18	1,181,291,689.80	5,028,176,798.94	6,403,343,841.21
Public debt:									
Certificates of indebtedness redeemed	2,290,363,000.00	2,498,094,500.00	1,447,722,500.00	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
War-savings securities redeemed	38,170,798.30	41,757,783.44	46,103,171.32	126,031,753.06	52,650,333.07	48,180,569.48	50,391,557.58	151,222,460.13	200,982,984.62
Old debt items retired	68,581.81	43,760.59	18,368.69	130,711.09	156,150.00	258,940.28	47,608.19	462,698.47	509,165.97
First Liberty bonds retired	49,500.00	55,050.00	41,750.00	146,300.00	13,000.00	20,463,100.00	4,015,450.00	24,491,550.00	32,336,700.00
Second Liberty bonds retired	1,070,900.00	1,102,450.00	1,410,450.00	3,583,800.00	40,060,000.00	99,940,900.00	22,731,500.00	162,732,400.00	241,144,200.00
Third Liberty bonds retired	12,782,950.00	3,094,150.00	1,789,800.00	17,666,900.00	27,895,550.00	150,117,850.00	61,009,350.00	239,022,750.00	296,300,800.00
Fourth Liberty bonds retired	28,110,450.00	2,528,950.00	3,369,200.00	34,008,600.00	120,005,100.00	105,666,300.00	41,061,400.00	266,732,800.00	405,222,800.00
Victory notes retired	5,268,450.00	15,177,350.00	125,488,350.00	145,934,150.00			72,500,000.00	72,500,000.00	249,001,500.00
National-bank notes and Federal reserve bank notes retired	3,923,636.00	3,615,105.00	6,616,060.00	14,154,801.00	6,081,472.50	6,530,034.25	4,615,535.00	17,227,041.75	23,424,164.50
Total public debt	2,379,808,266.11	2,565,469,099.03	1,632,559,650.01	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

[1] Deduct excess of credits.

[2] Add.

C.—*Preliminary statement showing classified receipts of the Government, from July 1, 1920, to Mar. 31, 1921; with comparative figures and total receipts for the fiscal year 1920*

[On the basis of daily Treasury statements]

Receipts	July 1 to Sept. 30, 1920	Oct. 1 to Dec. 31, 1920	Jan. 1 to Mar. 31, 1921	Total, July 1, 1920, to Mar. 31, 1921
Customs	$84,058,024.90	$66,039,240.83	$67,842,176.13	$217,939,441.86
Internal revenue:				
Income and profits tax	840,653,320.81	787,550,609.73	852,277,918.48	2,480,481,849.02
Miscellaneous	399,726,191.93	370,338,119.27	318,900,145.87	1,088,964,457.07
Miscellaneous revenue	214,542,816.77	200,909,310.39	142,840,438.13	558,292,565.29
Panama Canal tolls, etc	1,093,908.53	2,607,734.32	5,658,787.99	9,360,430.84
Total	1,540,074,262.94	1,427,445,014.54	1,387,519,466.60	4,355,038,744.08

Receipts	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
Customs	$66,276,122.37	$75,492,351.93	$89,785,412.17	$231,553,886.47	$322,902,650.39
Internal revenue:					
Income and profits tax	1,017,556,092.72	985,767,736.31	1,014,882,285.08	3,018,206,114.11	3,944,949,287.75
Miscellaneous	364,612,848.61	379,027,175.30	372,004,613.02	1,115,644,638.93	1,460,062,286.91
Miscellaneous revenue	159,401,006.28	149,171,837.94	106,017,662.41	444,590,506.63	960,906,422.38
Panama Canal tolls, etc	1,020,909.17	1,728,013.29	1,216,016.52	3,973,938.98	5,664,741.45
Total	1,638,875,979.15	1,591,187,114.77	1,583,905,991.20	4,813,969,085.12	6,694,565,388.88

D.—*Preliminary statement of the public debt March 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
Total gross debt Mar. 31, 1921		23,980,104,397.83

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
Notes: Victory Liberty loan		4,100,453,105.00

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
Total interest-bearing debt		23,742,172,761.89
Debt on which interest has ceased		10,537,310.26
Noninterest-bearing debt		227,394,325.68
Total gross debt		23,980,104,397.83

Quarterly comparative public debt statement, showing also figures for August 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
Gross debt	$26,596,701,648.01	$24,698,671,584.52	$24,299,321,467.07
Net balance in general fund	1,118,109,534.76	251,622,538.19	357,701,682.23
Gross debt less net balance in general fund	25,478,592,113.25	24,447,049,046.33	23,941,619,784.84
Includes Treasury certificates (unmatured):			
Loan and tax	3,938,225,000.00	2,278,259,000.00	2,485,552,500.00
Pittman Act and special	262,914,050.39	388,961,055.56	283,375,000.00
Total	4,201,139,050.39	2,667,220,055.56	2,768,927,500.00

	Sept. 30, 1920	Dec. 31, 1920	Mar. 31, 1921
Gross debt	$24,087,356,128.65	$23,982,224,168.10	$23,980,104,397.83
Net balance in general fund	434,961,050.10	504,951,394.20	614,593,426.78
Gross debt less net balance in general fund	23,652,395,078.55	23,477,272,773.90	23,365,510,971.05
Includes Treasury certificates (unmatured):			
Loan and tax	2,347,791,000.00	2,300,656,000.00	2,474,612,000.00
Pittman Act and special	292,229,450.00	292,229,450.00	280,229,450.00
Total	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, August 31, 1919, to March 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)	933,647,191.08	897,143,389.27	828,739,702.09	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

LETTER FROM THE SECRETARY OF THE TREASURY TO THE CHAIRMAN OF THE COMMITTEE ON WAYS AND MEANS

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, January 24, 1922.

DEAR MR. CHAIRMAN: I received your letter of January 21, 1922, and am glad, in accordance with your request, to present the latest figures as to the probable receipts and expenditures of the Government for the fiscal years 1922 and 1923, and to indicate in that connection what public debt operations the Treasury will have to carry on between now and June 30, 1923, in order to finance its current requirements and provide for maturing obligations. I am at the same time transmitting for your information the four attached statements as to receipts and expenditures and the public debt.

It appears from these statements that for 1922 the Budget estimates indicate a deficit of over $24,000,000, and for 1923 a deficit of over $167,000,000. These figures make no allowance for expenditures not covered by the Budget, as, for example, $50,000,000 already requested by the United States Shipping Board for the settlement of claims, $7,000,000 to be spent by the United States Grain Corporation on account of Russian relief under the act approved December 22, 1921, $5,000,000 to be paid as the 1923 installment under the treaty with Colombia and a possible $50,000,000 on account of additional compensation to Government employees, a total of $112,000,000, chiefly for 1923. The results of the first half of the fiscal year 1922, after making due allowance for extraordinary items, indicate that the budget estimates for the year are substantially correct. It is still too early to say whether deficits can be avoided, but it is almost certain that in neither 1922 nor 1923 will there be any surplus. At any rate, it is clear that in order to balance the budget, expenditures must be still further reduced, rather than increased, and that the net reductions below the Budget figures within the two years must aggregate about $300,000,000 in order to overcome the indicated deficits. At the same time the Government faces a heavy shrinkage in receipts, and internal-revenue collections in particular are subject to great uncertainty. As a matter of fact, in view of the depression in business, there is grave doubt whether the estimates of receipts which appear in the Budget can be realized, and up to date the shrinkage has rather more than kept pace with the shrinkage in expenditures. It is clear that under these conditions there is no room for new or extraordinary expenditures, and that if new items should be added which are not included in the budget, it would be necessary to make simultaneous provision for the taxes to meet them.

One of the chief factors in the gradual return to normal conditions throughout the country has been the marked reduction in Federal expenditures which has already occurred, and this has in turn permitted the lightening of the burden of taxation. What has been accomplished along these lines within less than a year, through the cooperation of the Congress and the Executive, makes a concrete record of achievement in economy which is worthy of our highest efforts to maintain. The economies effected, moreover, have been made without stinting in any way the relief of disabled veterans of the late war, for the figures show that the Federal Government spent for this purpose in the fiscal year 1921 about $380,000,000 and will spend for the same purpose in the fiscal year 1922, and again in the fiscal year 1923, about $450,000,000 a year, or more than will be spent for any other one purpose except interest on the public debt.

The overshadowing problem of the Treasury at this time, of course, is the handling of the public debt, and particularly the conduct of the refunding operations which will be necessary within the next year and a half on a scale unprecedented in times of peace. Some progress has been made in these operations, but the great bulk of the refunding still remains to be done. The gross public debt of the Government on December 31, 1921, on the basis of daily Treasury statements, amounted to $23,438,984,351, of which almost six and a half billion dollars falls due within the next 16 months, over three and a half billions of it in the form of Victory notes, which mature May 20, 1923, about $2,200,000,000 in the form of Treasury certificates, which mature at various dates within a year, and nearly $700,000,000 in the form of war savings certificates, which mature January 1, 1923, or may be redeemed before that time. The refunding of this vast maturity will require the Treasury's constant attention from now on. Altogether it makes up an amount almost as large as the fourth Liberty loan, and considerably more than the first and second Liberty loans combined. The Liberty loans were floated during the stress of war, through great popular

drives and with the help of a country-wide Liberty loan organization that comprised perhaps 2,000,000 persons. To conduct refunding operations on a similar scale in time of peace, to the amount of six and a half billions of dollars, is a task of unparalleled magnitude, and it is of the utmost importance to the general welfare that it be accomplished without disturbance to business or interference with the normal activities of the people. This can not be done if the refunding is embarrassed by other operations.

The greatest problem is the Victory Liberty loan, which amounted to $3,548,000,000 on December 31, 1921. A maturity of this size is too large to pay off or refund at one time, and it is accordingly necessary that the Treasury should adopt every means at its command to reduce the outstanding amount in advance of maturity. To this end it will be the Treasury's policy to continue to issue short-term notes from time to time when market conditions are favorable and to use the proceeds to effect the retirement of Victory notes, accomplishing this, if they can not be had otherwise, through the redemption of part of the notes before maturity. It will likewise be the policy, so far as possible, to apply the sinking fund and other special funds available for the retirement of debt to the purchase or redemption of Victory notes. The $2,200,000,000 of Treasury certificates outstanding and the $700,000,000, or thereabouts, of war savings certificates raise similar problems and will likewise require refunding operations on a large scale during the next year and a half. The Treasury has already placed on sale, on December 15, 1921, a new issue of Treasury savings certificates, which is designed to provide in part for the outstanding savings certificates to be redeemed. It is clear, however, that an important part of the maturity on January 1, 1923, will have to be refunded, at least temporarily, into other obligations. The bulk of the Treasury certificates of indebtedness will also have to be refunded, probably into other Treasury certificates, for it is almost necessary, while Government expenditures are so large and tax payments so heavy, to float a substantial amount of Treasury certificates in order to carry on current operations without money strain.

If the situation continues to develop in an orderly way, and no complications are introduced in the form of extraordinary expenditure which would force new borrowings, the Treasury expects to be able to proceed with the program already outlined, and such other refunding operations as may prove to be advisable, within the limits of its existing authority and without interference with the business of the country or disturbance to the investment markets. The time is coming, perhaps in the near future, when it will be possible to undertake refunding operations for a longer term with a view to the distribution of the debt among investors on a more permanent basis. It is important in this connection, however, not to overlook one special characteristic of the Treasury's public debt operations since August 31, 1919, when the gross debt reached its peak, namely, that the operations since that date have been accompanied by gradual but steady debt retirement and that even the refunding operations now in prospect will not increase the public debt. Generally speaking, the Treasury has been floating a constantly decreasing total volume of securities and its borrowings have accordingly not taken new money or absorbed funds that would otherwise go into business. If the Government, on the other hand, were increasing the public debt, quite different problems would arise. Treasury offerings would then take up new money and there would be danger of inflation, of higher rates for money, and of strain on the investment markets, with consequent prejudice to the Government's own inevitable refunding operations and to business and industry generally. The whole character of the operations would be altered.

The estimates which have been given as to the prospects for the fiscal years 1922 and 1923 and the program which has been outlined for the refunding of the short-dated debt do not make allowance for any extraordinary expenditures within the next few years for a soldiers' bonus or so-called adjusted compensation for veterans of the World War. The figures show that there will be no available surplus, but more probably a deficit, and that with the enormous refunding operations which the Treasury has to conduct it would be dangerous in the extreme to attempt to finance the expenditures involved in the bonus through new borrowings. The position of the Treasury remains unchanged, but if there is to be a soldiers' bonus, it is clear that it must be provided for through taxation, and through taxation in addition to the taxes imposed by existing law.

It is difficult to estimate how much additional taxation would be necessary, for the last bonus bill considered was S. 506, reported by the Committee on Finance of the Senate on June 20, 1921. From the report of the committee and the esti-

mates of the Government actuary it would appear that the total cost of the bonus under this bill would be about $3,330,000,000, of which at least $850,000,000 would fall in the first two years of its operation, with varying amounts over intervening years and an ultimate payment in the twentieth year of over $2,114,000,000. The minimum cost would apparently be about $1,560,000,000, in case substantially all the veterans should take the cash plan, and the maximum cost about $5,250,000,000, in case substantially all of the veterans should elect to take the certificate plan in lieu of cash. If an unexpectedly large proportion of the veterans should choose cash, the cost within the first two years might run well over $1,000,000,000. It would seem reasonably certain, however, that at least one-half would elect the cash payment plan, in which event the cost in the first two years would be about $850,000,000 and the total cost would fall between the two extremes, or at about $3,330,000,000. These estimates take no account of expenses of administration or the possible cost of vocational training aid, farm or home aid, or land settlement aid to veterans who elect such benefits, which would involve substantial additional cost. The expenditures involved, moreover, would be in addition to already substantial expenditures on account of veterans of the World War, chiefly for relief to disabled veterans, which amount to about $450,000,000 a year, according to the estimates for 1922 and 1923. The Government's obligation to the disabled veterans is continuing and paramount, and heavy expenditures for their relief will be necessary for many years to come.

On the most conservative estimates, therefore, the cost of a soldiers' bonus in the first two years would probably be not less than $850,000,000. This would necessitate additional tax levies to a corresponding amount during the same period. The taxes already in force are too onerous for the country's good and are having an unfortunate effect on business and industry. The field of taxation, moreover, has already been so thoroughly covered, owing to the extraordinary revenue needs growing out of the war, that it is exceedingly difficult to discover new taxes that could properly be levied to yield as much as 850 millions within two years. In these circumstances, should Congress determine to adopt the policy of paying a soldiers' bonus, it would become necessary to impose general taxes on broad classes of articles or transactions in order to pay it. For such taxes, in their nature of wide application, much might be said as substitutes for existing taxes; but the Treasury would hesitate to recommend them as additional taxes, except to meet some extraordinary purpose.

Whatever additional taxes might be levied, provision for them would have to be made in the same bill with the bonus. The Budget system is now firmly established, and the Budget already submitted has pointed out the relation between receipts and expenditures for this year and next year. If the Congress decides to authorize large expenditures outside of the Budget, it is fundamental that it should make simultaneous provision for the additional taxes necessary to meet them.

It is also well to keep in mind that no indirect means of financing the bonus could make it any less an expense that will have to be borne in the long run by the taxpayer. Thus it would be futile, as well as unwise, to attempt to provide for the bonus through the use of the principal or interest of the foreign obligations held by the United States or through the sale of any such obligations to the public. For the most part, the foreign obligations are still in the form of demand obligations, and it is impossible in the present state of international finance and in advance of funding arrangements to estimate what may be collected on them in the near future by way of principal or interest. The obligations are not in shape, moreover, to sell to the public, and to offer them to investors with the guaranty of this Government would seriously interfere with our own refunding operations, upset the security markets, and in the long run prove more expensive to this Government than would the sale of its own direct obligations. At the same time, it would enormously complicate the international situation and certainly embarrass the funding negotiations. Even if enough could be realized on the foreign debt in time to pay the bonus, it would accomplish nothing to set it aside for that purpose. As the law now stands, and in justice to the millions of Liberty bond holders, the Government is bound to apply any principal payments by foreign Governments, as well as any proceeds of sale, to the retirement of outstanding Liberty bonds, about ten billions of which were issued in the first instance to provide for the advances to foreign Governments. Interest collected on the foreign obligations should likewise go to provide for the interest on Liberty bonds, and it has been the Treasury's plan in the funding to adjust the dates and amounts of the interest payments as nearly as may be to the interest payments on our own bonds. In any event, it is clear that if the

proceeds of the foreign obligations should be applied to different purposes the Government of the United States to that extent would have to provide for payment of the principal and interest of the Liberty bonds from other sources, which means that the people would have to pay taxes for this purpose that would otherwise be unnecessary. The plan to use the foreign obligations to pay a soldiers' bonus, therefore, would still leave the burden on the shoulders of the American taxpayer.

I have made this extended analysis of the country's financial position and of the Treasury's plans and prospects for 1922 and 1923 in order that the Congress may have before it in definite form the facts as to what financial consequences the soldiers' bonus would entail and what added burdens it would inevitably place upon the country.

I am sending a copy of this letter to Senator McCumber for the information of the Committee on Finance of the Senate.

Very truly yours,

A. W. MELLON,
Secretary of the Treasury.

Hon. J. W. FORDNEY,
Chairman Committee on Ways and Means,
House of Representatives.

EXHIBIT A

Receipts and expenditures for the fiscal year 1921, and estimated receipts and expenditures for the fiscal years 1922 and 1923 [1]

[On the basis of daily Treasury statements]

	Fiscal year 1921		Fiscal year 1922		Fiscal year 1923	
RECEIPTS						
Ordinary:						
Customs		$308,564,391.00		$275,000,000.00		$330,000,000.00
Internal revenue—						
Income and profits taxes	$3,206,046,157.74		$2,110,000,000.00		$1,715,000,000.00	
Miscellaneous internal revenue	1,390,380,823.28		1,104,500,000.00		896,000,000.00	
		4,596,426,981.02		3,214,500,000.00		2,611,000,000.00
Miscellaneous revenue—						
Sales of public lands	1,530,439.42		1,500,000.00		1,500,000.00	
Federal reserve bank franchise tax	60,724,742.27		60,000,000.00		30,000,000.00	
Interest on foreign obligations	31,142,982.51		25,000,000.00		25,000,000.00	
Repayments of foreign obligations	83,678,223.38		30,500,000.00		30,500,000.00	
Sale of surplus war supplies	183,692,848.89		141,200,000.00		100,500,000.00	
Retirement of capital stock of Grain Corporation	100,000,000.00		25,000,000.00		7,000,000.00	
Panama Canal	12,280,741.79		11,760,000.00		13,315,000.00	
Other miscellaneous	246,891,610.83		183,993,663.00		196,367,750.00	
		719,941,588.89		478,953,663.00		404,182,750.00
Total ordinary receipts		5,624,932,960.91		3,968,453,663.00		3,345,182,750.00
EXPENDITURES						
Ordinary		5,115,927,689.30		3,604,980,166.00		3,143,415,927.00
Public debt expenditures chargeable against ordinary receipts:						
Sinking fund	261,100,250.00		272,442,200.00		283,838,800.00	
Purchases of Liberty bonds from foreign repayments	73,939,300.00		30,500,000.00		30,500,000.00	
Redemptions of bonds and notes received for estate taxes	26,348,950.00		25,000,000.00		25,000,000.00	
Retirements from Federal reserve bank franchise tax receipts	60,724,500.00		60,000,000.00		30,000,000.00	
		422,113,000.00		387,942,200.00		369,338,800.00
Total ordinary expenditures (including public debt expenditures chargeable against ordinary receipts)		5,538,040,689.30		3,992,922,366.00		3,512,754,727.00
Excess of receipts over expenditures		86,892,271.61				
Excess of expenditures over receipts				24,468,703.00		167,571,977.00

[1] On same basis as given in Annual Report of the Secretary of the Treasury for 1921 and in the Budget for 1923. The estimates do not include expenditures not covered by the Budget, as, for example, $50,000,000 requested by United States Shipping Board for settlement of claims, $7,000,000 to be spent by the United States Grain Corporation on account of Russian relief under act approved Dec. 22, 1921, $5,000,000 to be paid as the 1923 installment under the treaty with Colombia, and a possible $50,000,000 on account of additional compensation to Government employees.

EXHIBIT B

Preliminary statement showing classified receipts and expenditures of the Government from July 1, 1921, to Dec. 31, 1921, with comparative figures for the fiscal year 1921

[On the basis of daily Treasury statements]

	July 1 to Sept. 30, 1921	Oct. 1 to Dec. 31, 1921	Total July 1 to Dec. 31, 1921	July 1 to Sept. 30, 1920	Oct 1 to Dec. 31, 1920	Total July 1 to Dec. 31, 1920	Jan. 1 to Mar. 31, 1921	Apr. 1 to June 30, 1921	Total July 1, 1920, to June 30, 1921
RECEIPTS									
Ordinary:									
Customs	$69,602,044.73	$77,406,316.57	$147,008,361.30	$84,058,024.90	$66,039,240.83	$150,097,265.73	$67,842,176.13	$90,624,949.14	$308,564,391.00
Internal revenue—									
Income and profits tax	632,089,027.52	607,327,104.03	1,239,416,131.55	840,653,320.81	787,550,609.73	1,628,203,930.54	852,277,918.48	725,564,308.72	3,206,046,157.74
Miscellaneous internal revenue	364,401,943.96	324,343,658.63	688,745,602.59	399,726,191.93	370,338,119.27	770,064,311.20	318,900,145.87	301,416,366.21	1,390,380,823.28
Miscellaneous revenue	71,902,681.12	161,352,750.52	233,255,431.64	214,542,816.77	200,909,310.39	415,452,127.16	142,840,438.13	149,368,281.81	707,660,847.10
Panama Canal tolls, etc	2,844,204.37	3,193,325.92	6,037,530.29	1,093,908.53	2,607,734.32	3,701,642.85	5,658,787.99	2,920,310.95	12,280,741.79
Total	1,140,839,901.70	1,173,623,155.67	2,314,463,057.37	1,540,074,262.94	1,427,445,014.54	2,967,519,277.48	1,387,519,466.60	1,269,894,216.83	5,624,932,960.91
Excess of ordinary receipts over ordinary expenditures	261,339,552.33	215,216,072.24	476,555,624.57	289,224,706.29	170,280,238.14	459,504,944.43	111,761,802.91		509,005,271.61
Excess of ordinary expenditures over ordinary receipts								62,261,475.73	
Excess of ordinary receipts over total expenditures (public debt and ordinary) chargeable against ordinary receipts	173,753,452.33	43,650,472.24	217,403,924.57	241,942,456.29	148,322,288.14	390,264,744.43			86,723,771.61
Excess of total expenditures (public debt and ordinary) chargeable against ordinary receipts over ordinary receipts							81,062,247.09	222,478,725.73	

Preliminary statement showing classified receipts and expenditures of the Government from July 1, 1921, to Dec. 31, 1921, with comparative figures for the fiscal year 1921—Continued.

	July 1 to Sept. 30, 1921	Oct. 1 to Dec. 31, 1921	Total July 1 to Dec. 31, 1921	July 1 to Sept. 30, 1920	Oct. 1 to Dec. 31, 1920	Total July 1 to Dec. 31, 1920	Jan. 1 to Mar. 31, 1921	Apr. 1 to June 30, 1921	Total July 1, 1920, to June 30, 1921
EXPENDITURES									
Ordinary:									
Legislative establishment	$4,422,186.94	$4,524,830.93	$8,947,017.87	$4,927,391.02	$4,905,522.01	$9,832,913.03	$4,803,483.14	$4,346,169.00	$18,982,565.17
Executive proper	57,002.42	56,302.45	113,304.87	54,853.70	50,913.84	105,767.54	49,260.76	55,028.49	210,056.79
State Department	2,048,133.03	2,314,077.43	4,362,210.46	2,322,749.59	1,827,909.99	4,150,659.38	2,242,127.40	2,388,010.06	8,780,796.84
Treasury Department	80,653,168.46	62,927,875.05	143,581,043.51	96,098,410.19	82,724,413.76	178,822,823.95	181,790,477.00	128,023,532.15	488,636,833.10
War Department	142,412,828.14	102,082,570.14	244,495,398.28	274,367,808.97	268,000,064.23	542,367,873.20	307,518,350.95	251,728,789.17	1,101,615,013.32
Department of Justice	3,928,980.20	4,597,859.62	8,526,839.82	4,183,089.23	3,958,629.16	8,141,718.39	4,425,703.15	4,638,996.49	17,206,418.03
Post Office Department	23,876,077.43	10,707,289.90	34,583,367.33	1,407,168.05	10,602,201.47	12,009,369.52	25,956,317.37	97,393,421.28	135,359,108.17
Navy Department	148,290,248.45	122,453,736.65	270,743,985.10	161,294,823.36	166,805,503.61	328,100,326.97	177,462,791.62	144,810,716.99	650,373,835.58
Interior Department	85,889,600.33	85,289,416.67	171,179,017.50	87,118,246.55	82,244,026.35	169,362,272.90	82,520,943.00	105,931,677.11	357,814,893.01
Department of Agriculture	40,281,388.97	43,901,523.24	84,182,912.21	33,993,228.76	28,975,392.46	62,968,621.22	32,494,508.75	24,374,629.44	119,837,759.41
Department of Commerce	6,306,073.59	5,140,372.43	11,446,446.02	10,768,625.62	7,150,954.20	17,919,579.82	6,966,718.38	5,942,463.35	30,828,761.55
Department of Labor	1,525,882.17	1,499,420.75	3,025,302.92	2,153,890.97	2,783,299.26	4,936,890.23	1,977,469.34	1,588,149.98	8,502,509.55
Veterans' Bureau [1]	61,353,749.17	113,331,361.80	174,685,110.97						
United States Shipping Board	51,784,131.28	28,362,086.95	80,146,218.23	33,986,454.67	[2] 61,402,975.86	95,389,430.53	2,225,335.06	33,108,502.67	130,723,268.26
Federal control of transportation systems and transportation act, 1920	82,615,617.38	[3] 80,710,527.15	[3] 1,905,090.23	193,583,743.50	185,186,288.24	378,770,031.74	214,217,372.44	137,724,365.80	730,711,669.98
War Finance Corporation	[3] 32,974,238.61	52,317,690.61	19,343,452.00	22,238,355.21	[3] 23,510,031.64	[3] 1,271,676.43	[3] 6,367,895.74	[3] 14,388,888.95	[3] 22,028,452.12
Grain Corporation		25,000,000.00	[4] 25,000,000.00	90,353,411.42		90,353,411.42			90,353,411.42
Other independent offices and commissions [1]	22,665,823.08	6,214,363.41	28,880,186.49	19,863,573.71	25,218,136.75	45,081,710.46	34,341,012.22	40,519,794.05	119,942,516.73
District of Columbia	5,651,582.60	6,350,051.44	12,001,634.04	5,015,212.98	5,899,200.33	10,914,413.31	5,226,871.18	6,573,874.11	22,715,158.60
Interest on public debt	147,324,108.68	360,915,199.15	508,239,307.83	136,351,254.07	342,067,610.37	478,418,864.44	171,906,101.93	348,819,764.98	999,144,731.35
Total	878,112,344.21	957,275,501.47	1,835,387,845.68	1,180,081,991.37	1,256,293,010.25	2,436,375,001.62	1,249,756,856.95	1,323,578,996.17	5,009,710,854.74
Deduct unclassified repayments, etc	[5] 60,977.06	[5] 419,300.24	[5] 480,277.30	[5] 898,151.75	8,457,743.63	7,559,591.88	[5] 2,571,299.54	[5] 4,065,699.20	922,593.14
Total	878,173,321.27	957,694,801.71	1,835,868,122.98	1,180,980,143.12	1,247,835,266.62	2,428,815,409.74	1,252,328,156.49	1,327,644,695.37	5,008,788,261.60
Panama Canal	1,327,028.10	712,281.72	2,039,309.82	2,965,341.14	3,063,590.56	6,028,931.70	5,921,480.58	4,510,997.19	16,461,409.47
Purchase of obligations of foreign Governments				57,201,633.53		57,201,633.53	16,695,063.91		73,896,697.44
Purchase of Federal Farm Loan Bonds				9,702,438.86	6,265,919.22	15,968,358.08	812,962.71		16,781,320.79
Total ordinary	879,500,349.37	958,407,083.43	1,837,907,432.80	1,250,849,556.65	1,257,164,776.40	2,508,014,333.05	1,275,757,663.69	1,332,155,692.56	5,115,927,689.30

Public debt expenditures chargeable against ordinary receipts:									
Sinking fund	81,066,000.00	146,980,700.00	228,046,700.00	5,261,250.00	15,129,000.00	20,390,250.00	124,956,000.00	115,754,000.00	261,100,250.00
Purchases of Liberty bonds from foreign repayments	518,700.00	15,628,650.00	16,147,350.00	38,002,050.00	2,028,250.00	40,030,300.00	475,000.00	33,434,000.00	73,939,300.00
Redemption of bonds and notes from estate taxes	5,988,400.00	6,328,250.00	12,316,650.00	4,017,900.00	4,666,700.00	8,684,600.00	6,657,650.00	11,006,700.00	26,348,950.00
Retirements from Federal reserve bank franchise tax receipts		2,619,000.00	2,619,000.00				60,724,500.00		60,724,500.00
Retirements from gifts, forfeitures, and other miscellaneous receipts	13,000.00	9,000.00	22,000.00	1,050.00	134,000.00	135,050.00	10,900.00	22,550.00	168,500.00
Total public debt expenditures chargeable against ordinary receipts	87,586,100.00	171,565,600.00	259,151,700.00	47,282,250.00	21,957,950.00	69,240,200.00	192,824,050.00	160,217,250.00	422,281,500.00
Total expenditures (public debt and ordinary) chargeable against ordinary receipts	967,086,449.37	1,129,972,683.43	2,097,059,132.80	1,298,131,806.65	1,279,122,726.40	2,577,254,533.05	1,468,581,713.69	1,492,372,942.56	5,538,209,189.30

[1] Payments on account of veterans' relief made prior to Aug. 11, 1921, by the War Risk Insurance Bureau are included under "Treasury Department," while similar payments made prior to that date by the Federal Board for Vocational Education are included under "Other independent offices and commissions."

[2] Deduct excess of credits.

[3] The expenditures on account of "Federal control of transportation systems and transportation act, 1920," above, have been reduced during the period from July 1 to Dec. 31, 1921, by $142,374,992.85 on account of deposits to the credit of the appropriation for "Federal control of transportation stysems" of the proceeds of sales of equipment trust notes acquired under the Federal control act approved Mar. 21, 1918, as amended, and the act approved Nov. 19, 1919.

[4] Represents reduction in capital stock of United States Grain Corporation effected Oct. 17, 1921, and reflected in "Miscellaneous receipts" in an equal amount. (See note 2, p. 2, of daily Treasury statement for Oct. 18, 1921.)

[5] Add.

NOTE.—Because of legislation establishing revolving funds and providing for the reimbursement of appropriations, commented upon in the annual report of the Secretary of the Treasury for the fiscal year 1919, p. 126 ff., the gross expenditures in the case of some departments and agencies, notably the War Department, the Railroad Administration, and the Shipping Board, have been considerably larger than above stated. This statement does not include expenditures on account of the Postal Service other than salaries and expenses of the Post Office Department in Washington, postal deficiencies, and items appropriated by Congress payable from the general fund of the Treasury.

EXHIBIT C

Preliminary statement of the public debt on December 31, 1921

[On the basis of daily Treasury statements]

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, 774, 020. 00	
		$883, 784, 050. 00
First Liberty loan	1, 952, 123, 150. 00	
Second Liberty loan	3, 313, 261, 100. 00	
Third Liberty loan	3, 592, 593, 750. 00	
Fourth Liberty loan	6, 349, 411, 400. 00	
		15, 207, 389, 400. 00
Total bonds		16, 091, 173, 450. 00
Notes:		
Victory Liberty loan		3, 548, 289, 500. 00
Treasury notes—		
Series A–1924	$311, 191, 600. 00	
Series B–1924	390, 706, 100. 00	
		701, 897, 700. 00
Treasury certificates:		
Tax	1, 515, 157, 500. 00	
Loan	567, 437, 500. 00	
Pittman Act	113, 000, 000. 00	
		2, 195, 595, 000. 00
Treasury (war) savings securities (net cash receipts)		651, 844, 374. 27
Total interest-bearing debt		23, 188, 800, 024. 27
Debt on which interest has ceased		11, 867, 140. 26
Noninterest-bearing debt		238, 317, 186. 83
Total gross debt		23, 438, 984, 351. 36

EXHIBIT D

Statement showing comparative figures as to short-dated public debt, June 30, 1920, to December 31, 1921

(On the basis of daily Treasury statements, adjusted to include accrued discount on Treasury (war) savings securities)

	June 30, 1920	Dec. 31, 1920	June 30, 1921	Dec. 31, 1921
I. Maturities before June 30, 1923:				
Victory notes (mature May 20, 1923)	$4,246,385,530.00	$4,225,970,755.00	$3,913,933,350.00	$3,548,289,500.00
Treasury certificates (maturing within a year)—				
Loan and tax	2,485,552,500.00	2,300,656,000.00	2,450,843,500.00	2,082,595,000.00
Pittman Act and special issues	283,375,000.00	292,229,450.00	248,729,450.00	113,000,000.00
Treasury (war) savings securities, series of 1918 (net cash receipts plus accrued discount to respective dates)	758,996,409.08	702,520,765.18	675,449,577.13	[1] 644,090,608.33
	7,774,309,439.08	7,521,376,970.18	7,288,955,877.13	6,387,975,108.33
II. Maturities after June 30, 1923:				
Treasury notes			311,191,600.00	701,897,700.00
Treasury (war) savings securities (net cash receipts plus accrued discount to respective dates), series of 1919, 1920, and 1921, maturing, respectively, on Jan. 1, 1924, Jan. 1, 1925, Jan. 1, 1926, and later dates	143,172,726.64	143,524,053.78	120,570,016.85	[1] 118,662,982.07
Total	7,917,482,165.72	7,664,901,023.96	7,720,717,487.98	7,208,535,790.40

[1] Partly estimated. The estimated additional discount to accrue on Treasury (war) savings securities of the series of 1918 to Jan. 1, 1923, is about $19,000,000, which should be added in computing the amount of the maturity.

[For release afternoon papers Thursday, August 11, 1921]

TREASURY DEPARTMENT,
August 10, 1921.

DEAR MR. CHAIRMAN: On the basis of the understanding reached at our conference yesterday with the President, I am now able to submit figures as to reductions in the estimated expenditures of the Government for the fiscal year 1922, and in that connection present herewith new estimates as to the revenue needs of the Government for the fiscal year, with recommendations as to the reduction and revision of taxation.

1. *Production in ordinary expenditures.*—The administration, in cooperation with the Committee on Ways and Means, has determined to reduce the ordinary expenditures of the Government for the fiscal year 1922 by at least $350,000,000 below the revised estimates presented by the Treasury on August 4. It is understood that this saving will be distributed, according to the best estimates now available, substantially as follows:

	Last revised estimate	New estimate	Net reduction
War Department	$450,000,000	$400,000,000	50,000,000
Navy Department	487,225,000	387,225,000	100,000,000
Shipping Board	200,000,000	100,000,000	100,000,000
Department of Agriculture	123,000,000	98,000,000	25,000,000
Railroads	545,000,000	495,000,000	50,000,000
Miscellaneous			25,000,000
Total reduction			350,000,000

To accomplish this reduction it will be necessary for the administration, with the assistance of the Director of the Bureau of the Budget, to put forth its utmost efforts to insure economy in every Government activity, and for Congress on its part to give the most whole-hearted cooperation not only by the avoidance of new expenditure but also by the limitation or repeal of various outstanding balances and authorizations. The reduction which is estimated in the railroad payments assumes that about $50,000,000 of the expenditure heretofore estimated to fall within the fiscal year 1922 will either prove unnecessary as settlements progress or be deferred to the fiscal year 1923.

2. *Reduction in public debt expenditures.*—It is understood that the Treasury will provide for two items of estimated public debt expenditure for the fiscal year 1922 out of other public debt receipts during the year, as follows:

Net redemption of war savings securities	$100,000,000
Retirement of Pittman Act certificates	70,000,000
Total	170,000,000

This will mean a reduction of $170,000,000 below the previously estimated net public debt expenditure for the year. It is undertood that the sinking fund requirements of the Victory Liberty loan act, amounting to $265,754,965 for the year, will be observed, and the miscellaneous debt reductions required to be made out of receipts specially earmarked for the purpose will not be disturbed.

3. *Total reduction in expenditure.*—The aggregate reduction in expenditure for the fiscal year, on the basis above established, will be $520,000,000, leaving an estimated total expenditure of about $4,034,000,000.

4. *Receipts from sources other than internal revenue.*—It is understood that the administration will make every effort, with the cooperation of Congress and the assistance of the Director of the Bureau of the Budget, to increase realization on salvageable property remaining from the war, particularly in the War Department, the Navy Department, and the Shipping Board. It is hoped that with increased receipts from salvage and a new tariff law effective by December 31, 1921, the total receipts from sources other than internal revenue during the fiscal year 1922 will be as follows:

Customs	$370,000,000
Salvage (including sales of surplus war supplies)	200,000,000
Other miscellaneous revenue	287,643,000
Total	857,643,000

5. *Revision of taxation.*—On the basis of the estimated reductions in expenditure to be made during the current fiscal year, the administration recommends that the internal tax laws be revised so as to produce a total of $3,000,000,000 of internal revenue for the calendar year 1922, as follows:

Normal income tax	$470,000,000
Income surtaxes	380,000,000
10 per cent corporation income tax	445,000,000
Additional 2½ per cent corporation income tax (as partial substitute for excess-profits tax)	111,250,000
Back collections of income and profits taxes	300,000,000
Miscellaneous internal revenue	1,293,750,000
Total	3,000,000,000

Specifically, this revision would involve (1) the repeal of the excess-profits tax effective January 1, 1921, with a 2½ per cent flat tax on corporation incomes as a partial substitute; (2) the repeal of the higher surtax brackets to a maximum of 32 per cent effective January 1, 1921, and a maximum of 25 per cent effective January 1, 1922; (3) the reduction of the transportation tax by one-half effective January 1, 1922, and its repeal effective January 1, 1923; (4) the repeal or modification of certain miscellaneous taxes imposed under section 630 (with a substitute tax on carbonated waters, etc.), and under section 904 of the revenue act of 1918; and (5) sufficient readjustments in miscellaneous taxes to assure aggregate internal revenue for the calendar year of $3,000,000,000. In connection with these readjustments, if the suggested additional flat tax on the net income of corporations is to be fixed at 2½ per cent, it will be necessary to make up the resulting loss in revenue by means of the miscellaneous internal taxes, in part through the substitute tax on carbonated waters and in part through increases in

existing stamp taxes. On the other hand, if the flat additional tax is to be fixed at 5 per cent, it might be possible in that connection to regard the last 2½ per cent as a substitute for the capital stock tax and repeal the capital stock tax, relying on the tax on carbonated waters and other readjustments in miscellaneous taxes to provide the necessary revenue.

The additional revenue necessary for the fiscal year 1922 will be made up, it is estimated, by the overlapping of receipts collected under existing law, and to some extent by collections of back taxes.

The suggested revision automatically provides for futher reductions in taxation for the calendar year 1923, through (1) the complete repeal of the transportation tax effective January 1, 1923, (2) the reduction of the surtaxes to a maximum of 25 per cent effective January 1, 1922, and at the same time there is to be anticipated a falling off in collections of back taxes in the calendar year 1923.

6. *Additional authority for the Secretary of the Treasury.*—In order to carry out this program and provide further for the financing of the short-dated debt, the Secretary of the Treasury should have enlarged authority for the issue and retirement of notes under section 18 of the second Liberty bond act, as amended, with provision for a total of $7,500,000,000 at any one time outstanding. The existing authority is for $7,000,000,000, and about $3,850,000,000 of Victory notes and $311,000,000 of Treasury notes are already outstanding thereunder. The additional authority is necessary in order to carry out the program for dealing with the short-dated debt outlined in my letter to you of April 30, 1921. I attach for your convenience a draft of amendment appropriate for this purpose.

That section 18 (a) of the act approved September 24, 1917, as amended by the act approved March 3, 1919, is hereby amended by striking out the words and figures "for the purposes of this act, and to meet public expenditures authorized by law, not exceeding in the aggregate $7,000,000,000," and inserting in lieu thereof the words and figures "for the purposes of this act, to provide for the purchase or redemption of notes issued hereunder, and to meet public expenditures authorized by law, not exceeding in the aggregate $7,500,000,000 at any one time outstanding".

I can not too strongly emphasize that the program agreed upon at yesterday's conference and outlined in this letter depends upon the reductions in expenditure which the administration expects to accomplish, and that the anticipated savings can be effected only by the most consistent and determined efforts to cut expenditure. The estimates of receipts, on the other hand, represent the utmost expected to accrue during the year, particularly in view of the uncertainties resulting from the depression in business and the shrinkage in incomes and profits.

Cordially yours,

A. W. MELLON,
Secretary.

Hon. JOSEPH W. FORDNEY,
Chairman Committee on Ways and Means,
House of Representatives, Washington, D. C.

AUGUST 4, 1921.

REVISION OF INTERNAL TAXES

SUMMARY OF STATEMENT BY THE SECRETARY OF THE TREASURY FOR THE COMMITTEE ON WAYS AND MEANS

REVENUE NEEDS

Taxation and tax revision depend upon public expenditures. According to the latest advices received from the spending departments and after taking into account all estimated reductions in expenditure reported to date, the Treasury estimates that the total expenditure for the fiscal year 1922 for which provision should be made out of the current revenues of the Government will be about $4,550,000,000. This in itself would mean a substantial reduction in current revenues and expenditures below the fiscal year 1921. The total ordinary revenues for 1921 amounted to about $5,625,000,000, or over $1,000,000,000 in excess of the revenues estimated to be necessary for 1922. The estimate for

1922, moreover, does not mean that $4,550,000,000 must be provided by taxation. It is estimated that there will be miscellaneous revenues during the year from salvage and sources other than taxation amounting to about $350,000,000. This would leave $4,200,000,000 to be provided from customs and internal revenue. It is estimated that the revenues from customs under existing law would be about $300,000,000 for the year, and that these might be increased by about $70,000,000 if a revised tariff law should become effective about December 31, 1921. The balance, about $3,830,000,000 (as against estimated internal revenue yield for the year under existing law of $3,570,000,000) should be provided out of internal revenue. This revenue can be safely reduced only if and to the extent that further reductions are enforced in the spending departments of the Government. This means that if additional taxes are to be avoided, there must be additional effective cuts in ordinary expenditure of over $250,000,000, and that even if such cuts were assured the internal revenue yield for the year could not safely be permitted to fall below $3,570,000,000, the estimated yield under existing law. The reductions in expenditure reported up to date have been taken into account in framing the estimates.

Table I, which follows, shows the estimated receipts and expenditures for the fiscal year 1922 under existing law:

TABLE I.—*Statement of estimated receipts and expenditures for fiscal year 1922, on basis of existing law (revised August 3, 1921)*

RECEIPTS (EXISTING LAW)

Customs		$300,000,000
Internal revenue:		
Income and profits taxes	$2,235,000,000	
Miscellaneous internal revenue	1,335,000,000	
		3,570,000,000
Miscellaneous revenue:		
Sales of public lands	1,500,000	
Federal reserve bank franchise tax	60,000,000	
Interest on foreign obligations	25,026,000	
Repayments of foreign obligations	30,500,000	
Sales of surplus war supplies	60,000,000	
Panama Canal	14,530,000	
Other miscellaneous	156,087,000	
		347,643,000
Total		4,217,643,000

EXPENDITURES [1]

Ordinary		$4,002,657,952
Public debt expenditures required by law:		
Sinking fund	$265,754,865	
War-savings securities (net)	100,000,000	
Miscellaneous debt redemptions	100,000	
Purchases of Liberty bonds from foreign repayments	30,500,000	
Redemptions of bonds and notes from estate taxes	25,000,000	
Retirement of Pittman Act certificates	70,000,000	
Retirement from Federal reserve bank franchise tax receipts	60,000,000	
Total debt expenditures		551,354,865
Grand total ordinary expenditures (including sinking fund and miscellaneous debt retirements)		4,554,012,817
Excess of expenditures over receipts		336,369,817

[1] See below for classification of expenditures.

Classification of estimated expenditures for fiscal year 1922

[Based on latest estimates from the spending offices, with allowances for all reductions reported to date]

Legislative		$17,213,813	
Executive		1,897,751	
State Department		10,344,000	
Department of Justice		17,000,000	
Post Office Department		2,200,000	
Interior Department (including pensions and Indians)		322,000,000	
Department of Agriculture		123,000,000	
Department of Commerce		19,923,000	
Department of Labor		5,252,887	
Independent offices		13,484,516	
District of Columbia		22,187,363	
Miscellaneous		62,500,000	
Postal deficiency		70,000,000	
			$617,003,630
Treasury Department:			
Bureau of War Risk Insurance	$286,000,000		
Public Health Service	47,000,000		
Collecting revenue	53,110,139		
All other	99,457,795		
		485,567,934	
Federal Board for Vocational Education		162,665,184	
War Department		450,000,000	
Navy Department		487,225,000	
Shipping Board		200,000,000	
Railroads (transportation act and Federal control)[1]		545,206,204	
Interest on public debt		975,000,000	
Panama Canal		10,000,000	
			3,385,654,322
Total ordinary			4,002,657,952
Public debt expenditures required by law:			
Sinking fund		265,754,865	
War-savings securities (net)		100,000,000	
Miscellaneous debt redemptions		100,000	
Purchases of Liberty bonds from foreign repayments		30,500,000	
Redemptions of bonds and notes from estate taxes		25,000,000	
Retirement of Pittman Act certificates		70,000,000	
Retirement from Federal reserve banks franchise tax receipts		60,000,000	
Total retirements			551,354,865
Grand total ordinary expenditures (including sinking fund and miscellaneous debt retirements)			4,554,012,817

REVENUE YIELD OF REVISED LAW

Estimates of the expected revenue under the suggested revised law (with comparative figures for the present law) are furnished in Table II below. The changes upon which the estimates for the revised law are based are briefly summarized herewith, and further comment is also submitted with this article. The grounds on which the more important recommendations are based were presented in my letter of April 30, 1921, to the chairman of the Committee on Ways and Means and need not be repeated in detail here. For the fiscal year 1922 the present law, it is estimated, would yield $3,870,000,000 in internal revenue and customs. Under the revised law the estimated collections from these sources would amount to $3,935,000,000, assuming that the revision of the corporation income and excess-profits taxes is made effective as of January 1, 1921. These figures do not include the estimated proceeds of the suggested 1 cent tax on first-class mail matter and the suggested 2 cents tax on bank checks. These taxes, it is estimated, would yield about $117,000,000 a year, or about $58,500,000 for the fiscal year 1922.

[1] No allowance is made for possible cash expenditures resulting from withdrawals by the War Finance Corporation, which has a credit balance of about $400,000,000 with the Treasurer and may draw down its balance, at least temporarily, in connection with the railroad financing proposed under pending legislation.

TABLE II.—*Estimated receipts from internal revenue and customs under present and revised laws*

[Figures in parentheses show results if the revision of the corporation income and excess-profits tax is made effective as of Jan. 1, 1922]

Source of revenue	Fiscal year 1922		Fiscal year 1923	
	Present law	Revised	Present law	Revised
Customs	$300,000,000	$370,000,000	$300,000,000	$450,000,000
Income tax:				
Individual	875,000,000	875,000,000	850,000,000	850,000,000
Corporation	456,000,000	657,000,000	415,000,000	748,000,000
		[1] (456,000,000)		[1] (562,000,000)
Profits tax	669,000,000	413,000,000	485,000,000	0
		[1] (669,000,000)		[1] (192,500,000)
Back taxes—income and profits	235,000,000	235,000,000	335,000,000	335,000,000
Miscellaneous: Internal revenue	1,335,000,000	1,385,000,000	1,349,000,000	1,345,000,000
Total	3,870,000,000	3,935,000,000	3,734,000,000	3,728,000,000
		[1] (3,990,000,000)		[1] (3,734,500,000)

[1] Revision as of Jan. 1, 1922.

NOTE 1.—The revision upon which the estimates under revised law are based is outlined following this statement. For detail of miscellaneous revenue see below.

NOTE 2.—An additional revenue tax of 1 cent on first-class mail would yield, it is estimated, about $72,000,000 annually ($36,000,000 for fiscal year 1922).

NOTE 3.—A stamp tax of 2 cents on each bank check would yield, it is estimated, about $45,000,000 annually ($22,500,000 for fiscal year 1922).

Estimated miscellaneous internal revenue

Source of revenue	Fiscal year 1922		Fiscal year 1923	
	Present law	Revised	Present law	Revised
Estate tax	$150,000,000	$150,000,000	$150,000,000	$150,000,000
Transportation	262,000,000	200,000,000	265,000,000	85,000,000
Telephone and telegraph	28,000,000	28,000,000	29,000,000	29,000,000
Insurance	19,000,000	19,000,000	20,000,000	20,000,000
Alcoholic spirits, etc	75,000,000	75,000,000	75,000,000	75,000,000
Beverages, sec. 628	35,000,000	35,000,000	35,000,000	35,000,000
Soft drinks, etc., sec. 630	25,000,000	12,000,000	25,000,000	
Tobacco:				
Cigarettes	136,000,000	155,000,000	138,000,000	160,000,000
Smoking and chewing	60,000,000	66,000,000	60,000,000	75,000,000
All other	59,000,000	59,000,000	60,000,000	60,000,000
Admissions and dues	96,000,000	96,000,000	100,000,000	100,000,000
Automobiles:				
Present tax	115,000,000	115,000,000	116,000,000	116,000,000
Federal license tax		85,000,000		100,000,000
Pianos, organs, etc	50,000,000	50,000,000	50,000,000	50,000,000
Motion picture films	6,000,000	6,000,000	6,000,000	6,000,000
Sculptures, paintings, etc	1,200,000	1,200,000	1,250,000	1,250,000
Carpets, etc., sec. 904	20,500,000	5,000,000	20,500,000	
Jewelry, watches, etc	25,000,000	25,000,000	25,000,000	25,000,000
Perfumery, cosmetics, medicines, etc	6,000,000	6,000,000	6,000,000	6,000,000
Corporation capital stock	80,000,000	80,000,000	80,000,000	80,000,000
Issues and conveyances, of capital stock, bonds, etc	55,000,000	80,000,000	55,000,000	105,000,000
Capital stock transfer	8,800,000	12,000,000	9,000,000	17,000,000
Sales of produce on exchanges	7,600,000	10,000,000	8,000,000	15,000,000
Miscellaneous taxes	15,590,000	15,590,000	15,590,000	15,590,000
Total	1,335,690,000	1,385,790,000	1,349,340,000	1,345,840,000

NOTE.—The revision upon which the above estimates are based assumes the following changes:

1. A new tariff law in effect about Dec. 31, 1921.
2. The increase of the corporation income tax to 15 per cent, as of Jan. 1, 1921 (or Jan. 1, 1922), and the repeal of the $2,000 exemption.
3. The repeal of the excess-profits tax, as of Jan. 1, 1921 (or Jan. 1, 1922).
4. Increased collections of back income and profits taxes.
5. An increase in the tax on cigarettes and smoking and chewing tobacco.
6. The repeal of the transportation tax upon freight andpa ssengers; the tax to be reduced one-half Jan. 1, 1922, and entirely repealed Jan. 1, 1923.
7. Certain of the stamp taxes, as carried in Title XI of the revenue act of 1918, to be materially increased.
8. An annual Federal license tax upon motor vehicles, averaging about $10 apiece, and to be graded according to power.
9. The repeal of sec. 630 of the revenue act of 1918, as of Jan. 1, 1922 (the tax on ice cream and fountain drinks, etc.).
10. The repeal of miscellaneous taxes levied under sec. 904 of the revenue act of 1918, as of Jan. 1, 1922.
11. A revision of the income tax rates, with the maximum surtax rate reduced to 32 per cent.

COMMENT ON SUGGESTED REVISIONS

1. *Customs.*—The estimates of revenue under the revised law assumes that a more productive tariff law will be adopted, capable of yielding about $70,000,000 additional revenue for the fiscal year 1922, and $150,000,000 additional for the fiscal year 1923.

2. *Individual income tax.*—The total net income subject to the higher surtax 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 less than $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. It is suggested that the normal and surtax rates be limited to a combined maximum rate not exceeding 40 per cent for the taxable year 1921 and 33 per cent thereafter. I am confident that in a short time the Treasury would actually collect more under the lower rates than under the higher rates if continued.

3. *Corporation taxes.*—I approve the repeal of the excess-profits tax, which is rapidly becoming unproductive. I suggest as a substitute an increase of 5 per cent in the rate of the corporation income tax, and the repeal of the specific exemption of $2,000 now accorded to corporations. This would greatly simplify the problem of administration and collection, without substantial loss of revenue.

4. *Back taxes.*—Collections of back taxes are estimated to yield net about $235,000,000 in the year 1922 and about $335,000,000 in the year 1923. It may be possible to secure some additional revenue from this source, perhaps as much as $100,000,000 additional in the year 1922.

5. *Miscellaneous taxes, suggested reductions.*—It is suggested that the following miscellaneous taxes be repealed or reduced:

(*a*) The transportation tax on freight and passengers, it is suggested, might be reduced one-half by January 1, 1922, and repealed entirely at the close of the calendar year 1922. The resulting loss of revenue would be approximately $62,000,000 for the fiscal year 1922 and $180,000,000 for the fiscal year 1923.

(*b*) The taxes on ice cream and fountain drinks imposed by section 630, now collected from consumers in such a way as to cause unnecessary irritation and material evasion, should be repealed. For similar reasons the excess price taxes now imposed by section 904 upon articles of wearing apparel should be repealed, and the other articles included under section 904 should be taxed at appropriate rates to the producer or importer under the general provisions of section 900. The maximum loss in revenue estimated to result from these changes would be less than $25,000,000 in the fiscal year 1922.

(*c*) The tax on perfumes, cosmetics, and proprietary medicines (sec. 907) also results in unnecessary irritation and is widely evaded. I suggest that this tax be imposed upon the producer or importer, as are most of the sales or excise taxes now imposed by the revenue act of 1918. This could be done without any loss in revenue.

6. *Suggested additional taxes.*—Shrinkage in the yield of existing taxes, the gaps resulting from the suggested reduction and repeal of the transportation tax and the changes in other taxes, and the pressure of expenditures upon the Treasury make necessary the consideration of additional taxes. These taxes are, of course, not suggested as desirable in themselves; but in my opinion they are less objectionable than some other new or additional taxes which have been proposed.

(*a*) Increase the documentary stamp taxes, by approximately doubling the present rates, so as to increase the revenue from this source by approximately $30,000,000 for the fiscal year 1922 and $70,000,000 for the fiscal year 1923. These estimated additional proceeds are included in Table II.

(*b*) The proposed stamp tax of 2 cents on each check (payable on sight or on demand) would yield, it is believed, about $45,000,000 a year. The estimated proceeds of this tax have not been included in the main totals of Table II.

(*c*) I suggest also as a convenient method of taxation an increase of 1 cent in the rate of postage on first-class mail matter, to 3 cents per ounce or fraction thereof on all except drop letters and to 2 cents per ounce or fraction thereof on postal cards. Such a tax would yield, it is estimated, about $72,000,000 a year (not included in Table II).

(*d*) An annual Federal license tax upon motor vehicles, averaging about $10 per vehicle, and to be graded according to power, would yield approximately

$100,000,000 a year, or about $85,000,000 the first year (1922) of its imposition. The estimated proceeds of this tax are included in Table II.

(e) An increase in the tax on cigarettes from $3 to $5 per thousand, and a slight increase in the other taxes on tobacco products would yield additional revenue of $25,000,000 in the fiscal year 1922 and approximately $57,000,000 in the fiscal year 1923 (included in Table II).

FISCAL YEAR 1923

The foregoing recommendations take into account probable reductions in current expenditure for the fiscal year 1923, when, for example, it is expected that there will be relatively small payments to make to the railroads as against estimated payments in the fiscal year 1922 of $545,000,000. Against these reductions, however, it is expected that there will be shrinkages in receipts. The suggestion that the transportation tax be repealed, effective in part January 1, 1922, and in its entirety January 1, 1923, would alone involve a loss of revenue of about $300,000,000 for a full year. It is also necessary to bear in mind that the estimated income and profits tax receipts for the fiscal year 1922 include two quarterly installments of income and profits taxes based on the business of the calendar year 1920, and that a substantial shrinkage below the 1922 figures for these receipts is to be expected during the fiscal year 1923 as a result of the shrinkage in incomes and the depression in business in 1921. In the fiscal year 1923, moreover, the Victory Liberty loan and the 1918 series of war savings certificates become due. With these extraordinary maturities of the public debt to meet, it is important that the Treasury have some margin of current revenue over current expenditure for the year, in order that the vast refunding operations which will have to be carried on during the year in any event may not be complicated or embarrassed by additional borrowings to meet current expenditures which ought to be provided for out of current revenues.

[For immediate release]

TREASURY DEPARTMENT, *July 3, 1922.*

The total ordinary receipts of the Government for the fiscal year 1922, as shown by the daily Treasury statement for June 30, 1922, amounted to $4,109,104,150.94. The total expenditures chargeable against ordinary receipts amounted to $3,795,302,499.84, with the result that the Government showed a surplus for the fiscal year 1922 amounting to $313,801,651.10. When the Budget was submitted last December the estimates indicated a deficit for 1922 amounting to $24,468,703, and the better showing which has been made results from a combination of several factors. Aggregate receipts for the year were about $140,000,000 greater than originally estimated. Customs receipts proved to be larger than for any previous fiscal year in the history of the Government, and amounted to $356,443,387.18, as compared with the estimate of $275,000,000. Internal revenue receipts amounted to $3,213,253,256.79, or almost exactly the estimated $3,214,500,000. Miscellaneous revenues, including Panama Canal tolls, amounted to $539,407,506.97, as compared with an estimated $478,953,663, the difference being due chiefly to increased realization on property and securities and the sale of about $44,000,000 of Federal land bank bonds owned by the Government. Total expenditures, on the other hand, were almost $200,000,000 less than the estimates given last December in the Budget, due largely to decreased expenditures on account of the railroads and to unexpectedly large realization upon railroad obligations held by the Government, including particularly equipment trust notes.

The total gross debt of the United States on June 30, 1922, on the basis of daily Treasury statements, amounted to $22,963,381,708.31 as compared with $23,977,450,552.54 on June 30, 1921, a reduction during the fiscal year 1922 of $1,014,068,844.23. This reduction in the debt was accomplished, first in the amount of $422,694,600, through retirements on account of the sinking fund and other public debt expenditures chargeable to ordinary receipts; second, in the amount of $277,572,593.13, through the reduction in the net balance in the general fund of the Treasury on June 30, 1922, as compared with June 30, 1921; and third, in the amount of $313,801,651.10, on account of the above-described surplus of ordinary receipts over total expenditures chargeable against ordinary receipts. The preliminary statement of the public debt on June 30, 1922, also

reflects the results of the refunding operations which the Treasury has been carrying on during the past year, or more. The outstanding Victory notes on June 30, 1922, had been reduced to $1,991,183,400 as compared with $3,913,933,350 on June 30, 1921, while outstanding Treasury notes by June 30, 1922, had increased to $2,246,596,350, as compared with $311,191,600 on June 30, 1921. Treasury certificates of indebtedness were reduced during the year to $1,828,787,500 as compared with $2,699,572,950 on June 30, 1921. As appears from this preliminary statement, however, there remains almost $4,500,000,000 of debt maturing within the fiscal year 1923, most of which will have to be refunded during the year. This total is made up of the following items:

4¼ per cent Victory notes	$1,991,183,400
Treasury certificates	1,828,787,500
War savings securities, series of 1918, maturing Jan. 1, 1923, in the amount of about	625,000,000

TUESDAY, APRIL 1, 1924

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to adjournment, in room 312, Senate Office Building, at 10 o'clock a. m., Hon. Reed Smoot presiding.

Present: Senators Smoot (chairman), McLean, Curtis, Watson, Reed of Pennsylvania, Simmons, Jones of New Mexico, Gerry, Walsh of Massachusetts, Harrison, and King.

FEDERAL ESTATE TAX

The CHAIRMAN. The committee will come to order. The Secretary of the Treasury, Mr. Mellon, is here, and I have asked the reporter to be present and take down whatever he says in relation to the estate tax, and I desire to have it printed as soon as possible after the statement is made. So, Mr. Secretary, whatever statement you have to make you may proceed with.

STATEMENT OF HON. ANDREW W. MELLON, SECRETARY OF THE TREASURY

Secretary MELLON. I might say, to start with, that the question of estate taxes has not been very fully considered. The increase in the rates, which was put in the House bill which came to you, was done later without any very serious discussion or consideration; and we have not had these high estate taxes long enough to realize the effect of them; and it does seem unfortunate that before we have reached a place where we are enabled to know the consequences of the extreme rates that additional rates should be imposed.

There is, in addition to the top bracket, and it ranges down in the brackets at pretty high rates, in almost every State—I believe in all of the States but two—pretty high rates of estate or inheritance taxes. I have a list of them here. They run, commencing with the lower ones, from 7 to 10 per cent up to 30 per cent.

Senator HARRISON. What is the difference between an estate tax and an inheritance tax?

Secretary MELLON. An estate tax is a tax placed on the estate at death; the inheritance is placed on those who receive inheritance from the owner of the estate.

Senator HARRISON. So these provisions embrace the inheritance tax also, do they?

Secretary MELLON. In some States——

Senator HARRISON. I mean in this provision of the bill. There is no other provision in here taxing inheritance?

Secretary MELLON. No; the provision in the House bill refers to taxes on estates. Of course, the effect of the tax is pretty much the same. The estate has to be converted into cash, to the extent of the tax payment. There is the proposal that might be relieved by extending the time of payment, but even with an extension of the time of payment in all cases it is desirable for the people connected with the estate to get out of debt, and the liquidation comes whether there is a long time or short time; it is a question of liquidation to the extent necessary to pay the taxes, and the effect of that liquidation bears not only on the estate that is liquidated, but, of course, on similar property. So that on any similar property the area of the effect of it is large; and from a revenue standpoint the tax is not logical, because it breaks down the values of the property upon which and from which the Government receives its revenue.

The effect of estates coming upon the market in successive liquidation of estates, and especially at these high rates, is to break down values in a way that is really serious. I think anyone having had experience with liquidation of these large estates knows that it takes a larger percentage than the percentage of tax to realize the amount of money required based on the appraisal of the estate. First, the estate is appraised; and then if there is, say, 25 per cent of the tax to be realized, plus the State tax and other taxes, by the time the properties are disposed of it takes a very much larger percentage. In other words, a 40 per cent tax requires, I should say, at least 50 per cent and probably more of the appraised value of the estate to realize enough proceeds to pay the tax.

Senator MCLEAN. The time for taxing production of capital engaged in manufacturing, for instance, might require much more than 50 per cent?

Secretary MELLON. Yes; because there are properties which are not marketable; that is, there are properties which have only a limited market, and there are properties, like real estate, in districts where there is not much capital or many people to buy.

Senator MCLEAN. It is taxing property whether making a profit at the time you take it or not? It may be running at a loss at the time the tax is imposed?

The CHAIRMAN. If the rates are high on these estates, particularly where engaged in business, they will have to carry tax-exempt securities or else have to carry life insurance to protect them. There is no other way to do it.

Secretary MELLON. That is right.

Senator HARRISON. Is this the first estate tax we have had?

The CHAIRMAN. No; the first one was either 1916 or 1917, I forget which.

Senator REED of Pennsylvania. We had one during the Spanish-American War.

Senator WATSON. Are they State taxes or Federal taxes, or both?

Secretary MELLON. The estate tax has been Federal——

Senator WATSON (interposing). In the various States?

Secretary MELLON. Some of them have estate taxes and others have inheritance taxes; they vary.

Senator WATSON. Of course, we have never levied a Federal inheritance tax.

Senator GERRY. In the States where there is an estate tax it is a very small tax. Then the inheritance tax is put on top of that, and the revenue is collected from the inheritance tax, rather than from the estate tax. The estate tax is simply a small tax of administration. I happen to be familiar with that phase of it, because my State has a very elaborate and well-considered inheritance and estate tax plan.

The CHAIRMAN. That is, I think, the case in some of the States, though some of the States only have a straight estate tax.

Senator GERRY. But the estate tax is only extremely small and the inheritance tax is of large amounts.

Secretary MELLON. But the bearing is the same.

Senator GERRY. If you will pardon me, with this difference: That the estate tax is, I think, wrong in principle, because it is a tax on what the man leaves.

The CHAIRMAN. In other words, a tax on capital.

Senator GERRY. No: that is not my point.

The CHAIRMAN. Well, that is what it is.

Senator GERRY. It is that, too. But it is a tax on what the decedent leaves, and not on the beneficial interest; in other words, what the heir receives. The result of that is that a man can leave practically all his property to one child and disinherit practically all the others, and yet the child that is left the entire estate does not pay a proportionately heavy tax. It is also a tax on the big family?

Secretary MELLON. Yes.

Senator GERRY. Under this bill, for example, two people die, one leaving $400,000 and four children and the other leaving $100,000 and one child; and the person leaving $400,000 leaves $100,000 to each child and the person leaving $100,000 leaves $100,000 to his child. Then the $400,000 estate going to four children, $100,000 to each child, under this bill, with the graduated tax, would leave less to each child than the estate of $100,000 left to one child; and in that way it is a tax on the big family, against public policy and unsound.

I am not going into the question of rates; I am not discussing that at all. I am simply discussing the wisdom of the policy of having an estate tax as differentiated from an inheritance tax. My contention is that it ought to be an inheritance tax. In 1918 we passed an inheritance tax through the Senate without a dissenting vote, but it went out in conference.

Senator WATSON. You mean you passed an inheritance tax in 1918?

Senator GERRY. I mean we passed an inheritance tax in the Senate in 1918 and amended the House revenue bill. An inheritance tax is on an entirely different basis than an estate tax; and what I am complaining against is the estate tax in contradistinction to the inheritance tax. I know Senator Reed will agree with that.

Senator REED of Pennsylvania. I quite agree with you.

The CHAIRMAN. I was one of the conferees on the bill, and I think that was the last thing we yielded on in the 1918 revenue bill. We struck out the House provision of the estate tax and inserted

the inheritance tax in the Senate. As I say, I do not believe there was a vote against it.

Senator WATSON. I remember it was an unanimous vote.

Secretary MELLON. I was treating more of the economic effect.

Senator GERRY. I was not talking about rates; I was talking about fundamentals.

Secretary MELLON. I was speaking more of the economic effect of these high rates, and it is not only the estate or inheritance tax of the Federal Government plus the general inheritance or estate tax of the States. But, then, almost every State has a transfer tax or other taxes which bear on the corporations of that State; for instance, if a decedent owns stock of the Atchison Railroad—that is a corporation of Kansas—Kansas has a transfer tax of 10 per cent, and on transfer of that stock to the one who inherits it requires the payment of 10 per cent. So that in addition to all these other high rates there are those transfer taxes in New Jersey and many of the States. The effect of that in the case of larger estates, where there are a diversified lot of investments, is that it takes an extreme amount of liquidation to realize the amount of tax, and it is the ultimate effect or the consequence which is evil. There is a limit beyond which you can not go in collecting these taxes, because they can not be liquidated; I mean, the properties can not be converted into cash beyond a certain limit.

It is very much the same as if you take the deposits in the banks. You might draw on one bank, say, 25 to 40 per cent of its deposits, and it could liquidate its assets to that extent, because there would be other banks to take over their securities, etc. But if you successively commence to take that large proportion out of this bank and that large proportion out of that bank, etc., you are going to break down the whole structure of values. You are going to carry the liquidation to an extent where the values are broken down, and that breaking down of values is not a transferring of wealth, for instance, from the individual owner to the Government. It simply disintegrates it, it disappears altogether, and it reduces the wealth of the country, and anything that in that way tends to reduce the wealth of the country necessarily affects the standard of living and breaks down the basis of the standard of living to all of the people. It has its effect in that way, and we have not had these extreme rates that came at the time of the war long enough to realize the effect entirely, although they have already had a considerable effect on the values of properties. You can take the stocks that are quoted on the exchange, like the stock of the United States Steel Corporation and others, where the rates of earnings are large, yet the value in the market of those securities is low in proportion before we had estate taxes and these high surtaxes.

In some respects the high estate tax is much more harmful than the high surtax rates, because the surtax comes out of the revenue; that is, it comes out of the earnings or surplus in that way, while the estate tax is the taking of the principal or breaking down of the body of the estate entirely, we might say. The principle is wrong, because you can only carry it to a certain extent; for instance, take a 40 per cent rate, which is a high rate. Suppose you would apply a 40 per cent rate from this time on to all estates large and small. How long would there be any private property? In two or three generations

there would not be any private property if you applied the 40 per cent rate, and what would happen would not be that the wealth that we have in the country to-day would be transferred from individual ownership to the Government, but it would mean that it would cease to exist; it would disappear.

What happened in Russia is an illustration of that. Russia has great natural resources. She had great wealth; there were banks in all the cities, with commercial paper, mortgages—all the instruments of credit. There was indeed great wealth in the country. The revolutionists could see that wealth; it was existing there, and they expected that they could lay their hands on it and transfer it and possess it. What happened was that when they commenced to levy their heavy imposts and to endeavor to take away that property, it broke down the values entirely; and the whole wealth of Russia disappeared, just ceased to exist. It vanished from the earth entirely, and all that they had left was the physical gold, just the gold that was there and nothing else. It was just as if you burned down a house and all you would have left would be the nails which you would pick up. That is the effect, carried to an extreme, of these rates in their application. Values are built up under our credit system. The structure of credits is delicate, and when you do something that breaks it down it simply disorganizes the whole productive system, and it is destructive of wealth; it is destructive of the prosperity of the country.

So there is the question of how far you can go in doing that without meeting resistance, because there is only a certain amount of value, of available money, to be got; and if you go too far you simply wipe out values without obtaining the revenue. Therefore, I think this whole system of high estate taxes is absolutely wrong from a revenue standpoint. The only possible answer to this, if there could be one, would be that wealth is not desirable.

Senator McLEAN. Is not the economic effect of a production tax just about as bad as a tax on an estate?

Secretary MELLON. The effect is the same to the extent of the amount of the tax.

Senator McLEAN. In both cases, you are taxing capital?

Secretary MELLON. Yes.

Senator McLEAN. And if it happens to be an actual taxing of production capital, the detrimental effect is the same?

Secretary MELLON. I think the present maximum rate of 25 per cent is entirely too high from a revenue standpoint.

Senator McLEAN. Do you think it ought ever to be higher than the annual income?

Secretary MELLON. No; I do not think so. I think if it were kept down to a reasonable rate on the annual income it would then not have this evil effect, because the liquidation of the successive estates would not break down values and would not obstruct production at all.

I wish to enlarge on my previous statement before your committee in the matter of proposed increase of Federal estate taxes from a maximum of 25 per cent to a maximum of 40 per cent. This amendment was inserted in the bill on the floor of the House with no hearings before a committee and no consideration of its effect on the future welfare of the United States.

As a preliminary to the discussion of this tax as a revenue measure, I think there should first be eliminated any question of the tax as a means of punishing wealth or in some way for the social good of our civilization.

The theory upon which this country was founded is equality of opportunity. So long as a man uses his abilities within the bounds of the moral sense of the community, monetary success is not a crime, but on the contrary adds to the total wealth of the country and to an increase in the standard of living as a whole.

The social necessity of breaking up large fortunes in this country does not exist. Very wisely our forefathers declined to implant on this continent the principle of primogeniture under which the eldest son alone inherited and properties were kept intact. Under our American law it is customary for estates to be divided equally among the children and in a few generations any single large fortune is split into many moderate inheritances and the continuation through generations of a single fortune has been proven to be impossible. It is an often quoted saying, "There are three generations from shirt sleeves to shirt sleeves."

Approaching excessive estate taxes from the standpoint of revenue, I think your attention should be drawn to that sound principle that the character of taxation should not be such as to destroy the very source from which revenue is to flow. Almost every State in the Union has an estate or inheritance tax, and every estate pays, therefore, not only the Federal tax but the tax of the State of the residence of the decedent, plus, under the present modern system of investment, the taxes of one or more other States. The total tax—always two taxes and often three or four—may take more than half of a large estate, and cases are possible where it would take practically the entire property. The situation here is even worse than in England, where there is but one tax; here there are several.

When a man dies, his property does not often consist of cash or easily marketable securities.

Senator WALSH of Massachusetts. If you will permit me, Mr. Secretary, can you state what is the total tax levied in the State where the largest tax is extracted?

The CHAIRMAN. Thirty-five per cent, I think.

Senator WALSH of Massachusetts. So, then, it is possible to levy rates, if this bill goes through, of 75 per cent?

The CHAIRMAN. No, Senator; the bill does not provide that as it passed the House; that whatever tax is imposed in the State is to be deducted from the tax imposed by the Government.

Senator GERRY. Not entirely, is it?

Secretary MELLON. Up to 25 per cent.

The CHAIRMAN. That is true.

Secretary MELLON. There is an objection to that, because it makes inequality in different States, that is, in the State which has 10 per cent or 25 per cent. That feature is not a very workable feature at all.

Senator KING. Would it not result in the States changing their estate tax laws immediately?

Senator REED of Pennsylvania. They could make it the same as the Federal law, and then they would get it all.

Senator McLEAN. Some States have constitutional prohibition against estate taxes, for example, Florida.

Secretary MELLON. I think the estate tax should go altogether to the States.

Senator JONES of New Mexico. In any event, whether the State collects the tax as an estate tax or inheritance tax, would it not be equitable for the Federal Government only to lay its hand upon that part of the inheritance after all State taxes and expenses have been deducted, regardless of the amount?

Secretary MELLON. It would be still more logical to leave the taxing of estates entirely in the State governments.

Senator JONES of New Mexico. I favor that proposition myself; and let the Federal Government only tax the beneficial interest to the individual receiving it; or, as I have frequently stated it, have a special income tax; that is, treated in the nature of a special income tax.

Senator WALSH of Massachusetts. I think there should be a uniform estate tax throughout the country to tax returns in the several States. Am I correct in thinking that the largest estate tax in one of the States is 35 per cent?

The CHAIRMAN. It is 40 per cent in Arkansas.

Senator WALSH of Massachusetts. The way it would work out if the tax levied by the National Government is 40 per cent and one-fourth is deducted for the State of Arkansas, is not the total tax collected 70 per cent?

The CHAIRMAN. No; this is how it would be: The United States collects 15 per cent and the State of Arkansas collects 40 per cent; or a total of 55 per cent.

Secretary MELLON. I think you are wrong there.

Senator GERRY. I would like to ask Mr. McCoy what his opinion is in the matter.

Mr. McCOY. The Government's tax is collected on the total of the estate, while the State tax, as a rule, is on the distributed portion; that is, each heir pays the tax, while the Government tax is paid by the estate. Usually the States do not have a single flat rate of tax, but at varying rates on the heir, depending on his relationship to the deceased; the nearer the relationship the lower the tax, and perfect strangers pay as high as 40 per cent.

Senator REED of Pennsylvania. I have a statute right in front of me. We will assume they establish a 40 per cent net estate tax. They take 40 per cent; out of the balance we measure our tax by the gross estate without giving credit for that and we take up as high as 40 per cent under this bill.

Senator WATSON. Of the gross?

Senator REED of Pennsylvania. Of the gross. But under the clause on page 204 you allow credit on our tax of the whole amount paid in Arkansas, except that the credit can not exceed 25 per cent of our tax; in other words, the credit allowed can not exceed 25 per cent of the 40 per cent that we are levying. So that Arkansas takes 40 per cent of the gross and we take 30.

Senator GERRY. So it makes what Senator Walsh has said, 70 per cent?

Senator REED of Pennsylvania. Exactly. So that if a man dies in prosperous days and there is a slump in his marketable holdings, it is very easily possible that the tax exceeds 100 per cent.

The CHAIRMAN. And he could not pay it.

Senator KING. In Colorado there was an estate appraised at $10,000,000 or $11,000,000, on which they were not able to pay taxes and had to get a moratorium, and had to sacrifice thousands of acres of valuable land. I have a resolution here which the Secretary has approved. I can see this evil. It seems to me we ought to adopt this resolution which I offered a year ago and offer now [reading]:

Resolved, etc., That the President is authorized and requested to invite the governments of the several States of the Union to appoint representatives to confer with representatives to be appointed by the President, to consider the relation between Federal and State taxation; cooperation between Congress and the States in the laying and levying of taxes; the matter of duplicating and conflicting Federal and State taxes upon inheritances, successions, and incomes, and means for the accommodation of such conflicts; and the question of the allocation and distribution of the revenues derived from inheritance taxes as between the Federal Government and the several States.

SEC. 2. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $20,000, or so much thereof as may be necessary, to defray the expenses of such conference.

I have been corresponding with the governors of many States, and they approve of it, and several States have an appropriation to carry that into effect. You will find there will be a favorable response from the governors and they will be glad through the legislatures to cooperate and work out a uniform system for levying inheritance taxes, and then have a proper allocation.

Secretary MELLON. I think that is very necessary. The whole situation is in such a chaotic condition. Here we have income taxes and surtaxes. Every State differs; some are high and some low; and then they have estate taxes all varying, and it approaches confiscation in a great many of those States.

Senator WALSH of Massachusetts. Three years ago we had some talk and nothing has been done.

Senator REED of Pennsylvania. There has been a great deal of retaliatory legislation. The States have almost altogether adopted the Federal provision that no credit should be allowed for the tax paid the other government before collecting their own. Pennsylvania has just modified her tax law to retaliate against the Federal law, which does not allow deduction of State tax.

The CHAIRMAN. The estimated increase under the House provision will be $12,000,000 for the first year; but for the following year it is liable to go entirely to pieces and not be nearly as much.

Secretary MELLON. It will actually be a failure from a revenue standpoint, because the revenue received will be reduced and fall off from year to year.

Senator JONES of New Mexico. How do you reason that, Mr. Secretary? What is your reasoning on that proposition?

Secretary MELLON. Because, for one thing, the large estates will cease to be in number what they have been in the past, just as the taxpayer will not expose himself to that position. His estate will be divided up beforehand. You say that can be taken care of by a gift tax. But a gift tax does not take care of it except to a very limited extent. However, there are many ways by which estates can be divided and the properties transferred.

Senator JONES of New Mexico. What are those ways? We want to get at them, I should say.

Secretary MELLON. You never will get at them. To begin with, even if you started it, the obvious plan of gift tax will work only to a certain extent. But that is an annual gift tax. Suppose I am looking forward to a transfer of property. A man will always transfer the property that is going to increase in value—a property that may have a small value to-day. It will be possibly in a corporation which has come along and has not got to the position where it expands in value. You transfer that at the value it has to-day, and two or three years from that time it has twice that value. The man who transfers knows the future of it and all that, and you can prepare in that way—any man could—to present his property to his children, etc., and all the gift taxes and all the methods of prevention you can adopt will not prevent it. Then, of course, it will be taking advantage in an illegal way.

Senator WALSH of Massachusetts. Every method is resorted to that is possible, and when we increase the rate it will be redoubled.

Secretary MELLON. You get a certain amount of the increased taxes in the beginning, for a certain time; but then they disappear, and as a revenue measure it would be an actual failure, just like the extremely high surtaxes are.

Senator JONES of New Mexico. Mr. Secretary, I have heard that expression a great many times, and I am unable to appreciate the reasoning which leads up to the conclusion, and I wish you would give us somewhat more in detail just how it does operate and how they evade the payment of the surtaxes—I mean any surtaxes, and especially the high ones, and also the inheritance tax. I am unable to appreciate how a man who evades a high tax would not use practically the same effort to evade a low tax.

Secretary MELLON. Oh, no, indeed.

Senator JONES of New Mexico. I can see the difference in the inducement, but at the same time the disposition of the individual is the same.

Secretary MELLON. Suppose you have an inheritance in view, and there is a tax which is going to take away half of the estate. Are you going to allow that to go just the same as you would if it took away 20 per cent of the estate?

Senator JONES of New Mexico. Where do you draw the line when a man is going to be honest and when dishonest?

Secretary MELLON. It is not a question of honesty. I mean a man can be absolutely honest and yet he makes investments where he will not be penalized to that extent, don't you see? Suppose you have two pieces of property and one of them has a large future. It has to-day a value of $100,000, and you believe that that is going to be worth a half million or million dollars after a while; and you have another property——

Senator JONES of New Mexico. What kind of property do you have in mind now?

Secretary MELLON. There are lots of properties of that kind that have promising futures. There are corporations which have been going along and creating good will and creating values that are intangible for a number of years. Those things are accumulated. Perhaps it is a business that is doing a very large amount of advertising, which costs a great deal of money. But the effect comes in the future when the people get it beaten into their heads that those goods

are the particular kind to buy. There is the good will that has been created and it costs money. While building up that good will the value of that corporation's stock is low, because there is not much profit to-day; the dividends are small. But it reaches a point where it will expand in value very rapidly. That is a very common occurrence.

That kind of property is in the process of being built up and transferred honestly at its actual value to-day, and yet it will have possibly twice the value or more in a few years afterwards.

Senator JONES of New Mexico. But can anyone anticipate that after some years the property will be more valuable and give his property away to-day so as to avoid a possible inheritance tax several years in the future? Do you think that would occur?

Secretary MELLON. You can transfer that property which has a small value to-day, and you know as well as you know anything in the future that it is going to have a high value later on. And that is only one thing.

Senator JONES of New Mexico. But, as a practical proposition, do you believe that because of a high inheritance tax that a man would undertake a venture of that sort for the purpose of evading an inheritance tax; that he would organize a business of no great value to-day and give this stock to his children with the hope that some day that stock would become more valuable, and do that for the purpose of evading an inheritance tax?

Secretary MELLON. Naturally you are not going to give the best you have at the lowest value you have; you are naturally going to take advantage of whatever the situation is as bearing on the future value to do it.

Senator JONES of New Mexico. But you would only be getting rid for the present of the amount which you actually gave to the heirs?

Secretary MELLON. That is all.

Senator JONES of New Mexico. And that is the only part of the estate which you would be disposing of would be the present value of the stock in the new venture?

Secretary MELLON. Yes.

Senator JONES of New Mexico. The fact that that stock might increase in value in years to come would not affect the estate at all, it seems to me.

Secretary MELLON. You would be transferring your potential wealth in respect to its future, and as far as revenue to the Government is concerned the Government would not get any revenue from it except on the present-day value. I am speaking of this in respect to a gift tax; you would pay the gift tax on the present-day low value.

Senator JONES of New Mexico. Sure.

Secretary MELLON. But the practical effect is that there is a reduction in the magnitude of the estate right along. You will find there will be fewer large estates.

Senator MCLEAN. That will be immediately reflected in the income tax?

Secretary MELLON. That will be immediately reflected in the income tax, just the same as high surtaxes on incomes. You will find that the high incomes disappear, and you can go on and make every law that could be devised to avold that, and it will not reach the question at all.

Senator JONES of New Mexico. You say we might make every law that could be devised. Now, I will tell you we are down here dealing with specific legislation, and we want to know just what those devices are and maybe which can be anticipated, and if you have any devices in mind to evade the law, of course, we want to know them, and I take it you want to give the advantage of that information.

Secretary MELLON. It extends further than devices, you know. If you are actively engaged in affairs and you have a certain amount of incoming wealth, you are going to conduct your investments and operations—I am speaking of high surtaxes on incomes just by way of illustration—in such a way that you are not going to keep on paying, say, 50 per cent of all that you make to the Government. You can be as rigidly honest as it is possible to be, and yet there is no incentive for you to go on and take the risks of loss, etc., if you have to pay half of that; consequently, you are going to change your method of investment entirely, and the result of that is that you are going to have the large incomes. You either have it transferred or you have it changed to some plan by which you have an investment in something that may not pay an income to-day or to-morrow, but 10 years from this time you will have an income.

Senator JONES of New Mexico. Right on that, what classes of property do you refer to?

Senator WATSON. That is the difference between the far-seeing man who becomes wealthy and the other fellow who can not see into the future and who stays poor.

Senator CURTIS. We happened to have a banker in our State who chanced to own property down in the oil country and made a fortune. The proposition came up that he could make an investment and he did not make it. I asked him one day why he did not make it. He said he did not propose to give to the Government 58 per cent of his income and take a chance on the money he would have to put into that proposition.

The CHAIRMAN. If we knew how to tell just what all of these ways of evading taxes were, the attorneys of this country would not have very much to do.

Secretary MELLON. And then after you got through telling what you could think of——

The CHAIRMAN. Then every attorney in the United States would be working to find out where there is a loophole.

Secretary MELLON. On this question of surtaxes, I will give an illustration of what occurred here two or three months ago. I have at home a piece of property that I inherited, being vacant property in the east end of the city where it is sort of building up. There was a considerable area of this property that came to me and my brothers and I had a certain amount of it.

In order to increase the value of that property and to attract the business in that direction, some years ago, I made leases for 20 and 30 years to some people, where I could get them, for building an automobile salesroom and something of that kind. To help them build I advanced money, that is, made them a building loan to build the building. I did that to an extent, and one firm to which I had furnished most of the money built a house. Their business had outgrown that particular house, and they wanted a piece of

ground next door, which was vacant, and I was paying taxes on it. They proposed to me to lease that lot and to put up a building that would cost $200,000. This firm had an architect's estimate. They said they could take out of their business $25,000 toward that $200,000, and the proposition to me was to loan $175,000 and lease this property for 25 or 30 years to them on the ground; and they proposed to me a rental that made 7 per cent on the money that I would advance, that is, I would receive 7 per cent plus an amortization of the building there. In other words, I mean, I would have got 7 per cent on all of the money I would invest. Besides that, they would pay a rental value on the ground.

That was a very good proposition, excepting for the surtax, and was one I would have accepted. But when I made my calculation, out of the rental of the lot, 58 per cent was taken away, and it did not measure enough profit for me to invest that money. It would have worked out on 25 per cent surtax, but it did not work out on 58 per cent surtax.

So the result of it was, I said to this man, "You just stay where you are another year and there is a possibility that these surtaxes may be dropped down to 25 per cent, and I will make you the lease whenever they do."

Senator JONES of New Mexico. In the meantime, what have you done with the $175,000?

Secretary MELLON. I did not have the $175,000; I would have borrowed it from the bank and loaned it to them—I mean I did not have it standing idle. I would have provided that, but at the same time I could not afford to do so at 7 per cent, if I had to take 58 per cent out of it. That was not evading taxes. It was just simply that I would not do a foolish thing.

What would have been the result if the surtax had been 25 per cent? I would have made that lease; the Government would have got 25 per cent. Now it gets nothing. The building material people, cement men, and others would have got some profit; the architect would have got some revenue and he would have paid income tax; the Government would be getting from me 25 per cent as income tax, would be getting revenue from the price of the building, and all that; but as it is, with the high surtax, that is stopped altogether.

There is another effect which is a very important one. Rents are very high out there; there are not enough business houses. During the war there was scarcely any building done, and consequently rents are so very high and these business houses are paying such high rents that it adds to their cost of distributing goods. The effect of building this other house, in addition to getting the revenue, would have been to have brought in another building and the effect of that additional building would be to reduce rents and to reduce ultimately the cost of living to that extent. Therefore, these high surtaxes are absolutely preventive of that; there is no question about it.

Senator JONES of New Mexico. Why not organize a corporation where you will not have to pay but 12 per cent?

Secretary MELLON. You figure that out and you will find that in the end the dividends are taxed again, and it costs more still.

Senator JONES of New Mexico. What is the use of paying out the dividends?

Secretary MELLON. You have to have dividends, or what is the use of having corporations?

Senator JONES of New Mexico. You want the dividends so as to organize another corporation. Why not use the one corporation?

Secretary MELLON. Suppose I borrowed this money in order to build that house. I have got to have dividends to pay back the money.

Senator JONES of New Mexico. Let the corporation pay the interest.

The CHAIRMAN. They have got to have some money to do it with.

Secretary MELLON. They have got to have some money to do it with. It does not work out that way. These extreme rates are economically unsound, and they distort the investment of money and they add to the cost of living.

Senator JONES of New Mexico. I do not understand how they add to the cost of living.

Secretary MELLON. Well, do you see in that illustration I gave that if I had built that house, that is one more house that would have been occupied there; and suppose there are a number built in that way?

Senator JONES of New Mexico. But, now, you suppose there are a number built in that way; how many people are there in the United States who pay these high surtaxes?

Secretary MELLON. Here is another thing, when you come to moderate houses such as the clerk or the workman lives in. I know this: It had been for years the fact that what a good many people of considerable income looked on as the soundest investment they could make was loaning on real estate mortgages, or making building loans where they could loan to a party to build, and get the rent. Those mortgages, when money was plenty, would go at 5 or 6 per cent, and people who were not engaged in active business and had incomes would invest the surplus money in mortgages. To-day there are no private investments in mortgages at all. There is not that source of revenue to build these houses to rent at moderate rents, and the consequence is that the rents on those houses are very high.

I owned a block of houses that rented for $20 a month each for years, up until the time of the war. They always rented for $20 a month. I sold that property a few years ago, and the man who bought the property is getting $60 a month for those same houses. There are no moderate houses of that class available, because the corporations have not been building them. The people who ordinarily built them were the small contractors or men who could borrow money on mortgages, who would borrow money at 5 or 6 per cent on mortgages and build those houses. In other words, the flow of capital has not been to that kind of property.

Senator JONES of New Mexico. I agree that rents have gone up, but what I am unable to see is how the high surtaxes have materially affected that situation——

Secretary MELLON. Because they have stopped——

Senator JONES of New Mexico. Hold on. Pardon me. How much is the income of people who pay these high surtaxes?

Secretary MELLON. It depends on varied amounts, but no one with any considerable income, or the class of people who could invest money in mortgages, can to-day invest in 6 per cent mortgages. They do not do it.

Senator JONES of New Mexico. I would like to confine our inquiry to the people who pay these high surtaxes. How many people are there in the United States, who pay those high surtaxes, who have incomes above $200,000?

Secretary MELLON. There are not as many as formerly; they are a smaller number from year to year.

Senator JONES of New Mexico. Well, how many?

Secretary MELLON. It depends on how much of an income. If you take the incomes of $300,000——

Senator JONES of New Mexico. We will start in with the people who have incomes of $200,000. How many people are there who have that amount of income annually, or above?

Secretary MELLON. The figures there will show. There are fewer of them than there were; every year there are a less number, on account of the high surtaxes.

Senator JONES of New Mexico. I agree with you there is a less number, but I am unwilling to agree that it is on account of the high surtaxes alone.

Secretary MELLON. The small brackets have increased in number, showing that the business, the wealth, and the progress of the country is going on. But it is the effect of these surtaxes which breaks down these high values.

Senator SIMMONS. Is it better for the general business welfare of the country that the business should be carried on by men of large incomes or carried on by men of smaller incomes?

Secretary MELLON. It does not make any difference. It is a question of the natural flow of capital where it is most needed and where it does the most good in the way of reducing the cost of living; and if you do those things which distort that, which drive capital away from productive enterprises or building dwelling houses and that sort of thing, you immediately make a scarcity there which adds to the cost of living.

Senator SIMMONS. Are the banks having any difficulty in loaning out their money?

Secretary MELLON. There are always people to borrow money.

Senator SIMMONS. Are the banks having any difficulty in loaning out all the money they have to loan?

Secretary MELLON. I have never known of banks having very much difficulty in loaning money under any conditions.

Senator SIMMONS. Men do not borrow money unless they are going to do something with it?

Secretary MELLON. No.

Senator SIMMONS. I want to know whether banks with deposits of money find any difficulty in loaning out that money.

Secretary MELLON. You will find this, if you take the statements of the banks of the country to-day, that, for instance, take Government securities, which are a very large element in the investment of banks ——

Senator SIMMONS. I understand the Government security proposition. But somebody has to buy those Government securities?

Secretary MELLON. Oh, exactly.

Senator SIMMONS. When they buy those Government securities, that money goes into somebody else's hands?

Secretary MELLON. You will find that the banks to-day have corporation bonds of foreign governments and of State governments, of industrial establishments and all that. But that does not change the fact that the ordinary flow of investment capital is where it does the most good in the way of building dwelling houses or in the way of carrying the securities of the railroads, which is necessary to the transportation of the country.

Senator SIMMONS. You said a little while ago that these big investments were stopping and that they were growing less all the time, while the smaller investments were growing larger all the time. I want to know if that is not a healthy condition.

Secretary MELLON. No; I did not say that the big investments were growing smaller. I meant that the number of people with certain incomes is going on; the larger incomes are not being reduced. It does not mean that that is being lost; it means only that other methods are being followed in their investments so that they will not have to give away half of it; in other words, they are investing in tax-free securities and using methods that avoid the present payment of these surtaxes.

Senator SIMMONS. If you invest yourself in tax-free securities, where do you get the tax-free bonds; do you get them from the States?

Secretary MELLON. The States, municipalities; farm loan bonds.

Senator SIMMONS. If you get them from the State, is the State going to lock that money up or use it for development purposes?

Secretary MELLON. If you were to see some of the developments that are being made—take our own city—that are not of a productive nature in any kind of a way. Their developments in a great many ways are not economic.

The CHAIRMAN. Produce no income, but are a constant expense.

Secretary MELLON. Yes; for instance, one thing I think they have in Pittsburgh, a subway system and the city sold an issue of bonds how many years ago?

Senator REED of Pennsylvania. Four years ago.

Secretary MELLON. Four years ago, to build a subway system that is not a practical thing and never will work; and they have not started to construct.

Senator SIMMONS. Mr. Secretary, you can select, if you are discussing the question of how municipalities, States, and counties invest their money, instances of great extravagance and waste in that application of the money, just as in the case of individuals you can select hundreds of individuals who are throwing away their money and investing it unwisely. But that money goes out of his hands and goes into somebody's else hands. However, the money is at work.

Secretary MELLON. Take in our city, if they had to borrow their money like the railroads of the country do, on securities that had to pay its share of tax and all that, they would not be so free with the expenditure of this money. As it is to-day, the bankers are selling tax-free securities. We will start with the municipalities. There will be a whole lot of these people offering their securities. It is easy for the municipality to borrow, and they borrow at a very low rate of interest. They make the estimate this way, "that here is a place that we can get our money at 4 per cent, and if a private concern

builds these gas works they will have to pay more for the money, and we will operate a municipal gas works."

Senator SIMMONS. I can not see in the exigencies of the situation why you should want to attack municipalities and States and charge them with recklessness and extravagance that does exist in some cases, however, to no greater extent than in the transactions of individuals. But my judgment is that the counties and States do not borrow money for the purpose of wasting it; they do not take advantage of low rates of money to get money to waste. The people are looking after that, and while there are exceptions to the proper and judicious investment of the money of counties and towns, I think, as a rule, they are investing it very judiciously.

Secretary MELLON. Senator Simmons, it is mainly this, that the stimulation is in the direction of furnishing capital to municipalities and so forth, rather than furnishing capital for the building of dwelling houses and that sort of thing.

Senator SIMMONS. I was asking a little while ago if the banks were having any trouble in loaning money for those purposes.

Secretary MELLON. You know, as a rule, banks do not make building loans.

Senator SIMMONS. In other words, is not the money of the country at work now?

Secretary MELLON. Yes.

The CHAIRMAN. Have we not got quite a lot of money, you might say a plethora of money, in this country?

Secretary MELLON. Yes.

Senator SIMMONS. And yet it is tolerably well employed?

Secretary MELLON. Yes.

Senator SIMMONS. It is not tied up because the money has been used to buy Government securities. The bank turns the money loose and it goes on and does its work?

Secretary MELLON. It does not work in the most economical method for the people. It is at work.

Senator SIMMONS. Do you think you are going to establish economy in this country through the taxing system?

Secretary MELLON. I think if there is an equitable taxing system that does not distort investments, etc., then it does make an incentive to prosperity through productive sources.

Senator SIMMONS. Mr. Secretary, I do not want to press that any further. But I am interested in what you had to say a little while ago with reference to the opportunities of evading an inheritance or estate tax law; I am very much interested in what you said about the opportunities of evading a high income-tax law. I admit that if the tax is high the temptation in both cases is to find means of evasion, and the ingenuity of man will find a great many ways to evade, both as to income taxes and as to inheritance taxes. It is possible that if taxes are excessively high some people will be tempted to try to evade that would not do so if they were moderate. Those are fundamental principles, I think, of human nature. But the question I had in mind was, would it not be very much easier to evade an abnormally high inheritance tax or estate tax than it is to evade a high income-tax law?

Secretary MELLON. No; I think the facility of avoiding payment would be very much the same.

Senator SIMMONS. Assume that they are pretty much the same, can you not by corrective, remedial legislation more easily reach and remove the evasive methods with reference to an income tax than you can the evasive methods with reference to an inheritance tax?

Secretary MELLON. I do not think so; I think it amounts to about the same thing.

Senator WALSH of Massachusetts. I would like to be told how many surtax payers there are over $200,000.

Mr. GREGG. There are somewhat above 500 over $200,000, and something more than 2,200 over $100,000. That is for 1921. Of course, it was much larger for the earlier years.

Senator HARRISON. Mr. Secretary, have you investigated the effect of taxes on building operations in the United States during the past few years?

Secretary MELLON. Not especially.

Senator HARRISON. Do you think there has been a slowing up during the last three years?

Secretary MELLON. During the war there was a slowing up; and there has been an increase to some extent just in late years, but not enough to make up for the shortage at all. There is a very great shortage in almost all cities, particularly of the smaller dwelling houses. There is a very large shortage yet to be made up.

Senator HARRISON. I notice that around Washington—I do not know what it is elsewhere—there are expensive building activities going on, yet rents do not seem to be going down. I wondered how you could reconcile your statement that this money was not going into the building of residences?

Secretary MELLON. There has been more building here proportionately than in any other city I know of, but I think the reason rents still keep so high is because the high surtaxes is the greatest factor in keeping those rents high. The owners of those properties, no different whether through corporation or otherwise, know it is necessary to have high rentals in order to meet the question of taxes The taxes invariably reach the final consumers.

Senator JONES of New Mexico. Mr. Secretary, I have just made a rough estimate here, and I find that the total incomes of $200,000 and more in 1921 was only $294,000,000, while the total income of all taxpayers was $19,577,000,000. Do you think what should become of that $294,000,000 would have much effect on the business of $19,577,000,000?

Secretary MELLON. Yes; in this respect: That $294,000,000—suppose you reduce the surtaxes and put them down to some normal rate, then you would find the amount of income in that bracket would increase; the money would come back from these nonproductive sources and would go into investments in productive business, etc.

Senator JONES of New Mexico. How much of an effect would it have on the general business of the country if we ignored entirely this $294,000,000 out of nearly $20,000,000,000?

Secretary MELLON. The effect is that capital has not been brought into productive operations at all, and that is the reason it is not there. If you will reduce the surtaxes, that capital will come back into productive operations, don't you see? And the difference is this: That an investment to-day, say, as between a tax-free bond

at 4 per cent, an investor has to have a return of 8 or 10 per cent, and you will find that in most of these building operations and the like they figure to return 10 or 12 per cent.

Senator JONES of New Mexico. Following up the interrogatory of Senator Harrison, there has not been any lack of money for building purposes in the United States in the last two or three years, has there?

Secretary MELLON. There has been at low rates. There has been money available, as I said, at 8 or 10 or 12 per cent.

Senator JONES of New Mexico. What I mean is, even under the present law, which carries a surtax higher, I believe, than any of us propose to impose under the present bill, there is plenty of money for the purpose of building houses, is there not?

Secretary MELLON. At the high rates, because it simply drives up the cost of money for those purposes. But if you had a lower level of income tax rates, then capital would go into buildings at 5 or 6 per cent and the rents would be correspondingly lower.

Senator JONES of New Mexico. Is there any lack of capital for any other line of business in this country? I have been following more or less persistently the rates of interest and the new issues of bonds, and so on, in the country, and my recollection is that there has not been a bond issue offered to the public in the last few years—of course, assuming it is a good security—but what it has been oversubscribed.

Secretary MELLON. Yes; and you will find those rates have usually been 7 or 8 per cent, though in the case of a good railroad with high credit they will be on a basis of 6 per cent; whereas, in normal times those rates were down around 5 or 6 per cent. A railroad used to get its money at 5 per cent and sometimes less, and now they have to pay more. Take equipment, which is the highest grade railroad security, that is, equipment trust bonds. I remember when they used to sell those bonds to bring in 4 per cent, while to-day I do not believe there are any equipment bonds of the highest grade railroads lower than 5½ per cent, and usually 6 and 6½ per cent.

That situation would change if you had the lower surtax rates, and there would be capital flow into investment of that kind. Those are not tax-free, and therefore in order to attract the money they have got to compete and pay high rates, and those high rates cost the railroad more money and the railroad, consequently, has to get more for transportation.

Senator JONES of New Mexico. Is it not a fact that the people who pay the high surtax rates lend their money and must loan it on the same basis and for the same rate of interest as the people who pay a less rate of income tax?

Secretary MELLON. Yes.

Senator JONES of New Mexico. That is true?

Secretary MELLON. Yes; but they do not make the same investments; they make investments in tax-free securities, whereas the small investor does not need to make it that way.

Senator JONES of New Mexico. Now, then, when the man who pays the high surtaxes buys those tax-exempt securities does he not have to buy them from some one?

Secretary MELLON. Yes.

Senator JONES of New Mexico. Then, would not that some one, if he had to pay a lower surtax rate, invest that money in something else?

Secretary MELLON. Yes; but the capital flows where most needed, unless there is something like high surtaxes to obstruct it, and that throws it out of gear to that extent. You take the railroads of our country. Before we had the high surtaxes and the high estate taxes the ownership of railroad securities was largely by men of large incomes. The effect of the high surtax has been to drive those investments out of the railroad market, and to-day I do not know of any large holder of railroad securities—I mean in the sense they used to be.

Senator JONES of New Mexico. Do you think that is a bad thing for the country?

Secretary MELLON. It is costing the railroads more money, and the railroads have to pay more for capital and naturally have to charge more for transportation; and I do not care where you place the high rates, it has its effect on the consumption, on the cost of living.

Senator WALSH of Massachusetts. I can see why capital is not invested in railroad securities is because they are not any longer attractive securities, and not because of any tax. People are not buying railroad securities because they are not attractive; they are not paying what they used to pay.

Secretary MELLON. There is some on account of what the legislation may be, but not generally speaking. You take the Baltimore & Ohio Railroad stock, which is paying 5 per cent and selling at $52 or $53 a share, so that the man who invests in that stock is getting about 9 per cent on his money. It is the same way with Northern Pacific or similar stock. Before these high surtax rates existed no railroad paid like that on an investment. The railroad investment usually yielded to the man who owned the stock possibly 7 per cent; to-day it has driven down the market value of those securities to that extent.

Senator JONES of New Mexico. Mr. Secretary, are there not other elements in that than just rate of interest?

Secretary MELLON. Yes.

Senator JONES of New Mexico. You take United States Steel common stock, which is selling around par and only pays 5 and 5½ per cent.

Secretary MELLON. No; it paid more than 6 per cent the last dividend, and there was an extra dividend, and their earnings were very much larger.

Senator JONES of New Mexico. I would hesitate to differ from you in the matter of recollection, but my recollection is that the Steel common stock never paid over 5 per cent until this last year, when it declared an extra dividend, putting it practically on a 6 per cent basis.

Senator REED of Pennsylvania. It paid 14 per cent in 1917.

Secretary MELLON. And the earnings on that stock are away up about 17 or something like that. That adds to the market value. To-day the value of the United States Steel Corporation stock in the market, if you would wipe out surtaxes, would eventually reach a value away above the present.

The book value of United States Steel Corporation is well toward $300 a share. It is more than $250 a share of actual investment value in the plants, etc.; and yet the stock sells at $100. The reason

for that is the large holdings of that stock that ordinarily exist, because people who have had money to invest in it are not making investments in that direction, in that kind of property; they can not afford to; and, consequently, the stock sells at less in the market.

Senator JONES of New Mexico. There are so many avenues and angles to all these questions that I hesitate to refer to them.

The CHAIRMAN. The committee will now adjourn until to-morrow morning at 10 o'clock.

(Thereupon, at 11.55 a. m., the committee adjourned to meet to-morrow, Wednesday, April 2, 1924, at 10 o'clock a. m.)

WEDNESDAY, APRIL 2, 1924

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to adjournment, in room 312, Senate Office Building, at 10 o'clock a. m., Hon. Reed Smoot presiding.

Present: Senators Smoot (chairman), McLean, Curtis, Watson, Reed of Pennsylvania, Simmons, Jones of New Mexico, Gerry, and Walsh of Massachusetts.

FEDERAL ESTATE TAX

The CHAIRMAN. Mr. Secretary, the committee will hear you further, when you are ready.

STATEMENT OF HON. ANDREW W. MELLON, SECRETARY OF THE TREASURY—Resumed

Secretary MELLON. The estate taxes must be met in cash and not in kind. His executors must proceed to realize this cash through sales of the decedent's property. The effect of a man's death is immediately to give notice to all possible purchasers that a forced sale will soon take place. This has the effect of dropping the price at which such securities can be sold. Those high rates of tax in their application do not show, therefore, the true proportion of the estate taken. In its practical effect, a 40 per cent rate requires for its satisfaction 50 per cent or more of the normal value of the estate, and in cases where an estate is burdened with considerable indebtedness, as is usual where the decedent was engaged in active business, the destructive effect is still greater. Even upon investments which are of the most liquid and marketable character, the effect is to an extent the same, since the public knows that a sale must take place and there is an immediate reaction in quoted market values in anticipation of the liquidation.

Now, values are generally built up and maintained by operation of the credit system. To say that a market value of a particular stock is $100 per share means only that if some one is willing to buy the stock and some one else is willing to sell, a reasonable number of shares will change hands under these conditions at $100 per share. On the other hand, if a seller is forced to dispose of his stock, he must find a purchaser where he can and at a price at which the purchaser will buy, because he knows he pays much less than its real value. Particularly is this true where the sales have to be made in large

blocks or where the company whose stock is offered is not generally known to the public. I know of one very wealthy man in England whose fortune has been made almost entirely out of taking advantage of this necessity of executors. If there were but a single instance of such forced sales, the effect on the country as a whole, perhaps, would not be material. When you consider, however, that death brings into the market in every decade a large proportion of the total wealth of the country, the cumulative effect upon prices is very serious. The delicate credit structure upon which these prices rest is broken down and to that extent values which we call wealth disappear. They are not transferred; they disintegrate. The wealth is gone. No tax can be more illogical than that which is destructive of the very values upon which the tax is based. Ten per cent of $100 is $10, but 40 per cent of $20 is only $8.

There is a point in the application of rate of tax beyond which it is impossible to extract revenue, and carried to this extreme the consequences are revolutionary. For instance, assuming that all inheritances, large and small, were taxed at 40 per cent. It would then be only two or three generations until private ownership of property would cease to exist. Since these taxes are used in the current operation of the Government, the result would be not that the Government had absorbed the wealth of the country, but that the wealth had been spent and none was left.

Development of the credit structure and increase in values make the high standard of living in this country, and the breaking down of these values must necessarily reduce this standard of living for everyone. As a striking illustration of this truth, I need only cite to you the recent case of Russia. Russia is a country of large natural resources and had great wealth. There were comprehensive commercial operations, great industrial productivity, and financial institutions with large resources in all the centers of population. The banks held commercial paper, mortgages, and other instruments of credit based on land and varied production. The revolutionists contemplated the seizure of this property. They could see those values which indicated the wealth which they thought they might take over. What happened? When they commenced to make destructive tax levies and seize hold of the assets of the institutions, values disappeared and almost all wealth with them. No one got it. It simply became nonexistent, and all that was obtained by those who had expected to benefit in the acquisition of this wealth was the physical gold and jewels, which had no value in Russia but which could be easily exported and sold in countries where values had not yet been destroyed. When these physical things had been disposed of, wealth entirely disappeared. Any estate tax in that country would be a dry source of revenue.

In degree England shows a similar tendency. Since it became a nation, in England land had represented wealth. I do not mean simply unproductive residences, but land with its accompanying tenant population. Under the high death duties, ownership in land has ceased to have value, and large estates can now be purchased for less than the cost of the improvements. In other words, the land itself is rendered valueless by the death duties and no longer produces revenue.

It should always be borne in mind that estate taxes are levied upon capital; that they are used for current operating expenses; and that they amount, therefore, to a destruction of the total capital in the country. Carried to an excess they differ in no way from the methods of the revolutionists in Russia. Yet the House amendment would make this inherently unsound increase in taxes for the sake of a mere $12,000,000 of additional revenue. In the course of a few years this additional revenue will disappear and even the original revenue will be depleted.

The whole return from the estate taxes, some $110,000,000 under present rates, is insignificant in comparison with the general receipts of the Government. It is but a slight portion of the Government revenues, but it is a large and important part of State revenues. To destroy values for which the States receive income is to force them to resort to higher taxes on land. The Federal Government should keep estate taxes as a reserve in times of national stress. All prior inheritance taxes have been war taxes. It is only now that Congress proposes to destroy this reserve in times when revenues from other sources are not only adequate but in excess of the Nation's needs. In my opinion, such a course of action is economic suicide.

I might say, just as an interesting illustration, that Mussolini, in Italy, in his reform, in order to rehabilitate the country and get industry on its feet recommended a repeal of the heavier estate tax which they had. That was the first action taken there, the first act in the way of reform was repealing these high penalty death taxes they had, for the purpose of reducing interest rates.

The CHAIRMAN. Were there any questions you wished to ask, Senator Jones?

Senator JONES of New Mexico. Yes. Mr. Secretary, how much is the difference in amount of money chargeable against an estate of a million dollars under the present law as compared with the proposed tax under the bill as it came from the House?

Secretary MELLON. I do not know what that would be.

Senator JONES of New Mexico. I will ask Mr. McCoy to tell us.

Mr. McCOY. Under the present law an estate of a million dollars would pay a tax of $47,500; under the House bill it would pay a tax of $70,000, or a difference of $22,500.

Secretary MELLON. Now, on an estate of $10,000,000 how much is that?

Senator JONES of New Mexico. Firstly, let us pursue this a little: The difference in the tax is $22,500 under the present law compared with what it would be under the bill as it passed the House. You are not proposing to reduce the estate tax under the present law, are you?

Secretary MELLON. No. The original recommendation for the Ways and Means Committee did not bear on the present law at all. The only question is the question of the increased rates put on in the House.

Senator JONES of New Mexico. How much difference in the disturbance in liquidation of estates of a million dollars do you think the additional $22,500 would make?

Secretary MELLON. It is a question of degree, of course. The bearing on an estate of a million dollars is not as much as on an estate of $2,000,000. It is just a question of degree, as I said.

There is another question which has a bearing on this, and that is the legal question. The Federal Government has not the authority to levy a tax as a tax on the estate. It is an excise tax.

Now, the question is whether these extreme rates can be legally considered as excise taxes. They are rather penalty taxes or a property tax on the property itself. They are a tax on the net property of the estate. It is a question whether that is an excise tax when it comes to 40 per cent. That question never has been before the Supreme Court, but in the only case which has gone to the Supreme Court on this estate tax law, Chief Justice White—although it was not in the case that referred to that question—said it might become necessary to consider that question, whether the nature of the tax was such that it could be considered an excise tax.

Senator JONES of New Mexico. That question would be involved just as much if the tax was 25 per cent as it would if it were 40 per cent, would it not?

Secretary MELLON. Not quite, because it is a question of penalty or the nature of the tax. A small, reasonable tax could be considered an excise tax, but when it comes to a large proportion of the property itself then arises the question of whether that is inherently what can be considered an excise tax.

Senator JONES of New Mexico. You think the Supreme Court would probably hold that 25 per cent was an excise tax and that 40 per cent was not?

Secretary MELLON. I do not know, but there is that question involved. The authority in Congress extends to the question of levying an excise tax.

Now, again, a tax which takes a large proportion of the property itself and requires that to be converted, can that be considered an excise tax? I am not a lawyer; I am speaking as a layman.

Senator JONES of New Mexico. I will ask you this question: Is that one of the factors contained in your objection to raising it from 25 to 40 per cent?

Secretary MELLON. That is one reason for not raising the present rates; it is one reason, because you go that much further against the nature of the tax itself.

Senator JONES of New Mexico. If we were to change this estate tax to an inheritance tax, the 40 per cent would not be considered as unconstitutional by you, would it?

Secretary MELLON. Of course, it will be just exactly the same question, except up to the extent that the law would apply to the inheritance.

Senator JONES of New Mexico. An inheritance tax is really a tax upon a class of income, and we have a right to tax incomes, have we not, in an unlimited way?

Secretary MELLON. Yes.

Senator JONES of New Mexico. Then, that question would not arise, if we changed this from an estate tax to an inheritance tax?

Secretary MELLON. It would be a different question, I think. But that is a legal proposition. I just mentioned it because it was brought to my attention.

Senator JONES of New Mexico. Just in order to get from you the extent to which you consider the legal question an important factor in the question of rates——

Secretary MELLON. I have not considered the legal question at all. It was just brought to my attention, and I only mentioned it.

Senator JONES of New Mexico. But, in your opposition to the increase of the estate tax or an inheritance tax, you did not take that into consideration as an important factor?

Secretary MELLON. I did not consider it; no.

Senator CURTIS. It has been brought to your attention since your statement of yesterday, I understand?

Secretary MELLON. Yes.

Senator JONES of New Mexico. One principal objection, as I understand it from your statement, to an increase of the maximum estate tax from 25 per cent to 40 per cent, is based upon the disturbance of the value of the estate; that is largely the reason for your objection, is it?

Secretary MELLON. Not so much as the thing itself, but the disturbance of all values, especially values of similar property in other respects, or its effect on a wider area of values of property than the estate itself; that it has a destructive effect on values which is harmful.

Senator JONES of New Mexico. You speak of the property being sold at forced sale, and that that has an effect of depreciating the values?

Secretary MELLON. Yes.

Senator JONES of New Mexico. If we were to provide for an extension of time in which the payments could be made, would not that obviate that difficulty?

Secretary MELLON. It would alleviate it, but it would not obviate it, because the tax would be an indebtedness of the estate and it would be necessary to provide for its liquidation.

Now, therefore, the liquidation would have to come at some time, and there would be an effect on the market. But it would come more gradually, yet, at the same time, the effect of its coming onto the market by the liquidation of such an estate through the sale of the property of the estate would have the effect of alleviating it to an extent. But even take the marketable properties in proportion to the property of estates generally. The proportion of marketable securities is not great; there are only a limited number of stocks that are listed on the exchanges, and that kind of property is more easily liquidated and is more marketable. But even on that, time has its effect, because in these large estates, it is generally known among the brokers what the holdings are; they know that the securities are coming on the market, and even if the time when they are coming on the market is postponed it would still have that depressing effect.

For instance, as an illustration, I just happen to know of a large estate where there was a large holding of copper mining property, the Cerro de Pasco mining property in South America. The estate had a large holding of that particular stock. I think, if I am not mistaken, that the stock was taken at a value of $44 a share. And when the estate started to liquidate that was one of the first stocks that they sought to dispose of. They started to sell that particular stock on the market in New York, and the market, as they put the stock on the market, dropped down. I think they only sold about 3,000 or 4,000 shares of the stock until it got down to about $30 a share, and they had to stop selling.

Senator SIMMONS. It dropped from what point?

Secretary MELLON. From $44. The reason for that was that it was generally known that this particular estate had a large block of that stock. As usual, the brokers knew of that. In fact, I have no doubt some of these brokers liquidated that particular stock before the estate did. They have a method of selling stock short and sold some of the stock, so that when the estate placed the stock on the market, naturally that condition was taken advantage of, and if they had persisted then in the liquidation of the stock it would have realized to the estate an amount very, very much below the appraised price upon which the estate had to pay the taxes.

Senator JONES of New Mexico. How large was the block held by the estate?

Secretary MELLON. I do not know just exactly. It was a large block of stock. I do not know just what the amount was.

Senator JONES of New Mexico. Of course, I understand that to throw on the market within a short time a large block of any stock would have a tendency to bear the market.

Secretary MELLON. The point I would make is this: Suppose there had been a long time for liquidating that particular stock of that estate. The depressing effect on values would have been there, just because the public realizes that it has to be sold; and in any event when it is sold, those sales, together with sales of stocks from other estates coming successively on the market, cause depression.

In other words, it is a conversion of the body of estates into cash or the liquidation of them, and that reduces value, and the effect of reducing values is harmful, and the harmfulness of it is in proportion to the extent of it. As I said before, there is a limit beyond which you can not go in converting these estates. You could not, for instance, at one time take 25 per cent out of a very large number of estates without smashing values beyond repair.

Senator JONES of New Mexico. We will go into that somewhat in detail. You do not know the total value of that estate which was putting this Cerro de Pasco stock on the market?

Secretary MELLON. Oh, there were a great many other investments. They stopped the liquidation of that particular stock because it was too vulnerable.

Senator JONES of New Mexico. Before we can understand this matter thoroughly, we have got to know the total amount of that estate, have we not?

Secretary MELLON. That was a large estate.

Senator JONES of New Mexico. How large?

Secretary MELLON. Oh, I suppose that estate was around $70,000,000. But it would have been the same thing if the estate had been $5,000,000 as to that particular stock in that instance.

Senator JONES of New Mexico. That estate did not have to sell that particular stock in order to pay the estate tax?

Secretary MELLON. They had to sell a very large amount of the stocks, and they sold real estate also. I will take that particular estate. That is another illustration in real estate. There was held by that estate a piece of property which was centrally located in a city. It was unimproved; it had cost the owner—interest on the investment—it had been out a good while—somewhere in the neighborhood of $3,000,000. They had to liquidate a large amount of

property. They endeavored to sell that real estate and cast about for purchasers for it, and finally the property was sold for a million and a half dollars. There was a property that they did not just happen to be buyers in the market for. I think the estate held it for more than a year endeavoring to dispose of it. There were not any buyers particularly for that piece of property.

Senator JONES of New Mexico. How much of that particular estate was invested in real estate?

Secretary MELLON. I think there was more than $20,000,000, a considerable amount more than that. It may have run up to $25,000,000 or $30,000,000; I do not know just exactly.

Senator JONES of New Mexico. Assume it was $20,000,000 to $25,000,000. There was only about $3,000,000 of it invested in this vacant property?

Secretary MELLON. Oh, well, in that particular property; yes.

Senator JONES of New Mexico. What did the other property consist of?

Secretary MELLON. There is another illustration. The estate had an office building. The ground for that office building had a value of fully two and a half million, and the cost of erection of the building, which was a modern office building, was, I think, upward of $4,000,000. That property was sold for liquidation and payment of tax. They had to sell that property for what the building cost, without getting anything for the ground on which it was built. which was worth two and a half million dollars.

Senator JONES of New Mexico. Where is that building?

Secretary MELLON. That building is in Pittsburgh. You may know the figures, Senator Reed?

Senator REED of Pennsylvania. Yes; I do. The total taxes were $19,000,000 on that estate.

Secretary MELLON. The tax was that amount, but there was one large portion of that estate that was free of Federal tax, was there not?

Senator REED of Pennsylvania. That is after a deduction of a lot of charity exemptions.

Secretary MELLON. A lot of charity exemptions; and was not the property in New York exempt from Federal tax?

Senator REED of Pennsylvania. Yes.

Secretary MELLON. There was $30,000,000 of the estate that was free of any Federal tax, because it was given to the city of New York free of any charge.

Senator REED of Pennsylvania. They could not sell that to help to raise taxes.

Secretary MELLON. That had been given to the public, and there was no tax on that.

Senator REED of Pennsylvania. There was a Pennsylvania tax, Mr. Secretary. Pennsylvania taxes everything, including gifts of charity. So they had to sell the Pennsylvania property in order to pay the tax on this charitable gift in New York.

Secretary MELLON. Then, in addition to that, I just recall there was in that estate quite a lot of transfer taxes on property of corporations of other States, which was the Atchison Railroad stock of which I spoke yesterday. There was a transfer tax there which the estate had to pay before that stock could be transferred.

Senator JONES of New Mexico. How much Santa Fe stock did the estate hold?

Senator REED of Pennsylvania. I do not remember, but about 80,000 shares. It was a very large holding. That is my casual recollection of it.

Secretary MELLON. Was there not a 10 per cent Kansas tax?

Senator CURTIS. I do not know, but they had to pay the Kansas tax.

Secretary MELLON. That was just exactly the same as an excise tax; and they also had to pay a tax of 40 per cent excise tax. They also had to pay tax on properties of New Jersey corporations. There were all those taxes, including the inheritance tax.

Senator REED of Pennsylvania. I can give you a still better illustration, Mr. Secretary. That estate owned a good deal of Chicago & North Western stock, as you probably know?

Secretary MELLON. Yes.

Senator REED of Pennsylvania. They paid the tax on that Chicago & North Western stock in Pennsylvania; and as that company is incorporated in three different States—Wisconsin, Illinois, and, I forget the other one, but it was Iowa, I think—I remember distinctly that they had to pay to each of those three States, as well as the Pennsylvania and United States inheritance or estate taxes.

Senator JONES of New Mexico. That was aside from the point which we are considering.

Secretary MELLON. But it all comes to the question of liquidation and breaking down of values.

Senator REED of Pennsylvania. I do not think it is aside from the point we are considering, Senator. We have got to remember there are many jurisdictions grabbing at the same funds and brings us to a point where we are pretty nearly confiscating the whole estate.

Senator JONES of New Mexico. What I am getting at is this: I want to know what the effect will be of increasing this maximum tax from 25 to 40 per cent.

Secretary MELLON. Why, just taking this particular estate, it just requires that much more liquidation.

Senator JONES of New Mexico. I understand——

Secretary MELLON. It makes the difference, that instead of being 25 per cent of liquidation it takes 40 per cent by liquidation.

Senator JONES of New Mexico. I understand that, but I am getting at the effect of making the increase.

Secretary MELLON. The effect is disastrous.

Senator JONES of New Mexico. On those first taxes to which Senator Reed has just referred. They are all there whether this tax is 25 per cent or any other amount?

Secretary MELLON. Yes; but if you add extreme taxes on top of an aggregate of other taxes, the effect is that much more destructive; and if this particular estate I am speaking of had 40 per cent tax to contend with instead of 25 per cent tax, they would have had to dispose of it and liquidate and been forced to sell that much additional property.

Senator WALSH of Massachusetts. Is it your opinion, Mr. Secretary, that the contemplated increase from 25 to 40 per cent approaches the confiscatory stage?

Secretary MELLON. Forty per cent is equivalent to 50 or 60 per cent in actual, practical effect on the values of the estate.

Senator JONES of New Mexico. Mr. Secretary, I think some of us may differ from your view. That particular estate to which you

referred had $8,000,000 worth of Santa Fe stock. Could not that stock have been liquidated without breaking the market?

Secretary MELLON. Not without depressing the market. It depends, of course, on the market conditions, etc. But it had a depressing effect and brought in less money than would have been the case if it could have been sold leisurely. Ordinarily a holder, for instance, of a large block of stock like that, even if he wants to change his investment, takes his opportunity to sell a little bit now and next year and the year afterwards, and can work it out that way.

But it is a different proposition with an estate which has all these transfer taxes. Take the State tax of Pennsylvania. That had to be paid in cash, and it necessitated forced liquidation to do it.

Senator JONES of New Mexico. Under this bill as it came from the House, how much time is given or may be obtained for the payment of the estate tax?

Secretary MELLON. Five years. I might say that even under the present law that there is one year given. But it has been necessary in the administration of the law in numbers of cases to extend that, because it would have been impossible for the estate to liquidate it without great sacrifice; and I just recall one particular estate where there were reasons in the department why we had to give additional time beyond the year.

Mr. GREGG. On that I might call attention to the fact that both under the bill and under the existing law the taxes due at the expiration of one year from the date of death—under the existing law the commissioner can extend the time three years; under the bill he can extend it five years, which is really just an addition of two years.

Secretary MELLON. It has been necessary in the department to take advantage of this authority to extend in many instances where the estate has presented good reasons and shown what they have been doing toward liquidation. But when it comes to these large amounts, the liquidation is destructive; and we are talking about properties that are in centers of wealth that can be liquidated. But if we take scattered properties, such as mining properties or properties of some industrial concern, not carried on by a corporation but by partnerships or individuals, there you will find places where the business is largely a question of the knowledge and practice of the owners. They carry on the business as they learned it, perhaps, from people before them, and they know the practice and they follow it. It comes then to a question of liquidation. That property has to be sold. Probably the firm may have no other property except just that industry.

Senator JONES of New Mexico. Mr. Secretary, do you not realize that in framing general legislation we have got to consider general conditions rather than particular cases?

Secretary MELLON. That is exactly what I would say should be done. General conditions in the collection of these extreme rates are such that the large amount of forced liquidation is destructive. I am very sure that if you go into the question thoroughly and study the actual, practical effect of it you will agree with me that there is a serious problem involved.

Senator JONES of New Mexico. We will examine that somewhat in detail. Now, in the returns filed in the year 1922 there were 12,203 of them; and of those there were 2,649 which had no net

estate. That left a difference there of 9,454 estates paying a tax. The total gross estates amount to $2,879,372,168. There were deductions from that which left a total net estate of $1,620,781,038. The tax amounted to $115,838,953; the average amount of the tax was $9,492.66; and the average rate of tax was 7.15 per cent.

Secretary MELLON. You mean the percentage?

Senator JONES of New Mexico. Yes. The average rate was only 7.15 per cent.

Of that amount there was invested in wholly tax-exempt Federal Government bonds $30,555,832; and the per cent of the whole estate was 1.6 per cent. I have the table here giving the proportion of all of the estates from a million dollars up, including the total gross estates, the per cent of estate tax free; and that shows the total gross estates amounted to $982,839,504. The per cent of those estates wholly tax free was 6.8 per cent; the amount of those tax-free securities which were issued by the Federal Government was $23,960,946.

Secretary MELLON. I do not understand that. There are no tax-free securities in the States?

Mr. GREGG. Not tax exempt, but the State tax.

Senator JONES of New Mexico. I understand they were tax free on income taxes, $23,960,946; and in State and other local tax-exempt securities the amount of the estate was $23,031,229. The total tax-free investment was $67,042,175; and the partially tax-exempt securities from income tax was $36,768,507. The percentage of the estates invested in Federal Government tax-exempt securities was 2.42 per cent; and in the State and municipal bonds tax-free was 4.38 per cent; and the partially tax-free Government bonds was 3.74 per cent. I think I had better put that table in the record.

The CHAIRMAN. It may be inserted.

(The table referred to and submitted by Senator Jones of New Mexico is as follows:)

Amount of estate	Number of returns	Total gross estate	Per cent of estate tax-free	Investments: Tax-free Government bonds	Investments: Tax-free municipal and State bonds	Total tax-free investments
$1,000,000 to $1,500,000	111	$170,125,879	4.16	$1,510,051	$5,564,692	$7,074,743
$1,500,000 to $2,000,000	45	90,695,896	5.5	1,807,562	3,214,519	5,022,081
$2,000,000 to $3,000,000	41	132,547,852	3.78	2,818,012	10,067,271	12,885,283
$3,000,000 to $4,000,000	17	65,713,996	8.77	1,661,795	4,102,855	5,764,650
$4,000,000 to $5,000,000	10	53,685,921	6.45	2,473,443	991,424	3,464,867
$5,000,000 to $6,000,000	7	45,489,540	5.07	2,274,531	37,423	2,311,954
$6,000,000 to $7,000,000	2	17,624,080	3.3	99,800	494,599	594,399
$7,000,000 to $8,000,000	2	17,346,808	11.2	903,750	1,071,178	1,974,928
$8,000,000 to $9,000,000	6	97,672,152	10.06	1,978,813	7,855,610	9,834,423
$10,000,000 and over	10	291,937,380	6.2	8,433,189	9,681,658	18,114,847
Total	251	982,839,504	6.8	23,960,946	43,081,229	67,042,175

Secretary MELLON. There is this that should be noted, that the statistics are not an indication of the true condition, for this reason, that if you will take an estate that has a large amount of tax-exempt securities, those securities are the most liquid and easily marketable and they are usually marketed before the returns are made on the estate; in other words, the executors of the estate will convert them into cash and have that much cash on hand with which to meet payments before the statistics are prepared. Therefore, you can not

show by those statistics that that is the total amount of tax-free securities that they received in connection with the estate.

Senator SIMMONS. Does not the administrator have to return the assets as of the day of the death?

Secretary MELLON. That may be converted or be disposed of before the appraisal.

Senator SIMMONS. I understand that. But for the purpose of disposing of the estate taxes, does he not have to include in his statement all the assets in hand at the date of the death?

Secretary MELLON. Exactly, but that particular amount is converted into cash, and that is then the proportion of the estate in money and can be used in the payment of tax.

Senator SIMMONS. The theory I had is that the administrator had in his return to indicate the estate property at the time of the death, and that that record had to show the character of the property at that time. If he has converted it between the death of the decedent and the time of making the statement, his return would show that and would show the character of the property that had been converted.

Secretary MELLON. But I think the preliminary schedule of the estate is made, and then there comes the appraisal of the estate later, and that between the preliminary schedule of the estate and the appraisal of the estate that there is an opportunity there for conversion, of course, at the full value of the securities.

Senator SIMMONS. I should imagine that the statement of the administrator would have to show the property as it was, exhibiting, of course, the different types of property as of the date of the death, in order that the department might be able to check the matter up.

Secretary MELLON. Yes; I understand. But the tax-exempt security is the one most available, and most ordinarily marketed. I will look into that question further, but my impression is that the practical effect of it is the making of the preliminary schedule, and then there is an appraisal, and that in the interim those securities can be converted.

Senator JONES of New Mexico. There would not be any difficulty in disposing of those tax-exempt securities and partially tax-exempt securities, would there?

Secretary MELLON. No.

Senator JONES of New Mexico. And the disposition of them would not materially affect the market?

Secretary MELLON. No; not materially; of course, they would to a slight extent.

Senator JONES of New Mexico. The wholly tax-exempt securities represent, as I understand it, ten or eleven billion dollars of State and municipal securities and around $2,000,000,000 of Federal securities. So the disposition of something like $30,000,000 would not affect that market.

The partially tax-exempt securities for the whole of the term prior to 1922 was $117,226,240, constituting 4.07 per cent of the total estate returns for that year. The same thing may be said with reference to those securities, may it not, that they could be disposed of? The partially tax-exempt securities consist of something like $18,000,000,000 of United States bonds; those are the ones referred to in here, are they not?

Secretary MELLON. Yes.

Senator JONES of New Mexico. So a disposition of $117,000,000 of those bonds would not materially affect the market of those bonds, would it?

Secretary MELLON. Not materially; they are readily converted.

Senator JONES of New Mexico. Of the State and municipal bonds wholly tax-exempt, there were $72,886,514, or 2.53 per cent of the total estate. Do you not think those bonds could be handled without material interference with the general securities market?

Secretary MELLON. Yes.

Senator JONES of New Mexico. And then there were other bonds amounting to $207,206,795, constituting 7.20 per cent of the total estates. I do not know just how many bonds there are in the general market, but I have been told that the total securities issued is well above a hundred billion of dollars. And so I just wonder how much the disposition of that amount of bonds during the year would affect the general bond market.

Secretary MELLON. There is a very great difference; it depends on the particular class of bonds. If you take industrial or railroad bonds, some of them are of high-grade securities that are comparatively easy of sale. You come, then, to great quantities of bonds that have not a ready market at all.

Senator JONES of New Mexico. That is true; but if there are such bonds, the disposition of them would not affect materially the general bond market, would it?

Secretary MELLON. It would affect the bond market in that class of bonds.

Senator JONES of New Mexico. Mr. Secretary, is it not true that one particular closely-held corporate bond might be affected, but it does not affect the general bond market, does it?

Secretary MELLON. It does in that class of bonds. They are what they call "speculative bonds" or "business risk bonds," and they are traded in, and it does affect the market in that particular type of bonds.

Senator JONES of New Mexico. Do you mean to say, Mr. Secretary, that the depression in Cerro de Pasco bonds would depress the general bond market?

Secretary MELLON. It has its effect on that class of bonds.

Senator JONES of New Mexico. What class of bonds?

Secretary MELLON. It happens that the Cerro de Pasco bonds are convertible into stock and have certain privileges and bear 8 per cent, and so on account of the high rate of interest and attractiveness they are not a good illustration of that. But I know—for instance, I had some bonds myself——

Senator JONES of New Mexico. I referred to that simply because you referred to the sale of the Cerro de Pasco Co. bonds.

Secretary MELLON. All the stock of the large corporation's $7,000,000 of bonds outstanding are not generally listed in New York, although they are traded in. They have these unlisted securities traded in, and these particular bonds are traded in; and I am confident some day those bonds will be worth par, because the property is there. But there is not a market for them at present at all, excepting now and then a limited market, and if a large amount, even several hundred thousand dollars worth, say, of those bonds were put on the market, it would make a difference of 20 or 25 per cent in their value. In other words, the value to-day of those particular bonds I am speaking of, I think, would be approximately 80 cents on

the dollar. Now, that market exists largely because there is a sinking fund each year, where a certain number of bonds are taken up, or they receive bids for them for the sinking fund, and buy them in. The last bonds bought for the sinking fund were around 86.

But if you were to take several hundred thousand dollars of those bonds that you would have to find a market for and get a bid on them, you would get a bid of possibly, in the blocks of them, around 75 and down to 70 cents on the dollar. That would immediately reduce the price of those bonds.

Suppose while you are liquidating your two hundred or three hundred thousand dollars worth of bonds comes another lot of bonds of the same class out of an estate that has to be liquidated, or for some reason has to be sold, the general effect then is depression in value; and you can see it generally in the quotations or yield of bonds that are sold. You can buy bonds in the market to-day paying 10 or 12 per cent of a class which, when you dig into the value of the property and all that, you can see that there is real substantial value back of them.

On the other hand, they are not of a class that appeals to investors at all. They are, to a certain extent, you may say, vulnerable because of depression in a certain line.

Take, for instance, a shipbuilding company to-day. It may have a large property and considerable intrinsic value, but there is no business, and therefore the company is not earning much money and the investors will not touch that class of bonds. But if those bonds are held until sometime in the future the value will come into them.

There are so many conditions that affect the market value that it is a very complex matter.

Senator JONES of New Mexico. I understand; and you are accustomed to think in terms of very large amounts, and I am not at all astonished that you do refer to such amounts.

Secretary MELLON. I do not think there is any difference in thinking in large amounts and small amounts; it is the same principle.

Senator JONES of New Mexico. It is the same principle. But let us come to an estate of $1,000,000. Suppose there were $1,000,000 invested—that was the whole estate—in one of those companies where the stock did not have an exchange value on the New York Stock Exchange, and assume it to be the extreme case to which you have referred, would the difference of $22,500——

Secretary MELLON. You lose sight entirely of——

Senator JONES of New Mexico. Well, hold on. Let me get my question put. Would the fact that you would have to raise $22,500 more out of that estate have any appreciable effect?

Secretary MELLON. Suppose that estate is in the State of West Virginia, where the State has a 30 per cent tax; and suppose that particular security of that estate was some of these securities that have attached to them the transfer tax of other States. Instead of $22,000, how much do you have?

Senator JONES of New Mexico. But, Mr. Secretary, we are dealing here now with the difference between 25 per cent and 40 per cent. The question under consideration is whether this maximum tax shall be 25 per cent or 40 per cent.

Secretary MELLON. Yes.

Senator JONES of New Mexico. Now, then, on a million-dollar estate the difference in the tax under the present law and under the

bill as it came over from the House is only $22,500. Now, it must be evident that in liquidating a million-dollar estate that this difference of $22,500 can not be very material, is it not?

Secretary MELLON. It is to that extent material, and you are taking simply—if you took a $2,000,000 estate, it is a larger amount——

Senator JONES of New Mexico. I understand. But the proportion is just the same.

Secretary MELLON. I know, but the effect of property coming on the market for liquidation—it does not matter what kind of an estate it comes out of.

Senator JONES of New Mexico. Mr. Secretary, I wish you would confine your thought to this question, whether in the liquidation of the million-dollar estate the addition of a tax of $22,500 would cut any material figure.

Secretary MELLON. It would cut a material figure, particularly if that estate had these other large duties to provide for. There is that much more to provide for.

Senator JONES of New Mexico. It is that much more. But how is $22,500 where the estate is $1,000,000? Is not that the question we have got to deal with?

Secretary MELLON. It depends on what State of the Union that particular property is in. If it is Arkansas——

Senator JONES of New Mexico. That is so in regard to any tax, is it not?

Secretary MELLON. It is. But the principle is exactly the same, that the extreme tax is harmful.

Senator JONES of New Mexico. But the difference between the present law and this bill on a million-dollar estate is only $22,500?

Secretary MELLON. There is this view you were speaking of, taking general conditions.

Senator JONES of New Mexico. Would not general conditions affect the liquidation of the estate, less the $22,500, just as much as it would to add $22,500 to it?

Secretary MELLON. But the point I am getting at is this: That for the purpose of revenue to the Government that $22,500 costs the Government more than $22,500.

Senator JONES of New Mexico. Mr. Secretary, we are not dealing with revenue to the Government now. You have made the broad statement that the increase of this tax rate would affect the security markets.

Secretary MELLON. It does.

Senator JONES of New Mexico. And I am trying to find out how and why?

Secretary MELLON. You are taking one of the low brackets and basing your argument on that low bracket. But you are not considering the larger amounts that come from the larger estates.

Senator JONES of New Mexico. I have gone so high, Mr. Secretary, that in 1922 the number of returns received from people of a million-dollar estate and more was only 251 out of a total of over 12,000.

Secretary MELLON. Yes; but there are two things to be considered. You do not know to what extent an estate may have been depreciated before it comes to be liquidated, in anticipation of these rates.

Senator JONES of New Mexico. I am dealing now with the question of disturbance of property market and security market only. We will come to the other points bye and bye.

Secretary MELLON. Just take that illustration, then. You say there is a difference of $22,500 in that estate. But how many estates, one after the other, may be coming into liquidation at near the same time, which in the cumulative effect may have a serious result?

Senator JONES of New Mexico. In that year there were only 111 of them.

Secretary MELLON. Take 111 times $22,000 in that year from that particular bracket of estates.

Senator JONES of New Mexico. Yes.

Secretary MELLON. That would have an effect on values.

Senator JONES of New Mexico. You think multiplying $22,500 by 111 would affect the whole market? We will just see how much that would be—$2,300,000.

Secretary MELLON. You take $2,300,000 in the price of securities, and how many of those may be in bunches.

Senator JONES of New Mexico. But, Mr. Secretary, you must understand that in total securities only 14.86 per cent was invested in securities tax-exempt and not tax-exempt, on the average; and that $2,300,000—called 15 per cent—$2,300,000 would be only about $300,000.

Secretary MELLON. That goes along with all the other estates that are continually coming on the market, successively liquidated.

Senator JONES of New Mexico. You are talking about disturbance of the market?

Secretary MELLON. Yes.

Senator JONES of New Mexico. Do you think that coming on the market in a year of $300,000 of securities would have any appreciable effect on the security market?

Secretary MELLON. Not if there were not others coming along with it.

Senator JONES of New Mexico. These are all that come in that class within a year.

Secretary MELLON. Of course, there are what come in from other estates in the same year.

Senator JONES of New Mexico. Yes; but we are talking about the effect that this additional tax would have on the security market and that alone. What we are considering here is whether we shall raise this tax from 25 to 40 per cent, and it is only that difference we are dealing with.

Secretary MELLON. The effect of that difference is the proportion that that amount is to the whole amount that comes on the market, and it has its effect just in that proportion.

Senator JONES of New Mexico. Yes; and that would be an infinitesimal amount, would it not?

Secretary MELLON. No; I do not think so. The effect of that, in conjunction with all the others.

Senator JONES of New Mexico. Well, all the others would come anyhow. The effect of the others would come, and I am dealing only with the effect which this increased amount would have.

Secretary MELLON. That increased amount on that bracket of estates—but you must take what comes from other estates.

Senator JONES of New Mexico. I have been giving that for all the estates, and I gave the figures awhile ago—I took it from all the estates which came in, where returns were made in 1922; and those are the latest figures which have been furnished to the public by the Treasury Department, so far as I am advised.

Now, that same year these had $968,434,511 in capital stock of corporations.

Secretary MELLON. You mean the million-dollar estates?

Senator JONES of New Mexico. No; I mean the whole of the estates that made returns in 1922; and they constituted 33.63 per cent of the total estates, a little more than one-third; a little more than one-third invested in stocks of corporations. The increase on this tax of $22,500 on the million-dollar estate, where one-third of it was invested in stock of corporations—take one-third of that, which is $7,500—would the disposition of the additional amount of $7,500 of a million-dollar estate affect the stock market for corporations generally?

Secretary MELLON. You must consider, with all of the other amounts——

Senator JONES of New Mexico. Well, all other amounts are going to take place anyhow, are they not?

Secretary MELLON. Suppose I have to go out and borrow $100,000, or, say, I go out and borrow $80,000; and then I have to raise $100,000 in all, and you say that $20,000 ought to be easily raised. It would be if I had only the $20,000 to raise, but if I have to raise $80,000 at the same time I raise the $20,000 it is just that much cumulative or additional burden and that much more difficult.

Senator JONES of New Mexico. I understand that. But assuming you have to sell a large block of stock, would the addition of $10,500 to it have any appreciable effect on the stock market?

Secretary MELLON. It might; it depends on conditions.

Senator JONES of New Mexico. You really think so, do you?

Secretary MELLON. Yes; it might. It depends on the markets. The purchasers might have been exhausted to that extent.

Senator JONES of New Mexico. Do you think it probably——

Secretary MELLON. You can not say exactly or definitely, but there is just that part of the whole, and it is the whole that you have to consider.

Senator JONES of New Mexico. Mr. Secretary, of all of these estates making returns in 1922, there were $1,396,309,892 of those estates in bonds and stocks, constituting 48.49 per cent of the total estates. Taking the estates generally, with an increase of only $22,500 in the tax on million-dollar estates, and where we find that practically one-half of that estate is invested in stocks and bonds, it would practically be an increase of only $11,250.

Secretary MELLON. On that particular size of estate?

Senator JONES of New Mexico. Yes; on that size of an estate, of a million dollars. Now, do you feel that that would materially affect the stock and bond market?

Secretary MELLON. Well, of course, if there was nothing else but that, and not the other parties drawing some stocks from other estates at the same time and it was the average class of stocks and bonds,

it might not. But, take stocks and bonds: There are lots of corporations formed for convenience, where there is not any listing or market. A man may have his own business incorporated. It may be a private corporation to an extent. He carries it on; that is, his family or partners carry it on. It may be of the nature that that stock has possibly less marketability than real estate would have. Now, on a property like that it would have an effect, and especially when you take into consideration all estates together it does have an effect. One estate in itself would not.

Senator JONES of New Mexico. But does it have any appreciable effect, or would it have—this simple addition of the amount which I have stated?

Secretary MELLON. You are confining yourself to the effect of what the difference in percentage on one estate alone would have?

Senator JONES of New Mexico. Is not that what we are dealing with here; is not that the question before us?

Secretary MELLON. No; you are dealing with the question of the necessity of liquidation of estates—that class of estates and all estates—and bring the property on the market, and every addition to the percentage or quantity of every estate that has to come on the market has its relative effect on the market.

Senator JONES of New Mexico. Yes; relative effect. And this relative proportion is very small?

Secretary MELLON. In one estate it is. But that does not mean if there are a number of estates of that size. That would accumulate the amount coming on the market, and in that way it would have its harmful effect.

Senator JONES of New Mexico. I have given the number as coming under that particular class as 111 in that year, and the total number of estates, including that 111, of a million and above was only 251 for the year; in other words, those of only $1,000,000 constituted nearly half of the total estates of a million and above.

Secretary MELLON. But the effect is the combined effect of the whole.

Senator JONES of New Mexico. I notice also that of these estates there were mortgages, notes, cash, and insurance, etc., to the amount of $402,878,451, constituting 13.99 per cent, practically 14 per cent. A little additional tax upon that would not affect the market for mortgages, notes, etc., would it, materially?

Secretary MELLON. It would not, if there were no other taxes to have the accumulative or quantitative effect of it. Of course, there are others.

Senator JONES of New Mexico. The total amount was only $402,878,451—the total amount of all estates—and assuming they had to sell them, or, rather, liquidate enough of them to pay these taxes, do you think that would disturb the mortgage market and the notes, rate of interest, or anything of that sort?

Secretary MELLON. In those estates all prices are possible, and in that particular class of property that has not a usual market, that particular estate will be liquidated at a destructive loss, because it may be that particular estate would be in a class where there is a large amount of stock that has not a market for it, and that has to be liquidated.

Senator JONES of New Mexico. Then, we have here jointly owned and other miscellaneous, $228,356,430, constituting 7.94 per cent

of the estates; and then there were transfers made within two years from the date of death, $76,600,584, constituting 2.66 per cent; and then there were power of appointment or general power deed made in contemplation of death, amounting to $19,657,423, constituting 0.68 per cent; and property from estate tax within five years, value at date of death of present deceased, $53,041,358, constituting 1.84 per cent of the total estates; making a total gross estate of $2,879,372,168, without the deductions; and the deductions amount to $1,312,900,873, leaving a total net estate of $1,620,781,038. The total tax under the present law is only $115,838,953; and the average amount of the tax is $9,492.66.

Now, as you said awhile ago, the estates as a rule do not consist of any one particular class of property?

Secretary MELLON. What was the proportion there of real estate?

Senator JONES of New Mexico. The proportion of real estate is $702,528,530, and the per cent was 24.40.

Now, with all those general classes of property, where the amount of the increased tax in a million dollars' worth of it was only $22,500, would it be difficult, if a man had his property spread out in that proportion, to raise that additional amount of revenue from the estate?

Secretary MELLON. It has to be done by liquidation of those estates, and if you take that amount——

Senator JONES of New Mexico. And would not they liquidate that portion of the estate which can be done easiest?

Secretary MELLON. That is always done.

Senator JONES of New Mexico. That is always done, as I understand it. Now, with those general classes of property, in which estates are invested, and with this additional amount of only $22,500 on a million-dollar estate, would that make any appreciable difference in the stock market, the bond market, the real estate market, and various other kinds of markets for these different securities?

Secretary MELLON. The purchases or sales in the general market are of properties that transfer from hand to hand easily. But in the estates you will find all kinds of property; and that amount is a large amount of property to liquidate, and especially in certain classes, and every increase adds to the destructibility of values in the liquidation of it.

Senator MCLEAN. Senator Jones, what would be the tax on that million-dollar estate?

Senator JONES of New Mexico. The total tax on that million-dollar estate——

Secretary MELLON. Are you taking just the total Federal tax?

Senator JONES of New Mexico. The total tax under the House bill is $70,000, and under the present law it is $47,500 on a million-dollar estate.

Senator MCLEAN. And then to that would be added the State taxes, whatever they might be in each State?

Senator JONES of New Mexico. Of course, I do not know what they would amount to. But I am just speaking of the Federal.

Is it understood these pages will be printed in the record?

The CHAIRMAN. Yes, it will all go in.

(The tables referred to and submitted by Senator Jones are as follows:)

TABLE A.—*Returns of resident decedents distributed by size of net estate, showing form of property and nature of deduction.*

[Returns filed from Jan. 16 to Dec. 31, 1922.]

	Size of net estate subject to tax.															
	Total.		No net estate.		Under $50,000.		$50,000 to $150,000.		$150,000 to $250,000.		$250,000 to $450,000.		$450,000 to $750,000.		$750,000 to $1,000,000.	
Number of returns	12,203		2,649		5,080		2,535		727		550		301		110	
Distribution.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.
Form of property:																
Real estate	$702,528,030	24.40	$84,427,511	39.45	$169,187,281	38.79	$136,473,834	31.53	$57,470,919	26.31	$56,443,239	22.11	$45,260,872	20.29	$25,608,391	21.81
Investments in bonds and stocks—																
Federal Government bonds—																
Wholly tax-exempt	30,555,832	1.06	516,122	.24	720,698	.17	1,123,571	.26	623,395	.29	1,250,776	.49	1,559,409	.62	859,915	.72
Partially tax-exempt	117,226,240	4.07	5,596,525	2.62	18,572,894	4.25	19,874,457	4.60	9,794,951	4.48	11,766,977	4.60	9,651,541	4.33	5,209,388	4.43
State and municipal bonds, wholly tax-exempt	72,886,514	2.53	1,777,761	.83	4,224,821	.97	5,377,311	1.25	3,747,717	1.71	6,857,359	2.69	4,977,651	2.23	2,842,665	2.42
All other bonds	207,206,795	7.20	6,313,659	2.95	21,531,561	4.94	27,410,504	6.34	15,632,061	7.16	20,338,972	7.97	17,686,408	7.93	7,267,685	6.21
Total bonds	427,875,381	14.86	14,204,067	6.64	45,049,974	10.33	53,785,843	12.45	29,798,124	13.64	40,214,084	15.75	33,825,009	15.17	16,181,653	13.78
Capital stock of corporations	968,434,511	33.63	32,671,453	15.27	84,335,418	19.34	111,139,001	25.73	68,612,971	31.40	91,510,356	35.84	88,219,962	39.55	50,230,466	42.77
Total bonds and stocks	1,396,309,892	48.49	46,875,520	21.01	129,385,392	29.67	164,924,844	38.18	98,411,095	45.04	131,724,440	51.59	122,044,971	54.72	66,412,119	56.55
Mortgages, notes, cash, insurance, etc.	402,878,451	13.99	33,094,336	15.47	89,289,294	20.47	76,280,594	17.65	33,611,044	15.38	39,581,866	15.11	30,930,415	13.87	12,989,372	11.07
Jointly owned and other miscellaneous property	223,356,430	7.94	19,488,526	9.11	28,436,645	6.52	31,812,482	7.36	15,770,489	7.22	18,285,025	7.15	17,061,837	7.65	6,226,351	5.39
Transfers made within two years prior to date of death	76,600,584	2.66	4,522,134	2.11	13,079,998	3.00	13,454,556	3.11	6,870,755	3.15	4,982,969	1.95	4,184,322	1.88	5,356,891	4.56
Power of appointment or general power of deed, made in contemplation of death	19,657,423	.69	433,675	.20	954,070	.22	2,152,586	.50	1,594,630	.73	2,482,423	.97	1,967,635	.88	578,309	.49

TABLE A.—*Returns of resident decedents distributed by size of net estate, showing form of property and nature of deduction*—Continued.

Distribution.	Total.		Size of net estate subject to tax.											
			No net estate.		Under $50,000.		$50,000 to $150,000.		$150,000 to $250,000.		$250,000 to $450,000.		$450,000 to $750,000.		$750,000 to $1,000,000.	
Number of returns	12,203		2,649		5,080		2,525		727		550		301		119	
	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.
Property from an estate taxed within five years, value at date of death of present decedent	$53,041,358	1.84	$25,143,353	11.75	$5,815,063	1.33	$7,016,768	1.62	$4,744,256	2.17	$2,860,375	1.12	$1,597,228	0.71	$261,039	0.22
Total gross estate	2,879,372,168	100	213,985,555	100.00	436,147,748	100.00	432,115,664	100.00	218,473,188	100.00	255,340,367	100.00	223,047,280	100.00	117,422,392	100.00
Nature of deduction:																
Funeral and administrative expenses	106,660,119	.....	2,703,558	.....	17,549,319	.....	15,683,973	.....	8,038,350	.....	8,928,004	.....	8,203,784	.....	3,742,987	.....
Debts, unpaid mortgages, etc	335,326,886	.....	79,534,867	.....	45,841,999	.....	45,411,442	.....	22,775,066	.....	25,672,539	.....	17,351,559	.....	12,235,407	.....
Property from an estate taxed within five years; value at date of previous decedent's death	64,872,184	.....	29,993,920	.....	6,262,925	.....	9,902,332	.....	5,385,360	.....	3,319,234	.....	2,127,229	.....	212,145	.....
Charitable, public, and similar bequests	195,891,684	.....	16,612,953	.....	13,717,042	.....	12,235,607	.....	5,927,668	.....	3,317,032	.....	7,653,549	.....	1,215,609	.....
Specific exemption	610,150,000	.....	132,450,000	.....	254,000,000	.....	126,750,000	.....	36,350,000	.....	27,500,000	.....	15,050,000	.....	5,500,000	.....
Total deductions	1,312,900,873	.....	268,295,298	.....	337,371,285	.....	209,983,354	.....	78,476,464	.....	73,736,809	.....	50,386,164	.....	22,907,148	.....
Net estate	[1]1,620,781,038	.....	.....	.....	98,776,463	.....	222,132,310	.....	139,996,724	.....	181,603,528	.....	172,661,116	.....	94,515,764	.....
Tax	115,838,953	.....	.....	.....	1,018,325	.....	3,243,577	.....	2,703,098	.....	4,915,094	.....	6,498,405	.....	4,453,240	.....
Average amount of tax	9,492.66	.....	.....	.....	200.45	.....	1,279.64	.....	3,816.41	.....	8,936.53	.....	21,589.38	.....	40,755.72	.....
Average rate of tax	.....	7.15	.....	.....	.....	1.03	.....	1.46	.....	1.98	.....	2.71	.....	3.76	.....	4.74

[1] Net taxable estate.

	Size of net estate subject to tax.											
	$1,000,000 to $1,500,000.		$1,500,000 to $2,000,000.		$2,000,000 to $3,000,000.		$3,000,000 to $4,000,000.		$4,000,000 to $5,000,000.		$5,000,000 to $8,000,000.	
Number of returns	111		45		41		17		10		7	
Distribution.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.
Form of property:												
Real estate	$27,196,057	15.99	$15,179,191	16.74	$16,519,366	12.46	$6,894,730	10.49	$7,361,293	13.71	$2,478,791	5.44
Investments in bonds and stocks—												
Federal Government bonds—												
Wholly tax-exempt	1,510,051	.89	1,807,562	1.99	2,818,012	2.13	1,661,795	2.53	2,473,443	4.60	2,274,531	5.00
Partially tax-exempt	6,606,236	3.88	4,649,295	5.12	5,193,668	3.92	2,140,968	3.26	4,556,053	8.49	1,422,350	3.13
State and municipal bonds, wholly tax-exempt	5,564,692	3.27	3,214,519	3.55	10,067,271	7.59	4,102,855	6.24	991,423	1.85	37,423	.08
All other bonds	14,572,527	8.57	6,479,314	7.15	13,603,967	10.26	6,025,081	9.17	2,257,967	4.21	1,553,349	3.44
Total bonds	28,253,556	16.61	16,150,691	17.81	31,682,918	23.90	13,930,699	21.20	10,278,887	19.15	5,297,653	11.65
Capital stock of corporations	75,828,314	44.57	38,736,687	42.73	52,689,773	39.75	34,318,533	52.23	30,652,652	57.11	21,528,005	47.34
Total bonds and stocks	104,081,870	61.18	54,887,378	60.54	84,372,691	63.65	48,249,232	73.43	40,931,539	76.26	26,826,258	58.99
Mortgages, notes, cash, insurance, etc	15,974,266	9.39	6,251,127	6.89	13,497,837	10.19	4,032,178	6.14	2,270,440	4.22	7,373,809	16.21
Jointly owned and other miscellaneous property	14,437,916	8.48	9,165,471	10.10	11,516,534	8.69	6,464,571	9.83	1,702,362	3.17	7,942,271	17.46
Transfers made within two years prior to date of death	5,407,034	3.18	4,648,635	5.12	2,218,456	1.67	78,285	.11	1,401,120	2.61	843,970	1.85
Power of appointment or general power of deed, made in contemplation of death	700,686	.41	443,586	.49	1,287,933	.97					25,441	.06
Property from an estate taxed within five years, value at date of death of present decedent	2,328,050	1.37	120,509	.13	3,135,045	2.37			19,167	.03		
Total gross estate	170,125,879	100.00	90,695,896	100.00	132,547,852	100.00	66,713,998	100.00	53,685,921	100.00	45,439,540	100.00
Nature of deduction:												
Funeral and administrative expenses	6,927,648		2,540,954		5,092,028		2,258,877		1,598,694		1,600,279	
Debts, unpaid mortgages, etc	13,829,568		5,359,791		19,498,240		3,452,619		7,051,492		3,986,901	
Property from an estate taxed within five years; value at date of previous decedent's death	4,435,492		120,509		3,002,721				19,267			
Charitable, public, and similar bequests	6,892,079		2,972,400		2,241,688		3,660,760		499,500		2,475,822	
Specific exemption	5,550,000		2,250,000		2,050,000		850,000		598,000		350,000	
Total deductions	37,634,785		13,243,654		31,974,677		10,222,256		9,666,953		8,398,008	
Net estate	132,491,094		77,452,232		100,573,175		55,491,740		44,018,968		37,098,532	
Tax	8,046,816		5,802,204		9,210,046		5,836,778		5,334,530		4,990,208	
Average amount of tax	72,493.84		128,937.86		224,635.26		343,339.88		533,453.00		712,972.57	
Average rate of tax		6.07		7.49		9.16		10.52		12.12		13.45

TABLE A.—*Returns of resident decedents distributed by size of net estate, showing form of property and nature of deduction*—Continued.

Distribution.	Size of net estate subject to tax.									
	$6,000,000 to $7,000,000.		$7,000,000 to $8,000,000		$8,000,000 to $9,000,000.		$9,000,000 to $10,000,000.		$10,000,000 and over.	
Number of returns	2		2		6				10	
	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.	Per cent.
Form of property:										
Real estate	$4,681,833	26.57	$2,079,924	11.99	$11,225,585	11.50			$34,029,218	11.65
Investments in bonds and stocks:										
Federal Government bonds—										
Wholly tax-exempt	99,800	.56	908,750	5.21	1,978,812	2.03			8,488,189	2.89
Partially tax-exempt	477,164	2.70	855,705	4.93	4,510,327	4.62			6,356,660	2.18
State and municipal bonds, wholly tax-exempt	494,599	2.81	1,071,178	6.18	7,855,610	8.04			9,681,658	3.32
All other bonds	2,213,042	12.56	1,061,821	6.06	12,149,427	12.44			31,089,190	10.65
Total bonds	3,284,605	18.63	3,892,454	22.38	26,494,237	27.13			55,560,727	19.03
Capital stock of corporations	1,426,800	8.10	5,583,384	32.19	44,318,068	45.38			136,642,048	46.81
Total bonds and stocks	4,711,405	26.73	9,435,838	54.57	70,812,305	72.51			192,202,775	65.85
Mortgaged, notes, cash, insurance, etc	3,896,712	22.05	3,983,490	22.96	12,207,427	12.50			18,625,054	6.38
Jointly owned and other miscellaneous property	4,344,130	24.65	1,817,566	10.48	3,211,862	3.28			30,692,402	10.51
Transfers made within two years prior to date of death					204,973	.21			9,351,436	3.20
Power of appointment or general power of decd, made in contemplation of death									7,036,450	2.41
Property from an estate taxed within five years, value at date of death of present decedent										
Total gross estate	17,624,089	100.00	17,346,808	100	97,672,152	100			291,937,380	100
Nature of deduction:										
Funeral and administrative expenses	1,555,603		587,316		3,524,347				9,125,390	
Debts, unpaid mortgages, etc	119,843		607,913		4,708,971				27,848,656	
Property from an estate taxed within five years; value at date of previous decedent's death										
Charitable, public, and similar bequests	1,089,438		836,513		37,298,855				71,347,163	
Specific exemption	100,000		100,000		300,000				500,000	
Total deductions	3,765,884		2,131,742		45,890,173				108,821,209	
Net estate	13,858,193		15,215,065		51,781,979				183,116,171	
Tax	2,054,639		2,326,013		8,362,036				40,953,043	
Average amount of tax	1,027,319.50		1,163,006.50		1,393,672.66				4,095,304.30	
Average rate of tax		14.83		15.29		16.15				22.36

Secretary MELLON. Would you allow this to go in the record?

Taking all the million-dollar estates that you have used as an illustration, under the present law there is $47,500 of a Federal tax, and under the House bill there is $70,000 for Federal tax. Estates up to $10,000,000 is $1,760,500 under the present law; and under the House bill is $2,543,500.

Senator JONES of New Mexico. A difference of how much?

Secretary MELLON. The difference between $1,760,500 and $2,543,500.

Senator JONES of New Mexico. I want to get in the record how much that is.

Secretary MELLON. That is $973,000. That is the difference on one $10,000,000 estate.

Now, on the $50,000,000 estates the present tax is $11,659,100, and under the House bill it would be $18,501,000, a difference of approximately $7,000,000.

Senator JONES of New Mexico. Well, if that $7,000,000 were to be raised from the general average of properties of which estates generally consist, and on the average as I have outlined in the previous examination, would that make any material difference?

Secretary MELLON. On that particular bracket of estates, the difference is $7,000,000; and it does make a material difference if you take that along with the aggregate of the difference on all of the estates.

Senator JONES of New Mexico. Under the bill as it passed the House, there is a period of five years in which to liquidate the estate. Would you suggest that that time be extended?

Secretary MELLON. Of course, extending it might in cases alleviate somewhat, but generally speaking, no estate would consider it wise to continue on indefinitely. The effect would be to liquidate, and they would liquidate at any opportunity. So that I think that five years is a reasonably long period for the purpose. I do not think, for instance, that 10 years of liquidation, while it would alleviate and make a difference, would make a very great difference.

Senator JONES of New Mexico. What objection would there be to a period of 10 years, if we collected interest annually at 5 or 6 per cent?

Secretary MELLON. The only difference would be the deferment of revenue to that extent. We would not be receiving the revenue for the Government until a long time in the future, and you would not know what the situation in the future might be.

Senator JONES of New Mexico. How would it operate? Would the people prefer paying the 5 or 6 per cent interest to the Government or liquidating the estate?

Secretary MELLON. There would be every effort, of course, made to liquidate the estate as soon as it could be done.

Senator JONES of New Mexico. Then, only those who had difficulty in liquidating would avail themselves of the extension of the time?

Secretary MELLON. Yes.

Senator JONES of New Mexico. Under those circumstances, would it not be advisable to extend that time to 10 years?

Secretary MELLON. I do not think it would. You would be deferring the receipt of revenue by the Government from 5 to 10

years, you know. You do not know what the exigencies may be in that time; it may be at a time when the Government would not require this additional revenue. I mean, the question of having a revenue which does not come in in 5 to 10 years in the future is not a very wise policy. Why should you go into the question of taxation that will not be receivable by the Government for so long a time in the future?

Senator JONES of New Mexico. I am asking these questions because you have pictured here disaster through forced liquidation, and we do not want to create any disastrous condition; and you have stated that only those would avail themselves of the extension of time who would have difficulty in liquidating the estate.

Secretary MELLON. On the question of disaster, of course, I think the five-year period would cover any question of disaster to that extent. But if the liquidation would go on and the harmful effects would result from that at the same time——

Senator JONES of New Mexico. Yes; whatever harmful effects might result from it?

Secretary MELLON. Yes.

Senator JONES of New Mexico. You also in your statement to the committee referred to the situation in Russia. Did you mean to give us the impression that the estate tax as provided in the House bill would bring about any such disastrous situation in this country as you have pictured in Russia?

Secretary MELLON. No. What I was referring to there was the ultimate effect of an extreme inheritance tax, carried to its logical conclusion; that where you do something that breaks down values, where you do something that is destructive of the economic structure, that has a harmful effect; and that carrying it to the extent that it is carried in Russia, it has that destructive effect, or, rather, the effect of destroying wealth and destroying value.

Senator JONES of New Mexico. Is there anything in this proposed bill which would have any such effect in this country as that which you have depicted as existing in Russia?

Secretary MELLON. No.

Senator JONES of New Mexico. Then, why did you make that illustration?

Secretary MELLON. Why, to the extent it does go it has that proportionate destructive effect.

Senator JONES of New Mexico. What is that proportion?

Secretary MELLON. It is the breaking down of values. Values come from the building up of structure upon credit. It is a matter of credit values. There is not enough money in the country to pay a large proportion of the wealth out at one time to the Government or in any other direction. If you take too large a proportion, then it has its effect on the structure of values, and whatever has an effect on that structure of values breaks values down to that extent.

You take our present heavy surtaxes and these estate taxes; they have had a certain effect upon values. You can see it if you compare the values of properties in proportion to their earning value as going concerns and compare that with the values that were in existence before these surtaxes and estate taxes existed. To-day you can take any corporation where you can compare the value of the stock in the market, and stock that has an earning capacity of

10 to 15 per cent will sell at par, whereas before these heavy surtaxes and heavy estate taxes were in existence that same stock would have sold at a premium.

Senator JONES of New Mexico. We will go into that at another session. We are talking now about estate taxes.

Secretary MELLON. It is the effect of these levies on property which breaks down values that I am trying to describe.

Senator JONES of New Mexico. To what extent do you think this additional inheritance or estate tax will tend to break down the values of property in this country?

Secretary MELLON. You can not go to the extreme and say it will break down values of all property at once. But the tendency is—and it has a very material effect on the values of property; that difference will have a very material effect on the values of property.

Senator JONES of New Mexico. I would like for you to point out some class of property which by reason of the difference between the present law and the proposed bill would have that effect upon values of property in this country.

Secretary MELLON. It has a material effect on all classes of property, excepting those like tax-free bonds that are particularly in demand, and where it does not have a very material effect. But on all other classes of property, where you have to liquidate the property through forced liquidation in order to receive from it cash for taxes, it has its effect in breaking down values, in making a lower era of values.

Senator JONES of New Mexico. We will take the extreme to which you referred in the early part of your testimony to-day, where that office building in the city of Pittsburgh was disposed of at a considerable loss. Did that have any effect on the general value of real estate in the city of Pittsburgh?

Secretary MELLON. It certainly did. Any other office building that would come on the market would sell at a lower price, and to-day if the estate taxes were eliminated—I mean the surtaxes, the extreme taxes, and the income surtaxes—that kind of property would assert itself in value; it would be upon a higher plane of value. There is not any doubt about that.

Senator JONES of New Mexico. What effect would the sale of that property at a loss in Pittsburgh have on the value of real estate in the city of Washington?

Secretary MELLON. That particular property would not. But the general influence is over all properties in all cities.

Senator JONES of New Mexico. The properties in all cities?

Secretary MELLON. If there happens to be a large estate in Washington, say, a large building of that nature, and it would have to be put on the market at the time when there would not be a purchaser for it at its full value, then it would have to be disposed of at the lower value.

Senator JONES of New Mexico. Of course, that particular property would have to sell at the lower value, and is not that true of all forced sales?

Secretary MELLON. Yes; but——

Senator JONES of New Mexico. And would not the effect of judicial sales and foreclosure of mortgages have a like effect?

Secretary MELLON. They do and always have had a like effect. But there is not that great quantity of them to have the general effect on the values of all properties.

Senator JONES of New Mexico. Do you not think there are a great many more of them than of forced sales under estate tax?

Secretary MELLON. Estates are being liquidated all the time, and, of course, there are a certain proportion——

Senator JONES of New Mexico. Are not properties being liquidated all over the country under foreclosure of mortgage right along?

Secretary MELLON. That always has been the case and always will be; and this is additional to that, of course. But here is the question of revenue to the Government, and I am sure if you will go into it that you must realize that these extreme taxes defeat the purpose of obtaining revenue for the Government, because, for instance, if you reduce the value of that particular property to two million and a half dollars less than its nominal value, and other similar properties come on the market through estate liquidation, that property is appraised for the purposes of the estate at two and a half million dollars lower value, and the Government gets that much less from that estate, so that as a revenue proposition these extreme taxes cost the Government in revenue a great deal more than the Government receives.

Senator JONES of New Mexico. I was just going into that question.

The CHAIRMAN. It is now almost 12 o'clock, and we will now adjourn until 8 o'clock to-night. Then we will hear the Secretary further to-morrow morning at 10 o'clock.

(Thereupon, at 11.58 o'clock a. m., the committee adjourned to meet at 8 o'clock this evening.)

THURSDAY, APRIL 3, 1924

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to adjournment, in room 312, Senate Office Building, at 10 o'clock a. m., Hon. Reed Smoot presiding.

Present: Senators Smoot (chairman), Curtis, Watson, Reed of Pennsylvania, Stanfield, Simmons, Jones of New Mexico, Gerry, Harrison, and King.

The CHAIRMAN. The committee will be in order. I believe Senator Jones has additional questions to ask Secretary Mellon.

FEDERAL ESTATE TAX

STATEMENT OF HON. ANDREW W. MELLON, SECRETARY OF THE TREASURY—Resumed

Senator JONES of New Mexico. I understood you to express yourself rather strongly that to increase this estate tax from 25 per cent to 40 per cent maximum would result in a decrease of revenue. In what way, Mr. Secretary?

Secretary MELLON. The effect of the increase in percentage of tax on estates, when applied cumulatively, depresses the value of all similar property. So that the tendency is to decrease the valuation of property in all estates, and therefore to reduce the Government's revenue. As you go on successively in liquidation of estates the valuations would be less; and besides that, there is the natural avoidance in large estates; I mean what is done before death. The practical result is to reduce the revenue; and it is quite certain that the Government's revenue would decrease and the Government would get less money in the long run out of the 40 per cent maximum than out of the 25 per cent maximum.

Senator JONES of New Mexico. Then there are two reasons for it: First, that the people would dispose of their estates during life; and, second, that to put these estates on the market and liquidate them would depress the value of property generally?

Secretary MELLON. Yes.

Senator JONES of New Mexico. And in that way decrease the general revenue, not only from estates but from investments generally?

Secretary MELLON. Yes.

Senator JONES of New Mexico. How are people avoiding the estate taxes now?

Secretary MELLON. Oh, there are many ways. They create trusts for the benefit of their children—a man divides with his wife or transfers to his wife, his children, or to others.

Senator JONES of New Mexico. They are doing that now, are they not?

Secretary MELLON. Yes; then, again, there is this, speaking of the general effect of an extreme tax, that large estates will not be created. There will not be the incentive to go on and to create that wealth; for instance, the 40 per cent maximum tax, which, in its effect, takes more than 50 per cent of the estate. Who would go into any constructive enterprise or any productive enterprise and continue on when the effect of it is that half or more of it will be taken away? The natural consequence is that they desist from any constructive activity and make their investments in whatever sound way they can, and retire from business. It is a deterrent to incentive which in the long run has its effect.

Senator JONES of New Mexico. Of course, you understand, Mr. Secretary, that this bill as it came from the House does not propose to levy a 40 per cent class tax on all estates?

Secretary MELLON. No; it is the maximum. In all these things the objection is to the degree or extent of the tax; they have their effect in degree.

Senator JONES of New Mexico. Now, let us see. Take a million-dollar estate. This estate tax is what percentage on the whole estate?

Secretary MELLON. What is the effect, Mr. Gregg?

Mr. GREGG. $70,000.

The CHAIRMAN. It is 7 per cent, is it not?

Mr. GREGG. Seven per cent.

Senator JONES of New Mexico. What is the tax on $10,000,000? We had that tax figured out yesterday.

The CHAIRMAN. That would be a little less than 26 per cent.

Senator JONES of New Mexico. On $10,000,000?

The CHAIRMAN. Yes.

Senator JONES of New Mexico. Do you think that rate would accomplish that purpose, that when people got an estate of $10,000,000 that they would lose their incentive to go ahead and produce any more?

Secretary MELLON. I should think if you were going along and active in affairs you naturally would not be quite as keen about it if you had to meet a 25 per cent tax.

Senator JONES of New Mexico. Do you think that 7 per cent on a million-dollar estate would destroy initiative?

Secretary MELLON. I think it would; the tendency would be in that direction. It would have its material effect on the initiative.

Senator JONES of New Mexico. Well, Mr. Secretary, is it not a fact that the payment of any tax has some influence in that direction?

Secretary MELLON. Certainly; and if you have got to pay a 25 per cent tax, that has a much greater effect than a less percentage.

Senator JONES of New Mexico. So that your argument rather goes, taking it in its full logical effect, to the levying of any tax? Where do you draw the line?

Secretary MELLON. Because a normal amount of tax does not have the detrimental effect. It is easy to meet and to pay, and it

does not deplete the estate to a large extent, and therefore it does not have the serious effect. Every tax, as you say, has some influence that way, but it does not have a material effect until it gets up to the extreme rates, and the high rates are what cause the harmful effect.

The CHAIRMAN. Of course, if the taxpayer can do so, he is going to avoid the high rate by investment in tax-free securities; and that affects not only the inheritance tax but the estate tax as well.

Secretary MELLON. Just the same as in the case of the income tax.

Senator JONES of New Mexico. Mr. Secretary, you have not suggested the reduction of this estate tax below 25 per cent maximum, have you?

Secretary MELLON. How is that?

Senator JONES of New Mexico. You have not recommended to the Congress the passage of a bill reducing the estate tax below 25 per cent, have you, as a maximum?

Secretary MELLON. No; but I think in normal times it is entirely too high.

Senator JONES of New Mexico. But you have not recommended that we change it?

Secretary MELLON. No.

Senator JONES of New Mexico. Now, then, a man with a $10,000,000 estate would only pay about 25 per cent. So it is the estates above $10,000,000 in which you have the chief interest at this time, is it not?

Secretary MELLON. Well, I would not say that I have the chief interest in those above. However, the extreme rate has the greatest destructive effect.

The CHAIRMAN. Of course, in the attempt to levy the greater amount you anticipate the payment will be reduced accordingly, do you not?

Secretary MELLON. Yes.

Senator JONES of New Mexico. But you are not proposing to reduce your maximum tax below 25 per cent?

The CHAIRMAN. For instance, in the House bill $50,000,000 pays about or a little over 39 per cent.

Secretary MELLON. In my annual report to Congress I did recommend a reduction in the estate taxes.

The CHAIRMAN. From the existing law?

Secretary MELLON. From the 25 per cent; that is, I said those rates were not to the best interests of the country.

Senator JONES of New Mexico. You have made remarks of that kind. I understood you to say yesterday that you would like to see them reduced even below the 25 per cent.

Secretary MELLON. You speak of "recommendations." I did make the recommendation to Congress, but when it came to the recommendation to the Ways and Means Committee there did not seem to be any likelihood that anything could be accomplished in that direction, so it was just passed over.

Senator JONES of New Mexico. The bill which you presented to the Ways and Means Committee contained a maximum estate tax of 25 per cent?

Secretary MELLON. Yes.

Senator JONES of New Mexico. It now appears that under the House bill increasing the maximum to 40 per cent that $10,000,000 estate would pay about 25 per cent by way of tax.

Secretary MELLON. Yes.

Senator JONES of New Mexico. So you have not made any definite recommendation to Congress to change that as a maximum?

Secretary MELLON. Other than that definite recommendation in my report as Secretary of the Treasury.

Senator JONES of New Mexico. Yes; but in the bill that you presented to the House and which you are willing to accept, you left the maximum at 25 per cent?

Secretary MELLON. Yes.

The CHAIRMAN. Not on $10,000,000.

Senator JONES of New Mexico. I understand; not on $10,000,000, but as a maximum?

Secretary MELLON. Yes.

Senator JONES of New Mexico. It appears that a $10,000,000 estate will, under the bill as it passed the House, pay about that maximum rate, 25 per cent. So your insistence upon reducing the estate taxes, as passed by the House, its maximum rate would principally concern estates above $10,000,000?

Secretary MELLON. The 25 per cent tax on $10,000,000 has a practical effect on that estate much above 25 per cent. When it comes to the practical application of the range of surtaxes on the value of the estate at death, it takes away a larger amount than the percentage. I think there is no doubt but that the 25 per cent in almost every estate requires 30 per cent of the value of the estate, or more than that, and that is in addition to these State and other taxes. And when you speak of the question of the 25 per cent surtax in the House bill you must consider in addition these other taxes; so that it is not just a question of 25 per cent.

Senator JONES of New Mexico. I understand; but any other rate would be affected in like manner by taxes, would it not?

Secretary MELLON. There is a progressive destructiveness in the rates as you advance the percentages.

Senator JONES of New Mexico. There were filed in 1922 10 returns of $10,000,000 and over; in fact, there were only 10 returns filed above $9,000,000. You think to increase the maximum estate tax from 25 to 40 per cent would, in regard to these estates of $9,000,000 and above, have the effect of reducing the prices of real estate all over the country, and as well of stocks and bonds?

Secretary MELLON. To begin with, the House bill increased the percentage or the surtaxes on all estates below $10,000,000 and above $10,000,000. They were all increased. Now, you have to take the aggregate amount of that increase and it is a question of the property being forced to sale, it is the amount of property forced to sale which does have its effect on values.

Senator JONES of New Mexico. The total property value in the United States, I see by the last estimate, is something like $320,000,000,000, and the total gross estate of those $9,000,000 and above was only $291,937,380.

Secretary MELLON. You can not make an argument on taking one specific bracket any more than you can one specific estate.

Senator JONES of New Mexico. We have not figured out, of course, the average rate of tax. But if you are going to include all of the estates in your concept, you would necessarily have to take the average rate on them all, would you not?

Secretary MELLON. You would have to take the actual rates on them all.

Senator JONES of New Mexico. Yes; which, of course, would affect the entire subject. Now, I find in doing that that the average rate under the present law is only 4.71 per cent—the average where return were filed in 1922 was only 4.71 per cent?

Secretary MELLON. On all estates if it was only 4.71 per cent, there would not be any difficulty, because that would be taken care of without any forced sale of property. But you must take the actual application of the higher rates.

Senator JONES of New Mexico. And even those for $10,000,000 and over, the average rate of tax is only 22.36 per cent; those between $8,000,000 and $9,000,000 is 16.15 per cent; between $7,000,000 and $8,000,000 it is 15.29 per cent; from $6,000,000 to $7,000,000 it is 14.83 per cent; from $5,000,000 to $6,000,000 it is 13.45 per cent; from $4,000,000 to $5,000,000, 12.12 per cent; from $3,000,000 to $4,000,000, 10.52 per cent. Now, this increase would not increase those various percentages very materially, would it?

Secretary MELLON. Whatever they do increase it on an estate is plus all of the other amounts of taxes. If you take the other State estate taxes, plus these rates, and then plus the surtax rates, the result is apparent. You say that putting a small percentage on would not have a material effect, but if you put a small percentage up on top of other pyramided taxes it does have a very serious effect.

Senator JONES of New Mexico. I notice estates from a million to a million and a half only paid an average of 6.1 per cent. Do you not think that could be raised some without destroying the values of property in the country?

Secretary MELLON. Any application of this tax to any one type or any one class of property is not going to destroy all the values of property in the country. It is the accumulative effect of the successively coming on the market of forced sales of property in these estates that has the effect of reducing values, and the reducing of values has a bad economic consequence.

Senator JONES of New Mexico. Now, then, we will take up the subject as a whole: You stated yesterday that this increase in the estate tax would not bring in more than about $12,000,000 of revenue. The total net estates in 1921 was $1,620,781,038. Now, an increase in taxes of $12,000,000 out of that amount of property would not be very material, would it?

Secretary MELLON. Because we have the progressive surtax rates in effect now and to the extent that the rates are high, and they have destructive effect in liquidation of estates, for a small difference estimated to produce $12,000,000 you are putting into effect a system that is going to reduce your revenue eventually; and its most productive effect will only be an increase of $12,000,000 according to the statistics.

Senator JONES of New Mexico. Do I understand from that that you are opposed to this graduated tax on these estates?

Secretary MELLON. Only when running them to the extreme line where they become destructive of values.

Senator JONES of New Mexico. You said that the rate would cause evasion and that there is evasion going on now. That evasion is chiefly through gifts, is it not?

Secretary MELLON. Not altogether through gifts; they are making trust estates.

Senator JONES of New Mexico. Is not that in effect a gift?

Secretary MELLON. Yes; perhaps it is.

Senator JONES of New Mexico. I believe in your bill, as proposed to the House, you did provide for a tax upon certain classes of revocable trusts. We had it under consideration here the other day, and I do not recall whether that was recommended in your bill or not; was it?

Secretary MELLON. Where a trust is made and the grantor of the trust retains the right to revoke it then it shall be taxed at the rate that the donor would pay.

Senator JONES of New Mexico. That was recommended in your bill to the House?

Secretary MELLON. Yes.

Senator JONES of New Mexico. We have agreed upon that provision in our committee?

Secretary MELLON. Yes.

Senator JONES of New Mexico. You did not, however, recommend any tax upon gifts where made directly, did you?

Secretary MELLON. No; I do not think that you could make a tax on gifts in that way that would be effective. I think practically that it would not amount to anything.

Senator JONES of New Mexico. Why so?

Secretary MELLON. Oh, just because you put a tax on how much a man may transfer or give in a year. There are many ways of transferring property that would not be discoverable. The practical effect is the same. If it is a question of gift tax, the avoidance would be greater, or the facility of avoidance would be greater. But it would be of the same nature as the avoidance of the high surtax rates. I just happened to pick this up this morning, which indicates how that runs in these brackets. The incomes in the high brackets come down, while the number of taxables and income from the lower brackets increase right along. The evidence is that people do not go on and reach those high brackets; they stop.

Senator JONES of New Mexico. But that relates to the income tax?

Secretary MELLON. I am just making some analogous arguments.

Senator JONES of New Mexico. That is a plea against having an estate tax, that the people will avoid it; that is what it is directed to?

Secretary MELLON. That avoidance is exactly in proportion—the higher the rate the greater the avoidance, naturally.

Senator JONES of New Mexico. The greater the incentive, that is true. But is there any point fixed in your mind where they would not try to avoid it?

Secretary MELLON. Oh, yes.

Senator JONES of New Mexico. Where?

Secretary MELLON. Well, we have had in Pennsylvania for a great many years—as long as I can recall—a tax of 5 per cent on all estates; and then it was increased and is now, I think, from 2 per cent up to 10 per cent. That is the State tax there. I have never known of an

instance of any endeavor to avoid that; because in any estate you can take 10 per cent out of it without any destructive effect. You do not have to sacrifice in order to do it; and I have never known in all my experience of an instance of an endeavor to avoid the tax, because, naturally, a man does not think of that as something that is going to be destructive and going to sacrifice the values.

Senator JONES of New Mexico. Then, digressing just a little, under the bill as it came from the House, it is only an estate of about a million and a half that would pay as much as 10 per cent.

Secretary MELLON. In these Pennsylvania instances I am speaking of there was no other tax. But you have to-day the transfer taxes of several States; and, taking it altogether, it is very apparent to any man who has an estate that he is going to have to meet—not only this tax you speak of on estates of $1,000,000—these other taxes, in addition; and taking them together they are destructive.

Senator JONES of New Mexico. We have no control over those States that put taxes upon estates.

Secretary MELLON. But you have got an existing condition there; and added to that if you put additional percentages on, you bring about that destructive result; it is the extent of it that makes it destructive.

Senator JONES of New Mexico. I understand that; and we have gone over it a number of times. But, now, you are willing to have put into this law a tax upon revocable trusts, in order to prevent the evasion of the estate taxes. Why are you not willing to put a tax upon gifts, then?

Secretary MELLON. I do not think it is a practical tax; I do not think the administration of it could be accomplished to any extent that would avoid the making of gifts free of tax. You could not reach them. You may think you are putting an obstacle to the avoidance of the tax, but the practical effect is not that way; and then it is an unusual sort of a tax, in that the donor is the one who pays the tax, the donor who makes the gift; that is an unusual phase, on the theory that the ownership of property is supposed to carry with it the right of disposition, and it gets beyond the question of a tax when it comes to the prevention of gifts.

Senator JONES of New Mexico. You are perfectly willing to have a tax put upon revocable trusts, because that evades your estate tax. Now, if you put a tax upon those revocable trusts and do not put a tax upon gifts direct, will not these people give directly instead of creating the revocable trusts?

Secretary MELLON. But on the question of these revocable trusts, you have the surtax system and you have the high rates. If any revocable trust can be made to avoid that your tax is ineffective and the object of that application of the tax on revocable trusts was to make the system effective. But when you go further and tax all gifts, it is carrying it to an extent where I do not think it is practical to administer or rather practical to cause it to be effective.

Senator JONES of New Mexico. If you were to make the donee of a gift pay a tax the same as upon any other income, would he not have to pay that tax and would it not be practical to collect it?

Secretary MELLON. You would say the same thing as to the avoidance of these surtax rates. There are provisions in the law to prevent avoidance, but they are not effective.

Senator JONES of New Mexico. We are collecting a very considerable revenue from our law?

Secretary MELLON. But less each year. You see, when you put these rates into effect——

Senator JONES of New Mexico (interposing). You say "less each year." Are we not going to collect more this year than we did last?

Secretary MELLON. It depends on where. On the top estates, I doubt whether we will, though I have not seen any figures for this year.

Senator JONES of New Mexico. I quoted them in the record here the other day, for the first eight months of this fiscal year, the amount of tax from incomes collected.

Secretary MELLON. But that is from all incomes, you know?

Senator JONES of New Mexico. Yes.

Secretary MELLON. That is all right.

Senator JONES of New Mexico. That amount has increased by nearly $160,000,000 in eight months of this fiscal year.

Secretary MELLON. That comes from the fact that corporations——

Senator JONES of New Mexico. No; it does not include corporations.

Secretary MELLON. That comes from the fact that incomes of all classes were greater in the year, don't you see? But that does not mean that the higher brackets have increased; you have not got the statistics for those.

Senator JONES of New Mexico. No; we have not got the statistics for those yet.

Secretary MELLON. And they have not been gotten out yet; that is, they have not been prepared.

Senator JONES of New Mexico. You are perfectly willing to try to do something to stop gifts by way of revocable trusts, but you are not willing to do anything to prevent direct gifts?

Secretary MELLON. I am perfectly willing to do anything to make the law effective. At the same time, when you are considering new measures, I think that there is a line where you are not going to accomplish anything and it would not be wise to adopt some measure that will not accomplish what it would be expected to accomplish.

Senator JONES of New Mexico. What will be the effect of this provision in the bill which we are now considering, putting a tax upon revocable trusts?

Senator REED of Pennsylvania. There will not be any more; that is what will result.

Senator JONES of New Mexico. Certainly; there will not be any more; and you are simply, by that, driving the evil spirit from one room into another room.

Secretary MELLON. That is what most of these preventive measures do.

Senator JONES of New Mexico. Then, why not try to close two doors instead of one?

Secretary MELLON. You can go on closing two doors and three doors, and there will be four, five, and six doors opened.

Senator JONES of New Mexico. When those other doors are opened, could we not do something to close them?

Secretary MELLON. What is the use in going on in a direction where you have got an injurious economic effect from what you are doing, and yet not accomplishing anything in the direction of obtaining revenue for the Government? As a revenue proposition, it is not sound.

Senator JONES of New Mexico. Why not?

Secretary MELLON. Because of the fact that you put on such excessive rates that are not effective, and it has been the history of all taxation where the extreme rates are put on that the revenue does not come in. They do not produce the revenue; they defeat their own purpose in every instance.

Senator REED of Pennsylvania. That is true of an estate tax, an income tax, or land tax, or anything else?

Secretary MELLON. Yes.

Senator JONES of New Mexico. Of course, there is tax evasion; but you believe in a graduated tax, as I understand it? You would have the rate of tax on the large estates greater than upon the smaller?

Secretary MELLON. Yes; but not to the extent of extreme rates. I think the evil comes in where the rates are extreme.

Senator JONES of New Mexico. Given a condition where you have got to raise so much money from estates for governmental purposes you would increase the rate upon smaller estates and decrease it upon the large ones?

Secretary MELLON. No; I would say this: Without regard to what the smaller estates paid, moderate rates on the larger estates would produce more money in the long run than the extreme rates. You will get more money out of them.

Senator JONES of New Mexico. How long would you have to run before you reached that happy state?

Secretary MELLON. It would begin just as soon as you had the law and the influence of that law was in operation, because people would know and recognize the situation.

Senator JONES of New Mexico. How many years would it take?

Secretary MELLON. It would commence immediately, and the effect would come from year to year, the first year and second year, and so on.

Senator JONES of New Mexico. Assuming now that we have got to raise $128,000,000 from estates. For the year 1922 on estates it amounted to $115,000,000. Further assuming on those same estates that we have got to raise $12,000,000 more of revenue from that source, how would you distribute that $12,000,000?

Secretary MELLON. I would distribute it—and I think I am right in this—so that I would not run the maximum over 15 per cent; and I think that that would bring in more money in the long run annually than your higher rates.

Senator JONES of New Mexico. What rates would you put upon the smaller estates?

Secretary MELLON. I would graduate them proportionately.

Senator JONES of New Mexico. You would have to very much increase the tax on the smaller estates, would you not?

Secretary MELLON. Oh, no; I would allow the smaller ones to stand. But when you get up to the extreme rates, then one way and another the income does not come in from those classes, just as has been the experience in the extreme surtax rates on income.

Senator JONES of New Mexico. Then where would you cut off the 10 per cent of the present law; at what stage would you cut off that 10 per cent? Would you just leave the rates on all incomes as they are now up to 15 per cent and stop there?

Secretary MELLON. I think you could make a more uniform graduation of it.

Senator JONES of New Mexico. The only way you could do that would be by increasing the rates in this bill, would it not?

Secretary MELLON. Oh, no.

Senator JONES of New Mexico. You would reduce them, too?

Secretary MELLON. I would make a gradual reduction. I think they would be reduced to some extent.

Senator JONES of New Mexico. It is your opinion that by reducing that we would get more revenue?

Secretary MELLON. Yes. Would you like to see a chart that just illustrates that? I will show it to you. This is the surtaxes [indicating on chart] in the case of $10,000 to $50,000 in 1916. This is 100 per cent—I mean 1916. This [indicating] was the number of persons. In 1921, you see, the number had gone up; there were more people in 1921 than in 1916, in these incomes.

Now, when you jump up to incomes of $50,000 to $200,000 in 1916 it was that [indicating], but they have dropped down. In the large estates of $200,000 they have dropped down to that [indicating]. When you get up to this [indicating] there were only these two. In other words, the higher estates disappeared; and yet the total number of estates increased.

Senator JONES of New Mexico. That chart, of course, is quite graphic, and I am glad to have seen it. As long as you have mentioned that, I will just call attention to that chart. There are very few people who made the returns at any time of over $1,000,000 of net income.

Secretary MELLON. Yes.

Senator JONES of New Mexico. In 1921 there were only 21 people who made the returns of over $1,000,000?

Secretary MELLON. Altogether?

Senator JONES of New Mexico. Altogether.

Secretary MELLON. I thought there were more than that.

Senator JONES of New Mexico. No; only 21, according to this statement of statistics of income.

Secretary MELLON. Now, if you will go back a few years you will find a great many more of them. That is just illustrative of what I say. The wealth of the country has not been decreasing, and it just indicates that you do not obtain the revenue by putting the extreme tax on it.

Senator JONES of New Mexico. We want to find out, now, why. There are only 21 of those people. What are they doing with their estates to prevent paying the surtax?

Secretary MELLON. There is this to be said: Generally when you discuss this question of income you do it on the supposition, as in the instance you speak of, that you have 21 incomes of a certain bracket or a hundred and some of a certain bracket and that they are regular incomes from year to year; that is, that that number of people have the same income this year that they had last year; I mean, they are in a class that have that income from year to year?

Senator JONES of New Mexico. Yes.

Secretary MELLON. But you must take into consideration that a very large proportion of those in all brackets are not regular incomes; they are only chance or incidental incomes. For instance, a man may have $100,000 to $200,000 regular income, and he happens to realize on an investment. Say he is an active promoter or active in affairs, and may have come into a property upon which he realizes in one year $1,000,000 or $2,000,000; and he has to pay his tax on that. In the statistical record that appears as if it were regular or recurring income. He may never have been in that bracket before and may never be in it again. There are a certain proportion of incomes that are thus incidental.

Now, the effect of these extreme rates is to prevent that kind of enterprise. A man who sees that there is an operation where there is a chance of making $1,000,000 or $2,000,000, and he knows that he takes all the risk of loss; and yet if he is successful that half of it has to go to the Government, he does not act; he does not go into it.

Consequently, from year to year you have less of that kind of ventures or of operations. That is one factor.

There are people who make that kind of investments who are able to do it and who have money. But they are not going on to do it if they are not going to get a fair chance at it. They take all the risk, and yet, the Government, if they are successful, takes half of it. Consequently, that class of people, the people who make the wealth of the country, are deterred from going on. These high rates are an obstacle to that kind of enterprise.

Senator JONES of New Mexico. Mr. Secretary, do you want us to believe that the prosperity of this country depends on the prosperity of that class of people?

Secretary MELLON. It depends upon the prosperity of all classes of people. And you keep on selecting one class, and say, "Does the prosperity of the country depend on that class?" I am only speaking of why it is. You asked me the question of why it is that you have not the large incomes now that you had when the law was first put into effect with extreme rates. That is one of the reasons that people do not go on and create these large amounts, and we do have them. Then, there are the other questions of avoidance, by which men can divide up with their families or they can make their investments in property that they have a prospect of increase of value some time in the future, and yet it does not bring in income from year to year. There is a great deal of that.

I know of an investment that a man made who had to pay the high surtax rates. He had an opportunity to buy a property, and he had not the money free at the time to buy it, but he could pay interest and the interest was deductible from the high tax rate. Therefore, to that extent the Government carried the property; and he bought this property valued at several million dollars. He will have no income from it at all. He bought it on 10 yearly payments. But it is coal property in a situation where the values are naturally likely to increase from year to year. He is getting the benefit of that increase and sometime it will be realized on. But in the meantime he is not paying any income tax. I could sit here for a week and give you illustrations of how it comes about.

Senator JONES of New Mexico. In that case you mentioned he paid $7,000,000 for coal property?

Secretary MELLON. I did not say "seven million"; I said "several million."

Senator JONES of New Mexico. Say several million. He paid that money to some one, did he not?

Secretary MELLON. He undertook to pay it in 10 yearly payments.

Senator JONES of New Mexico. Those people will put that money into productive enterprise, will they not, who receive it?

Secretary MELLON. You do not know whether they will or whether they will put it in tax-free securities. As a matter of fact, they did put it in tax-free securities in that particular instance.

Senator JONES of New Mexico. The people who got the money——

Secretary MELLON. What money they got; they only got a payment.

Senator JONES of New Mexico. We will follow that up. They bought those tax-free securities from somebody, did they not?

Secretary MELLON. Yes.

Senator JONES of New Mexico. What did those people do with the money which they received from the tax-free securities?

Secretary MELLON. I do not know. But, don't you see that sort of thing is driving money out of productive enterprises into those which are not productive?

Senator JONES of New Mexico. I can not follow you at all, Mr. Secretary. Somebody gets the money and somebody puts it into productive enterprise?

Secretary MELLON. You would if you could see the increase from year to year in the production of tax-free securities all over the country—the enormous increase—because they are manufacturing tax-free securities to supply the demand. In other words, it is diverting the usual flow of capital, which is injurious to the country; it is not letting capital flow in the direction that it naturally would under the economic influences of trade.

Senator JONES of New Mexico. When tax-free securities are issued, what becomes of the money?

Secretary MELLON. In many cases it is sunk.

The CHAIRMAN. Never goes into productive business?

Secretary MELLON. No. In my own city they have issued securities and made improvements that are not productive improvements at all, and improvements that the city could just as well have done without.

Senator JONES of New Mexico. What were those improvements?

Secretary MELLON. They are all for some purpose, of course. One of them was a subway system. They sold a certain amount of bonds and had the capital for a subway system. That is more than four years ago, and they have never been able to agree on the kind of subway system that they should adopt. That is in the city of Pittsburgh. They sold those bonds, and yet the proceeds of the bonds are being held there because the council have never been able to agree on the engineering features of the subway system. That was a useless undertaking.

Senator JONES of New Mexico. Because Pittsburgh made a bad business venture, you conclude that all these tax-exempt securities are going into unwise business, unwise investments?

Secretary MELLON. No; I think it has the influence of diverting capital into unproductive investments.

Senator JONES of New Mexico. Do you not believe in building schoolhouses throughout the country?

Secretary MELLON. Yes; and we have built lots of schoolhouses; we are not short of those.

Senator JONES of New Mexico. Do you think those are unwise investments?

Secretary MELLON. No.

Senator JONES of New Mexico. Do you believe in building roads over the country?

Secretary MELLON. I do, and we are building roads.

Senator JONES of New Mexico. Do you believe it is an unwise investment for a State to put money into good roads?

Secretary MELLON. I think it is unwise when they go too fast at it, and put a burden on the people that requires from year to year large assessments to pay the interest on these securities. I think that the opportunity that is made by this issuance and marketing of tax-free securities has a tendency to overdo that sort of thing, and that is injurious.

The CHAIRMAN. Wise or unwise, that gives a way for men of great wealth to put their money into tax-exempt securities?

Secretary MELLON. It does; yes.

Senator JONES of New Mexico. But that has been going on and it has not destroyed the business of the country, has it?

Secretary MELLON. It takes a good deal to destroy the business of this country.

Senator JONES of New Mexico. Yes; I think so, too. The amount issued from year to year is relatively small, is it not, compared to the total income of the country?

Secretary MELLON. Oh, no; it is very large.

The CHAIRMAN. There was hardly any of it before 1921.

Secretary MELLON. It is many times more than it was and is increasing. I do not recall the figures.

Senator JONES of New Mexico. The last statistics I have seen on the subject show quite a material decrease in the last year.

Secretary MELLON. In what?

Senator JONES of New Mexico. In State and municipal securities.

Secretary MELLON. I have not seen that.

Senator JONES of New Mexico. Yes; I am quite sure you will find that on examination of the statistics.

Secretary MELLON. I know in my department with these Federal farm loan bonds and the joint-stock land bonds we are going right on and selling large amounts of those.

Senator JONES of New Mexico. That is true; and you object to their being floated without being subject to taxation?

Secretary MELLON. I think it is wrong; I think that the basis of taxation ought to be uniform. I think it is a bad thing to have some kind of property free of tax and others taxable, because it leads to that diversion of investment that is harmful.

Senator JONES of New Mexico. There are only about ten or eleven billion dollars of tax-exempt securities, other than the Federal tax-exempt securities; and we have something like $18,000,000,000 of so-called partially-exempt securities?

Secretary MELLON. Yes.

Senator JONES of New Mexico. They are wholly nontaxable if owned by a corporation under the law as it exists to-day. Do you think that is a wise situation?

Secretary MELLON. No.

Senator JONES of New Mexico. Yet, you have not suggested any remedy for it, have you?

Secretary MELLON. Well, as far as I have had any opportunity to make any suggestion or recommendation. We have recommended the constitutional measure in order to accomplish that.

Senator JONES of New Mexico. It does not require any constitutional measure to enable Congress to control its securities, does it?

Secretary MELLON. Oh, no.

Senator JONES of New Mexico. As a matter of fact, of these $18,000,000,000 of Government securities which are only exempt from the normal tax, we are receiving very little interest from those. The total amount of interest subject to taxation from those securities was $40,000,000, about, out of nearly a billion dollars that we paid in interest; and the amount of tax that we received on that $40,000,000 of taxable interest on Government securities was only about $5,000,000. You have not made any recommendation in your bill to the Congress to prevent that situation from continuing?

Secretary MELLON. There has not been any opportunity or any occasion to do that. And, again, we have a very large short-time floating debt to take care of; and under the laws prescribed by Congress those bonds were made free of the normal tax but not free of surtaxes. And we have gone on with those because it has been a very difficult operation to take care of that debt at a low rate of interest; and for the time being, while that debt is being put in a more manageable shape, to change the character of those bonds would be rather difficult and disturbing, and make it that much more difficult to take care of; in other words, you can not keep changing when you are right in the process of taking care of a large amount of floating debts.

The CHAIRMAN. If you had the money to pay it, you could?

Secretary MELLON. If we had the money to pay it, that would be all right. Then, I think, that which you speak of should be remedied, for any future borrowing I think then that ought to be considered.

Senator JONES of New Mexico. You have expressed a very strong conviction against the advisability of issuing tax-exempt securities?

Secretary MELLON. Yes.

Senator JONES of New Mexico. And the Government is faced with the proposition to do that out of nearly a billion dollars in interest which we pay, and only about $5,000,000 of revenue is obtained by taxing that interest. How can you reconcile such a situation with your conviction?

Secretary MELLON. That is exactly what I thought I had explained. We are in the midst of the work of taking care of a very burdensome situation—I mean, a large amount of indebtedness. For instance, in the next four or five years we have about $8,000,000 coming due. We have it coming due right along. That has to be taken care of.

Senator JONES of New Mexico. And you are taking care of it in such a way that the Government is receiving no revenue from the interest, and they are practically exempt from taxation?

Secretary MELLON. But, against that, there is whatever advantage we get in selling these at a lower rate of interest.

Senator JONES of New Mexico. But I understood you to say awhile ago that that as wrong.

Secretary MELLON. I think that the whole system is wrong, of having any tax exemption. But it has been in operation, and while the debt is being taken care of and refunded you can not change your policy, because it would cost you more to change the policy than you would gain by doing it. It is a practical matter.

Senator JONES of New Mexico. Yes. But under the present system of legislation, the interest on those bonds—a great proportion of them, something like $18,000,000,000 of them—would be subject to taxation, if owned by an individual.

Secretary MELLON. To the surtax, not to the normal tax.

Senator JONES of New Mexico. To the surtax, yes; quite right. But, now, if a corporation owns those bonds, there is no surtax and they are, for all practical purposes, tax-exempt securities?

Secretary MELLON. Yes.

Senator JONES of New Mexico. Are you satisfied with that situation?

Secretary MELLON. Don't you see that while we came into that situation, and by reason of the fact that the corporation can own them and banks can own them and pay no surtax—the banks are the largest customers we have—and consequently we sell those bonds to yield a lower rate of interest. In other words, suppose to-day we could just get it down and say that all our issues from this time on shall be subject to all surtaxes and normal tax, whether by a corporation or others. If that were the case we would have to pay to an extent more for our money; I mean it is not a fact that the Government is losing all of that, because we are borrowing our money at a lesser rate of interest by reason of it.

Senator JONES of New Mexico. You have stated in the press several different times that the bill as it comes from the House was unscientific and that your bill as it originally was framed was based upon scientific principles. Now, I will ask you whether or not it is scientific to have the Government obligations to the extent of about $18,000,000,000, subject to a surtax owned by individuals but subject to no surtax if owned by corporations.

Secretary MELLON. You have to take conditions as they exist. We have this very large amount of indebtedness now lodged largely with corporations and others, and keep turning it over with them at a certain rate of interest.

Now, if we changed that law to-day, while we are in the process of carrying along that big debt, before it is refunded for a long term we would immediately have to pay higher rates for the money that we borrow.

The CHAIRMAN. That money is carried by the banks as liquid assets?

Secretary MELLON. Yes.

The CHAIRMAN. Immediately they can get the money, and the reason they are willing to carry it at the rate of interest they do is because of the fact they have no demands made upon them; they can sell them at any time; and therefore you get the lower rate of interest. To the banks it is just almost the same as cash on hand.

Senator JONES of New Mexico. You have not got any out at less than 4 per cent, have you?

Secretary MELLON. Oh, yes. We sold the short-term certificates as low as 3½ per cent. It depends on the length of time. The short-term, of course, go out at low rates, because banks and other institutions take them as a kind of reserve. They know they are going to get the money in a short time.

Senator JONES of New Mexico. Mr. Secretary, that is information to me, and I hope you will verify it. I have not seen any statement of any certificates bearing less than 4 per cent interest.

Secretary MELLON. If I recall, some we put out were issued at 3½ per cent; and there was also an issue at 3¾ per cent, and the last one we put was for a year—those at 3½ per cent were six months' certificates, borrowing for six months; the last one, for a year, was 4 per cent. We sold $400,000,000 of one-year notes at 4 per cent about a month ago.

Senator JONES of New Mexico. Mr. Secretary, I glance at the quotations on Government securities practically every day. Of course, I may be in error, but I would just like to know what the fact is about that, and how many of them were issued at 3½ per cent.

Secretary MELLON. I will have sent to you a statement showing just what we have done in the last two years.

The CHAIRMAN. I did not know there were any issued at 3½ per cent.

Secretary MELLON. Yes. The last issue was at 4 per cent.

The CHAIRMAN. Yes.

Secretary MELLON. Before that—I do not know how long ago the 3½ per cent was issued—I think it was possibly a year ago or a little over a year ago.

Senator JONES of New Mexico. Mr. Secretary, those issued a year ago were 4½ per cent?

Secretary MELLON. No. But that depends on the time. You see, we had to distribute these. You could not have too much due at one time; and some of them were sold on two or three years' time, and we had to pay a higher rate on those longer scurities.

We sold $700,000,000 about a year and a half to two years ago to run 25 years. The only long-time issue we sold at 4¼ per cent were 25 years. It depends on the money market, which varies; and we have to meet the market.

Senator STANFIELD. Those are tax exempt?

Secretary MELLON. They are normal tax exempt but subject to the surtaxes. But the Senator is making the point that corporations can own them because they do not pay surtaxes, and they can, therefore, avoid paying any tax, because they are free of the normal tax.

Senator JONES of New Mexico. Do you think that is a scientific measure, that if those securities are owned by a corporation they are free from tax, but if owned by an individual they are subject to tax?

Secretary MELLON. No; I think the whole system of tax exemption is wrong.

Senator JONES of New Mexico. You have not suggested any change in it?

Secretary MELLON. Yes. I have suggested and recommended a constitutional measure to allow the elimination of tax-free securities.

Senator JONES of New Mexico. When you have the right within your own control?

Secretary MELLON. Oh, we have not.

Senator JONES of New Mexico. Why have you not?

Secretary MELLON. Because even these short certificates are prescribed by Congress, and it states that we shall sell free of the normal tax.

Senator JONES of New Mexico. That is true. Can you not change that normal-tax situation?

Secretary MELLON. Congress will have to change it.

Senator JONES of New Mexico. Is not this the bill which we are considering now where it should be changed?

Secretary MELLON. That is what I have been explaining, that during the time we are taking care of this debt you do not accomplish anything by changing it. The time will come when we get this debt leveled down and extended, and you can do it.

Senator JONES of New Mexico. We have several billion dollars of long-term bonds now outstanding?

Secretary MELLON. Yes; you can not change those.

Senator JONES of New Mexico. You can not change those, and you apparently do not care to change them.

Secretary MELLON. I could not if I wanted to.

Senator JONES of New Mexico. You could not if you wanted to; quite right.

Now, when those bonds were issued we had a normal tax on corporations, and so-called excess profits tax on corporations, and they were subject to the excess profits tax in the hands of corporations, and they are still subject to surtax if owned by individuals. Could we not change this law in some way to take care of that?

Secretary MELLON. Of course, Congress can change the law.

Senator JONES of New Mexico. You, as Secretary of the Treasury, have not presented the bill to Congress?

Secretary MELLON. I have just explained twice that it is not expedient. It is not an appropriate time to interfere with the orderly refunding of this debt, because the bulk of it that has to be taken care of, you have to do it without disturbing the markets too much; and while that is going on we do get the advantage of borrowing this money at a lower rate of interest. So that the Government is not suffering in the meantime.

While you say the corporation is not paying the surtax, at the same time the corporation is loaning the money to the Government at a lower rate of interest than the Government would have to pay if it were not for that feature of the bonds.

Senator JONES of New Mexico. Then, if you are going to have, in practical effect, no revenue on the interest from Government securities at all, why not make that general, so that an individual might own these securities free from surtax?

Secretary MELLON. You see, it is just the situation that exists—the exigencies of the situation; and the Government is not losing to the extent of what they might get out of surtaxes if they were owned otherwise, because the Government for the time being is borrowing money from these banks at a lower rate of interest.

Senator JONES of New Mexico. If you are going to have them, in practical effect, entirely tax free, why not make them tax free to individuals as well as banks?

The CHAIRMAN. Senator, it seems to me there is a reason for it, that individuals carrying these can demand the money at any time, and they are all due within a few years—four billion of them; and these that are held here, like "Series A," the Government would not want to have them distributed throughout the country.

Senator JONES of New Mexico. Why not?

The CHAIRMAN. Because there would be a demand upon them, and there is no place to get the money.

Senator JONES of New Mexico. The result of it would be, in my judgment, if you make them absolutely tax free, that you then could sell them at 3½ per cent instead of 4 and 4¼ per cent, because the 3½ per cent bonds of the Government are selling around par?

Secretary MELLON. Yes.

The CHAIRMAN. Do you think the Government could sell a few of them here throughout the country?

Secretary MELLON. The administration would be such that I do not know what would happen. These are all short-time certificates.

Senator JONES of New Mexico. That is true, but it is no trouble in the world, if you put them on the market as entirely tax free but what individuals would invest in them and you would create a greater demand for them and you would lower the rate of interest on them?

Secretary MELLON. Yes; but then you have got this situation: To begin with, the tax-free security and the surtax system will not work together. They are absolutely opposed to each other; and you, on the one hand, make a tax-free bond, inviting the capital there and making a surtax system to drive it there. That is certainly an unscientific and absolutely indefensible policy.

Senator JONES of New York. But, as you said awhile ago, we are dealing with a condition here. You said that you had to deal with these securities in the present manner because of the present situation. Now, if you enlarge your market for these securities—short-time certificates and all—will you not be able to float them at a less rate of interest?

Secretary MELLON. Yes, you enlarge your market but create securities for investment by the people who pay surtaxes, and you are defeating your surtax principle entirely.

Senator STANFIELD. Would it not disrupt the money market by taking money out of the ordinary flow and investing it in these securities?

Secretary MELLON. It has that tendency. The flow is toward unproductive rather than productive.

Senator STANFIELD. It would affect bank deposits?

The CHAIRMAN. These short-time securities are held virtually as call loans by the banks, and the banks are holding them; and if they did not hold these certificates they would have to hold the money—a great percentage of it; at least 50 per cent—that is why they buy these bonds.

Senator JONES of New Mexico. I think it goes without saying that if the Federal Government is going to issue its securities tax free to one class of its citizens that it ought to have them tax free for all. But if you are not going to have them tax free——

Secretary MELLON. Those that are tax free are tax free to all.

Senator JONES of New Mexico. In effect, by selling these to banks and corporations, they are tax-free while owned by those people?

Secretary MELLON. Yes.

Senator JONES of New Mexico. Why not give the citizens of the country a chance to get those tax-free as well?

Secretary MELLON. I think, as a matter of principle of taxation, that all securities should be uniformly taxable.

Senator JONES of New Mexico. Yes; but you are not issuing them in a uniform way.

Secretary MELLON. No.

Senator JONES of New Mexico. If you are going to let your Government issue securities which are tax-free to one class of its business institutions, why not have them tax-free to all and broaden the demand and lower your rate of interest?

Secretary MELLON. If Congress will pass the constitutional amendment that will allow it, then the whole thing can be remedied.

Senator JONES of New Mexico. It does not require any constitutional amendment to handle these Federal securities, does it?

Secretary MELLON. It takes congressional action there.

Senator JONES of New Mexico. Why not let us take congressional action? We are dealing with the subject now.

Secretary MELLON. You can do that. But in the meantime you are disturbing the operation of taking care of this very large floating indebtedness that we have that is going on in a certain channel—a certain lodgment of these securities—and we roll it along. We from month to month borrow from the banks and pay off to the people at a lower rate of interest than we would be able to do if they were fully subject to tax. It is a practical question.

Senator JONES of New Mexico. Would you not be able to float them at the lower rate of interest if you were to let the public and everybody buy them absolutely free from taxation?

Secretary MELLON. Of course we would. But that would not work with your surtax principle; if you did not have the surtaxes, then you could do that.

Senator JONES of New Mexico. You can do it without that. Can you not make those tax free to individuals as well as to corporations?

Secretary MELLON. Of course you can, but you just increase the tax-free securities for the avoidance of the surtax.

Senator JONES of New Mexico. Then you do not consider the present system with regard to the Federal indebtedness? You do not regard that as a scientific situation, do you?

Secretary MELLON. It is a practical situation, and if you could remedy the whole thing—if you could avoid tax-free securities altogether, then——

Senator JONES of New Mexico. But as long as you are not going to do that——

Secretary MELLON. Then we are doing the best we can.

Senator JONES of New Mexico. Do you think you are doing the best you can?

Secretary MELLON. I do.

Senator JONES of New Mexico. To leave it just as it is?

Secretary MELLON. For the present; yes.

Senator JONES of New Mexico. Now, Mr. Secretary, you are in favor of a graduated tax on individual incomes, are you not?

Secretary MELLON. Up to a certain point.

Senator JONES of New Mexico. Regardless of the amount, you think it should be graduated; that people of larger incomes should pay a higher rate of tax than those with small income, do you not?

Secretary MELLON. As I say, within certain limitations.

Senator JONES of New Mexico. I am not speaking of the degree of graduation at all. But you are in favor of graduated tax upon individuals. There is no graduated tax upon incomes of corporations?

Secretary MELLON. No.

Senator JONES of New Mexico. Do you think that is scientific?

Secretary MELLON. I do not think that a graduated tax on corporations would be a good thing for the industry of the country.

Senator JONES of New Mexico. Why not?

Secretary MELLON. Well, to begin with, these are normal times; it is not a war time, when it is necessary to go to that extent, and whatever tax you do put on—if you do put a surtax rate on corporations—it necessarily goes to the cost of living; it necessarily is paid by the consumer.

Senator JONES of New Mexico. A tax upon net incomes paid by the consumers?

Secretary MELLON. If you increase the tax on corporations, that tax is paid by the consumer.

Senator JONES of New Mexico. I take it you make that statement after due deliberation?

Secretary MELLON. Yes.

Senator JONES of New Mexico. But how is a tax upon net income reflected in the price of commodities?

Secretary MELLON. Suppose you put a large surtax rate upon corporations?

Senator JONES of New Mexico. I am speaking of any tax upon net incomes.

Secretary MELLON. I know; I am getting at that. The capital that goes into these productive corporations, into these industrial corporations, etc., must have a return to the people who invest, or otherwise they will not invest in them. If you are going to put a surtax on, that takes a large amount of those profits. Then they have to increase the selling price of those commodities in order to make a return that will attract the capital necessary. The same way with railroads, they have to have a return that will attract the capital necessary.

You spoke about adding it only to the net income. They must have a net income there to make returns on the capital that is invested; otherwise, the capital will not be invested, and if the capital is not invested, it makes to a certain extent a monopoly to those people who do have the capital.

Senator JONES of New Mexico. I would ask you not to use the railroads as an illustration, because they are operated under an entirely different law from business generally.

Secretary MELLON. I only made the remark that it is the same thing; that if you apply the graduated tax system and put on a higher tax then, necessarily, they have to get out of transportation the money to pay that tax.

Senator JONES of New Mexico. Let us get away from transportation, because there the rates are fixed by law.

Secretary MELLON. The principle is the same.

Senator JONES of New Mexico. I think not, for the reason that under the Esch-Cummins law the net income to the stockholder—the rates must be fixed so as to bring in so much net income to the stockholders. But that is not true in competitive business.

Secretary MELLON. Yes, it is; because if you do not have income for the stockholders in competitive business, the money is not invested in competitive business and therefore there is less production; and being less production there are greater costs, and therefore you just add to the cost of living; you add to the cost of commodities and to the consumer's burden.

Senator JONES of New Mexico. Do you mean to say that a tax upon net incomes fixes the price of commodities?

Secretary MELLON. It will; that is the inevitable conclusion, if you will carry it to the conclusion.

The CHAIRMAN. I think it is reflected in a loaf of bread.

Senator STANFIELD. Is not all taxation passed to the consumer? It is a part of the cost of production.

Secretary MELLON. Yes.

Senator JONES of New Mexico. You believe in that economic theory, then, of equal distribution, and that all taxes finally come around and are paid on consumption?

Secretary MELLON. Yes.

Senator JONES of New Mexico. I suppose you, of course, are aware that modern economists do not accept that idea?

Secretary MELLON. I think most of them do; some of them do not. But you can find fallacious reasoning in regard to anything.

Senator STANFIELD. Otherwise it must be confiscatory of wealth if it is not passed to the consumer.

Secretary MELLON. I think it is confiscatory of wealth. Therefore it has its effect on production, and all wealth comes from production. It is the surplus of production over what is being consumed; that is the basis of all wealth.

Senator JONES of New Mexico. Can you name a modern economist who still adheres to the rule of economics which you have just announced?

Secretary MELLON. I think most of them would agree with that proposition. If it is followed to its conclusion, I think they would all agree to it.

Senator JONES of New Mexico. To the contrary, so far as I have been able to understand their writings on the subject, they do not agree. If there is a single modern economist who supports the statements which you have just made here, I do not know who he is.

Secretary MELLON. I have talked to some of them, and when we followed the subject up they have conceded the principle of it.

Senator JONES of New Mexico. No; I do not think they do.

Secretary MELLON. I have not talked to all of them.

Senator JONES of New Mexico. I am quite sure you have not. I agree with that view of it. But that is not the modern economic theory at all, so far as I have been able to ascertain it, and I have made some considerable research on the question.

On that just a little further: You said it would depend on the amount of the graduated tax. That is aside from the question which I have in mind. We have a graduated tax on individuals and most

of the business income of the country is derived from business men outside of corporations?

Secretary MELLON. Yes.

Senator JONES of New Mexico. If you are going to have a surtax or graduated tax, we will call it, upon individuals engaged in business, should not there be some sort of a graduated tax upon business conducted by means of corporations?

Secretary MELLON. No; because that kind of a tax would be very difficult of administration and would be inequitable, like the excess-profits tax was. The excess-profits tax penalized some corporations, and favored other corporations. It was the most inequitable tax that could have been imagined.

Senator JONES of New Mexico. You are talking about excess-profits tax?

Secretary MELLON. I am speaking of that. It is of the same nature, if you put a graduated tax upon and surtaxes upon corporations, how are you going to regulate it? There are some corporations which have large invested capital with a small earning from a unit of capital. Then, there are others with small capital and with large proportion of earnings. You put a tax on the net earnings without regard to the nature of the business, and you make inequality.

Senator JONES of New Mexico. Unquestionably, there were inequalities under the old excess-profits tax law. But that is not the only way you can put a graduated tax on corporations, is it?

Secretary MELLON. No; that was about the worst way—the excess-profits tax. But, at the same time, a uniform flat tax on earnings of corporations is the equitable kind of a tax.

Senator JONES of New Mexico. Why not apply that to individuals, then?

Senator REED of Pennsylvania. I think it ought to be.

Secretary MELLON. For the prosperity of the country a uniform tax on incomes of individuals and on corporations would, I think, be a better tax than a graduated tax.

The CHAIRMAN. There is a difference between corporations and individuals.

Senator JONES of New Mexico. What is the difference?

The CHAIRMAN. I will tell you what the difference is. A graduated tax on a corporation applies to the man who has one share of stock and a man who has ten shares of stock and the man who has $1,000,000 in the corporation. It does not make any difference at all. The difference when they get their dividend is made in the graduated income tax. But if you graduate a tax, you have either got to do it upon the amount of income of the corporation or on the capital stock of the corporation. If it is on the capital stock of the corporation, then there is a great injustice. If it is on the income, there is an injustice—an injustice because of the fact that it may be a corporation here that is only making four or five per cent on the amount of invested capital; and then you impose a higher rate upon that low rate income because of the fact that it is a greater amount. Here is another corporation making 50 per cent and not one-quarter of the amount of income, because of the fact of its invested capital, and they would not be penalized.

Secretary MELLON. You can not make an equitable application of the graduated tax on corporations; it will not work.

Senator JONES of New Mexico. Why can not you make a graduated tax upon the undistributed earnings of corporations?

The CHAIRMAN. It would apply the same way I have already stated.

Secretary MELLON. It comes to the same thing, and this question of undistributed earnings is one which is very greatly misunderstood. It is not in anything that can produce a tax, as a rule.

I might give you an illustration of that now: For instance, take the Pennsylvania Railroad. The Pennsylvania Railroad was organized in 1856.

The money was paid in at $50 at par, cash, for the capital stock. They built the railroad and issued bonds, etc. That was a sparsely settled country then; and it has grown until it has the greatest density of traffic of any railroad, and has an enormous income. I know the history of the stock in the beginning, because my father had an uncle who was one of the incorporators, and was also one of the first directors. His family had shares of stock in the Pennsylvania Railroad. Money in those days was lending at 6, 10, and 12 per cent. They got for awhile 8 per cent dividends on the Pennsylvania. It graduated down to 6 per cent, and run on a long while at 6 per cent. There were times when they got less than 6 per cent, and one time they dropped the dividends for six months because they did not have it; and then of late years they have paid as low as 4 per cent.

Those Pennsylvania shares I speak of remained at $50 a share par value, ever since. They are selling in the market at $43 a share to-day. Suppose my father's uncle could have lived until now, and held his investment of $50 a share, which, if he wanted to sell it, would sell for $43. He would have been getting ordinary rates of interest ever since. Those dividends averaged a little less than 6 per cent, because they paid 5 per cent part of the time. But say that he got 6 per cent, which was the ordinary rate of interest. During most all of the time the policy of the Pennsylvania Railroad has been to pay half of their net earnings out in dividends and part went back into the property; in other words, when they paid 6 per cent dividends they were earning 10 or 12 per cent, but put half of it back in the property. Where has that money gone to? No stockholder ever got it.

It is a fallacy that what from year to year appears as undistributed earnings of a corporation is tangible capital. It is represented in factories, machinery, and construction of all kinds, which become obsolete in time, and they have to reproduce it. The practical effect of it is that as time goes on in the competitive system of rates and the competitive system of industrial production the profits are brought down according to the nature of the business, and it would be an impossibility to ever take away a large part of undistributed earnings, because it would be destructive of the growth of the property.

Senator JONES of New Mexico. Mr. Secretary, no one has proposed to do that. The only suggestion in regard to a tax upon undistributed profits relates to the current annual income.

Secretary MELLON. I know, but who got that in that annual income in the Pennsylvania Railroad? Not the stockholder.

The CHAIRMAN. You left out one other point in the history of the Pennsylvania Railroad stockholders: If they had not kept one-

half of the gain in the beginning, your stock would have been worth nothing.

Secretary MELLON. Either that or they would have had to pay larger dividends and obtained more capital from the public: it would have been the same thing in the end.

The CHAIRMAN. Just the same.

Senator JONES of New Mexico. You again use a railroad as your illustration.

Secretary MELLON. But it is absolutely the same thing. You can take any industrial concern and follow its history and you will find at the end of the year they will pay a proportion of what their net earnings are in dividends, and the other part of it stays in the property. But as time goes on, except in exceptional cases where there has been some other element in it, where does that ever show? In some exceptional cases, it does.

Senator JONES of New Mexico. I will ask you, should the Pennsylvania Railroad pay the same rate of tax upon its income as the corporations owned by Mr. Henry Ford?

Secretary MELLON. We are talking of the question of putting a graduated tax upon corporations?

Senator JONES of New Mexico. That is what we are talking about.

Secretary MELLON. And I will say it is not practical to do it.

Senator JONES of New Mexico. Would you favor it if it were practical?

Secretary MELLON. I would not favor it because it is not practical.

The CHAIRMAN. I would rather, if it were possible, to compel them to keep a certain percentage of their earnings; and then there would not be so many failures.

Senator JONES of New Mexico You are perfectly satisfied then that the Pennsylvania Railroad Co. ought to pay the same rate o taxation as Mr. Ford's automobile companies?

Secretary MELLON. No; I do not say that.

Senator JONES of New Mexico. Under the law it does pay it.

Secretary MELLON. I thought you were referring to Mr. Ford as an individual.

Senator JONES of New Mexico. No; I am referring to his corporations, because the Pennsylvania Railroad is a corporation. The Pennsylvania Railroad pays the same rate of tax upon its income now that the corporations owned by Mr. Ford pay.

Secretary MELLON. The application of that rate is not the same at all.

Senator JONES of New Mexico. They both relate to net incomes?

Secretary MELLON. Yes. You can take an exceptional case, like the great expansion of the Ford Co.

Senator JONES of New Mexico. Yes; and I think you have taken an exceptional case in referring to the Pennsylvania Railroad.

Secretary MELLON. It is illustrative of that question of undistributed profits.

Senator JONES of New Mexico. Mr. Ford's new corporation is illustrative of the other side of it.

Secretary MELLON. But these undistributed profits of Mr. Ford have gone into all kinds of factories and productive enterprises which, in themselves, produce revenue to the Government, and the Government gains by it much more than it would if they were

repressing it by excessive rates of taxation. If I were the whole Government, I would let Henry Ford go on and develop, because he is bringing in additional production from time to time that makes for additional revenue for me, that is, for the Government.

Senator JONES of New Mexico. You are perfectly satisfied, then, that he should pay the flat rate of tax as the Pennsylvania Railroad?

Secretary MELLON. I do not say that one kind of a corporation ought to have the same kind of tax as another; there may be reasons for it. But, generally speaking, I should say that it should be treated on the same principle.

Senator JONES of New Mexico. You would also, if you had the ideal way, as you conceive it, have the individuals pay the same rate of tax, too, would you not?

Secretary MELLON. I do not think so, not the same rate of tax. I would vary it to suit. I think that in individual cases it might be.

Senator JONES of New Mexico. Mr. Secretary, if Henry Ford were doing business as an individual, he would pay very much more tax than his corporations are paying, would he not?

Secretary MELLON. No; he would have stopped. The business would not have developed, because he would not have gone on and started the new enterprises of water power and other things where he would have had to pay to the Government an excess-profits tax out of it. He could not have done so; it would have absolutely blocked the progress of his business; it would not have gone on.

I say that if Henry Ford could only have operated as an individual and also have had our system of high surtaxes by which he would have had to pay 65 per cent up until it was 50 per cent of surtax, plus the normal tax of 8 per cent, or 58 per cent, his business could not have been developed at all as an individual, because to have taken that cash out, it could not have gone on; he could not have built these places.

Senator JONES of New Mexico. And the reason for that would have been that he would have paid more taxes?

Secretary MELLON. No; he would not have developed; he would have just stopped.

Senator JONES of New Mexico. The reason why he did not stop was because if he had not gone on he would have paid more taxes?

Secretary MELLON. Yes; but he could not have gone on; he could not have gone on and paid more taxes, because he could not have developed his business.

Senator JONES of New Mexico. Then you think it is advisable to reduce your taxes for the purpose of encouraging people like Mr. Ford to build up the kind of a business which he is building up?

Secretary MELLON. I do not see any suggestion of reducing it; he is going on and developing that business under the present rate of taxes, and it is working all right; and the fact that he is developing business is beneficial to the Government in revenue.

Senator JONES of New Mexico. We are not getting anything like the amount out of Mr. Ford's corporations as we would get out of him if he were transacting that business as an individual to-day?

Secretary MELLON. He would not be there; he would not be transacting that business.

Senator JONES of New Mexico. But he is there now, and we are dealing with the situation as it is to-day. He has got this large bus-

iness, and would you leave him alone to go ahead and still reach out further? Would you reduce your taxes in order to enable him to do that?

Secretary MELLON. I think if you would put a tax on now that would obstruct, that he could not go on and develop further, then the business would settle down; it would decrease and it would be a harmful thing to the country.

You may say that Ford's project is a luxury. It is not; it helps the farmer, but it helps everybody. Besides that, you look in England and France and consider the number of Ford cars you see. There is hardly anything else down in Cuba except Ford cars; every country in South America has Ford cars. Look at the advantage to this country of his export business. It is that surplus of production and what we can do in international trade that makes the wealth of the country; and making the wealth of the country makes our high standard of living; and if you are going to put taxes on that are preventive of that growth you are going to press down and reduce the standard of living on every class of people in our country.

Senator JONES of New Mexico. You are perfectly willing to have this law remain just as it is with respect to the tax on corporations, I take it, because you have suggested no change at all.

Secretary MELLON. No.

Senator JONES of New Mexico. You have spoken about the evasion of the high surtaxes by individuals.

Secretary MELLON. That word "evasion" does not quite describe it; it is avoidance. In other words, a man may not evade a tax; he never meets the tax. He avoids that tax by making his investments where he will not have it; that is avoidance of the tax; it is not evasion.

Senator JONES of New Mexico. I think your language is more precise than the word I used. But the effect of it is that individuals are organizing corporations and transferring their assets to those corporations so as to avoid the rate of tax which they would pay as individuals?

Secretary MELLON. Not altogether. But, of course, that is one of the elements. You must consider the great advantage that these corporations afford in that they provide everybody business opportunity. In an incorporated company any man can buy five shares or two shares, and he can be a partner in that corporation, although the business is a gigantic one that he could not avail himself of excepting in the corporate form.

Take, for instance, the United States Steel Corporation. There is a great business in furnaces and production and export and the use of steel. You can buy five shares of that stock or one share, and you get all the advantage that a man who has $1,000,000 or $10,000,000 stock has proportionately to your investment. That is a great thing for the country; and it is a growing habit of the people in this country to thus invest. They are getting to understand the matter of corporate investments, and of discriminating between sound operations, companies that are carried on in a businesslike and sound manner; which is very helpful.

I noticed that tendency toward small stock investments when I was in the banking institution in Pittsburgh. There was not a day but we would have a lot of loans on small holdings of stock as collateral. Capital is being divided among the great masses of the people, and

you can tell that by taking the number of stockholders in any of these corporations. In the United States Steel Corporation, and in all of these large companies, the number of stockholders is increasing from year to year. The ownership is being divided among the great masses of the people, and that is a very useful thing.

Senator JONES of New Mexico. You think that it is better for the country to do its business through corporations than in an individual way?

Secretary MELLON. They could not do the business to the extent that it is being done in an individual way. Don't you see these small contributions of capital in the aggregate are a very large capital, and that large capital can be operated in corporate form. But you could not take, say, a thousand people with $100 apiece, or $500 apiece; they could not go into partnership and carry on the business, but they can in a corporation have their share of it and go on.

Senator JONES of New Mexico. But you think it would be better for every man who is making any considerable income to operate through a corporation than as an individual?

Secretary MELLON. That, as a general statement, does not apply. There are all kinds of business and all kinds of holding of capital. If I have enough capital to do some particular line of business without a corporation, there is no reason why I should not do it. But if I have not enough capital I have to have that supplemented by other people, and therefore in the corporate form we can go together and we can do business.

Senator JONES of New Mexico. But where one individual has various lines of industry and is getting a considerable income, you would encourage that individual to form a corporation and transfer his various lines of industry to that corporation, would you?

Secretary MELLON. No.

Senator JONES of New Mexico. Well, is not that the effect of the present law; is it not an inducement for individuals having large incomes, no matter how varied the sources, to organize a corporation?

Secretary MELLON. No.

Senator JONES of New Mexico. And avoid the individual surtax?

Secretary MELLON. No; it has not been done, for the reason that there is a penalty to it, and it is not done. We have had very few cases in the Internal Revenue Bureau where section 220 of the revenue act could be applied. Suppose I own stock in various corporations, and I put my holdings of that stock into a corporation and the dividends go in there and do not come to me, and I do not report them in my income tax. Immediately when that corporation's tax returns are scanned, it is found that that is a holding company that is being availed of for the purpose of avoiding the surtax. They, therefore, put on a penalty of 25 per cent. What you speak of, except in very few instances, has not occurred. We have not had very many instances of that, have we, Mr. Gregg?

Mr. GREGG. No.

Senator JONES of New Mexico. You have only had one or two, as I recall?

Secretary MELLON. Some of them are pretty near the line, and some of them never get further than the first return they make. I just recall of one instance where they abandoned it immediately when it came to auditing the return.

Senator JONES of New Mexico. I call your attention to some testimony before the Committee on Public Lands. A New York attorney came before that committee and he said these personal corporations were generally being formed for that purpose.

Secretary MELLON. He did not know what he was talking about.

The CHAIRMAN. He meant generally with Sinclair.

Secretary MELLON. In the Sinclair matter there was the intimation that the Sinclair Hyva Corporation was formed for that purpose. I saw that testimony, and asked Mr. Blair, the Commissioner of Internal Revenue, to look into it. That corporation was only recently organized. It had only been in existence four months of year 1923, this last year. From the time it was organized there were only four months in that year, and therefore at the time I speak of, when Mr. Blair did look into that, there was not any return or anything that he could get any information from.

Since then they have been investigating that corporation, and I do not know the result. I have not had a report from it, and it has not run long enough to have saved Mr. Sinclair any tax, because it is only a recent organization.

Senator JONES of New Mexico. But, Mr. Secretary, I must say that your belief about the question of the organization of these organizations which operate to avoid the individual surtax is not in accord with the belief of a great many people of this country.

Secretary MELLON. I know, but it is sort of a popular fallacy, because when you go into it you must take the facts, and when you take the facts of the returns of corporations we have up until now been unable to unearth any considerable number of them.

Senator JONES of New Mexico. I can understand how they would organize a corporation that would have the effect of avoiding the high surtaxes and yet not come within the provisions of that law, which requires that they should be organized for the purpose of evading the high surtaxes.

Secretary MELLON. You can tell by examining the returns, but I would like to say this——

Senator JONES of New Mexico (interposing). I would like to know whether there is in the Treasury Department evidence that these people who have been paying high surtaxes have organized corporations and as a result have been avoiding the high surtax, whether they were organized for that purpose within the meaning of the statute or not.

Secretary MELLON. Let me answer that this way: More than a year ago, I think—you may have seen the public correspondence, which was a little bit in the nature of an attack on me by Mr. Frear—I think it was two years ago. He referred to the Standard Oil Co. as being subject to the penalty under section 220. I gave instructions to the Commissioner of Internal Revenue to have the people in the units, the men who examine these returns, to make particular note in all of their examinations to endeavor to ascertain wherever section 220 should be applied. I made that as a special request, and so they have been doing that.

Senator JONES of New Mexico. I am quite sure that the provisions of that section are so worded that it would be a very dull individual, indeed, who would organize a corporation and come within the provisions of that section.

Secretary MELLON. You take an individual organizing a corporation and putting his holdings in it, which immediately raises the presumption that that is what it is done for.

The other class of corporation, the class like the Standard Oil Co., is different. They are organized to carry on business; they are developing the business. There is a growth to the business, and that section 220 does not apply to them. The general situation which you speak of does not exist. I do not mean to say that there are not some isolated cases, but they are few.

Senator JONES of New Mexico. The inducement there is just the same, is it not?

Secretary MELLON. No; because there is the penalty that takes away the inducement; there is a penalty of 25 per cent on any corporation that does that. You have to apply 25 per cent penalty in addition to the tax; so that no one would think of it.

Senator JONES of New Mexico. As I said awhile ago, it would be a very dull person who would organize a corporation in such a way as to come within the penalty of that section of the statute.

Secretary MELLON. Personally, I would not know how to do it myself; I do not believe it could be accomplished.

Senator JONES of New Mexico. You speak of "personally." I do not want to make any inquiry which may seem to be improper, but you are reputed to be a man of very large wealth. How much of your wealth is in corporations?

Secretary MELLON. I could not tell you exactly.

Senator JONES of New Mexico. Well, relatively.

Secretary MELLON. I do not know—a very considerable part of it. And when you speak about that, I will say I am not denying that I am a man of wealth. But I also want to say that there is a terribly exaggerated impression of the wealth I have, and it came about in this way: When I was selected for Secretary of the Treasury an attack was made on me by some newspaper writer, I think first in the New York World. It was this: He took every corporation with which I was connected and attributed their entire resources to me; for instance, I was then a director in the Pennsylvania Railroad. He took all of the stocks and bonds of the Pennsylvania and added them together. I was a director in another corporation, and he added all their assets together. I only had a small amount of stock in order to make me eligible as director at the time, but it was taken that that was part of my wealth; and he showed figures that run up into $2,000,000,000 or something like that. He did not just say in words that that was my wealth, but to the man who did not know there would be that inference. He started in that way and grossly exaggerated as to my wealth, and what could I do? I could not go out in the public press and make denial or a contention as to how much I was worth. All I did was to keep silent. That fallacy has persisted, and everything that comes out, every ordinary article about me, contains these exaggerated allusions, such as "third richest man in the world," without any foundation whatever.

I was extensively engaged in business in a great many corporations. Very many of them I had very little interest in, which came about in this way: I was active in the banking business and in the trust company at home. As an illustration, there was a concern there many years ago, the largest coal company then operating. It had

been mismanaged and was in financial difficulties and was likely to fail. It was not connected with our bank, but some of the people interested came to me and asked me to look into it. It was at a time when it was difficult to get capital. I looked into it and arranged in New York for some of the additional capital; and we financed them. We put on their properties a large mortgage, securing bonds which we sold to the public. Our institution in putting out those bonds was interested in having the business properly conducted; otherwise the bonds might become injured in value. So we made the stipulation that I was then to name the board of directors and the management of the company. I had a good deal of trouble but finally found a man to manage the business. He was thoroughly honest and upright. And I named the board of directors, went on the board myself, and was chairman of the executive committee in order to see that it was properly conducted. I remained on that board until I came to Washington. I resigned when I came here. I was not a stock or a bond holder myself except as to qualifying shares. Having no personal interest in it, I was there on account of our financial institution, as we had sold these securities to the public and the reputation of our institution was involved if we sold the public securities that turned out badly. We never did that; we never sold any securities that we did not look after and take care of.

Such connections were used to bolster up these statements attributing great wealth to me.

Another thing happened: After I was in Washington there was a coal strike, and the question was raised that I was a dominating factor in the prevention of a settlement of the strike. At that time I was so busy in the department that I could not have thought about the coal business or strike. I was not connected with the company; I had not seen a man connected with it, and had not talked with anybody connected with it. But in that way these fallacious things are exploited for a purpose.

Senator JONES of New Mexico. If it is going to embarrass you at all, I would not——

Secretary MELLON. I am not at all apologizing for what I am worth; and I am not denying that I am a man of large means. I am only speaking of the fact that by reason of my official position it has caused this comment which is unfounded, and my affairs have been grossly exaggerated.

Senator JONES of New Mexico. If it is going to be embarrassing, I will not insist upon it. But if it is not embarrassing, I wish you would present to the committee a statement of your individual income and a statement of the income of the corporations in which you are interested, and the percentage of their net income which is not distributed.

Secretary MELLON. What has that got to do with this?

Senator JONES of New Mexico. As I said I am not going to insist upon it.

Secretary MELLON. If you will give me something in writing to state the reason or the point which you want to bring out, I will consider it. I do not see what my own private affairs have to do with the proceedings of this committee.

Senator JONES of New Mexico. I think you are probably right about it. But you framed this bill which was presented to the

House, and I think there is a great disparity and inequality between the tax upon corporations and upon individuals; and I think that under the present law there is a great incentive and inducement for people to allow their earnings in corporations to remain in those corporations, subject only to the flat tax and not to the surtaxes; and I thought of that suggestion in order that we might see the inducement, if any, which prompted the framing of this bill in the way it was framed and presented to the House.

Secretary MELLON. My private business has nothing to do with the general question of the framing of that bill.

Senator JONES of New Mexico. Do you not believe that people are more or less, consciously or unconsciously, influenced by their own financial affairs?

Secretary MELLON. Not necessarily so. I am quite sure that my own interests have not had anything to do with my course nor caused any bias in any way in the matter.

Senator JONES of New Mexico. In that connection, may I ask who did frame that bill that was presented to the House?

Secretary MELLON. It came about in this way: We had the 1921 act to go on. We started the work about a month before I went abroad, which was the beginning of July. We then appointed a committee. Out of the tax simplification board we took certain members and then Mr. Gilbert was there at the time—my undersecretary.

The CHAIRMAN. Mr. Beaman and Mr. Lee?

Secretary MELLON. Yes; all of those men. They went to work and they studied what improvement they could make in the technical features of the bill and for the better working of the law.

Senator JONES of New Mexico. And I want to say, Mr. Secretary, that they did a very commendable job.

Secretary MELLON. They did the best they could; and I think they did very good work.

When I came home, I went over the matter and we considered the question of rates; that, particularly, had not been taken up until then.

Senator JONES of New Mexico. Who went into that question?

Secretary MELLON. Well, we had a general discussion there. I suppose there were six or eight of us altogether.

Senator JONES of New Mexico. Did you discuss the question outside of the Treasury Department?

Secretary MELLON. No; I do not think so; no.

Senator JONES of New Mexico. Mr. Winston, I take it, participated in those discussions.

Secretary MELLON. You see, Mr. Winston came in after I left, and he worked with Mr. Gilbert; and then when I came home both Mr. Gilbert and Mr. Winston were there, and we worked together. But there was nobody from the outside, excepting a man from the Ways and Means Committee of the House to assist. But I mean outside of that, we had not any other assistants.

Senator JONES of New Mexico. Was Mr. Leffingwell or Mr. Roberts consulted regarding those rates?

Secretary MELLON. No; I never spoke to Leffingwell, nor him to me, about rates; nor to Mr. Roberts. I can say that nobody outside of the Treasury Department had anything to do with it at all.

Afterwards, we had some conversation with Doctor Adams on the subject. He had gone out and was up at Yale. But when he was

down in town I remember talking the matter over with him; but he had been there before.

The CHAIRMAN. He was there during the framing of the other law?

Secretary MELLON. Yes.

Senator JONES of New Mexico. When this bill was framed, you ascertained, according to your estimates, that the amount of tax might be reduced something like $300,000,000?

Secretary MELLON. That was ascertained from the revenues and the expenditures, taking the operation of the law as it stood.

Senator JONES of New Mexico. You decided that that reduction should be made in reducing some of the excise taxes. But the principal reduction should be made in the individual income taxes?

Secretary MELLON. Yes; I think we had in the neighborhood of $300,000,000, or slightly over that; and a hundred and some million was in the excise taxes.

Then, in the income taxes, I forget the amount that was applied there.

The CHAIRMAN. I understand that the rates which you proposed to reduce would reduce the income about $200,000,000?

Mr. MCCOY. About $92,000,000 in normal tax and $102,000,000 in surtaxes, and about $100,000,000 from miscellaneous taxes.

Secretary MELLON. But, on that, Mr. McCoy, we calculated that that was the immediate reduction of what those surtaxes would be. But in another year the reduction in the surtax rate would raise the revenue, and therefore we counted on that bringing additional revenue; in other words, the reduction of the higher surtax rates would later on bring greater revenue.

Senator JONES of New Mexico. I have seen that statement made a number of times, and I have heard you explain it in your way. But I must confess that I have not been very deeply convinced that that would be the result.

Yesterday you made the statement that these high surtaxes influenced the rate of interest and rents and the cost of goods generally. I want to have printed in the record at this point a table, No. 7, on pages 54 and 55, of Statistics of Income, which shows the personal returns and the distribution of income by sources and by income classes for the United States for the calendar year ended December 31, 1921, for the purpose of showing that the amount of money derived by the large surtax payers is inconsequential, compared with the amount derived by individuals of lesser income.

The CHAIRMAN. That may be inserted.

(The table referred to and submitted by Senator Jones of New Mexico is as follows:)

TABLE 7.—*Personal returns—Distribution of income, by sources and by income classes, for the United States*

[Income returned for the calendar year ended Dec. 31, 1921]

Income class	Number of returns	Wages and salaries	Business	Partnerships, fiduciaries, etc.	Profits from sales of real estate, stocks, bonds, etc.	Rents and royalties	Dividends	Interest and investment income	Interest on Government obligations not wholly exempt from tax	Total income	General deductions	Net income
Under $1,000 [1]	390,952	$320,024,564	$118,251,323	$35,581,748	$38,475,768	$114,319,330	$167,152,735	$130,571,827	$3,680,521	$928,057,822	$719,826,317	$208,231,505
Under $1,000	10,897	1,311,724	725,319	376,605	211,604	2,332,784	1,242,886	2,866,999	106,635	9,176,646	3,558,217	5,618,429
$1,000 to $2,000 [1]	793,954	1,011,318,569	190,380,441	35,176,261	13,009,205	86,886,209	53,149,378	79,553,094	310,518	1,469,783,676	241,720,289	1,228,063,387
$1,000 to $2,000	1,646,590	2,232,517,917	64,772,297	29,174,750	8,070,316	64,505,587	13,175,690	107,358,198	133,692	2,519,708,437	127,010,056	2,392,698,381
$2,000 to $3,000 [1]	1,641,258	3,399,179,301	372,652,595	84,460,461	29,890,066	158,031,539	72,726,274	155,052,891	423,069	4,262,416,196	381,018,559	3,881,397,637
$2,000 to $3,000	580,773	1,168,109,247	132,156,286	47,007,286	18,028,170	82,083,874	24,358,266	115,588,557	164,733	1,587,496,419	142,962,791	1,444,533,628
$3,000 to $4,000 [1]	214,933	531,307,182	105,740,299	25,292,968	12,408,449	32,900,947	70,188,871	41,154,497	278,136	819,271,349	105,847,631	713,423,718
$3,000 to $4,000	488,058	1,236,951,859	259,241,796	80,300,554	37,925,128	109,493,750	41,196,727	123,351,287	298,887	1,903,759,968	212,170,623	1,691,589,345
$4,000 to $5,000 [1]	31,094	65,833,734	17,375,564	6,797,587	3,007,670	8,284,118	63,703,494	16,286,349	796,407	182,084,923	45,673,212	136,411,711
$4,000 to $5,000	338,061	1,025,095,262	288,982,655	83,447,141	47,376,160	98,187,333	54,920,178	123,864,290	518,563	1,732,391,582	218,925,112	1,513,466,470
$5,000 to $6,000	137,191	457,451,255	126,095,571	63,557,424	29,049,756	54,052,311	84,542,247	69,449,947	2,356,331	888,554,842	139,845,129	748,709,713
$6,000 to $7,000	86,030	316,956,006	98,738,691	56,816,325	24,121,032	39,818,207	75,733,035	53,112,525	2,408,261	667,704,142	111,812,949	555,891,193
$7,000 to $8,000	58,760	237,078,720	76,922,358	48,101,394	20,320,291	32,243,077	69,242,549	45,104,427	1,975,739	530,988,555	92,159,217	438,799,338
$8,000 to $9,000	40,156	177,569,962	55,634,231	39,675,253	14,856,294	23,191,730	58,062,330	36,411,973	1,613,679	407,015,452	66,734,303	340,281,149
$9,000 to $10,000	31,110	153,372,083	44,771,558	35,628,681	14,468,000	22,545,627	61,651,094	32,205,146	1,753,073	366,395,262	71,317,418	295,077,844
$10,000 to $11,000	22,416	123,575,500	35,540,033	30,857,456	11,022,848	18,246,024	53,850,751	28,182,241	1,253,841	302,928,694	57,415,176	245,513,518
$11,000 to $12,000	18,743	106,622,922	30,738,644	28,051,038	9,541,791	14,943,412	48,835,137	23,929,545	1,251,696	263,914,185	48,639,031	215,275,154
$12,000 to $13,000	14,887	89,040,651	24,496,116	24,208,890	8,473,052	13,913,392	45,621,450	21,254,175	1,159,185	228,166,911	42,358,974	185,807,937
$13,000 to $14,000	12,575	79,599,127	22,452,069	22,637,308	8,090,612	11,042,464	44,017,429	21,216,279	1,039,282	210,094,570	40,470,891	169,622,679
$14,000 to $15,000	10,393	71,514,521	19,101,313	21,184,013	6,580,645	10,361,501	40,225,669	17,608,418	974,878	187,350,958	36,596,323	150,754,635
$15,000 to $20,000	34,230	268,835,876	71,397,225	84,400,546	25,671,675	39,746,945	175,015,330	73,670,700	3,658,809	742,397,106	154,509,132	587,887,974
$20,000 to $25,000	18,100	168,502,119	43,981,726	60,325,522	16,519,444	26,228,928	133,645,641	51,249,478	2,811,208	503,264,166	99,770,857	403,493,309
$25,000 to $30,000	10,848	116,050,655	29,465,945	46,942,453	12,414,352	18,184,257	111,355,801	37,250,904	2,118,636	373,783,003	77,630,378	296,152,625
$30,000 to $40,000	12,047	147,824,431	41,491,719	71,831,489	16,082,322	26,192,029	164,554,796	54,155,014	3,327,779	525,459,579	111,245,294	414,214,285
$40,000 to $50,000	6,051	85,129,570	21,891,417	47,823,436	10,727,687	15,270,519	120,560,938	35,424,525	2,078,863	338,906,935	69,644,540	269,262,396
$50,000 to $60,000	3,431	56,591,968	16,400,795	35,130,794	6,396,702	10,176,039	87,602,019	24,585,551	1,478,083	238,361,951	50,877,284	187,484,667
$60,000 to $70,000	2,240	40,646,355	10,429,768	29,660,278	4,580,516	7,770,618	73,623,809	19,720,961	1,277,342	187,709,647	43,273,466	144,436,181
$70,000 to $80,000	1,423	28,536,934	6,983,482	23,584,948	2,974,520	5,489,909	55,876,938	12,955,960	990,970	137,393,661	31,004,288	106,389,373
$80,000 to $90,000	957	22,078,047	5,587,662	19,366,659	2,175,833	3,891,710	40,025,289	9,949,808	675,741	103,750,749	22,785,002	80,965,747
$90,000 to $100,000	666	14,801,374	4,863,733	13,922,328	1,561,159	3,604,966	38,209,960	7,380,185	453,729	84,877,434	21,923,184	62,954,250
$100,000 to $150,000	1,367	35,031,445	11,686,903	37,751,740	3,627,370	8,257,046	100,568,997	22,176,099	1,614,910	220,714,510	57,193,511	163,520,999
$150,000 to $200,000	450	13,070,218	3,819,615	19,235,446	1,755,299	4,936,166	49,960,272	9,212,864	878,643	102,868,523	25,433,006	77,435,517
$200,000 to $250,000	205	8,030,747	2,785,738	9,451,914	476,067	2,013,963	31,898,612	5,710,542	1,005,299	61,372,882	15,687,912	45,684,970
$250,000 to $300,000	84	2,999,694	2,399,270	5,306,958	543,628	464,146	15,219,643	2,519,732	282,575	29,705,646	6,878,066	22,827,580
$300,000 to $400,000	98	3,175,610	2,620,821	9,886,765	625,499	497,160	26,763,920	3,548,964	870,230	47,988,969	14,577,832	33,411,137
$400,000 to $500,000	64	2,448,625	469,651	3,606,717	973,330	1,771,057	28,665,284	5,657,395	324,082	43,916,141	15,984,728	27,931,413

[1] Nontaxable. Specific exemptions exceed net income.

TABLE 7.—*Personal returns—Distribution of income, by sources and by income classes, for the United States*—Continued.

Income class	Number of returns	Wages and salaries	Business	Partnerships, fiduciaries, etc.	Profits from sales of real estate, stocks, bonds, etc.	Rents and royalties	Dividends	Interest and investment income	Interest on Government obligations not wholly exempt from tax	Total income	General deductions	Net income
$500,000 to $750,000	46	$1,625,747	$2,948,005	$4,999,052	$184,514	$1,343,252	$23,196,376	$2,874,326	$177,473	$37,348,745	$8,926,878	$28,418,867
$750,000 to $1,000,000	17	247,665	1,301,151	4,593,852	284,745	3,013,361	8,157,610	1,956,452	152,936	19,707,772	5,346,213	14,361,559
$1,000,000 to $1,500,000	12	352,856	1,024,825	2,958,814	65,468	1,223	9,956,287	487,099	99,991	14,946,573	2,102,394	12,844,179
$1,500,000 to $2,000,000												
$2,000,000 to $3,000,000	3	2,235,447				1,965,409	4,039,806	656,378	11	8,897,051	2,447,132	6,449,919
$3,000,000 to $4,000,000	5	(2)		(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
$4,000,000 to $5,000,000												
$5,000,000 and over	1	(2)			(2)	(2)	(2)	(2)		(2)	(2)	(2)
Classes grouped [2]		143,676		73,454	291,615	55,947	34,458,831	3,078,907	247,870	38,350,300	8,233,069	30,117,231
Total	6,662,176	13,813,169,165	2,366,318,610	1,341,186,308	462,858,673	1,177,957,882	2,476,952,399	1,643,344,489	46,994,406	23,328,781,932	3,751,569,404	19,577,212,528

[2] Classes grouped to conceal net income and identity of taxpayer.

Secretary MELLON. Would you allow me to say that you should state that the reason for that is that these high surtaxes work to break down the income, and that therefore may have been in operation long enough to reduce the revenue that is obtained from them; that is just the point I make, that as a revenue source these large surtaxes defeat their purpose.

Senator JONES of New Mexico. I am not talking about the source of revenue; I am talking about the influence upon interest, rents, and so on, by putting the surtaxes on individuals of large incomes; and it will appear, I think, from this table that the people of a thousand and less of taxable income receive more interest from their investments than all the people having the large incomes above $200,000.

I also want to put in the table showing the tax yield from income classes for the same year, 1921, the last column of the last table on page 21 of the same book, Statistics of Income, which shows the total tax paid under existing law, which is 58 per cent of the net income paid by persons having incomes of $100,000 a year and above, amounted to only $2,217,490. I refer to that statement as showing that that amount of money turned into the Treasury of the United States from people of that class could not have much effect upon the interest rates of the country, the rents, and cost of commodities.

(The table referred to and submitted by Senator Jones of New Mexico is as follows:)

Tax yield, 1921

Income classes:	
Under $1,000	$173,678
$1,000 to $2,000	29,160,654
$2,000 to $3,000	20,712,373
$3,000 to $5,000	42,743,604
$5,000 to $10,000	68,871,422
$10,000 to $25,000	126,886,410
$25,000 to $50,000	112,909,840
$50,000 to $100,000	115,711,635
$100,000 to $150,000	52,330,056
$150,000 to $300,000	61,495,988
$300,000 to $500,000	31,859,630
$500,000 to $1,000,000	25,112,090
$1,000,000 and over	31,419,726
Total	719,387,106

Secretary MELLON. Don't you see, if you go back, you will find that the income from that class in previous years was larger, and you have driven the income out of those; and the fact is those people are not investing their money in productive enterprises and not having income from it?

Senator JONES of New Mexico. On that point, whether those people are investing in productive enterprises or not, it seems to me quite immaterial, if the productive enterprises are going ahead in anything like a prosperous way.

Secretary MELLON. Will you let me answer that?

Senator JONES of New Mexico. Just a moment. In that connection, I would like to have inserted the table which has been compiled and which appears in the bulletin on the economic conditions, governmental finance, United States securities, gotten out by the National City Bank of New York, in the month of March, 1924, which shows net profit of various corporations for the years 1921, 1922, and, so far as ascertained, in 1923; and in that same connection another article showing

the amount of building which has been done the last two or three years.

(The matter referred to and submitted by Senator Jones of New Mexico is as follows:)

Net profits steel manufacturing companies

[000's omitted]

	1921	1922	1923
American Rolling Mill Co	[1] $2,409	$2,306	
Bethlehem Steel Corporation	10,333	4,605	$14,374
British Empire Steel Corporation (Ltd.)	1,734	2,368	
Crucible Steel Co. of America	5,547	[1] 3,710	4,611
Donner Steel Co	[1] 2,223	[1] 1,306	1,116
Eastern Rolling Mill Co	[1] 429	332	1,448
Gulf States Steel Co	[1] 592	938	1,577
Inland Steel Co	511	1,141	5,275
Jones & Laughlin Steel Corporation	[1] 3,610	6,389	
Nova Scotia Steel & Coal Co. (Ltd.)	53	[1] 1,086	
Otis Steel Co	[1] 5,190	[1] 428	1,500
Penn Seaboard Steel Corporation	[1] 1,596	[1] 1,237	
Pittsburgh Steel Co	1,723	862	2,022
Replogle Steel Co	[1] 874	[1] 443	428
Republic Iron & Steel Co	[1] 5,665	418	6,252
Sloss-Sheffield Steel & Iron Co	[1] 931	579	2,500
Truscon Steel Co	[1] 337	984	1,379
Trumbull Steel Co	260		2,771
United Alloy Steel Corporation	[1] 2,747	3,002	
United States Steel Corporation	36,617	39,653	108,729
Wickwire Spencer Steel Corporation	[1] 3,646	[1] 810	
Youngstown Sheet & Tube Co	[1] 44	3,707	

[1] Deficit.

Net profits cane and beet sugar producers

[000's omitted]

	1921	1922	1923
Amalgamated Sugar Co	[1] $371	[1] $5,030	$505
American Beet Sugar Co	134	[1] 3,016	723
American Sugar Refining Co	[1] 586	8,555	
Central Aguirre Sugar Co	657	715	2,007
Cuba Cane Sugar Corporation	[1] 18,793	1,007	6,477
Cuban-American Sugar Co	[1] 7,897	2,023	8,003
Cuban Dominican Sugar Co			1,410
Fajardo Sugar Co	[1] 695	272	1,120
Federal Sugar Refining Co	2,000	2,372	
Francisco Sugar Co	533	242	623
Godchaux Sugars (Inc.)	[1] 2,558	144	[1] 105
Great Western Sugar Co	4,264	[1] 8,363	6,879
Guantanamo Sugar Co	[1] 940	132	[1] 244
Holly Sugar Co	405	[1] 1,297	[1] 244
Manati Sugar Co	[1] 712	[1] 330	1,622
New Niquiero Sugar Co	[1] 743	611	581
Punta Alegre Sugar Co	[1] 2,069	136	3,490
South Porto Rico Sugar Co	446	[1] 1,212	1,767
Sugar Estates of Oriente (Inc.)			1,753
United Fruit Co	16,970	18,851	23,097
Utah-Idaho Sugar Co	1,668	[1] 5,908	[1] 171
Warner Sugar Refining Co	517	763	

[1] Deficit.

MONEY VALUE OF NEW BUILDING

Statistics of construction in America compiled from reports to Bradstreet's from 176 cities show a total of money involved of over three billion dollars, a gain of more than 23 per cent above the record for 1922, which at upward of two and one-half billions had exceeded all previous years and was a total 52 per cent greater than the year before.

If we take the totals for any of the five years just prior to the war, and restate expenditures in terms of the present enhanced cost of material and labor, estimated at 118 per cent above the pre-war level, the construction record for 1923 still shows a billion dollar gain. Bradstreet's record for 120 identical cities for the past 15 years follows:

Building, 120 cities

1909	$888,114,741	1917	$633,483,813
1910	846,991,622	1918	372,793,978
1911	824,147,884	1919	1,172,364,155
1912	879,094,308	1920	1,234,082,696
1913	814,509,360	1921	1,462,752,811
1914	728,801,072	1922	2,288,408,634
1915	763,343,811	1923	2,825,281,279
1916	919,435,203		

But these and similar totals by no means cover the field completely. The Commercial and Financial Chronicle for 286 cities for 1923 finds a total expenditure in construction of $3,376,118,282. The Dodge Corporation's returns for 27 States in the northeastern quarter of the United States, known as the six northern districts, give contracts awarded at $3,503,726,400, and for the southeastern district, embracing the Carolinas, Georgia, Florida, Alabama, Tennessee, Arkansas, and Louisiana, awarded contracts stood at $486,757,000, a total of about four billion. But the building program is not ended even with these returns.

The annual building survey of the Copper and Brass Research Association for 1923 placed the total expenditure for building at $5,922,900,000. This association's estimate for 1924 totals $4,835,935,000. These figures are more comprehensive than Bradstreet's reports of permits. They include not only dwellings, office buildings, stores, and factory construction, but public works, such as subways, dams, railways, and other public utilities. In all fields this association estimates that the war shortage in construction of over $10,000,000,000 has been largely made up, and that the approximately five billion of construction needed for 1924 represents normal expansion.

In regard to interest rates, I would like to put in an article which appears in Commerce and Finance, a publication of New York City, of date of March 26, 1924, which shows a marked reduction in the rate of interest generally; and also an article from Business Conditions Weekly, entitled "Federal reserve policy."

(The articles from Commerce and Finance and Business Conditions Weekly referred to and submitted by Senator Jones of New Mexico are as follows:)

BANKING AND MONEY.—Call money in New York last week was loaned at 2½ per cent on the stock exchange and 2 per cent outside, the lowest figure since the spring of 1918. Concurrently other rates were easier; acceptances were reduced one-eighth of 1 per cent and most of the commercial paper went at 4½ per cent, against 4½ and 4¾ in recent weeks. Call money is not, of course, a very accurate barometer; the drop was ascribed to Treasury disbursements paid out in the New York district, which found their way to the call market, and it was even reported that the $100,000,000 loan to France was in part loaned out. Nevertheless the general ease of rates was striking testimony to the great supply of money in the country, far in excess of the ability of business to keep it busy. But no hope for a reduction in rediscount rates is held out.

The statement of the Federal reserve banks last week (see p. 620) showed a reduction of $16,000,000 in earning assets, notwithstanding an increase of $84,000,000 in holdings of Government securities. Note circulation declined another $21,000,000, and the reserve ratio climbed to 80.8 per cent. The statement of leading member banks for the week ended March 12 showed an increase of $63,000,000 in loans and discounts, including $38,000,000 commercial. Investments jumped $22,000,000 and deposits $170,000,000.

Washington dispatches last week intimated that the Federal reserve board had decided on a virtual reversal of its branch banking policy and would allow State banks which are members to conform to the branch banking laws of their States rather than to the prohibitions enforced on national banks. The report, however, can not be considered beyond the stage of gossip so far.

FEDERAL RESERVE POLICY

The present talk about reducing the official rediscount rate from the level of 4½ per cent which has prevailed for a year, arises from the fact that the open market rate on prime commercial paper has dropped from 5 to 4½ per cent since December. The point is that the Federal Reserve Board at Washington usually

keeps the official rediscount rate about one-half point below the open market rate for prime paper. Consequently, with the open market rate at 4½ per cent it would be in order to reduce the official rediscount rate to 4 per cent, if we accept the experience of recent years as a mechanical principle. In this connection, however, it may be mentioned that the Federal Reserve Board officially protests against being held to any fixed rule or mechanical principle in fixing the rediscount rates. In view of this disinclination to follow any mechanical principle, therefore, it is possible that the Federal Reserve Board may not reduce the official rediscount rate below 4½ per cent at the present time.

Senator JONES of New Mexico. Now, if necessary, in regard to that rate of interest, do you not think it would be advisable if the Federal reserve system would reduce its rate of interest?

Secretary MELLON. Why?

Senator JONES of New Mexico. In order to lower the rate of interest throughout the country?

Secretary MELLON. The effect of reducing the rate of interest of the Federal reserve does not necessarily mean a lowering of rates throughout the country. It has an influence under certain conditions as bearing on the commercial rate. But there are times when a lowering of the rate does not have any material influence. Of course, the Federal reserve bank only rediscounts for member banks. The practical effect of reduction is that, to a large extent, the member bank gets its discount at a lower rate, but does not necessarily make a lower rate to its commercial customer.

If there is a time when there is enough activity of business and of pressure, the modification of the rate does have an influence; on the other hand, a raising of a rate has an influence, but it altogether depends on the general situation, on the general conditions existing in trade.

Senator JONES of New Mexico. Well, when you raised the rate of interest, you did it in order to stop people from using money, did you not?

Secretary MELLON. When?

Senator JONES of New Mexico. When the rates of interest of the Federal reserve system were raised in 1921?

Secretary MELLON. There was an overpressure for money to an extent in speculation, and the rate was then raised. It has an influence at such a time, and it was raised for that purpose.

Senator JONES of New Mexico. Do you not think if a rate were lowered that that would be an inducement to people to use more money?

Secretary MELLON. There is not any dearth in money; there is all the money that people would use. I doubt whether a reduction to-day would make any more actual use of money in trade or commerce at all.

Senator JONES of New Mexico. Would it not have a tendency to lower the rate of interest on money which people do have to use?

Secretary MELLON. It would have some tendency that way, but I doubt whether it would have any material effect. In the first place, there is not much borrowing to-day from the Federal reserve bank.

Senator JONES of New Mexico. Is not that because the rates are so high?

Secretary MELLON. No. The reason for that is because there is such a plethora of money in the country which has come from the influx of gold. The effect of that gold which has come from abroad—you see, last year there was a very large amount, and it is coming

from month to month now. Almost every month you see four or five or eight or ten million dollars. That immediately goes into the banks, and every million dollars of gold that goes into the banks makes a credit for loaning equivalent to four or five million dollars, without any rediscount from the Federal reserve bank at all, because that gold counts as reserve, and they only need to keep a small percentage of it as reserve, and therefore a million dollars of gold will make a loaning capacity of $5,000,000. That gold coming in has given the banks generally the credit position to loan money without getting rediscounts, and if you will see the statistics of the Federal reserve banks, the member banks have not been leaning on them to any extent. At such a time the reduction of the rate of interest has very little influence, because the banks have this money on hand and can loan it, and they do not go and borrow it when they do not need to borrow it from the Federal reserve system.

And that was not the intention of the adoption of the Federal reserve system. It was to enable, when there was an expansion of trade, the establishment of a place where that additional credit could be obtained. But it was not for the purpose of making interest rates low when there was all of the capital needed and when the banks had money of their own; that is, the borrowing from the Federal reserve bank is not a normal part of a bank's business; it is only to relieve the pressure when there is a greater demand.

Senator JONES of New Mexico. Then there is a plethora of money in the country for general enterprise?

Secretary MELLON. There is plenty of money. We have been getting the wealth from the rest of the world very largely in the payment of foreign balances of trade and all that.

Senator JONES of New Mexico. So these high surtaxes are not retarding the business development of the country?

Secretary MELLON. It takes all the complex factors in the world to make up what happens. But the effect of the high surtaxes is to divert capital from the productive enterprises.

You mentioned that these corporations' earnings were large, as shown in that table that you have there. The effect of diverting this capital does not mean that the corporations that are in existence and the trade will not have larger profits, because it, to a certain extent, gives the existing corporation a monopoly. The effect is to prevent other people from going into business in that direction, and if other capital is put in by other people it then reduces the cost to that extent; I mean, it makes greater competitive conditions.

Senator JONES of New Mexico. I do not understand that you are in favor of competitive conditions very much when you encourage Mr. Ford to go ahead and get a monopoly of a very large industry in this country.

Secretary MELLON. Everybody else has the same opportunity; and he has only got into the lead.

The CHAIRMAN. He has a "patent" on it?

Secretary MELLON. Practically that, because he happens to have a system of supplying parts and all that, which has worked toward establishing that monopoly.

Senator JONES of New Mexico. I would like to also insert in the record a table from page 7 of the Statistics of Income, which shows

the percentage of income derived by the individual taxpayers and the different brackets from different lines of business, including wages, and salaries, business, partnerships, profits from sales of real estate, stocks and bonds, rents and royalties, dividends, interest and investment income and the total income; that is, to insert tables upon the same subject appearing beginning on the bottom of page 6 and running over and including the two tables on page 8.

(The tables submitted by Senator Jones of New Mexico are as follows:)

SOURCES OF INCOME AND DEDUCTIONS BY INCOME CLASSES (PERSONAL RETURNS)

The distribution of income from service and business and from property, as well as the total deductions in each income class, are shown in the following table. This table also shows the proportion of the total income reported from each source, as well as the per cent of general deductions and net income to total income for each income class.

Distribution by sources of income and deductions, by income classes, calendar year 1921

Income classes	Income from personal service and business	Per cent of total income in each class	Income from property	Per cent of total income in each class
Under $1,000	$514,958,745	54.94	$422,275,723	45.06
$1,000 to $2,000	3,584,419,757	89.85	405,072,356	10.15
$2,000 to $3,000	5,241,483,412	89.60	608,429,203	10.40
$3,000 to $5,000	3,837,084,008	82.74	800,423,814	17.26
$5,000 to $10,000	2,093,184,885	73.17	767,473,368	26.83
$10,000 to $20,000	1,223,933,871	63.26	710,718,553	36.74
$20,000 to $40,000	771,432,177	55.00	631,074,571	45.00
$40,000 to $60,000	280,052,349	48.52	297,176,537	51.48
$60,000 to $80,000	147,396,801	45.34	177,706,507	54.66
$80,000 to $100,000	84,436,795	44.76	104,191,388	55.24
$100,000 to $150,000	88,097,458	39.91	132,617,052	60.09
$150,000 to $200,000	37,880,578	36.82	64,987,945	63.18
$200,000 to $250,000	20,744,466	33.80	40,628,416	66.20
$250,000 to $300,000	11,249,550	37.87	18,456,096	62.13
$300,000 to $500,000	23,807,018	25.90	68,098,092	74.10
$500,000 to $1,000,000	10,184,731	28.37	40,871,786	71.63
$1,000,000 to $1,500,000	4,401,963	29.45	10,544,610	70.55
$1,500,000 to $2,000,000				
$2,000,000 and over	2,744,192	5.81	44,503,159	94.19
Total	17,983,532,756	77.08	5,345,249,176	22.92

Income classes	Total income	General deductions	Per cent of total income in each class	Total net income	Per cent of total income in each class
Under $1,000	$937,234,468	$723,384,534	77.18	$213,849,934	22.82
$1,000 to $2,000	3,989,492,113	368,730,345	9.24	3,620,761,768	90.76
$2,000 to $3,000	5,849,912,615	523,981,350	8.96	5,325,931,265	91.04
$3,000 to $5,000	4,637,507,822	582,616,578	12.56	4,054,891,244	87.44
$5,000 to $10,000	2,860,658,253	481,899,016	16.85	2,378,759,237	83.15
$10,000 to $20,000	1,934,652,424	379,969,527	19.64	1,554,682,897	80.36
$20,000 to $40,000	1,402,506,748	288,646,529	20.58	1,113,860,219	79.42
$40,000 to $60,000	577,268,886	120,521,824	20.88	456,747,062	79.12
$60,000 to $80,000	325,103,306	74,277,754	22.85	250,825,554	77.15
$80,000 to $100,000	188,628,183	44,708,186	23.70	143,919,997	76.30
$100,000 to $150,000	220,714,510	57,193,511	25.91	163,520,999	74.09
$150,000 to $200,000	102,868,523	25,433,006	24.72	77,435,517	75.28
$200,000 to $250,000	61,372,882	15,687,912	25.56	45,684,970	74.44
$250,000 to $300,000	29,705,646	6,878,086	23.16	22,827,560	76.85
$300,000 to $500,000	91,905,110	30,562,560	33.25	61,342,550	66.75
$500,000 to $1,000,000	57,056,517	14,276,091	25.02	42,780,426	74.98
$1,000,000 to $1,500,000	14,946,573	2,102,394	14.07	12,844,179	85.93
$1,500,000 to $2,000,000					
$2,000,000 and over	47,247,351	10,680,201	22.60	36,567,150	77.40
Total	23,328,781,932	3,751,569,404	16.08	19,577,212,528	83.92

The distribution of personal income by sources showing the amounts reported from each source is shown in the following table:

Distribution of personal income, by sources and income classes, calendar year 1921

Income classes	Wages and salaries	Business	Partnerships, fiduciaries, etc.	Profits from sales of real estate, stocks and bonds
Under $1,000	$321,336,288	$118,976,642	$35,958,353	$38,687,462
$1,000 to $2,000	3,243,836,486	255,152,738	64,351,011	21,079,522
$2,000 to $3,000	4,557,288,548	504,808,881	131,467,747	47,918,236
$3,000 to $5,000	2,859,188,037	671,340,314	205,838,250	100,717,407
$5,000 to $10,000	1,342,428,026	402,162,409	245,779,077	102,815,373
$10,000 to $20,000	739,488,597	203,725,400	211,339,251	69,380,623
$20,000 to $40,000	432,377,205	114,939,390	179,099,464	45,016,118
$40,000 to $60,000	141,721,538	38,292,212	82,954,230	17,124,369
$60,000 to $80,000	69,183,289	17,413,250	53,245,226	7,555,036
$80,000 to $100,000	36,959,421	10,451,395	33,288,987	3,736,992
$100,000 to $150,000	35,031,445	11,686,903	37,751,740	3,627,370
$150,000 to $200,000	13,070,218	3,819,615	19,235,446	1,755,299
$200,000 to $250,000	8,030,747	2,785,738	9,451,914	476,007
$250,000 to $300,000	2,999,694	2,399,270	5,306,958	543,628
$300,000 to $500,000	5,624,235	3,090,472	13,493,482	1,508,829
$500,000 to $1,000,000	1,873,412	4,249,156	9,592,904	469,259
$1,000,000 to $1,500,000	352,856	1,024,825	2,958,814	65,468
$1,500,000 to $2,000,000				
$2,000,000 and over	2,379,123		73,454	291,615
Total	13,813,169,165	2,366,318,610	1,341,186,308	462,858,673

Income classes	Rents and royalties	Dividends	Interest and investment income	Total income
Under $1,000	$116,652,120	$168,395,621	$137,227,982	$937,234,468
$1,000 to $2,000	151,391,706	66,325,058	187,355,502	3,989,492,113
$2,000 to $3,000	240,115,413	97,084,540	271,229,250	5,849,912,015
$3,000 to $5,000	248,866,148	230,009,270	321,548,396	4,637,507,822
$5,000 to $10,000	171,850,952	349,231,315	246,391,101	2,660,658,253
$10,000 to $20,000	107,933,738	407,565,766	195,199,049	1,934,652,424
$20,000 to $40,000	70,605,214	409,556,238	150,913,119	1,402,206,748
$40,000 to $60,000	25,440,558	208,162,957	63,567,022	577,268,886
$60,000 to $80,000	13,260,527	129,500,747	34,945,233	325,103,308
$80,000 to $100,000	7,490,670	78,235,249	18,459,403	188,629,183
$100,000 to $150,000	8,257,046	100,568,997	23,791,009	220,714,510
$150,000 to $200,000	4,936,166	49,960,272	10,091,507	102,868,523
$200,000 to $250,000	2,013,963	31,898,612	6,715,841	61,372,882
$250,000 to $300,000	464,146	15,219,643	2,772,307	29,705,646
$300,000 to $500,000	2,268,217	55,429,204	10,400,671	91,905,110
$500,000 to $1,000,000	4,356,613	31,353,980	5,161,187	57,056,817
$1,000,000 to $1,500,000	1,233	9,956,287	587,090	14,940,573
$1,500,000 to $2,000,000				
$2,000,000 and over	2,021,356	38,498,637	3,983,166	47,247,351
Total	1,177,957,882	2,476,952,399	1,690,338,895	23,328,781,932

The distribution of personal income by sources, expressed in percentages, is given in the succeeding table:

Distribution of personal income, by sources and by income classes, showing the proportion from each source expressed in percentages, calendar year 1921

Income classes	Wages and salaries	Business	Partnerships, fiduciaries, etc.	Profits from sales of real estate, stocks and bonds	Rents and royalties	Dividends	Interest and investment income	Total income
Under $1,000	34.28	12.69	3.84	4.13	12.45	17.97	14.64	100.00
$1,000 to $2,000	81.32	6.39	1.61	.53	3.79	1.66	4.70	100.00
$2,000 to $3,000	77.88	8.63	2.25	.82	4.11	1.67	4.64	100.00
$3,000 to $5,000	61.65	14.47	4.44	2.17	5.37	4.90	6.94	100.00
$5,000 to $10,000	46.93	14.06	8.59	3.59	6.01	12.21	8.61	100.00
$10,000 to $20,000	38.22	10.53	10.92	3.59	5.58	21.07	10.09	100.00
$20,000 to $40,000	30.83	8.20	12.77	3.21	5.03	29.20	10.76	100.00
$40,000 to $60,000	24.55	6.64	14.37	2.97	4.41	36.05	11.01	100.00
$60,000 to $80,000	21.28	5.36	16.38	2.32	4.08	39.83	10.75	100.00
$80,000 to $100,000	19.59	5.54	17.65	1.98	3.97	41.48	9.79	100.00
$100,000 to $150,000	15.87	5.29	17.11	1.64	3.74	45.57	10.78	100.00
$150,000 to $200,000	12.71	3.71	18.70	1.71	4.80	48.57	9.80	100.00
$200,000 to $250,000	13.09	4.54	15.40	.78	3.28	51.97	10.94	100.00
$250,000 to $300,000	10.10	8.08	17.87	1.83	1.56	51.23	9.33	100.00
$300,000 to $500,000	6.12	3.36	14.68	1.74	2.47	60.31	11.32	100.00
$500,000 to $1,000,000	3.28	7.45	16.82	.82	7.63	54.96	9.04	100.00
$1,000,000 to $1,500,000	2.36	6.86	19.79	.44	.01	66.61	3.93	100.00
$1,500,000 to $2,000,000								
$2,000,000 and over	5.04		.16	.62	4.28	81.47	8.43	100.00
Total	59.21	10.14	5.75	1.98	5.05	10.62	7.25	100.00

Senator JONES of New Mexico. I think that is all.

The CHAIRMAN. Mr. Secretary, do you want to make any further statement?

Secretary MELLON. I do not think of anything now.

(Thereupon, at 1.05 o'clock p. m., the committee adjourned to meet this evening at 8 o'clock.)

TUESDAY, APRIL 8, 1924

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met at 10 o'clock a. m. in the hearing room of the Senate Finance Committee, 310 Senate Office Building, Hon. Reed Smoot presiding.

Present: Senators Smoot (chairman), Curtis, Watson, Reed of Pennsylvania, Stanfield, Simmons, Jones of New Mexico, Walsh of Massachusetts, Harrison, and King.

There were also present: A. W. Gregg, special assistant to the Secretary of the Treasury; M. Beaman, legislative draftsman of the House of Representatives; and J. S. McCoy, special adviser to the Finance Committee of the Senate.

The CHAIRMAN. The committee will come to order. Senator Jones, we have the reporter here, as per your request last evening, for whatever statement you wish to make.

STATEMENT BY SENATOR JONES OF NEW MEXICO

Senator JONES of New Mexico. Soon after the committee met to consider the revenue bill that came over from the House, Secretary Mellon appeared before the committee and presented a statement regarding the surtax rate, and in an argument, as well as a statement of his conclusions regarding various economic features of the bill, advocated that the committee disagree to the surtax rates as fixed in the House bill, and urged that this committee adopt what has been popularly denominated the Mellon plan; in other words, reduce the surtax rates and other provisions regarding the normal rate as had been given to the country and presented to the House by the Treasury Department when it began the consideration of the revenue bill.

The CHAIRMAN. Senator, that is not what he came before the committee to testify to.

Senator JONES of New Mexico. Well, I will get to that. Later on Mr. Mellon requested to be heard upon the provisions of the bill regarding the estate taxes.

In that examination he was interrogated regarding different provisions of the bill which he had urged, among others, including the tax upon gifts, the question as to whether there should be a flat tax or a uniform tax put upon the earnings of corporations.

The question also as to tax-exempt securities was entered upon, and his attention called to the fact that all of the Federal Govern-

ment securities, owing to the provisions of the present law exempting such securities from normal tax rates, became wholly exempt in the hands of corporations. He was opposed to any change of the law in that regard.

The question was finally reached as to his interest in the legislation. Some reference was made to his interest in the legislation, and thereupon he made a rather lengthy statement to the effect that his wealth was not nearly so great as that which had been stated in the press of the country, but still he said that, without giving any indication as to the extent, he was still a wealthy man.

After having referred to a considerable extent to his private affairs, apparently the thought came to him that the testimony which he was giving was being taken down and would be printed. Thereupon he requested that what he had said with reference to his personal affairs should not be made public. At that time I was not sure that it would be necessary to make the testimony public, or put anything in the record regarding his personal interest in the legislation under discussion. I so expressed myself at the time, and the conversations regarding that subject have not been transcribed by the reporter. I presume the reporter understood that he was not called upon to take down that conversation.

The CHAIRMAN. He was instructed not to do it in the part that was to be made public—transcribe it by itself.

Senator JONES of New Mexico. Well, he did not transcribe it at all.

Mr. EBLE (the clerk of the committee). Senator Jones now refers to Mr. Mellon's statement which was made immediately after he had given Senator Jones the information in question. It was, as near as I can remember, something like this: "I did not realize that you intend making this statement public or I would not have made it," or words to that effect. The reporter did not take down this latter statement, so that is why it is not contained in the typewritten transcript of the hearings. The chairman's statement regarding the other statement is correct. I did tell the reporter not to put the matter, which Mr. Mellon objected to being made public, in the transcribed record of the hearings, but to make a copy of same on separate sheets to present to the committee for necessary action.

Senator JONES of New Mexico. I then stated that the question as to Mr. Mellon's interest in this legislation I thought was pertinent, and requested that, if it not be embarrassing to him, he give us a statement of his taxable individual income, the taxable income of corporations in which he was interested, together with a statement of the amount of the net income of such corporations—which was distributed in dividends and which was retained in the corporation without distribution.

Senator REED of Pennsylvania. Would the Senator permit an interruption? I am required to go to a meeting of the Immigration Committee at 10.30. I would like to ask the Senator whether the purpose is such that all of the Senators who are to vote on this matter of tax reduction should make a similar disclosure to that which he asks of Mr. Mellon?

Senator JONES of New Mexico. I had not intended to do anything of the kind. But so far as I am personally concerned I have no objection to making a disclosure of all of my holdings and my taxable income.

Senator REED of Pennsylvania. The Senator remembers that Mr. Mellon has no vote, while each of us has a vote on this question, and it seems to me that if Mr. Mellon is to make such a disclosure that every Senator and every Congressman ought to do the same thing.

Senator JONES of New Mexico. The difference lies in this fact, that the Secretary has presented a bill to the House and has come before this committee urging that certain provisions be enacted into law, and has come here as a witness, and my opinion is that whenever a witness comes before this committee urging any provision of law the question of his personal interest in the matter is always a subject of proper inquiry.

Senator REED of Pennsylvania. And is not the personal interest of the judges still more a matter of public interest than that of the witnesses?

The CHAIRMAN. Senator, for the record I wish to say that the Ways and Means Committee of the House asked the Secretary to submit that; asked him to come there, and we asked him to come here.

Senator REED of Pennsylvania. May I ask further whether the Senator believes that the President of the United States, who has recommended tax reduction, and has indorsed Mr. Mellon's suggestions, ought to be called on for a similar disclosure?

Senator JONES of New Mexico. The President has not appeared before this committee voluntarily as a witness to urge any of its provisions.

Senator REED of Pennsylvania. The Senator does not expect to call on the President, then, for a similar disclosure?

Senator JONES of New Mexico. I do not.

It seems to me that it will be fair for us to ask the Secretary of the Treasury to make a statement regarding these matters, otherwise the members of the Senate, the committee, as well as the public generally, will be justified in referring to any kind of information which it can get bearing upon that subject in the discussion and consideration of the bill, and the weight to be attached to or to be given to the suggestions of the Secretary.

If the information which I have is at all accurate, the Secretary not only has a large personal income which is taxable, but that he has large interests in corporations doing business in various lines, and those corporations, some of them, have accumulated very large amounts of surplus, and are still doing so, and thus escaping any tax except the 12½ per cent upon corporations.

I am advised also that the Secretary is interested in banks and trust companies which are handling the securities of the United States. Those securities in the hands of an individual are taxable. That is the revenue from them is subject to the surtaxes, in the hands of an individual. Under the peculiar provisions of the existing law and the bill as proposed by the Secretary to the House, those securities are wholly tax exempt in the hands of corporations.

The Secretary has not suggested and does not approve any plan whereby that discrimination might be obviated. The Secretary very strongly objects to a surtax rate upon individual incomes being in excess of 25 per cent.

He has claimed that his bill, as proposed to the House, is a scientific bill, and in these various particulars to which I have referred it would appear that there is a vast difference in the rate of taxation upon the

net incomes of the individuals in the country, and he does not propose or suggest any plan whereby that disparity might be removed.

Now, if the Secretary is unprejudiced, if he is without bias in the statements which he has made not only to this committee, but has given out to the country, in justice to him and to the people at large and to this committee his actual interest ought to be made to appear.

I therefore move that the Secretary be requested to give us a statement of how his individual taxes would be affected by the provisions of the bill which he presented to the House, by the provisions of the bill adopted by the House, so that we may know just what his personal interest in that phase of the legislation is or would be.

I should like also that he be requested to give a statement of his interest in corporations, the earnings of the respective corporations, the amount of the net income distributed in dividends, and the amount of the net income in each corporation retained undistributed, these matters to relate to the preceding year.

Senator WATSON. Do you make that as a motion, Senator?

Senator JONES of New Mexico. I make that as a motion.

The CHAIRMAN. Have you concluded your statement with that motion?

Senator JONES of New Mexico. Well, after that motion is acted upon I may have a further statement. On that motion I want a roll call.

Senator SIMMONS. Mr. Chairman, there are only five members present. Do you think with only five members present we ought to act upon a matter of this importance?

Senator WATSON. I do not regard it as of great importance. I have four proxies that I am ready to vote on the question.

Senator SIMMONS. Well, I have not been voting proxies.

Senator CURTIS. Well, vote your proxies.

Senator WATSON. The Senator has got all the opportunity he wants to make his speech on the floor.

Senator SIMMONS. Do you propose to vote Senator La Follette?

Senator CURTIS. No; because no one knows how he will vote.

Senator JONES of New Mexico. I ask for a roll call.

The CHAIRMAN. The clerk will call the roll.

(Thereupon the clerk of the committee called the roll of the committee, as follows:)

Mr. LA FOLLETTE. (No answer.)
Mr. MCLEAN. No.
Mr. CURTIS. No.
Mr. WATSON. No.
Mr. REED of Pennsylvania. No.
Mr. ELKINS. No.
Mr. MCCORMICK. No.
Mr. ERNST. No.
Mr. STANFIELD. No.
Mr. SIMMONS. Aye.
Mr. JONES of New Mexico. Aye.
Mr. GERRY. Aye.
Mr. REED of Missouri. Aye.
Mr. WALSH of Massachusetts. Aye.
Mr. HARRISON. Aye.
Mr. KING. Aye.
Mr. SMOOT. No.

Senator CURTIS. Senator McCormick gave me authority to vote him, so I will vote him "No."

(Nine noes and seven ayes.)

Senator JONES of New Mexico. Mr. Chairman, I desire to put in the record the statement which has been prepared by the legislative reference service of the Library of Congress at my request, giving a list of the companies of which Mr. Andrew W. Mellon was an officer or director at the time he took office as Secretary of the Treasury, March, 1921.

Senator WATSON. I think, Senator, that if you had heard the statement made by Senator Reed on the floor you probably would not incorporate that, because he stated that Mr. Mellon resigned from every directorate, except one or two eleemosynary and benevolent enterprises, with which he was connected—every one—and that he had sold out certain stock, very large quantities, disposed of them in order to accept this place. The statement was made by Senator Reed of Pennsylvania on the floor.

Senator SIMMONS. Senator Watson, did he state that he had sold his stock?

The CHAIRMAN. Yes.

Senator CURTIS. Sold all stock in all companies that might become involved, or might be interested, and he kept such as the lawyers told him that he might keep, as I understand it.

Senator JONES of New Mexico. What he has done with the proceeds of those sales has not been made to appear.

Senator WATSON. In what way, Senator, can we possibly be interested in that? That is his own private affair.

Senator JONES of New Mexico. It would indicate the amount of the surtaxes which he as an individual would be required to pay under the provisions of the legislation.

Senator WATSON. In other words, you are proceeding on the assumption that he proposed the Mellon tax plan for his own benefit and not for the benefit of the country?

Senator JONES of New Mexico. I am not proceeding upon any assumption, but I am indulging in the same presumption which the courts of the country indulge in, the juries of the country indulge in, and the people generally, in estimating the weight of a man's opinion upon rates of taxation and questions of taxation.

Senator WATSON. Then if you indulge in that presumption, why do you need anything to back it up? Everybody knows that Secretary Mellon is a very rich man. Nobody disputes it, nobody denies it. Everybody knows that he, more or less, would be benefited by any law that would reduce taxation, just as any other man in the country who has anything would be benefited personally. Therefore, why put anything in the record on it? You indulge in your presumption, and we have no objection to that.

The CHAIRMAN. Mr. Mellon, like other men that we know of, could escape taxation by putting his money into tax-exempt securities and thus it would not benefit him at all.

Senator SIMMONS. Acting upon the presumption that men are naturally influenced by their interests, legislatures have in many instances passed acts prohibiting judges of the courts from trying cases in which they are interested in any way in the subject matter involved in the litigation.

The CHAIRMAN. Mr. Mellon is not the judge. We are the judge, and we are acting upon it.

Senator SIMMONS. He has the administration of the laws.

The CHAIRMAN. And in that he has to comply with the law. If he has violated the law, that is another question.

Senator SIMMONS. And his recommendation to Congress is supposed to carry with it influence and weight.

The CHAIRMAN. Not as much weight as the Senator has who votes for it and speaks for it on the floor of the Senate.

Senator WATSON. Carrying your suggestion to its logical conclusion it would lead to this: First, that the Secretary of the Treasury should not make any recommendation whatever to Congress on the subject of taxation, and secondly, that nobody would be qualified to make suggestions as to legislation except a mendicant or a pauper.

Senator SIMMONS. The Senator will remember that there was considerable movement in the Senate at one time to exclude from voting Senators who were interested in the matter under consideration.

Senator WATSON. Yes; I remember that.

The CHAIRMAN. Could you do any business, then? Could you have any revenue bill? No man in the Senate who is receiving $7,500 but what is involved.

Senator WATSON. Not a soul.

The CHAIRMAN. Not a single, solitary soul. You could not get a vote in the Senate.

Senator SIMMONS. Well, that is not quite true, Senator.

The CHAIRMAN. Why so?

Senator SIMMONS. Every Senator is not interested in the matter on which he votes.

The CHAIRMAN. He is interested in the tax.

Senator SIMMONS. He is interested in it from the standpoint of public welfare. The interest that we are seeking to exclude and to eliminate is the interest in the particular subject, the particular purpose of the legislation.

The CHAIRMAN. Every Senator is interested in surtax.

Senator SIMMONS (continuing). The interest that we are seeking to exclude and to eliminate is the interest in the particular purpose of the legislation individually, as distinguished from the public.

Senator JONES of New Mexico. Well, this list which I have not only shows the corporations of which he was an officer or director at the time he took office as Secretary of the Treasury, but in many instances shows the magnitude of the enterprises. Among others I note that he was an officer and director of companies with very large capital, some holding companies and various industries, and a trust company which had a capital of one and a half million dollars and a surplus of thirty-six and a half million dollars.

Senator WATSON. Now, Senator, in the first place, I repeat that he resigned as a director of every corporation before he took this place, every one except some benevolent enterprises there in his city of Pittsburgh.

The CHAIRMAN. I suppose the largest corporation that he belonged to was the Pennsylvania Railroad Co. I think he owned a few hundred dollars of stock.

Senator SIMMONS. Of course, I do not know anything about the Pennsylvania Railroad. He may have very little interest in that.

The CHAIRMAN. It was so testified.

Senator SIMMONS. My understanding is—I do not know how true it is—that he owns a very large bulk of the stock in the Aluminum Co.

The CHAIRMAN. No doubt about that, in my opinion. It was his money that developed the industry, and he took the chance on the man that discovered the process by which it was made possible to make it useful.

It would be all right to put that in, Senator, if you want to.

Senator JONES of New Mexico. What was the remark of the Senator from Indiana?

Senator WATSON. The mere fact that a man is a director of a corporation that had large association would not make any difference when it came to making recommendations as to what the policy of the Nation should be.

Senator JONES of New Mexico. Because, as I understand you, it would not indicate the extent of his individual holdings.

Senator WATSON. Well, for one reason that, yes.

The CHAIRMAN. I do not think it would make a particle of difference to Mr. Mellon. I think that he would do whatever he thought was the best for the institution and for all the stockholders and the country generally.

Senator JONES of New Mexico. Now, it is just for that purpose of clearing up the situation that I believe the Secretary should make the statement so that not only the committee but the Congress and the country at large may know just the extent of his interest in these different questions, and not be left to speculate upon them.

The statement which is prepared here by the legislative reference service does not undertake to disclose the individual holdings of the Secretary in these various corporations. I think it is not only fair to Mr. Mellon himself but to the country that his exact interest should be made to appear and the question not left open for speculation and mere surmise when the facts could be made to appear. I think the question as to the prejudice or bias or self-interest of the Secretary in this matter is just as important as such testimony would be were he brought before a jury as a witness, and no court has ever excluded evidence of this kind regarding the credibility and the bias or prejudice of a witness in the trial of any kind of a case, criminal, civil, or equitable. I ask that the statement be printed as a part of the proceedings.

Senator WATSON. Well, I object to that on the ground that it does not state the real condition at the time Mr. Mellon became Secretary, it having been announced by Senator Reed, who was one of his lawyers at the time, that he had resigned from the directorate of every corporation with which he was connected.

Senator JONES of New Mexico. Well, upon the admission of that into the record I ask for a roll call, and I offer it and move that it be printed in the record as a part of the proceedings.

Senator WATSON. I have no objection to it being printed, but with the understanding that it does not state the situation.

The CHAIRMAN. Well, of course I shall vote to let it go in. I see no objections to it, of course, with the statements that have already been made, with the record as shown in the Senate proceedings.

Senator JONES of New Mexico. Then, the statement will be printed as a part of the record?

The CHAIRMAN. Yes; as a part of your statement.

Senator JONES of New Mexico. Yes.

(The statement presented by Senator Jones of New Mexico, prepared by the legislative reference service, Library of Congress, of companies of which Mr. Andrew W. Mellon was an officer or director at the time he took office as Secretary of the Treasury, March, 1921, is as follows:)

[Library of Congress, legislative reference service]

COMPANIES OF WHICH MR. ANDREW W. MELLON WAS AN OFFICER OR DIRECTOR AT THE TIME HE TOOK OFFICE AS SECRETARY OF THE TREASURY, MARCH, 1921

Sources: A list of companies in which Mr. Mellon was interested in 1921 is given in a publication of the Woman's Clean Government Organization (1403 H St., Washington), entitled, "The Government's whited sepulchres and those who are responsible" [1923], p. 37. Mr. Brand, M. C., gave in the House of Representatives a partial list (Cong. Record, 67th Cong., 2d sess., 3510–11), but these lists have not been exclusively followed. That principally relied on is the one given in the Directory of Directors in the Pittsburgh district, 1919; and the statistics for the companies are drawn from the various Poor's and Moody's Investment Manuals for 1921.

Mellon National Bank of Pittsburgh. A. W. Mellon, president (the Bankers' Encylcopedia, Sept., 1920, v. 52, p. 1844; succeeded by R. B. Mellon, id., March, 1921, v. 53, p. 1878). Capital: $6 mil.; surplus, $5 mil.; und. prof., $203,000; circulation, $5,008,000; indiv. dep., $68,308,000; bank dep., $34,-294,000; other liab., $12,345,000 (id., March, 1921).

Monongahela Light & Power Co. Property leased to Allegheny County Light Co. in 1902, which was in turn leased with all property to Duquesne Light Co., the entire common stock of which is owned by the Philadelphia Co. and 57 per cent of the common stock of this last company is owned by the United Railways Investment Co. (Moody's Public Utilities Investments, 1921, pp. 950, 949, 943, 937). Mr. Mellon is given as the president and director of the Monongahela Co. (Directory of Directors in the Pittsburgh district, 1919, p. 280, and Poor's Public Utilities, 1921, p. 1499), but does not appear as an officer or director of any of the holding companies in 1921. The property and assets and capital stock of the holding Duquesne Co. are assessed respectively at $27 mil. and $24 mil., with total assets at $66 mil. in 1920. Poor's Public Utilities, 1921 (p. 1499), gives the Monongahela Co.'s capital stock authorized and outstanding as $1,700,000.

Union Insurance Co., Pittsburgh. President and director (D. of D., Pittsburgh). Total assets, 1920, $422,356 (Insurance Yearbook, 1921, p. 161).

Gulf Oil Corporation. Vice president and director (D. of D., Pittsburgh), but not an officer or director in 1921, but W. L. and R. B. Mellon both (Poor's Industrials, 1921, p. 768). Total assets, 1920, $299,689,299; authorized capital stock, $60,000,000. This is "a holding company owning practically the entire capital stocks" of nine subsidiary companies. (Id., pp. 766–7.)

Monongahela Street Railway Co. Vice president and director (D. of D., Pittsburgh). Stock issued, $7,000,000. Leased to Consolidated Traction Co., the system of which is operated by the Pittsburgh Ry. Co., all the capital stock of this last corporation being owned by the Philadelphia Co. (Moody's Industrials, 1921, pp. 953, 960.)

National Union Fire Insurance Co., Pittsburgh. Vice president and director. (D. of D., and Insur. Y. B., 1921). Assets, 1920, $7,883,210. (Insur. Y. B., 1921, p. 121.)

Union Improvement Co. Vice president and director (D. of D.). (Not in Moody's or Poor's Industrials or Public Utilities.)

Union Savings Bank, Pittsburgh. Vice president and director. Capital, $1 mil.; surplus, $1,100,000. (Bankers' Ency., March, 1921.)

Aluminum Co. of America. Director. Author. cap. stock, $19 mil. (Moody's Indus., 1921); $20 mil. (Poor's Indus., 1921). The company owns three aluminum and bauxite companys and controls four subsidiary companies.

Aluminum Cooking Utensil Co. Director. (D. of D.). (Not in Poor's or Moody's Indus., 1921.)

Aluminum Ore Co. Director (D. of D.). (Not in Poor's or Moody's Indus., 1921.)

American Locomotive Co. Director. Assets, 1920, $92,032,069; common and preferred stock, 1920, $50,000. (Moody's Indus., 1921.)

American Metal Co. (Ltd.). Director (D. of D.). Authorized cap. stock, $25 mil.
American Surety Co. of America [of New York.] Trustee (D. of D.).
Apollo Water Works Co. Director. Entire capital stock owned by Pennsylvania Water Co., q. v. infra. (Poor's Public Utilities, 1921, p. 674.)
Baltimore Car & Foundry Co. Director. Authorized capital stock, $1,500,000. All stock owned by Standard Steel Car Co. q. v. supra. (Poor's Industrials, 1921, v. 2, p. 501).
Bessemer Trust Co. Director? Not given as an officer or director in Bankers' Ency., March, 1921, or September, 1920. Capital, $125,000; surplus, $125,000. (Id., March, 1921, p. 1817.)
Braddock National Bank. Director? Not given as an officer or director in Bankers' Ency., March, 1921, or September, 1920. Cap., $200,000; surplus, $600,000.
Burrell Improvement Co. Director (D. of D., Pittsburgh, 1919).
Butler Bolt & Rivet Co. Director (D. of D.). Not in Poor's or Moody's Indus., 1921.
Butler Cart Wheel Co. Director (D. of D.). Not in Poor's or Moody's Indus., 1921.
Carborundum Co. Director (D. of D., 1919), but not given as one in Poor's Indus., 1921. Cap. stock authorized, $2,500,000.
Duquesne Trust Co. Director? Not given as an officer or director in Bankers' Ency., March, 1921, or September, 1920. Capital, $125,000; surplus, $75,000.
East Pittsburgh Savings & Trust Co. Director? Not given as an officer or director in Bankers' Ency., March, 1921, or September, 1920. Cap., $125,000; surplus, $175,000.
Electric Carbon Co. Director (D. of D., Pittsburgh, 1919). Not in Poor's or Moody's Indus., 1921.
Forged Steel Wheel Co. Director (D. of D., 1919). Not in Poor's or Moody's Indus., 1921.
H. Kleinhaus Co. Director (D. of D., 1919). Not in Poor's or Moody's Indus., 1921.
J. J. McCormick & Co. Director (D. of D., 1919). Not in Poor's or Moody's Indus., 1921.
The Koppers Co. Director. Cap. stock authorized and outstanding, $1,500,000. (Moody's Indus., 1921, p. 1268.)
Leechburg Water Works Co. Director (D. of D.). Entire cap. stock owned by Pennsylvania Water Co., q. v. infra. (Poor's Public Utilities, 1921, p. 674.)
Ligonier Valley Railroad Co. Secretary and Director. Total assets, 1920, $1,213,832; authorized and outstanding cap. stock, $500,000. (Moody's Steam Railroads, 1921, p. 442.)
Long Sault Development Co. Director (D. of D., 1919). Not in Poor or Moody.
Lyndora Land & Improvement Co. Director (D. of D. or, 1919). Not in Poor or Moody.
McClintic-Marshall Co. Director (D. of D., 1919). Not in Poor's or Moody's Indus., 1921.
McClintic-Marshall Construction Co. Director (D. of D., 1919), but R. B. Mellon, only one of name, a director in 1921. Authorized capital stock, $5,000,000. (Poor's Indus., 1921, v. 2, p. 92.)
Mellon-Stuart Co. Director (D. of D., 1919). Not in Poor's or Moody's Indus. or Pub. Util., 1921.
Middletown Car Co. Director. Controlled by Standard Steel Car Co., q. v. infra. (Poor's Indus., 1921, v. II, p. 500.)
Minnesota By-Product Coke Co. Director (D. of D., 1919). Not in Poor's or Moody's Indus., 1921.
Monesson Water Co. Director? Appears as director in Woman's Clean Govt. publication, but company not in Poor's or Moody's Indus. or Pub. Util., 1921.
Monongahela River Consolidated Coal & Coke Co. Director. This is a subsidiary company of the Pittsburgh Coal Co. of Pa., with which it consolidated and whose name it assumed. For assets of holding company, vide infra.
Nat'l Bank of Commerce (New York). Director. Cap., $25 mil.; surplus, $25 mil. (Bankers' Ency., March, 1921, pp. 1440, 1504.)
New York & Cleveland Gas Coal Co. Director? (Given as director in Woman's Clean Govt. pubn., but the company not in Moody's or Poor's Indus., 1921, or Public Utilities, 1921.)
Northern Aluminum Co., Ltd. Director (Woman's Clean Govt. pubn.) A Canadian corp. the stock of which is owned by the Aluminum Co. of America (q. v. supra). (Poor's Indus., v. II, 1921, p. 24.)

Pennsylvania Water Co. Director. Absorbed East Pittsburgh Water Co. and owns entire cap. stock of Apollo Water Works Co. (q. v. sup.), Leechburg Water Works Co. (q. v. sup.), and Trafford Water Co. (q. v. infra). Authorized and outstanding cap. stock, commom, $700,000; and preferred, $50,000.

Pittsburgh By-Product Coke Co. Director (D. of D., 1919). (Not in Moody's or Poor's Indus., 1921).

Pittsburgh Coal Co. Director (D. of D. 1919; but given as member of Exec. Com. in Poor's Indus., v. II, 1921, p. 1233). Consolidated with Monongahela River Consolidated Coal & Coke Co., 1916, q. v. supra. Authorized cap. stock, $40 mil. common & $35 mil. preferred; outstanding, $32,169,200; $35,000,000 preferred.

Pittsburgh Model Engine Co. Director (D. of D., 1919). (Not in Poor's or Moody's Indus., 1921).

Pittsburgh & Birmingham Traction Co. Vice president and director (D. of D.; 1919; but given only as director in Poor's Pub. Util., 1921). One of several subsidiary companies leased to United Traction Co. of Pittsburgh, and operated by Pittsburgh Railways Co., which is controlled through stock ownership by the Philadelphia Co., and that company in turn by the United Rys. Investment Co. (Poor's Public Utilities, 1921, pp. 1474, 1483, 1492, 1494). Outstanding cap. stock of P. & B. T. Co., $3 mil. (id., p. 1494).

Pressed Metal Radiator Co. Director (D. of D., 1919; but not given as an officer or director in Poor's Indus., V. II, 1921. The name of R. B. Mellon occurs as a director in 1921). Authorized capital stock, $1,250,000; outstanding, $500,000.

Riter-Conley Co. Director (D. of D., 1919). Not given in Moody's or Poor's Indus., 1921.

Riter-Conley Mfg. Co. Director (D. of D., 1919; but not given as officer or director in 1921 Poor's Indus., but R. B. Mellon's name appears as director). Capital stock authorized and outstanding, $1 mil.

Robert Grace Contracting Co. Director (D. of D., 1919). (Not in Poor's or Moody's Indus., 1921.)

Seaboard By-product Coke Co. Director (D. of D., 1919). (Not in Poor's or Moody's Indus., 1921.)

Standard Motor Truck Co. Director (D. of D., 1919). (Not in Poor's or Moody's Indus., 1921.)

Standard Steel Car Co. Director. Controls the Middletown Car Co. (q. v. sup.) & Balto. Car and Foundry Co. (q. v. sup.). Authorized capital stock, $5 mil. outstanding, $4 mil. (Poor's Indus., V. II, p. 500).

Steel Car Forge Co. Director (D. of D., 1919). (Not in Poor's or Moody's Indus., 1921.)

Title and Trust Co. of Western Pennsylvania (Connellsville, Pa.). Director (Woman's Clean Govt, Pubn., but not given as officer or director in Bankers' Ency., Mch., 1921, or Sept., 1920). Capital $250,000; surplus and profits, $174,000 (id., Mch., 1921, p. 1824).

Trafford Water Co. Director. Entire cap. stock owned by Pennsylvania Water Co., *q. v. supra.* (Poor's Publ. Util., 1921, p. 674).

Tri-cities Water Co. Director (D. of D., 1919). Not in Moody's or Poor's Pub. Utilities, 1921.)

Union Fidelity Title Insurance Co. of Pittsburgh. Director (D. of D., 1919). (Not in Insurance Year Book, Life, casualty and miscl., 1921.)

Union Shipbuilding Co. Director (D. of D., 1919). (Not in Poor's or Moody's Indus., 1921.)

Union Trust Co., Pittsburgh. Vice president and director. Capital, $1,500,000; surplus, $36,500,000. (Bankers' Ency., March, 1921, p. 1880.)

United States Aluminum Co. Director (D. of D., 1919). (Not in Poor's or Moody's Indus., 1921.)

Verona Steel Castings Co. Director (D. of D., 1919). (Not in Poor's or Moody's Indus., 1921.)

Wilkinsburg Bank, Wilkinsburg, Pa. Director? (Woman's Clean Govt. pubn.; but not given as officer or director in Sept. 1920, or Mch., 1921, by Bankers' Ency., but R. B. Mellon is named as director). Capital, $50,000; surplus, $200,000 (id., Mch., 1921, p. 1904).

Workingmen's Savings Bank & Trust Co. Director? (Woman's Clean Govt. Pubn.; but not given as officer or director in Sept., 1920, or Mch., 1921, by Bankers' Ency.). Capital, $100,000; surplus, $1,200,000.

APPENDIX I

Institutions of which Secretary Mellon was a director in 1922.

NOTE.—From the Directory of Directors in the Pittsburgh district, 1922, p. 440; all the institutions in this list appear to be of either an educational or charitable nature.

Trustee, Carnegie Library of Pittsburgh.
Director, Carnegie Institute of Technology.
Member of board of managers, the Kingsley Association.
Trustee, Mellon Institute.
Trustee, Pennsylvania College for Women.
Director, Tuberculosis League.
Trustee, University of Pittsburgh.

APPENDIX II

Data as to Secretary Mellon's business connections introduced in Congressional Record:

Cong. Record, 67–2: 3013, Senate: Mr. Watson, Senator from Georgia, quoting Frank Crane in Current Opinion for April, 1921, said that Mr. Mellon was director of 4 banks, "of one of which he recently resigned the presidency to enter the Cabinet;" 4 insurance companies, 7 educational and philanthropic institutions, 62 other corps. Their products: Oil, aluminum, railway cars, locomotives, steel, plate glass, radiators, carborundum, bolts and rivets, motor trucks, "and 100 other things."

Cong. Record, 67–2: 3510, House: Mr. Brand quoted same editorial from Current Op. which adds "Mellon Nat'l Bk. of Pittsburgh has resources of $132,000,000 and deposits aggregating $105,000,000. The concerns in which he was acting interested prior to March 4 have resources in excess of $800,000,000." Senator Reed identified as a part of the 62 corps. in which Mr. Mellon was alleged to be an officer or director the following (id., p. 3511):

Pittsburgh Coal Co.
Aluminum Co. of America; capitalization, $20 mill.; controlling 5 cos. with combined capital of $20 mil.
Am. Locomotive Co.; capn. $50 mil.
Am. Metal Co.; a holding co., $25 mil. cap., which controls 12 cos. with comb. capn. of $8 mil.
Balto. Car & Foundry Co., $1,500,000.
Carborundum Co., $2,500,000.
Gulf Oil Corp., $60 mil. which controls 9 cos. with comb. capn. of $24 mil.
Banks & Trust Cos., Total capn., $33,500,000;
Total capn. (all above), $243,500,000.
Nat'l Bank of Commerce of New York, capn. $25 mil., surplus, $25 mil., deposits, $363 mil.
Mellon Nat'l Bank: capn. $6 mil., surplus, $5 mil., dep. $102 mil.
Union Savings Bank: capn. $1 mil., sur. $1 mil., dep. $20 mil.
Union Trust Co.: capn. $1,500,000; sur. $35 m.l.; dep. $100 mil.
Penn. R. R. Co. (of which prior to Jan. 1921, he was a director) total cap. $440 mil.

Grand total capn. $683,500,000.

(MANGUM WEEKS, 8 March 1924.)

Senator JONES of New Mexico. The statement which the Secretary did make, and which was transcribed by the reporter, of course I am insisting that that shall be printed just as he gave it.

The CHAIRMAN. Well, of course we voted on that last night.

Senator JONES of New Mexico. That it should be?

The CHAIRMAN. No; that it should not be.

Senator JONES of New Mexico. No, sir; we did not.

Mr. EBLE (the clerk of the committee). No, Mr. Chairman.

The CHAIRMAN. Well, then, do you want a vote on that now?

Senator JONES of New Mexico. I am going to insist upon it being printed. It was taken down here by the reporter as a part of our proceedings, and I submit that no one has any authority to exclude it.

The CHAIRMAN. Well, the Secretary did not know when he was testifying that anything was being made public, and he asked simply that that part, as a personal reference to him, should not be made public. It was given to Senator Jones and to everybody in the committee, and Senator Jones at the time stated that he did not know whether he would insist upon it or not.

Senator SIMMONS. Senator Smoot, would you insist that a witness has a right to come in here and make a statement and then insist that his statement shall be kept from the public?

The CHAIRMAN. Under the circumstances, I think so.

Senator SIMMONS. I do not agree with you about that. I do not think a witness has any right to demand that he be heard here in secret, and then demand—and you say he is entitled to have his wishes complied with—that a part of his testimony here should be kept secret. And I protest against that.

Senator WATSON. How much of a statement was it, Senator Jones?

Senator JONES of New Mexico. Why, there are three or four pages of it.

Senator WATSON. Well, I mean about his personal affairs? How much was that?

(Thereupon the statement by Secretary Mellon referred to was read by Mr. Eble.)

Senator WATSON. I have no objection to that going into the record.

The CHAIRMAN. The difficulty in it is this: It refers to a coal company, and I do not know in what condition financially they are to-day. I do not know whether they are in an embarrassed position financially, and I do not know what effect this statement might have on them. As far as Mr. Mellon is concerned, it is a splendid statement, and I should be glad to have it go in the record. I do not think it would affect the trust company any, but I do not know what effect it might have upon the coal company. I understood Senator Jones to say that if it was embarrassing to them he would not ask for it. Further than that, as far as the statement is concerned, I have no objection.

Senator JONES of New Mexico. I think it is important that it should go into the record, in order to show the continuity of the examination of Mr. Mellon at the time and how the particular question was raised.

Senator CURTIS. Let it go in.

Senator WATSON. Yes; let it go in the record.

The CHAIRMAN. Yes; I think so. If it hurts the coal company, let it hurt them.

Senator JONES of New Mexico. I merely want it to preserve the continuity of the testimony.

(Whereupon, at 11 o'clock a. m., the committee proceeded to the consideration of other business.)

APPENDIX

INCOME TAX

BRIEF OF A. W. ERICKSON, NEW YORK, N. Y.

MARCH 13, 1924.

Hon. REED SMOOT,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I don't want to burden you unduly with my opinions and observations, but there are a few points in connection with matters before Congress that I would like to present for your consideration.

THE LONGWORTH COMPROMISE

This bill seems to be like a hodge-podge—unscientific, built on quick decisions, and lacking in sound fundamentals.

THE MELLON BILL

On the other hand, the Mellon bill has been most thoughtfully prepared and was worked out by experts. It has the indorsement of Mr. Mellon, who is undoubtedly one of the ablest Secretaries of the Treasury that the country has ever had; it is further indorsed by the President; and the straw votes taken by the Literary Digest and many newspapers show by an overwhelming majority of ballots in its favor that the American people believe this bill is fair and right.

As far as the surtaxes are concerned, it is a mistake to think that the rich suffer most from them. Practically all economists who have written or spoken on the subject say this is not so. The taxes are handed down, as most taxes are, and everybody suffers.

THE 25 PER CENT REDUCTION COVERING 1923 TAXES

I think the American people are sick to death of high taxes and want them reduced as much as possible and as soon as possible. The suggestion of the 25 per cent reduction covering 1923 taxes is like a gleam of sunlight to most taxpayers, and if it comes before the Senate I sincerely hope you will support the proposition so that we can get the benefit of the reduction on the March 15 payments.

New York has taken the lead in doing this, and, believe me, Governor Smith is very popular with the taxpayers because he initiated the move.

THE EXCLUSION OF STOCK DIVIDENDS FROM THE BENEFITS OF THE CAPITAL GAIN PROVISION

This feature of the Longworth bill is most unfair, and I sincerely trust you will not support it. There is undoubtedly great confusion in thought regarding what is known as a "stock dividend." As a rule such dividends are simply a division of the stock into minor parts—like changing a five-dollar bill for five ones. The receiver of a stock dividend does not have a cent more after the transactions than he did before. There is no taxable gain of any kind. If the transaction were called a reissue in slightly different form instead of a dividend, it would be understood more clearly.

As I read the provision under the heading of "Capital gains and losses," section 208 (a) (8), lines 12 to 14, excluding from "capital assets" held by the taxpayer for more than two years stock received as a stock dividend, it appears to me most unjust and unfair.

The proposition would work out about as follows in a case that I am entirely familiar with and which I describe below:

The company, in order to broaden the market for its stock and in order to distribute same among its own employees (which numbered many thousands) and its dealers, decided to issue three shares of stock for every share held, so that every stockholder would have after the distribution four shares instead of one.

This was done, and the day after the distribution the stock was quoted at exactly one-quarter of the price of the night before. No stockholder profited in any way; the assets of the company were not added to in any way; if a man owned 10 per cent of the stock issued the day before the distribution, he owned exactly the same the day after. But according to the section of the proposed law which I refer to, his status as a taxpayer has changed very materially; he can no longer take advantage of the two-year provision on 75 per cent of the stock which he now has.

For instance, if he held 100 shares the day before the distribution, he now has 400. If he had held this stock for two years and there had been no stock dividend, he could have sold it, say, for $10,000 and paid $1,250 in taxes before the new law went into effect. If the law is passed, however, he can sell one-quarter of his stock only and receive the benefit of the 12½ per cent provision, while on the other 75 per cent of his stock he is compelled to pay the higher surtaxes.

Surely this is not fair nor reasonable, especially if you make them retroactive. If the new law called for this penalty as of and when the bill is passed, then companies would know how to act so as not to penalize their stockholders and stockholders could dispose of their holdings as soon as they heard a stock dividend was contemplated so as to avoid that penalization.

Retroactive laws are most unfair. The way they work is demoralizing. To-day we act on what is the law and six months afterwards a retroactive law is passed and we are heavily penalized—for what?—acting under the law as it was.

I am sure you will see the injustice of this and do what you can to have that phase of the proposed law corrected; otherwise it will do rank injustice to hundreds of thousands of people—most of them small stockholders, but large or small, the principle is the same.

I therefore ask that you give this matter your consideration, and I am sure that once you appreciate the problem you will oppose it vigorously.

Thanking you for your kind consideration, I am,

Yours very sincerely,

A. W. ERICKSON.

BRIEF OF NATIONAL LUMBER MANUFACTURERS' ASSOCIATION

INCOME TAXATION OF DISTRIBUTIONS OF SURPLUS (INCLUDING EARNINGS OR PROFITS ACCUMULATED, OR INCREASE IN VALUE OF PROPERTY ACCRUED, BEFORE MARCH 1, 1913)

To the Honorable Members of the Committee on Finance of the Senate of the United States:

Section 201 subdivision (b) of H. R. 6715, revenue act of 1924, as referred to the Committee on Finance of the Senate of the United States on February 29, 1924, proposes a serious and far-reaching departure from the principle of taxation of distributions of surplus acquired before March 1, 1913, which has consistently heretofore been followed in Federal income tax legislation.

UNDER REVENUE ACT OF 1921

The present law, revenue act of 1921, provides:

"SEC. 201. (b) For the purposes of this act every distribution is made out of earnings or profits, and from the most recently accumulated earnings or profits, accumulated since February 28, 1913; but any earnings or profits accumulated or increase in value of property accrued prior to March 1, 1913, may be distributed exempt from the tax, after the earnings and profits accumulated since February 28, 1913, have been distributed. *If any such tax-free distribution has been made the distributee shall not be allowed as a deduction from gross income any loss sustained from the sale or other disposition of his stock or shares unless, and then only to the extent that, the basis provided in section 202 exceeds the sum of (1) the amount realized from the sale or other disposition of such stock or shares, and (2) the aggregate amount of such distributions received by him thereon.*

"(c) Any distribution (whether in cash or other property) made by a corporation to its shareholders or members otherwise than out of (1) earnings or profits accumulated since February 28, 1913, or (2) earnings or profits accumulated or increase in value of property accrued prior to March 1, 1913, shall be applied against and reduce the basis provided in section 202 for the purpose of ascertaining the gain derived or the loss sustained from the sale or other disposition of the stock or shares by the distributee."

UNDER REVENUE ACT OF 1924

As reported to the Committee on Finance the revenue act of 1924 would have the effect of amending section 201 (b) of the act of 1921 by omitting the above italicized portions thereof (which provide that tax-exempt distributions from surplus accumulated prior to March 1, 1913, be applied against and reduce the "basis of the stock," for the purpose of determining deductible loss, if any, from subsequent sale of the stock) and by adding to the preceding portion thereof the following:

"but any such tax-free distribution shall be applied against and reduce the basis of the stock provided in section 204."

Section 201 (c) of the revenue act of 1924 proposes new legislation involving new taxes of great magnitude, in the guise of administrative provisions, as follows:

"SEC. 201. (c) Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock, and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock.

"The gain or loss to the distributee resulting from such exchange shall be determined under section 202 but shall be recognized only to the extent provided in section 203.

"There shall be taxed as a dividend to the distributee such an amount of the gain recognized under section 203 as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913.

"The remainder, if any, of the gain recognized under section 203 shall be taxed as a gain from the exchange of property.

"In the case of a distribution in partial liquidation (other than a distribution within the provisions of subdivision (g) of section 203 of stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits within the meaning of subdivision (b) of this section for the purpose of determining the taxability of subsequent distributions by the corporation."

Section 201 (g) explains the meaning of "partial liquidation" as used in (c) as follows:

"SEC. 201. (g) As used in this section the term 'partial liquidation' includes the partial or complete cancellation or redemption by a corporation of a portion of its stock."

But in section 2 (10) (b), page 2, it is provided that:

"SEC. 2. (10) (b) The terms 'includes' and 'including' when used in a definition contained in this act shall not be deemed to exclude other things otherwise within the meaning of the term defined."

Clearly the term "partial liquidation" applicable in section 201 (c) is capable, therefore, of indefinite and discretionary administrative interpretation, so long as not clearly prohibited by the act.

THE FICTION OF LIQUIDATION AS A "SALE" OF STOCK

Subdivision (c) treats "complete liquidation" or "partial liquidation" as "in part or full payment in exchange for the stock." "Liquidation" is considered as the purchase by a corporation of its stock or shares from the shareholders and, conversely, as the sale of their stock by the shareholders back to the corporation.

The only way, therefore, in which the stockholder in a liquidating corporation can, for the purposes of this tax, receive the distributions of capital and surplus represented by his stock is by "selling" his stock back to the corporation.

Subdivision (b) provides that tax-free distributions, representing "earnings or profits accumulated or increase in value of property accrued before March 1, 1913" shall, for purposes of determining the taxable "gain" from the "sale" (liquidation) of the stock (property) under the provisions of (c), be applied against

the "basis of the stock provided in section 204"—i. e., be applied against the cost of the shares or, if acquired before March 1, 1913, the cost or market value as of March 1, 1913, whichever is higher.

TAXATION OF MARCH 1, 1913, SURPLUS

The taxation of distributions representing surplus acquired before March 1, 1913, has since then been consistently rejected by Congress. In the early years of Federal income taxation, effort was repeatedly made to tax, to the corporation itself, that part of its surplus accumulated before March 1, 1913, which had not by that time been realized in cash, consisting, therefore, in many cases largely of increase in value of property.

Effort to tax corporations on any part of 1913 surplus was definitely rejected in 1916 and 1917 and thereafter. Failing this, the effort to tax 1913 surplus has since then been directed to the distributions of such surplus when made in the form of "dividends" or, if you please, of payments in "partial liquidation" or "complete liquidation."

The Senate has consistently maintained surplus accumulated before March 1, 1913, as constituting capital, and therefore, when distributed to the stockholders, not subject to tax as income at any time, in any form, to any degree, or in any manner.

True, that surplus of a corporation becomes, in legal concept, "income" to the stockholder when distributed to him in dividends or otherwise. True, also, that on or before March 1, 1913, any corporation could have distributed tax free any or all of its surplus previously accumulated. Improvident corporations did so. More provident corporations, however, kept or reinvested such surplus in extensions of business or properties. If such surplus had in 1913 been distributed, the shareholders would have had it tax exempt. Is it now, again, proposed, as in the pending bill, to tax distributions paid out of the same 1913 surplus which in 1913 could have been distributed tax free? To do so would penalize providence and conservative management and give reward to improvidence.

ARGUMENTS FOR PROPOSED TAX ON 1913 SURPLUS

The arguments in behalf of such change to existing law are clear and well known. They have been repeatedly asserted in your committee and in the Senate and in the House of Representatives. By its proponents it is alleged that the stockholder is justly entitled to distributions tax free only to the extent of the cost, or the value of his shares as of March 1, 1913 (a matter quite separate and distinct from the proportionate part of capital and surplus represented by such shares on March 1, 1913).

Especially it is alleged that persons who purchased their stock after March 1, 1913, should be thus taxed. Clearly, however, purchases since 1913 of stock of corporations existing prior to that time have been made under the existing laws recognizing the distribution, tax exempt to shareholders, of the capital and surplus acquired before March 1, 1913.

The right of a shareholder to receive such distributions of capital and surplus tax free is a property right.

If the right to receive, tax free, the proportionate share of 1913 surplus, is not transmitted from buyer to seller, its value is lost. The seller, in substance, therefore, must pay the tax to which the buyer will inevitably later be subjected. It is impossible to tax the distributions of March 1, 1913, surplus at any time, or under any circumstances, without destroying a property right, either possessed by the owner of such stock on March 1, 1913, or lawfully acquired by subsequent purchaser.

AN ALLEGED "LEAK"

Neither the law nor social justice requires the destruction of any property right lawfully acquired. Section 201 (a), (b), and (c) of the existing law, revenue act of 1921, has been described by some as providing a "leak." The said "leak" is alleged to consist of the tax-free distribution to shareholders of capital and surplus which was the property of a corporation on March 1, 1913. Similarly in 1916 and 1917 it was said that a "leak" existed in the fact that corporations were not taxed on that portion of their income which represented the conversion into cash or equivalent of the so-called "unrealized surplus" accrued prior to March 1, 1913. This took the form particularly of an attack upon what has since become known as the deductible allowance for "depletion" representing the "fair market value" as of March 1, 1913, of property or assets acquired prior thereto.

MARCH 1, 1913, THE DIVIDING POINT

The date March 1, 1913 has been definitely established in the law and in the practice of Congress as the dividing point between property and income for purposes of Federal taxation. Earnings and profits and increase in value of property accrued prior to that time have been considered as capital and not subject to tax, whenever, however, or to whomsoever distributed. Similarly, earnings from profits and realized increases in value of property accrued after March 1, 1913, have been considered as income, and therefore taxable in accordance with the law.

There is no way in which that, which on March 1, 1913, constituted capital, may be subjected to tax without doing violence to this sound fundamental, cardinal principle of the legislative policy of Congress in defining the lawful objects of income taxation. No tax such as is contemplated in section 201 (b), the last clause thereof of the revenue act of 1924 and in (c) is defensible in terms of law, equity, or social justice. It is in direct conflict with the principles adhered to since the income tax became operative.

PENDING BILL MORE EXTREME THAN CORRESPONDING PROVISIONS OVERWHELMINGLY REJECTED IN 1921

But section 201 (c) of the pending bill goes even further than did the similar proposals rejected in the enactment of the revenue law in 1921. In section 201 of the pending bill subdivision (b) provides in substance that when stock is "sold" the price received therefor shall be balanced against the "basis of the stock provided in section 204;" i. e., cost, or market value of the stock as stock as of March 1, 1913. But subdivision (c) then prescribes that "liquidation" shall be treated as a "sale" of the stock back to the corporation. In other words, the only way in which a shareholder, no matter how long he has owned his stock, can secure his share of the capital and surplus as of March 1, 1913, is for him to "sell" his stock back to the corporation. If, however, he does this he would thereupon become liable to a tax on the excess of such distributions over the cost, or the market value of the shares on March 1, 1913, whichever is higher. Under the rejected so-called Penrose amendment to the 1921 revenue act the taxpayer would have had the choice of keeping his stock and being not liable to tax on any distributions of March 1, 1913 surplus, or of selling it and being liable to such tax. Under the pending bill he has no choice. Because if he holds his stock till liquidation he has to "sell" it back to the corporation—an ingenious fiction—which compels the shareholder for purposes of this tax to "sell" his stock whether he wants to or not, and thus become liable to a tax on "capital gain" derived therefrom.

AN ILLUSTRATION OF RESULTS

To illustrate: A is a stockholder in a company organized in 1900. He bought stock in 1900, paying for it $100 per share. By March 1, 1913, the corporation had accumulated a surplus equivalent to $200 per share. The asset value per share on that date therefore was $300. But the corporation had during the intervening years paid no dividends, or small ones, preferring to keep the earnings in the business. The market value of the stock, as stock, therefore, on March 1, 1913, was only $150 per share, or one-half of its asset value of $300.

After March 1, 1913, an additional surplus was accumulated amounting on January 1, 1924, to $100. Then the corporation goes into partial or complete "liquidation" under the terms of the pending bill, section 201.

The result would be: First, the $100, representing surplus accumulated after March 1, 1913, would be distributed, properly subject to tax. Then the $300 representing capital, and surplus accumulated prior to March 1, 1913, would be distributed. If this said capital and surplus had been distributed on February 28, 1913, A would have received the entire amount of $300, tax free. Now, however, in 1924, he would receive tax free only $150 which represents the market value of his shares as of March 1, 1913. The remaining $150 would be taxed as a "gain" from the "sale" of property held for more than two years, or at the maximum rate of 12½ per cent.

In the light of the provisions of subdivision (c) which treats liquidation as a partial or complete "sale," the shareholder is taxed on liquidating dividends representing March 1, 1913, surplus to the extent indicated, even though he may have owned the stock without interruption from the beginning of the enterprise

and could have had distributed to him, on or before March 1, 1913, the entire amount of such surplus.

Section 201 (b) and (c) of the pending bill, therefore, in its effort to tax surplus earned or accumulated before March 1, 1913, is more drastic eevn than the corresponding amendment offered in the Senate in 1921 and flatly rejected on its merits by the Senate after prolonged debate and by an overwhelming record vote (October 19, 1921).

For reasons herein briefly analyzed there should, we respectfully submit, be eliminated from subdivisions (b) and (c) of section 201 those provisions which directly or by implication subject to taxation, as "income" or "gain," distributions representing any portion of surplus described in the act of 1921 and in the pending bill as "earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913."

REJECTION BY SENATE IN 1921 OF SIMILAR PROPOSALS BY VOTE OF 60 TO 4

The Senate has consistently rejected on its merits repeated proposals in every form whatsoever to invade, with income taxation, surplus thus acquired prior to March 1, 1913, the date on which, in the decision of the Supreme Court of the United States, the income tax law became effective. This policy was confirmed in 1916, 1917, and 1918.

The provision quoted below as having been introduced by the Committee on Finance in the 1921 revenue bill, and subsequently rejected, had been previously offered in the Ways and Means Committee, not by members of that committee, but by its advisors, and flatly rejected by that committee. In consequence, the 1921 revenue bill, as reported to the Senate, held distributions of March 1, 1913, surplus as inviolate.

The amendments at that time rejected by the Ways and Means Committee was later in 1921, in substance, offered to the Committee on Finance, not by a member thereof but by its advisors. It later reported out such amendment to section 201, as follows:

"Any distribution (whether in cash or other property) made by a corporation to its shareholders or members (1) otherwise than out of earnings or profits accumulated since February 28, 1913, or (2) on a bona fide liquidation of the corporation, shall be treated as a partial or full return of the cost to the distributee of his stock or shares. Any gain or loss realized from such distribution or from the sale or other disposition of such stock or shares shall be treated in the same manner as other gains or losses under the provisions of section 202."

The effect thereof would have been to hold liable to tax, distributions of 1913 surplus even to stockholders who had held their shares continuously since before March 1, 1913. Strong objection thereto was registered in the Senate. Members of the Committee on Finance had varying views of the substantial meaning and effect of that amendment. Upon request of the then chairman of the Committee on Finance the amendment was rejected in the Senate on October 12, 1921.

In its place was presented another, the so-called Penrose amendment, which would hold shareholders liable to tax on distributions of March 1, 1913, surplus only if they sold the stock, but not if they retained it until final liquidation. This amendment, described in the Senate as being 85 per cent as comprehensive, in terms of probable revenue therefrom, as the original amendment which had been rejected, provided that tax-free distributions, under the provisions of subdivision (b), "shall be applied against and reduce the basis provided in section 202 for the purpose of ascertaining the gain derived or the loss sustained from the sale or other disposition of the stock or shares by the distributee."

After prolonged debate, on October 19 (pages 6474 to 6488 of Congressional Record), this second amendment was rejected by a vote of 56 to 12.

On November 4, 1921, was offered the following amendment to subdivision (b):

"Where the distributee has acquired his stock or shares since February 28, 1913, the amount so distributed to him shall be applied against and reduce the basis provided in section 202 for ascertaining the gain derived or loss sustained from the sale or other disposition of such stock or shares."

The declared purpose of this amendment was to confine the tax on distributions of surplus accumulated before March 1, 1913, to those only who had acquired their stock after February 28, 1913.

Before vote thereon was taken this amendment was further amended by limiting the tax-liability to those who acquired their stock after the passage of the 1921 act. This was done without a record vote.

Immediately thereafter, on November 4, 1921, following protracted public debate the Senate, by a record vote of 62 to 4, rejected the proposal to tax shareholders on distributions of March 1, 1913, surplus even in those cases wherein the stock was acquired after the revenue law of 1921 became effective.

A more complete confirmation of the policy of holding as tax-exempt "earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913," irrespective of when, how, or to whomsoever distributed, has been rarely accorded by so nearly unanimous action.

Be it noted that this action confirming the previous consistent practice of Congress resulted from comprehensive public debate in the Senate of this issue on its merits. Its merits have not changed since 1921.

We respectfully submit, therefore, concerning the revenue act of 1924, as pending:

(1) That subdivision (b), section 201, should remain, in substance, as in the present law, revenue act of 1921.

(2) That subdivision (c) should be modified in such manner as to tax as "gain" from the sale of property (stock) (not as "dividends") distributions in liquidation of surplus, and then only to the extent of surplus accumulated since March 1, 1913 (see note).

(3) That in subdivision (g), section 201, the word "includes" should be changed to the word "means."

(4) That if the last sentence of subdivision (b), section 201, of the revenue act of 1921 is not ample to prevent evasion or misuse of the tax-exempt distribution of March 1, 1913, surplus, then it be extended in such manner as may be necessary to accomplish that result: *Provided*, That it does not—which is not necessary—seek such just result by the unjust act of subjecting that which was capital, or principal, in the hands of the corporation itself on March 1, 1913, to income tax when the same capital, or principal, is distributed in the form of liquidating dividends or otherwise to the owners of the corporation, its individual shareholders.

Respectfully submitted.

JOHN W. BLODGETT,
President.
WILSON COMPTON,
Secretary and Manager.

NOTE.—Subdivision (c) of the pending bill (H. R. 6715) as referred to the Committee on Ways and Means, provided that distributions in complete or partial liquidation should be "treated as in part or full payment in exchange for the stock."

In the case of stock held for two years or more the gain thus derived, if any, would be taxable at a maximum rate of 12½ per cent, as a "gain" from the sale of property.

In the form as amended in the House and as referred to the Committee on Finance, this principle also has been abandoned. The meaning and application of the five provisions of Section 201 (c) of the bill are as follows:

The first provision (sentence) thereof (lines 4 to 8, page 5) means that "liquidation" constitutes a "sale" of property (stock) to the corporation.

The second provision (sentence) thereof (lines 8 to 11 means) that the "gain or loss" shall be determined by deducting from the amounts received in the form of liquidating distributions, the cost of the property (stock), or if the property (stock) was acquired before March 1, 1913, then the cost, or market value as of that date, whichever is higher.

The third provision (sentence) (lines 11 to 15) is a part of an amendment added in the House. It provides, in substance, that although the "gain" is derived from the sale of property (stock) it shall be taxed, not as other gains from the sale of property are taxed (i. e., at a maximum of 12½ per cent) but "as a dividend" to the extent to which such distributions represent "earnings and profits of the corporation accumulated after February 28, 1913". To this extent, therefore, although the gain, if any is, computed as a gain from the sale of property (stock) it is taxed not as a gain from the sale of property, but "as a dividend," i. e., at surtax rates in place of a maximum rate of 12½ per cent.

The inequity of this treatment is obvious. It is directly in conflict with the action of the Committee on Finance in amending subdivision 8 of section 208, which defines the term "capital assets" for purposes of the "gain tax". Under the present provision of Subdivision (c), section 201, a corporation's earnings and profits accumulated over the entire ten-year period since 1913, if distributed in partial or complete liquidation, would be taxed at surtax rates just as though

they were the earnings and profits of a single year. The inevitable effect thereof would be to put tax-payers who belong in low tax-rate classes into high, or even the highest, surtax classes with respect to such distributions.

The fourth provision (sentence) (lines 15 to 17, also a House amendment) states that the "remainder, if any," of the "gain" determined under the second sentence of subdivision (c) shall be taxed as gains from the sale or exchange of any other kind of property included within the "capital assets", i. e., at a capital gain rate of a maximum of 12½ per cent. Where would the "remainder, if any," referred to in this provision come from? From two possible sources:

First. From "increase in value of property accrued" after March 1, 1913, as contradistinguished from "earnings or profits accumulated" during the same period.

Second. From capital, or surplus accumulated before March 1, 1913, to the extent to which distributions thereof would be subject to tax under the second sentence of subdivision (c). If the property (stock) had been held for two years or more, the tax would be at a maximum rate of 12½ per cent. If for a shorter period, it would be subject not only to the surtax but to the normal tax, inasmuch as the corporation in that case would not already have paid the latter. With respect to that portion of the "remainder" which represents accumulations since March 1, 1913, the propriety and fairness of the tax (as a "gain" and subject to the "gain tax" rate) are obvious. With respect to its contingent application to surplus accumulated before March 1, 1913, or to any portion thereof, its impropriety and injustice are equally clear.

The fifth provision (sentence) of subdivision (c) is procedural, not substantive, and refers to the administrative treatment of distributions "in partial liquidation."

DISTRIBUTIONS OF SURPLUS ACCUMULATED AFTER MARCH 1, 1913

It seems clear, with respect to distributions in liquidation, made out of surplus accumulated since March 1, 1913, that the purpose of the framers of the bill was to subject them to the "capital gain" rate. For that purpose, as stated, liquidation is treated as a "sale" of stock by the shareholder back to the corporation. This permits corporations to distribute in liquidation in a single taxable year, surplus representing earnings made over a period of years, without subjecting the distributee, or individual shareholder, to the high surtax rates which otherwise would result from distributing several years' earnings in a single year. It is a fair provision, fair to the taxpayers, large and small; and affording proportionately greater relief to taxpayers normally in the lower brackets.

The Committee on Finance has recognized this in its recently announced amendment to section 208. Consistent therewith it should eliminate the House amendment to subdivision (c), lines 11 to 17 thereof, on page 5. The effect of such elimination would be to leave liquidating distributions, to the extent to which they they are taxable, subject to the "capital gain" rate. To treat them otherwise would be inconsistent with the basic conception of the bill in that particular, and with the committee's action on section 208, subdivision 8).

RESOLUTION OF THE AMERICAN PAPER AND PULP ASSOCIATION, NEW YORK, N. Y.

NEW YORK, *April 1, 1924.*

INCOME TAXATION OF DISTRIBUTIONS OF SURPLUS (INCLUDING EARNINGS OR PROFITS ACCUMULATED, OR INCREASE IN VALUE OF PROPERTY ACCRUED, BEFORE MARCH 1, 1913)

To the honorable Members of the Committee on Finance of the Senate of the United States:

Whereas the paper industry of the United States, using as it does the products of timberlands in the manufacture of 95 per cent of all the paper manufactured, has invested from its undistributed earnings in the years prior to 1913 considerable sums in timberlands, as well as in plant equipment; and

Whereas the cutting of such timber, and the manufacture of forest products into the finished product involves the liquidation of the surplus which has been invested: Therefore, be it

Resolved, That the American Paper and Pulp Association, the central organization of the paper industry of the United States, believes that the enactment of proposed legislation, in section 201 (b) and (c) for the income taxation of distributions to shareholders of surplus (including earnings or profits accumulated, or

increase in value of property accrued before March 1, 1913) and the original capital investment would constitute an unjust penalty on that manufacturer or corporation which had shown sufficient foresight to establish a reserve of raw material for future consumption in its mills.

THE AMERICAN PAPER AND PULP ASSOCIATION,
HENRY W. STOKES, *President.*

BRIEF OF ORIENTAL TRADING COMPANY, WINONA, MINN.

FEBRUARY, 24, 1924.

Hon. HENRIK SHIPSTEAD, *Washington, D. C.*

DEAR SENATOR: The press reports that the House of Representatives have amended the tax bill now before it providing for a higher rate of tax upon earnings from stock issued in the form of stock dividends, than upon regular paid up stock. This provision appears to have merit so far as very large business is concerned, but as it applies to the small corporation it is very likely to, and will in my opinion, prove a very serious handicap.

Take my little business as an example, and there are many more like it. My company was incorporated about three and one-half years ago with $11,000 paid up capital, all of which I own with the exception of two shares. I borrowed the money upon an indorsed note to start with and it is not all paid back. By close operation and doing most of the work myself the company has made a profit, but not until last year did it pay a dividend. The earnings have been allowed to accumulate as a surplus in the hope of building up a working capital that would permit carrying stocks. It was found that the company would be considered a better risk and have a better standing with concerns with which it did business if it could show a larger paid-up stock; therefore, it was decided last year to declare a stock dividend of $7,000 payable out of the surplus. It actually meant nothing to the company but a book transfer of the three and one-half years' accumulated surplus.

Now the Government proposes that this small company of mine should pay a higher tax on dividends declared upon this stock dividend than upon the stock I purchased with borrowed money. Does that appeal to you as being reasonable? Had the stock dividend not been declared and the surplus remained intact it would have meant that the dividends on the original $11,000 would have been larger, possibly, than where it is distributed over this amount plus the stock dividend. It is merely a matter of bookkeeping, so far as I can see, and if a company tries to increase its capital by holding onto the profits instead of selling stock to the public it is to be taxed more than otherwise. It is to be taxed more than stock-selling companies many of which are created only to rob the public. It is all wrong so far as the small company is concerned, they should have an opportunity to grow and place themselves in a position where some day they can be a sound business enterprise and compete successfully with the larger concerns doing business in the same line. It is the growing small companies that help to prevent monopolies and keep down prices.

Why not make this feature of the bill apply to only the large business interests by exempting small corporations, say under $100,000 capitalization and then graduate it up to the $1,000,000 concern. It is the big fellows, that accumulate unreasonable surpluses by excessive profits, that are the ones the Government should strike and not the growing concerns that will aid in giving them competition some day and making them keep prices within reason.

It is the same with the corporation tax the small concern being allowed the same exemption and taxed at the same rate as the million dollar concern.

A large concern with its great volume of business and consequent lower overhead can do business with a much larger margin of profit than the little fellow. But still they are both taxed 12½ per cent on their profit. It means the larger grow larger and the smaller stay where they are or grow so slowly that they can not become a sufficient factor to worry the big boys or prevent them from gouging the public. One of the prime requisites of to-day in the interest of the people is the stimulating of competition, but the Government's tax policy is to suppress the smaller corporation by placing them on the same basis as big business. Why not graduate the corporation tax the same as the income tax or make a larger exemption for the small corporation? If it is considered that 12½ per cent is a reasonable tax for big business and will not cripple it, then why not cut the tax for the smaller concerns possibly under $100,000 paid up capital and working it down to the $25,000 company?

I know that your heart is set upon protecting our people from oppressive interests and I feel that this includes the small business man as well, who in this day has a hard time to keep his head above water.

I would appreciate hearing from you in this connection and anything you might do in the matter.

Very sincerely,

EVERETT F. TAWNEY.

BRIEF OF THE AMERICAN MINING CONGRESS, NEW YORK, N. Y.

SUGGESTIONS FOR CLARIFYING THE PROVISIONS OF SUBDIVISION (D) OF SECTION 201 OF THE PROPOSED REVENUE ACT OF 1924 REFERRING TO CAPITAL DISTRIBUTIONS BY CORPORATIONS

To the honorable Members of the Committee on Finance of the Senate of the United States:

The report of the Committee on Ways and Means of the House of Representatives on the pending revenue bill, H. R. 6715, and also the statement of the changes made in the revenue act of 1921 prepared for the use of your honorable committee, contained the following statement concerning section 201 (d):

"Subdivision (d) of the bill corresponds to subdivision (c) of section 201 of the existing law. This subdivision provides that amounts distributed by a corporation which do not constitute distributions of earnings or profits or increase in value of property accrued prior to March 1, 1913 (such as distributions out of unrealized appreciation in value of property or out of depreciation or depletion reserves), constitute a return of capital to the stockholders and are taxable to him only if, as, and to the extent that they exceed the basis of his stock. It is specifically provided that the amount by which such distribution exceeds that basis of the stock constitutes taxable income, which provision accords with the Treasury Department's interpretation of the present law."

We, therefore, respectfully offer for your consideration the following amendment which we believe represents the evident purpose and intent of the law.

Add to section 201, subdivision (d), the words "This provision shall apply to distributions from depletion or depreciation reserves not otherwise provided for." The section, subdivision (d), will read as follows:

"(d) If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders is not out of increase in value of property accrued before March 1, 1913, and is not out of earnings or profits, then the amount of such distribution shall be applied against and reduce the basis of the stock provided in section 204, and if in excess of such basis, such excess shall be taxable in the same manner as a gain from the sale or exchange of property. This provision shall apply to distributions from depletion or depreciation reserves not otherwise provided for."

The purpose is to clarify the law so that every distribution from depletion and depreciation reserves is to be treated as in part or full payment in exchange for the stock.

The act recognizes three bases for depletion (see section 204, subdivision c):

First. Cost.

Second. Market value on March 1, 1913; or

Third. Discovery value after March 1, 1913. In the second and third cases, such market or discovery value is only recognized when in excess of cost.

Congress in this way postulated that in the mining industry, the cost or or value of the discovered ore body, whichever was greater, was capital to the owner, and should be treated as such for tax purposes.

But while the principle that the depletion base, discovered value or cost, whichever is greater, is a capital asset has received full recognition, the treatment of distributions from this base is full of ambiguities and confusion.

The subject may be viewed from two points: (1) Individuals or (2) corporations:

For individual owners reserves for depletion on all bases are nontaxable and the annual amount representing the aliquot part of this base extracted each year is a deduction in determining taxable income.

Alike to the purchaser or discoverer before or after March 1, 1913, this depletion base is not taxable either for normal taxes or surtaxes. In this respect the law conforms exactly to the intention of Congress and so recognized the principle that ore reserves are the owner's capital.

For corporations, on the other hand, if the individual holds title to the mine through a corporation, the treatment of depletion is confused and unsatisfactory.

While the corporation is permitted yearly a deduction from its taxable income representing the depletion on any of the three bases, yet when distributed to the stockholders who are the ultimate beneficiaries the law, the regulations, and the courts lay down no clear rules. There is no clear or definite provision in any of the acts nor in the proposed bill that distributions from such depletion reserves are capital distributions.

The Ways and Means Committee in its report to the House of Representatives on this bill has stated that distributions from depeltion and depreciation reserves were to be so considered.

It is the object of the present amendment to the proposed act to make the wording of the law conform to what is its thus stated purpose. If ownership in corporate form is not to be discriminated against, the act should be so clarified.

Let us examine the subject more critically. The distinction between capital and income and the concomitant distinction between capital gains and ordinary current income has only gradually emerged in the law.

But it now is fully established as sound economics, and capital gains are segregated from ordinary income and taxable on a different base.

This principle should be carried into the treatment of distributions by corporations to their stockholders, and the act should clearly recognize that in their hands distributions from depletion reserves are capital distributions of the same kind as the receipts on a sale of share stock.

The prior revenue law (1921) and the proposed bill, while expressing this principle in part, fail in many respects. The resultant inconsistency comes not only from the failure to apply the principle that discovered ore deposits of the owner are his capital, but a confusion between the corporation's capital base and that of the stockholder.

The corporation's capital base is the value of the ore deposits or cost, whichever is greater. The stockholder's capital base is the value of his stock on March 1, 1913, or cost if acquired after that date.

All distributions by the corporation permitted to be made from capital bases should be treated as capital receipts by the stockholder as on a sale of his stock.

We will not take time to point out what confusion on this subject existed in the prior laws and the decisions thereunder. It will suffice to examine the proposed act.

In it there is a definite attempt to place distributions to stockholders on the sound basis above indicated. But this is very imperfectly carried out, as we shall show.

First. As to distributions from a depletion reserve based on cost. There is no provision in the act that these are to be treated by the stockholder as capital distributions. While it is true that subdivision (c) of section 201 provides that amounts distributed in complete or "partial liquidation of a corporation" shall be treated as "in part or full payment in exchange of the stock," there is no definition of the term "partial liquidation of a corporation." Section (g) seems to require that it be accompanied by a partial "cancellation or redemption" of stock. Yet neither custom nor the law requires mining corporations making distributions from depletion reserves accompany them by a corresponding stock reduction.

Under the decisions of the Supreme Court—Goldfield Consolidated Mines Co. *v.* Scott, 247 U. S. 146; Stratton's Independence *v.* Howbert, 231 U. S. 399; Van Baumbach *v.* Sargent Land Co., 242 U. S. 503; Stanton *v.* Baltic Mining Co., 240 U. S. 103; U. S. *v.* Biwabek Mining Co., 247 U. S. 116—it is extremely doubtful whether a distribution from a depletion reserve of a corporation unaccompanied by a stock reduction is "in partial liquidation."

In a recent case in the United States District Court for the Southern District of New York (Douglas *v.* Edwards, 287 Fed. 919), the court held that depletion dividends when not so accompanied by a stock reduction could not be treated as partial liquidation. The appeal to the circuit court of appeals has not yet been decided.

This confusion and uncertainty in the bill should be removed, and it should be made clear that such distributions are capital receipts.

Second. In the case of distributions from depletion reserves based on discoveries subsequent to March 1, 1913, the act is ambiguous. It is plainly the intention of Congress to give to the discoverer of a mine the value of the ore deposit discovered as capital.

Congress recognized that in the hunt for new mines the industry, through the prospector, wasted untold sums and efforts. These, although unrecorded, are capital cost to the industry of the final discovery, and to maintain the industry the discoverer must be proportionately rewarded. To treat, therefore, the entire discovered value as taxable profits would be to ignore what has gone before.

These unrecorded expenses of the unsuccessful efforts are properly chargeable against the successful enterprise when finally ore is found.

In large measure the excess value over actually recorded costs of a particular discovery represented this untold and unrecorded capital expenditure made in attempting to find ore elsewhere that came to naught. It was but just, therefore, that in recognition of this the excess discovered value should be capitalized and so treated for income tax purposes. The granting of this by way of depletion was a clear recognition by Congress of this fact.

As already pointed out, so far as the individual owner or discoverer is concerned, the intention of Congress has been carried out. But in the case of the individual who holds title through a corporation, the law fails to recognize this. It is the ultimate and beneficial owners of the corporation who should receive the fruits of the discovery as capital.

It is not at all clear under the present law that this is done. The department, in a ruling under the old law, has held that it was not done, but that such distributions are ordinary dividends in the hands of the stockholder. We submit that this was not the intention of Congress and it did not intend to pass a law so discriminatory against the corporate form of organizations.

This ambiguity should be corrected so that any distribution of the discovery value to the ultimate owners is treated as a capital gain.

It is the failure to recognize that the stockholder is the ultimate owner and entitled to the benefits of the discovery provision that is responsible for the confusion in the act. Of course, the correct basis would be to allow to each stockholder his proportionate depletion based upon the cost or basic value to each individual of his stock. If stockholder A bought stock for $25 per share and B for $50 and C for $100, C should have four times the depletion of A and twice the depletion of B, and B twice that of A, because this is their capital investment. This, however, would be impractical as it would require that depletion should be separately determined for every stockholder. But Congress should endeavor, as far as possible, to approximate this.

The suggested amendment to the act does this: We are not asking that distributions from depletion reserves be made tax exempt as in the case of the individual owner or discoverer. We are only asking that they be treated as capital distributions to the amount of the capital invested by each stockholder in the stock, and after that, subject to the ordinary tax or that on capital gains, as the case may be.

In the case put, A, who bought in early, probably before the discovery, would only receive capital distributions up to the amount of $25 per share, the excess to be taxable. B and C, on the contrary, who bought in after the discovery was partially made or fully completed, would only have to pay taxes on the excess of the depletion distributions over the cost of the stock to them. This would be but affording a fair and just basis for depletion distributions of corporations and would in each case in the hands of the stockholder subject them to a tax when in excess of the capital invested.

Unless the law is clarified in this respect, gross injustice and inequity will be perpetrated on stockholders who have purchased stock in a mining company after its ore bodies are completely developed, and gross discrimination against the corporate form of modern business enterprise. Otherwise, after such a company has distributed its current earnings in excess of depletion, its depletion distributions to the stockholders, although out of the company's capital, will be treated as ordinary dividends and taxed as such, and the stockholder will be paying on what are in reality distributions to him of his capital. When these distributions have been finally completed, the entire capital assets of the company will be paid out and there will be nothing remaining in the company but the bare shell. Yet the stockholder has paid taxes on them all as ordinary income.

Under the proposed amendment no stockholder would be entitled to receive as income taxable, more than the actual cost to him of his stock, thus avoiding the injustice and inequity pointed out above and approximating depletion distributions to the true bases.

Respectfully submitted.

AMERICAN MINING CONGRESS.
PAUL ARMITAGE,
Chairman General Tax Committee.

McK. W. KRIEGH,
Chief, Tax Division.

BRIEF OF THE COMMITTEE OF BANKING INSTITUTIONS ON TAXATION

RECOMMENDATIONS FOR CHANGES IN CERTAIN ADMINISTRATIVE FEATURES OF THE PROPOSED REVENUE ACT H. R. 6715, AS SET FORTH IN THE COPY OF THE ACT IN THE SENATE OF THE UNITED STATES

To the COMMITTEE ON FINANCE,
United States Senate:

The Committee of Banking Institutions on Taxation hereby transmits recommendations and suggestions with reference to certain administrative provisions of the proposed revenue bill (H. R. 6715) as follows:

INCOME TAX—TITLE II

(1) Section 202, subdivision (e), with reference to installment sales does not clearly define such sales, and in view of the various regulations which have been issued it is suggested that an "installment sale" be defined in the law in order to clarify and assist in the administration of these provisions.

(2) In section 208, subdivision (a), paragraphs (5) and (6) the wording is confusing. It is recommended that the word "plus" as it appears in both paragraphs be changed to the word "and."

(3) Section 216, subdivision (e), provides for the exemption for a nonresident alien individual. In view of the ruling (see Internal Revenue Bulletin for July 10, 1922, p. 4, Ruling I. T. 1390, also in the Cumulative Bulletin for December, 1922, p. 148) with respect to the exemption allowed to husband and wife, it is recommended that this subdivision should clearly state the application of the exemption to a nonresident alien individual who is married and living with husband or wife whether joint or separate returns are filed.

(4) Section 219, subdivisions (g) and (h), proposing to tax revocable and discretionary trusts to the grantor are apparently retroactive in effect. It is suggested that if it is deemed expedient to tax such trusts, in the manner therein provided, a definite date be stated which will eliminate the retroactive feature of these provisions, in justice and fairness to such bona fide trusts as may be already established, and will simplify the administration of the law.

(5) Section 226, subdivision (b), is doubtless intended to exclude from the annual basis the two returns made by the executor or administrator for the portion of the year during which a decedent was living and the other for the balance of the year for the estate.

It is recommended that subdivision (b) should clearly set forth that such returns by an executor or administrator do not fall under the application of the annual basis method and a clarification of this section will be in line with the existing court decision if a clause is included which clearly excludes executors or administrators making returns for a decedent and his estate from the requirement of making a return for a portion of a year on annual basis.

(6) Section 256 provides for information at the source on payments of $1,000 or over. As now worded it may be uncertain in the interpretation of its application when ownership certificates are not required.

It is recommended that section 256 be so worded that in those cases in which ownership certificates are not required it may be clearly left to the discretion of the commissioner whether or not and in what case information returns of payments equal in amount to $1,000 or more are to be required. Such a provision will facilitate the administration by the elimination of a vast amount of unnecessary detailed information which the Treasury Department now feels compelled to require.

(7) Section 274, subdivision (a), makes no provision for a local hearing on an assessment before the appeal to the newly established tax board of appeals. A provision for a preliminary hearing will greatly facilitate the operation of the law and will lessen the number of appeals as well as enlighten the taxpayer as to the basis for which an appeal may be made. It is suggested, therefore, that section 274, subdivision (a) should read as follows:

"If, in the case of any taxpayer, the commissioner determines that there is a deficiency with respect to the tax imposed by this title, the taxpayer, except as provided in subdivision (d), shall be notified of such deficiency by registered mail. The taxpayer may then obtain a preliminary hearing before the proper official for the purpose of adjustment or readjustment, and if such adjustment be not satisfactory may, within sixty days after notice of decision on such hearing, file an appeal with the board of tax appeals established by section 900."

Such a provision will eliminate the necessity of numerous appeals on account of clerical errors and omissions and in a multitude of cases will economize both time and expense for the taxpayer as well as the administration.

(8) Section 275, subdivision (a), is not clear in the analysis of its expression or its intention. It is uncertain what the taxpayer's rights may be under this provision. It is suggested that this subdivision be clarified in its intent and expression.

(9) Section 276, subdivision (c), proposes a penalty by collecting interest at the rate of 5 per cent per annum in the case of estates of incompetent, deceased, or insolvent persons in certain cases of delinquency.

Heretofore the revenue acts have expressly relieved such cases from any penalty or interest, and the provisions of this paragraph which apparently are to be applied without discretion may work great hardship in many cases. It is most common in just such cases that a delay is essential in view of the difficulty of obtaining the information necessary for a final preparation of returns. We therefore urgently recommend that these provisions be omitted as heretofore.

(10) Section 279, subdivision (a), makes provision that no claim for abatement may be filed unless accompanied by a bond. In view of the difficulty of the adjustment of many minor claims such a provision requiring a bond will produce numerous complications and extreme difficulty and unreasonable expense for many taxpayers. There are countless cases which are apparently clear and simple in their application and many cases which are due to clerical errors for which the requirement of a bond will produce an additional burden which is incommensurate with the amount involved.

It is recommended that the requirement of a bond be left to the discretion of the collector as in the existing law.

(11) It is recommended that subdivision (d) of section 279 should be eliminated for the reasons set forth in the recommendation No. 10 above.

(12) Section 281, subdivision (d), provides for the refund or crediting of a tax which has been declared illegally collected by the Supreme Court. It is provided that the refund shall be made if a claim therefor is filed by the taxpayer.

It is recommended that this subdivision be amended by the insertion of the words "or withholding agent" after the word "taxpayer," so that it will read "if a claim therefor is filed by the taxpayer or withholding agent within four years," etc. This will facilitate the adjustment in any case where the withholding agent may have paid such a tax on behalf of the actual taxpayer.

(13) Section 281, subdivision (e), provides for the refund to the withholding agent of the tax withheld under sections 221 and 237 when there has been an overpayment of tax.

It is recommended that this paragraph be reworded so that it may clearly cover the refund to the withholding agent, who is acting for the debtor corporation, of the amount of tax paid at the source on tax-free covenant bonds. The paragraph as it now reads may possibly not be construed to cover such cases, and it is suggested that it should read as follows:

"(e) When there has been an overpayment of tax with reference to the tax paid at the source on tax-free covenant bonds under section 221 or 237 of this act, any refund or credit under the provision of this section shall, upon a duly executed claim by the withholding agent or the debtor corporation, be refunded or credited to the withholding agent or debtor corporation."

ESTATE TAX—TITLE III

(14) Section 303, subdivision (a), paragraph (1), contains a provision with reference to the deduction of claims, mortgages, or indebtedness which were incurred or contracted bona fide and for a fair consideration in money or money's worth. There are many cases where the proof of such a condition is practically impossible, although from all attending circumstances there is moral certainty that the requisite conditions obtain. The burden of proof under these provisions falls upon the executor and is obviously unfair in its administrative application. It is suggested that section 303, subdivision (a), paragraph (1), be changed to read as follows:

"(1) Such amounts for funeral expenses, administration expenses, claims against the estate, unpaid mortgages upon, or any indebtedness in respect to property (except in the case of a resident decedent where such property is not situated in the United States), unless the attending circumstances prove that such claims, mortgages, or indebtedness were not incurred or were not contracted bona fide and for a fair consideration, losses during the settlement, etc."

(15) Section 303, subdivision (a), paragraph (2), unquestionably does not intend to place an estate tax on the same property within five years, but it does not make definite provision for certain contingencies, as in the case of a donor A, who gives to B, whether or not in contemplation of death, and B dies and the gift is included in B's gross estate. If A subsequently dies within five years of his gift to B and obviously within five years of B's death, then A's estate may be taxed again on the gift made to B which was previously included in B's estate.

It is recommended that section 303, subdivision (a), paragraph (2), be modified to read as follows:

"(2) An amount equal to the value of any property forming a part of the gross estate situated in the United States, which has been included in the gross estate of any person who died within five years prior to the death of the decedent, where such property has been received by either decedent from the other decedent by gift, bequest, devise or inheritance: *Provided*, That this deduction shall be allowed only where an estate tax under this or any prior act of Congress was paid by or on behalf of either of the decedents and only in the amount of the value placed by the Commissioner on such property in determining the value of the gross estate of the prior decedent, and only to the extent that the value of such property is included in the decedent's gross estate and not deducted under paragraph (1) or (3) of subdivision (a) of this section;"

(16) Section 313, subdivision (c), contains a provision which imposes upon a distributee of an estate a lien for any deficiency in the amount of tax which may subsequently be found due. For the purpose of equitable apportionment and simple justice in administration we suggest that this paragraph be modified to provide that no such tax shall be levied upon any distributee beyond the extent of the proportionate part of the tax which would naturally fall upon his or her proportion of the distribution. It is recommended that section 313, subdivision (c) should read as follows:

"(c) The provisions of subdivision (b) shall not operate as a release of the gross estate or any part thereof from the lien for any deficiency that may thereafter be determined to be due while title to such gross estate, or any part thereof, remains in the heirs, devisees, or distributees: *Provided, however*, That such heir, devisee, or distributee shall not in any event be held liable for any greater proportion of such additional tax than his or her distribution is of the total distribution: *Provided further*, That if the title to any part of the gross estate has passed to a bona fide purchaser for value, etc."

GEORGE C. HENCKEL,
MORRIS F. FREY,
FRANKLIN CARTER, Jr.,
For the Committee of Banking Institutions on Taxation.

BRIEF OF THE NATIONAL COAL ASSOCIATION

COMMENT AS TO THE RETROACTIVE PROVISIONS OF PARAGRAPHS (7) AND (8) OF SECTION 204 (A) OF THE PROPOSED REVENUE ACT OF 1924

To the honorable members of the Senate Committee on Finance:

The retroactive features of section 204 (a) (7) of H. R. 6715 are unjust and confiscatory. Unjust because they do not keep faith with the taxpayer in changing, adversely to the taxpayer's interests, regulations upon which he has been brought to rely in connection with transactions entered into in good faith in former years, which transactions were fostered by the law and regulations then in effect; confiscatory because by reason of change in the ownership of stock the present owner may be compelled to suffer an investment loss through no fault of his own by reason of the fact that retroactive legislation has changed the basis of depreciation and depletion allowances and made the usual redemption of capital impossible in the corporation in which he holds shares. This change must necessarily impair the value of his interest in case of sale.

If taxes are to be accepted willingly and borne patiently, business should know in advance of any business transaction what the ultimate tax on such a transaction will be.

Section 204 (a) (7) reads as follows:

"If the property was acquired after December 31, 1917, by a corporation in connection with a reorganization, and immediately after the transfer an interest or control of such property of 80 per cent or more remained in the same persons

or any of them, then the basis shall * * * be the same as it would be in the hands of the transferor. * * *"

A consistently uniform legislative policy has in the past limited the retroactive features of income-tax legislation to the beginning of the calendar year in which it was enacted. This is well illustrated by the fact that the change brought about by the revenue act of 1921 with respect to "wash sales," a measure introduced to stop evident evasion of tax, was effective, not retroactively, but dating only from the date of passage, November 23, 1921, although the act in general became effective almost 11 months earlier, or on January 1, 1921. Similarly, provisions with respect to gifts became effective only after the passage of the act and did not attempt to penalize the recipient of the gift by applying at a later date a tax of which he could not be aware at the date of receipt of the gift.

It was apparently the policy of the Congress in the passage of the 1921 act to recognize the principle that a tax laid retroactively was unfair even in cases such as those just cited, where the evident intention of the transactions was to avoid taxation. It would seem, therefore, that corporations which sought merely to obtain the benefit to be derived through a recognition of the economic or fair market value of property by means of reorganization or consolidation and thereby place themselves on an equal footing with corporations organized later, should not be hampered by retroactive taxation.

As related to the coal mining industry, corporations organized within recent years have been capitalized on a basis per ton of annual production frequently several times greater than that of those organized in earlier years. Consequently deductions permitted for depletion and depreciation were much less than the per ton allowances made to corporations of later organization. In the sale of a mineral product the capital itself is sold or depleted. The fund reserved for the depletion of the mineral would return only the cost, or at best the March 1, 1913, value. To continue in the mining industry, additional coal reserves must be obtained. The replacement cost of reserves to take the place of acreage exhausted is usually greatly in excess of the cost of those being depleted. Because of improper accounting practice many corporations own physical assets greatly in excess of the values set up on the books, based on cost. Through natural appreciation and on account of changed economic operating conditions, these values were still more greatly increased. Operations, apparently conducted at a profit, might, by reason of the fact that depletion and depreciation were limited to book values actually be conducted at a loss which would require liquidation, because such deductions would not permit the accumulation of a sufficient fund for acquisition of new mineral tracts for replacement purposes, and for the construction of plants and the purchase of equipment at the advanced costs.

To continue operation on that basis results in a fictitious and imaginary profit, with consequent tax disproportionate to that of competing companies more recently organized. Only by reorganization, setting up values which more nearly measured the cost of replacement could substantial equality of competition and taxation be obtained. Where such a reorganization has been effected and good accounting practice as well as the regulations of the Internal Revenue Bureau have required that depreciation and depletion, sufficient in amount to return or redeem the capital sum assigned to each class of property, be deducted annually, such action should not be brought in question five years after the deduction has been made and the tax paid. To change this procedure retroactively and at this time collect an additional tax based on decreased deductions for depletion and depreciation, can cause industrial unrest and delay final post-war readjustment. A special hardship will be inflicted upon the coal mining industry, so far as it is affected by reorganizations, if such an adjustment is made in this time of business depression in this industry.

To illustrate just what effect such an adjustment would cause, the following example is cited: The example used is that of small corporations where, because of the fact that the stocks are usually comparatively closely held, the conditions cited frequently obtain. The effect upon the reorganized company and on the stockholders will be the same whether the properties are received from a corporation or from individuals who have prior to the reorganization operated them. While the example is taken from the coal mining industry and illustrates the effect of the consolidation of a lessor company and a lessee company into one corporation, it would apply with equal force to a combination of a timber tract and a mill, a mine and a smelting plant, a fruit grower and a packing house, or any other line of industry.

NOTE.—In the following example, for the purpose of clarity of statement, not all of the factors are given. It is recognized that depreciation and depletion

would have accrued prior to January 1, 1918, and that certain residual values should be accounted for. To simplify the illustration, the same mineral quantities are assumed to exist at the beginning of the period and at the date of consolidation.

EXAMPLE

In the beginning of the year 1918 the Lessor Coal Co. was the owner of coal lands which were under lease at a rate per ton which permitted a depletion charge of 5 cents per ton. The remaining life of the coal was 20 years. The capital of the corporation was $125,000. Its coal was being exhausted at the rate of 125,000 tons annually, which gave it a depletion deduction of $6,250 (125,000 tons × $0.05 equals $6,250). At the same time coal of similar quality and similarly located, but more recently acquired, was being leased at a rate per ton which permitted a depletion deduction of 10 cents.

The Lessee Coal Co. had been for some years operating under lease from the Lessor Coal Co. Its stock was now owned by practically the same persons as was the stock of the Lessor Co. It had been conservatively managed, but by reason of poor accounting its books of account reflected a plant and equipment valued many thousands of dollars below the actual cost, to say nothing of the appreciation accrued due to sundry economic charges since incorporation. Its capital was $125,000, which had been fully taken up in the plant and equipment. Limited by the life of the coal, its useful life was 20 years, indicating a depreciation rate of 5 per cent, which on its book value allowed a depreciation allowance of $6,250 on the $125,000 depreciable assets at book value. To replace the property in kind under the then existing conditions would have required a capital outlay of $250,000.

Neighboring operations recently organized had, by proper accounting practice, shown a similar plant to have cost $250,000, which allowed a depreciation deduction of $12,500 annually. The Lessee Coal Co. had, compared with this neighbor, a handicap of $6,250, which was a fictitious earning, but upon which it would, nevertheless, under the regulations, pay tax.

The stockholders of the Lessee company and the stockholders of the Lessor company, being practically identical, seeing that the records of the Lessee company did not properly reflect the value of the physical property nor the lease of the Lessor company reflect the real value of the mineral, as compared with those of competitors, determined to reorganize on a basis which would put them on a parity with competitors and other taxpayers.

The Fee Coal Co. was organized in 1918 with an authorized capital of $500,000. Appraisal had shown the plant of the Lessee Coal Co. to be worth $250,000; the coal lands of the Lessor company were worth $250,000. The Fee Coal Co. took over from both the Lessee Coal Co. and the Lessor Coal Co., all their property, giving its own stock in exchange. Thereupon, the Lessor Coal Co. and the Lessee Coal Co. liquidated, each stockholder surrendering his stock and receiving in exchange stock in the Fee Coal Co. pro rata with his former holdings and thus continuing to hold his share in the same property. He owned neither more nor less than he did before, and no profit was realized. The lease formerly existing was, of course, cancelled. The depletion rate was now 10 cents per ton and the annual allowance was $12,500. The depreciation, 5 per cent on $250,000, was $12,500 annually, being based on the real value of the equipment as now set up on the books of the Fee Coal Co. (Because of the exhaustion of the mineral the life would have been shortened and the depreciation and depletion slightly increased, but in the example the same quantities and life are maintained to show comparisons.) Due to the reorganization and the consequent setting up of true values of assets, the Fee Coal Co. is now on an equality as far as tax deductions are concerned, with its recently formed competitors, and is accumulating a fund which will enable it, at the exhaustion of its mineral, to obtain other reserves and construct another plant and thus continue in business. This situation has been recognized in the regulations. It is now proposed to destroy this equality of assessment by making the "basis of determination of gain or loss, depletion and depreciation," under section 204 (a) (7), "the same as it would be in the hands of the transferor." This would limit the deductions for depreciation and depletion to $6,250 each and permit the return of $250,000 only of the $500,000 stock of the company.

Because the taxpayer has relied on the 1918 act and distributed earnings in dividends, a retroactive measure such as now contemplated would work an extreme harship on the Fee Coal Co. by compelling it to pay an additional tax, possibly causing thereby a deficit and great financial embarrassment. Still

greater injustice would be inflicted on individual shareholders. The original shareholders, or part of them, may be assumed to have sold some or all of their holdings to other interests during the period between January 1, 1918, and the present time. The sale was made in good faith on the basis that all tax liability had been taken care of under existing statutes at the time of the transaction. The purchaser used due diligence to assure himself that the Fee Coal Co. was conservatively operated, and that proper reserves were being maintained to return his capital on the mining out of the mineral or to continue mining operations by the purchase of new coal lands and the construction of another plant. By the passage of the proposed section 204 (a) (7), this stockholder would be suddenly confronted with the certainty that his capital can not be thus returned because depletion and depreciation deductions allowable under the revenue laws in force when he purchased his stock would not be allowed under the proposed retroactive legislation. For that reason this provision of the act is confiscatory.

This provision is unworkable, because the taxpayer often will not be in possession of the books of the predecessor corporations, the Lessee Coal Co. and the Lessor Coal Co., and for that reason can not make deductions on the basis of value, "the same as it would be in the hands of the transferor." In case of the inability or refusal of the former owners to give it, only the Bureau of Internal Revenue would be in possession of the information needed to adjust the tax returns of the taxpayer. Since the Internal Revenue Bureau is prohibited by the act from divulging to other taxpayers the facts shown in tax returns, it would, apparently, be impossible at times for the individual to carry out the provisions requiring him to place the value "the same as it would be in the hands of the transferor." Moreover many cases will be found where the cost or value of the property so acquired can not be determined from the books of the transferor because they were incorrectly kept or the older records destroyed.

Section 204 (a) (8) reads as follows:

"If the property * * * was acquired after December 31, 1920, by a corporation by the issuance of its stock or securities * * * then the basis shall * * * be the same as it would be in the hands of the transferor."

The same remarks, except as to its effective date, will apply to this subdivision. A similar hardship may be worked by reason of the transfer of stock to a new stockholder, not a party to the original transaction. Denying depreciation or depletion at a rate which will within the life of the property redeem the capital, will amount to confiscation of the proportion of the investment not so redeemed. Here again difficulties of administration will be met by reason of the fact that the taxpayer whom it is now proposed to assess retroactively, is not in possession of information as to values as in the hands of the transferor.

To sum up, our position is this: Accomplished transactions should not now be disturbed. They were made in good faith under Government permission and direction. Business has relied on the principle that retroactive taxation will not be enacted and has made adjustments on that basis. Investments, to be safe, must be made under a tax policy which will not, retroactively, destroy values upon which former legislation has brought the investor to depend. Modern business can not be conducted safely on the principle of caveat emptor.

Respectfully submitted.

NATIONAL COAL ASSOCIATION,
J. C. PRYDOR, *President.*

BRIEF OF GODFREY L. CABOT (INC.), BOSTON, MASS.

JANUARY 17, 1924.

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

MY DEAR MR. LODGE: When the revenue act of 1924 comes before the Finance Committee of the Senate there is a slight amendment which, I think, in justice to certain taxpayers, ought to be made therein. The present draft which contains the amendments proposed to the existing laws suggested by the Secretary of the Treasury, contains the following:

"SEC. 204 a (7). If the property (other than stock or securities in a corporation a party to a reorganization) was acquired after February 28, 1913, by a corporation by the issuance of its stock or securities in connection with a transaction described in paragraph (4) of subdivision (b) of section 203 (including, also, cases where part of the consideration for the transfer of such property to the corporation was property or money in addition to such stock or securities),

then the basis shall, notwithstanding the provisions of paragraph (5) of this subdivision, be the same as it would be in the hands of the transferor, *increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made.*"

The amendment I suggest would be to change the date "February 28, 1913," to "December 31, 1923," and to strike out the last part of the amendment which is in italic.

There is no provision in the existing law which corresponds to paragraph 7, above quoted. The reasons for introducing this paragraph into the law are sound in the main. The objections I have to paragraph 7 are that it is retroactive, in that it applies to any corporation formed since 1913. If limited to corporations formed after the incidence of the 1924 act, in other words, to corporations formed since January 1, 1924, it would be perfectly fair.

The reasons for section 7 are set forth in a statement prepared by Mr. Gregg, the Treasury expert, as follows:

"(4) There is no provision of the existing law which corresponds to paragraph (7) of the draft. The theory underlying this paragraph is the same as that underlying the preceding paragraph and it provides that where a taxpayer transfers assets to a corporation in exchange for stock of the corporation in such a manner that no gain or loss is recognized to the taxpayer, the basis of the assets in the hands of the corporation shall be the same as it would have been in the hands of the transferer.

"Under the existing law, if A owns an asset which costs him $10,000 and is now worth $50,000, he may transfer it to the X corporation in exchange for all the stock of the X corporation (no gain or loss from the exchange being recognized either under the existing law or under the proposed draft) and the new corporation may take up the assets on its books for the purpose of determining gain or loss from subsequent sale, and depreciation and depletion at $50,000, its fair market value at the date of transfer. Paragraph (7) of the draft provides that the basis of the assets so transferred shall be $10,000."

The reason why I am personally interested in having this law limited as indicated is that some time ago I incorporated my business, which theretofore I had carried on in an individual capacity. Before doing so I inquired of the Treasury Department whether the assets should be appraised at cost to me or at their current market price and was specifically advised the latter. My accounts have, therefore, all been set up in that manner and I have been reporting gains and losses and charging depreciation in accordance with the express instructions of the Treasury Department on that basis. Many other taxpayers are undoubtedly in the same situation.

It is perhaps to be regretted from the standpoint of the Treasury Department that section 7 was not always a part of the law, but where corporations have been formed under existing laws on the understanding that they would be taxed in a certain way, and expensive accounting systems set up in accordance with such law, and all their plans made accordingly, it seems to me that a considerable injustice is being done to them to pass what is virtually a retroactive law in this manner. Accomplished transactions should be allowed to remain permanent. Everyone understands that transactions to be entered into in the future may be affected by changes in the tax laws, which is perfectly right and proper, but the framers of a new revenue act ought not to go further and upset past transactions if any degree of permanency and stability is to be assured business interests.

When the last revenue act, that of 1921, was passed a very similar change was made to this but it was not made retroactive. I refer to the provision that if property was acquired by gift the basis for gain or loss should be the same as it would have been in the hands of the donor, or the last preceding owner by whom it was not acquired by gift. This amendment was expressly limited to gifts made after December 31, 1920.

The two cases are altogether parallel and the reasons for making paragraph (7) prospective only and not retroactive are in all respects the same as the reason why Congress in 1921 did not make the tax in the case of gifts retroactive, namely, Congress did not desire or think it expedient to interfere with business transactions already consummated before the incidence of the law.

Very truly yours,

GODFREY L. CABOT.

P. S.—The indirect costs to me due to the income tax law to date have probably exceeded $60,000, and I certainly hope that new complications in these constant changes in rulings and aw will cease.

G. L. C.

Brief of the National Association of Real Estate Boards

To the honorable Chairman and Members of the Finance Committee of the United States Senate:

Gentlemen: As representative of the National Association of Real Estate Boards, an organization composed of the real estate brokers of 495 cities in the United States with an aggregate of over 20,000 active members with a clientele of millions of property owners and employing upward of 200,000 active salesmen, we present the following suggestions for your consideration in connection with the proposed revenue act of 1924:

Our suggestions are that the profit resulting from the sale of capital assets be disregarded as taxable income and that losses resulting from the sales of capital assets be eliminated as deductions from taxable income.

We indorse and approve the following statements made in the report of the Tax Simplification Board to the Speaker of the House of Representatives and dated December 3, 1923. (This report is printed as House of Representatives Document No. 103 of the Sixty-eighth Congress, first session.)

1. It is generally agreed that if capital gains had been eliminated as income and capital losses as deductions at the outset the Government would have been far ahead in revenue.

2. The best considered opinions of accountants, actuaries, and economists appear to us to indicate that the elimination of both capital gains and capital losses even now would result in no decrease in revenue to the Government over a period of years.

3. It can be asserted without fear of contradiction that one of the most effective measures which could be adopted to simplify the revenue act and the procedure thereunder would be the elimination of capital gains as income and capital losses as deductions. The most complicated provisions of the act deal with the determination of gains and losses.

4. We need only suggest the simplification of procedure which would result from dispensing with the necessity of establishing the valuation as of March 1, 1913, of capital assets acquired before that date and upon which a profit has been realized or a loss sustained. These questions of valuation, requiring the exercise of discretion in which honest differences of opinion are bound to arise, are not only difficult of solution but are largely responsible for the present arrears in its work of the income tax unit.

5. While it is true that in a comparatively new country such as ours capital gains will ordinarily exceed capital losses, it should be borne in mind that capital gains are not taxable unless realized by the sale of the asset.

6. Persons owning property and having investments are able to and do take their losses at times when their doing so results in the greatest possible reduction of their tax liability. Income tax laws may provide very stringent rules for determining capital gains and losses realized by sale, but it remains for the taxpayer to determine whether or not he will sell.

In support of the contention that losses in the sales of capital assets are employed as deductions from taxable income in a much greater measure than are the gains from the sale of capital assets added to taxable income, we cite the following table presented to the Ways and Means Committee of the House of Representatives by Undersecretary of the Treasury S. Parker Gilbert, at a hearing held before that committee of the Sixty-seventh Congress, fourth session, on H. R. 13412, on Monday, January 8, 1923.

Analysis of the aggregate incomes of the 50 largest individual taxpayers for the year 1920, together with the amount of taxes thereon

Gross income	$99, 914, 904
Deductions (including contributions)	15, 916, 134
Net income	83, 998, 770
Normal tax	1, 699, 662
Surtax	51, 310, 936
Total tax	53, 010, 598

Sources of income:	
Salaries	$4, 284, 814
Business (including partnerships)	17, 501, 144
Profits on sales of capital assets	1, 508, 615
Rents and royalties	2, 545, 346
Interest on tax-free bonds	2, 973, 233
Other interest	4, 838, 735
Foreign interest	653, 195
Dividends, domestic and foreign	76, 501, 358
Taxable interest on United States obligations	759, 044
Total	111, 565, 484
Deduct loss on sales of capital assets	11, 650, 580
Gross income	99, 914, 904
Nontaxable interest on United States obligations	8, 694, 875

It will be observed that this summary of the income of the 50 largest tax payers for the taxable year 1920, showing gross income of $99,914,000, establishes that of this income, $1,500,000 results in the sale of capital assets whereas deductible losses on the sale of capital assets amount to $11,650,000. This indicates that at least this type of taxpayers do not take their capital gains in taxable form, but frequently keep the property and allow the gains to accumulate. On the other hand, when they have capital losses, such taxpayers take them advantageously in order to reduce taxable income.

As a further indication of the fact that a comparatively small portion of taxable income is attributable to the profits from the sale of capital assets, we cite the table hereto attached taken from the statistics of income compiled from the returns of 1921 under the direction of the Commissioner of Internal Revenue and published by the Government Printing Office in the year 1923 sometime subsequent to October 4, 1923. The table cited appears at page 8 of that report.

From the statistics given in this table, it is apparent that the income resulting from the sale of capital assets (constituting but 1.98 per cent of the total income from all sources) is almost negligible in contrast with the steadily recurring income from these sources. In the absence of any date as to the total extent which losses on the sale of capital assets are resorted to as deductions, it is difficult to indicate the total amount the Treasury Department loses in taxes yearly from this source. However, if for the calendar year 1921 the deductions from the sale of capital assets for all taxpayers bore the same relations to their income as did the deductions taken by the 50 largest individual taxpayers for the year 1920, reported by Undersecretary Gilbert, then, as against the $462,858,673 reported as the total personal income from sales of real estate stocks and bonds (see page 9, "Statistics of Income from Returns of Net Income for 1921," cited above), the deductions taken amounted to $3,573,268,955.

We believe that the taxation of gains from the sale of capital assets, particularly real property, interferes with the eminently desirable fluidity of real estate as a commercial commodity. The hesitancy of the owner to sell his real property holdings when he faces a material profit, with a resulting tax, unquestionably has handicapped the natural and easy development of the growing communities, particularly urban, of this country. In addition, instead of direct sales, long-term leasing has been resorted to and many attempts have been made to execute leases which are, in effect, sales on the installment plan.

We believe that at present many sales of real property are not consumated because of the uncertainty of the owner as to the resulting income tax which he will have to pay. The extreme difficulty, in view of the lapse of time since March 1, 1913, of proving valuation on that date to the satisfaction of the Commissioner of Internal Revenue makes it difficult for the taxpayer to ascertain in advance how much he will have to pay as taxes. If such ascertainment is not impossible, it is extremely expensive and an obstacle to the sale.

The requirements of the present law that a valuation as of a basic date must be established to determine the profit on the sale offers great inducement to fraud on the part of the taxpayer, particularly as the value is a matter for great difference of even honest opinion. If the taxpayer does not yield to the inducement of fraud, he is frequently compelled to collect his evidence at great expense. When the expenditures of the Government in collection of such data are added to those of the taxpayer, a very heavy burden indeed is carried in the administration of this feature of the tax laws.

We believe that the proceeds from the sale of capital assets are almost invariably reinvested in other capital assets and that the taxation of the resulting recurring income is not interrupted inasmuch as the true income is thus currently taxed.

In view of the fact that certain objections have generally been advanced to the proposal to eliminate capital transactions from consideration under the income tax laws, we set out below the basis, briefly, of what seem to us answers to the principal of these objections.

On the suggestion that the proposed provisions of section 208 limiting, under certain conditions, the total tax on capital net gain to 12½ per cent, in fact imposes no real restriction on the sale of capital assets, it is our understanding that before this provision of the statute becomes effective it is necessary for the taxpayer to have an income of $33,000 from other sources. This being true, it must be apparent that a very great restriction is placed upon large numbers of smaller taxpayers who are owners of capital assets, particularly real estate, and who are waiting for a reduction in tax rates before selling their holdings.

We recognize that the elimination of capital gains as income and capital losses as deductions will require erection of proper safeguards in the statute and regulations issued thereunder to prevent true income from escaping taxation under the guise of capital transactions. However, as stated in the report of the Tax Simplification Board, hereinbefore cited, "While the drafting of such provisions will require care, they will be far less complicated and much more simple of administration than the present sections dealing with the determination of capital gains and losses."

To the suggestion that the elimination of taxation on the profits resulting from the sale of capital assets permits the escape from taxation of unearned increment in real property value, we reply that the taxation of real property and the increment thereon has long been considered in the taxing system of this country as a matter for the governmental authority within whose jurisdiction the real property lies. In other words, real property has generally been treated as a subject of state of local taxes and not as a source for Federal revenue. For the Federal Government to maintain a tax upon profits realized from the sales of real property in order to effect a greater tax on unearned increment seems to be a departure from the generally recognized restrictions on the subject matter of Federal taxation.

Thanking you in advance for your consideration of these matters, we are

Respectfully yours,

NATIONAL ASSOCIATION OF REAL ESTATE BOARDS,
By FREDERICK C. SHIPMAN,
In Charge of Matters Pertaining to Federal Taxation.

Approved by: H. R. Ennis, Kansas City, Mo., president; H. U. Nelson, Chicago, Ill., executive secretary; General Taxation Committee, C. C. Hieatt, chairman, Louisville, Ky.; F. C. Shipman, acting chairman, Detroit, Mich.; Fred E. Reed, Oakland, Calif.; Robert H. Gardiner, Boston, Mass.; John M. Dean, Memphis, Tenn.; Wm. C. Benkert, Philadelphia, Pa.; Wm. L. Elder, Indianapolis, Ind.; John E. McCrehen, Columbus, Ohio; M. R. Goodwin, Seattle, Wash.; A. G. Bauder, Cedar Rapids, Iowa.

Distribution of personal income, by sources and by income classes, showing the proportion from each source expressed in percentages, calendar year 1921

	Wages and salaries	Business	Partnerships, fiduciaries, etc.	Profits from sales of real estate, stocks, and bonds	Rents and royalties	Dividends	Interest and investment income	Total income
	Per cent	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*
Under $1,000	34.28	12.69	3.84	4.13	12.45	17.97	14.63	100
$1,000 to $2,000	81.32	0.39	1.61	.53	3.79	1.66	4.70	100
$2,000 to $3,000	77.88	8.63	2.25	.82	4.11	1.67	4.64	100
$3,000 to $5,000	61.65	14.47	4.44	2.17	5.37	4.96	6.94	100
$5,000 to $10,000	46.93	14.06	8.59	3.59	6.01	12.21	8.61	100
$10,000 to $20,000	38.22	10.53	10.92	3.59	5.58	21.07	10.09	100
$20,000 to $40,000	30.83	8.20	12.77	3.21	5.03	29.20	10.76	100
$40,000 to $60,000	24.55	6.64	14.37	2.97	4.41	36.05	11.01	100
$60,000 to $80,000	21.28	5.36	16.38	2.32	4.08	39.83	10.75	100
$80,000 to $100,000	19.59	5.54	17.05	1.98	3.97	41.48	9.79	100
$100,000 to $150,000	15.87	5.29	17.11	1.64	3.74	45.57	10.78	100
$150,000 to $200,000	12.71	3.71	18.70	1.71	4.80	48.57	9.80	100
$200,000 to $250,000	13.09	4.54	15.40	.78	3.28	51.97	10.94	100
$250,000 to $300,000	10.10	8.08	17.87	1.83	1.56	51.23	9.33	100
$300,000 to $500,000	6.12	3.36	14.68	1.74	2.47	60.31	11.32	100
$500,000 to $1,000,000	3.28	7.45	16.82	.82	7.63	54.96	9.04	100
$1,000,000 to $1,500,000	2.36	6.86	19.79	.44	.01	66.61	3.93	100
$1,500,000 to $2,000,000								
$2,000,000 and over	5.04		.16	.62	4.28	81.47	8.43	100
Average	59.21	10.14	5.75	1.98	5.05	10.62	7.25	100

BRIEF OF COLE TROSTLER, OF CHARLES HECHT & CO., NEW YORK, N. Y.

MARCH 19, 1924.

Hon. REED SMOOT,
Chairman Senate Finance Committee,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR SMOOT: As a member of the committee on Federal and State income tax of the New York State Society of Certified Public Accountants, New York, I have called the attention of the committee to certain sections of the proposed new tax law, proposing certain changes, most of which, to my knowledge, the committee has embodied in its recommendations to the directors of the society.

The changes relate only to the general definitions and administrative provisions of the act, and are not in behalf of any organization.

Respectfully yours,

COLE TROSTLER.

SECTION 209 (D)—EARNED INCOME

This section has been entirely changed by the House, and no longer seems to have the same effect as it had originally. Without going into the criticism of the section as it is now framed, I want to state only that if (a) (1) will stand as it is, it would be best to change part (d), dealing with the members of a partnership accordingly.

"SEC. 209 (a) (1). * * * 'Earned income' also means reasonable compensation or allowance for personal service where income is derived from combined personal service and capital in the prosecution by unincorporated persons of agriculture or other business, but not exceeding 20 per centum of the net profits of the taxpayer from the business in connection with which his personal services are rendered.

"SEC. 209 (d). In the case of the members of a partnership the proper part of each share of the net income which consists of earned income shall be determined under rules and regulations to be prescribed by the commissioner, with the approval of the Secretary, and shall be separately shown in the return of the partnership and shall be taxed to the member as provided in section 218."

There is no reason why an individual being in the same business as a partnership should be treated differently from the members of that partnership, and vice versa.

The department contends rightly that it will be very hard to determine what "reasonable compensation" according to (a) (1) means, but it is not harder than to determine under rules and regulations the proper part of the earned income of the members of a partnership. And if a person's earned income is limited to 20 per cent of the net profits, naturally a partner's should be limited, too.

The original draft in respect to subsection (d) was even worse. By not narrowing the definition of partnership to partnership of professionals, it seemed, and in my belief, gave relief to members of partnerships which it denied to individuals.

SECTIONS 274 (D), 279 (A), 308 (D), AND 312 (A)

"SEC. 274 (d). If the commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay such deficiency shall be assessed immediately and notice and demand shall be made by the collector for the payment thereof. * * *."

"SEC. 279 (a). If a deficiency has been assessed under subdivision (d) of section 274, the taxpayer, within ten days after notice and demand from the collector for the payment thereof, may file with the collector a claim for the abatement of such deficiency, or any part thereof, or of any interest or additional amounts assessed in connection therewith, or of any part of any such interest or additional amounts. Such claim shall be accompanied by a bond, in such amount, not exceeding double the amount of the claim, and with such sureties, as the collector deems necessary, conditioned upon the payment of so much of the amount of the claim as is not abated, together with interest thereon as provided in subdivision (c) of this section. Upon the filing of such claim and bond, the collection of so much of the amount assessed as is covered by such claim and bond shall be stayed pending the final disposition of the claim."

Section 274 (d) as it now stands, coupled with section 279 (a), may cause serious embarrassment and injury to the innocent taxpayer.

According to section 274 (d), either (1) the assessment or (2) the collection, of a deficiency will be jeopardized by delay. These are two entirely different matters and should be dealt with in different ways. If the assessment of a deficiency will be jeopardized, we may say that it is on account of a delay of the Internal Revenue Department; if the collection of the deficiency will be jeopardized, this is the taxpayer's fault. There is no dount but that in both cases a jeopardy assessment should be permitted. On the other hand, I can not see the necessity that the claim for abatement filed in both cases should be subject to the same provisions as it is now under section 279 (a). Why should a claim for abatement be accompanied by a bond in case only the assessment of the deficiency would be jeopardized? It is not the taxpayer's fault that he was not assessed prior to that time, and after being assessed, there is no more jeopardy. It is not on account of the taxpayer being in a bad financial shape or trying to depart, that there is jeopardy, and so there is no necessity for an extra financial assurance that if the assessment will stand it will be paid. The only necessity in this case, is that the assessment can be made.

It is different if the collection of a deficiency will be jeopardized by delay. In this case, naturally, the giving of a bond is needed.

Section 274 (d) could stand as it is, but there should be a change in 279 (a) about as follows:

On page 121, line 16, instead of "Such claim shall be," etc., it should read: "If the collection of a deficiency is jeopardized the claim for abatement shall be accompanied," etc.

The above applies to section 308 (d) and section 312 (a) of the proposed act, which use substantially the same language as sections 274 (d) and 279 (a). Section 312 (a) should, therefore, be changed accordingly.

SECTION 279 (D)

"SEC. 279 (d). Except as provided in this section, no claim in abatement shall be filed in respect of any assessment made after the enactment of this act in respect of any income, war-profits, or excess-profits tax."

I think the restriction of claims for abatement in the way proposed injurious to the taxpayer. There are many instances besides jeopardy assessments where a claim for abatement is the proper way to secure relief. I mention only the fol-

lowing cases: If penalties are assessed wrongfully; or if interest is assessed wrongfully. Up to now, in these cases a claim for abatement could be filed. If section 279 (d) stands as it is, there would be no other remedy but to pay, and then file claim for credit or refund, I, myself, had a case where a heavy penalty was assessed on an amended return because it was not filed in time. Claim for abatement was filed and the attention of the Treasury Department was called to the case, but under section 279 (d) the remedy, as above stated, would be first to pay and then to claim.

Another instance: If a taxpayer detected that his return, upon which he had paid one or two installments, was overstated, he could file a claim for abatement and right his tax return in that way. In the event section 279 (d) stands, there will be no other remedy but to pay according to the incorrect tax return and file claim afterwards.

SECTION 900 (B)

"SEC. 900 (b). The Board and its divisions shall hear and determine appeals filed under sections 274, 279, 308, and 312."

Appeals can be filed with the Board of Tax Appeals only in cases where the department establishes a deficiency, but no provision is made that if a claim for credit or refund is rejected by the department, an appeal may be filed with the Board of Tax Appeals. I believe there is no reason to deny this right to the taxpayer. There is no reason why a claim for credit or refund of the taxpayer should not get exactly the same treatment as a deficiency claim of the department. Why should the taxpayer be obliged to go to the courts after the department rejects his claim, and not be able to secure redress in the less expensive manner by way of the Board of Tax Appeals? I can not believe but that this is an oversight in the act.

BRIEF OF THE COMMITTEE ON LEGISLATION, TRUST COMPANY DIVISION OF THE AMERICAN BANKERS ASSOCIATION, BY THOMAS B. PATON, GENERAL COUNSEL.

MARCH 22, 1924.

To the SENATE FINANCE COMMITTEE:

Section 219 of H. R. 6715 now before the Committee on Finance contains the following subdivisions:

"(g) Where the grantor of a trust reserves a power of revocation which, if exercised, would revest in him title to any part of the corpus of the trust, then the income of such part of the trust shall be included in computing the net income of the grantor.

"(h) Where any part of the income of a trust may, in the discretion of any person, including the grantor of the trust, be distributed to the grantor or be held or accumulated for future distribution to him, or where any part of the income of a trust is or may be applied to the payment of premiums upon policies of insurance on the life of the grantor, whether payable to his estate or otherwise, such part of the income of the trust shall be included in computing the net income of the grantor."

The purpose of these provisions as indicated in a statement by A. W. Gregg, of the Treasury Departmnet is to prevent the evasion of taxes by means of estates and trusts. Referring to the provision now contained in subdivision (g) (in the committee print No. 1 it constituted subdivision (j) and was referred to as such in the statement) Mr. Gregg states that—

"The creation of a revocable trust constitutes nothing but an assignment of the right to receive future income. Since such an assignment does not operate to increase the taxable income of the assignor, the creation of a revocable trust should not so operate, but the income of such a trust should be included in the income of the grantor."

Concerning subdivision (h) which was (k) in the prior draft, Mr. Gregg said:

"This section provides that the income of a trust, which may be distributed to the grantor or which may be used for the payment of premiums upon policies of insurance on his life, shall be included in the gross income of the grantor. Trusts have been used to evade taxes by means of provisions allowing the distribution of the income to the grantor or its use for his benefit. The purpose of this subdivision of the draft is to stop this evasion."

It is respectfully submitted that these provisions should not be enacted into law because—

1. Contrary to sound policy and unjust.
2. Unconstitutional.

THE IMPOLICY OF TAXING VOLUNTARY TRUSTS

The voluntary or living trust has been developed by the trust companies of the United States to meet a great public need after years of effort and at great expense. The establishment of such trusts results in the protection and conservation of property for the benefit of those who can not themselves manage and care for the property; such trusts prevent the waste and misuse and direct into productive channels, large amounts of property which would otherwise be dissipated. These trusts are economically sound; why tax the income to the grantor, when it goes to the beneficiary, simply because there is a power of revocation? When, and if such power is exercised, the income would then be taxable to the grantor. The theory of the proposed provision is to prevent evasion of taxes, but it loses sight of the large amount of beneficial and legitimate trusts, the creation of which it would destroy. Grantors will be deterred from setting up such trusts if they are compelled to pay a tax on them and any dependent beneficiaries will be deprived of the income they would otherwise enjoy. Such a provision recalls the fable of the friendly bear who sought to remove a fly from the nose of his sleeping master; the stroke of his paw killed the fly but it demolished the nose. Granters of revocable voluntary trusts are not, as a rule, evaders of taxes; instances can be given of thousands of such trusts which are created for legitimate purposes and have the most beneficial effect. This form of philanthrophy and thrift should not be discouraged and killed by unnecessary taxation.

Such legislation should not be based on the theory that all men are dishonest and are trying to evade taxes.

LIFE INSURANCE TRUSTS

The same reasoning largely applies to the provisions of subdivision (h) of section 219. A form of business has been built up by trust companies, most beneficial to the people, whereby a man who has accumulated a certain amount of wealth may, in view of the uncertainty of life, transfer his securities irrevocably to a trust company for the purpose of devoting the income to the payment of premiums on a life insurance policy and upon his death, when the insurance is collected, these securities together with the insurance money become a trust fund for various purposes; sometimes to support dependents, sometimes to pay inheritance taxes, and sometimes for both these purposes.

The purposes of such a trust are legitimate and praiseworthy. By this form of investment the securities are removed from the risk of loss and the beneficial ends sought thereby are secured. The imposition of the proposed taxes will destroy the creation of trusts of this character and tend toward a dissipation of money which otherwise might be conserved to useful purposes.

UNCONSTITUTIONALITY

The sixteenth amendment empowers Congress "to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States and without regard to any census or enumeration." But to constitute income within the meaning of this constitutional grant of power, the Supreme Court has held (Eisner *v.* Macomber, 252 U. S. 189) that it must be "received or drawn by the recipient (the taxpayer) for his separate use, benefit, and disposal."

Clearly the tax upon one person, the grantor, upon income received by another, the beneficiary is not a tax upon income received by the grantor and is not within the constitutional grant of power.

It is only necessary in this connection to refer to an opinion of Solicitor of Internal Revenue Mapes published in Internal Revenue Bulletin, July-December, 1922, at page 50 et seq. of which the following is the syllabus:

"Where bonds were conveyed to a trustee under a valid and effective trust, the income to be paid to certain beneficiaries, one of whom was the creator of the trust, and, in addition to the power of revocation, the creator of the trust reserved the right to change, add to, alter, or cancel the lists of beneficiaries, which lists were attached to the trust agreement, and to have set over to him as many of the bonds as were not needed to produce the payments mentioned therein, there should not be included in his gross income any portion of the income other than that received by, or accrued to, him as beneficiary."

In this opinion, backed by numerous authorities, it was held that the income of the trust funds established by the grantor for the purpose of providing a system for the payment of pensions to certain individuals designated by him,

was not taxable to the grantor for the years in question, except such portion thereof as he received as a beneficiary. It was pointed out that the courts have uniformly held that a voluntary revocable trust vests the title of the property in the trustees, subject to be divested, although they have excluded from this rule trusts set up or conveyances executed for the purpose of evading statutory requirements, as to the execution of wills or those not executed in good faith. In this opinion it is stated:

"The trust being valid and passing a present right and title to the property, it can not be held, under the facts presented, that the income arising therefrom belonged during his life to A, other than that amount which went to him as a beneficiary. Otherwise, the statute would impose an income tax upon income which was not received by the taxpayer. It would tax one person upon income received by another. The tax is imposed upon income 'received or drawn by the recipient.' (Eisner *v.* Macomber, 252 U. S. 189.) The income from this trust was not received or drawn by the creator of the trust, except such amounts as he received as a beneficiary. It was received by the beneficiaries, who were the only persons entitled to receive it while the trust remained in existence."

Without burdening this memorandum with an extended legal argument, the purpose here is simply to point out that subdivisions (g) and (h) of section 219 attempt to tax the grantor upon income which he does not receive, and that such a tax is beyond the power of Congress to impose under the sixteenth amendment.

In view, therefore, of the impolicy and injustice as well as the lack of power to tax the grantor of a trust, as provided in subdivisions (g) and (h) of section 219, it is respectfully submitted that these provisions should be eliminated from the bill.

BRIEF OF T. J. MCCLELLAND, ARDMORE, PA.

To the Honorable Members of the Finance Committee, United States Senate:

It is suggested that the following amendment be made to section 226 of the revenue act of 1924 remedying an inequality in the administration of the act of 1918, as effecting taxpayers who use a fiscal year basis of accounting and reporting and who by reason of the economic reaction following the armistice were placed at a serious disadvantage with their competitors (in the payment of the tax) who reported on a calendar year basis.

Reference is here made to the reasons hereinafter set up and in pursuance to remarks of the undersigned made before the Ways and Means Committee on January 16, 1924, and this suggested amendment is in response to said committee's request as therein noted.

Amendment follows:

"A taxpayer having a fiscal year ended during the calendar year 1920 who suffered a net loss from the operation of any trade or business for the period from the close of said fiscal year to December 31, 1920, may file an amended return for that part of the calendar year 1919 from the close of such fiscal year to December 31, 1919, and return thereafter upon a calendar year basis, and any amount of the tax overpaid as the result of application of this paragraph shall be refunded or credited in accordance with the provisions of section 252 of this act. Nothing in this paragraph shall be construed to extend in any way the limitations upon allowances or refunds or credits provided in section 252."

In support of the foregoing amendment it is pointed out: First, the law of uniformity is one of the fundamental limitations placed by the Constitution of the United States upon the levying of indirect taxes.

Each of the revenue acts of 1913, 1915, 1917, 1918, and 1921 recognize this fundamental limitation.

Section 212 of the act of 1918 gave permission to change method of accounting and reporting. The Commissioners of Internal Revenue, under article 26, regulations 45, abridged this privilege by requiring taxpayers who wished to change their method of reporting to file a request so to do 30 days prior to the expiration of the term of the then method of reporting.

The provision of the regulation, while under ordinary circumstances was wise and justifiable, miscarries, and violates the aforesaid constitutional limitation of uniformity in the assessment and collection of the tax through its application to taxpayers having a fiscal year in 1920 and who by reason of "coming back to normalcy" following the armistice suffered enormous losses in that portion of the calendar year succeeding the close of their fiscal year. And the time wherein

they may have availed themselves under section 212 of the act had lapsed and they were denied such privilege by the regulations.

All taxpayers (whether fiscal or calendar) enjoyed the same general circumstances of profits and prosperity during the first half of 1920 and approximately all suffered from the effects of the same general condition and depression that obtained during the last half of their calendar year; but the calendar year concerns wiped out their period of gain by their losses in the last part of the year, while on the other hand the fiscal year concerns (their taxable year ending almost simultaneously with the period of prosperity) were forced to pay tax on every month of gain at the same time carrying its burden of losses thereafter immediately succeeding without any compensating or qeualizing provision; inasmuch as the profits tax in the acts of 1921 had been repealed before any period of profits had recovered and the commissioner's regulation aforesaid had estopped such fiscal year concerns from going back and changing its method of reporting.

This article of the regulation as well as the act was written before any thought of the economic exigency arising in 1920 could have been known, otherswe article 26 of regulation 45, if not the act itself, would have been modified to provide a method of relief that would reach this condition.

It is estimated that approximately 70 per cent of corporate taxpayers are calendar-year concerns and 30 per cent are fiscal-year concerns; and it is vigorously maintained that it is not the intent of any of the various acts to discriminate between taxpayers or allow a construction or the administration of the law to place a larger burden upon one substantially large group that is not equitably placed upon taxpayers as a whole.

It is conceded that the administrative provision referred to was intended to stabilize methods of reporting, and this general effect may be still maintained and the proposed amendment, if adopted, will not nullify this article or its just purposes, inasmuch as the amendment does not give a general and sweeping privilege to any and all taxpayers for any and all periods but seeks only to reach those who suffered losses in 1920 because of the armistice and limit that adjustment or remedy in recognizing such losses equal to but not exceeding the profits that it may have earned in such calendar year, and in so doing places both classes of taxpayers on an exact equality.

It is therefore pointed out that no one is directly or indirectly discriminated against by giving the option to such fiscal-year concerns to place their tax liability upon a parity with its calendar year competitor.

This amendment is asked not because such losses complained of were occasioned by any circumstance attributable to the individual taxpayers business or transactions, but because it was a condition that was forced upon them as a post-war exigency in which the nation as a whole was affected.

T. J. McCLELLAND.

BRIEF OF THE NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

EXEMPTION OF FARMERS' AND OTHER MUTUAL INSURANCE COMPANIES

Recent developments arising from a series of complications in the regulations and rulings of the Treasury Department and from the urgent need at this time for loans to farmers from their own organizations, make it imperative that paragraph (10) of section 231, revenue act of 1921, relating to the exemption of farmers' and other mutual insurance companies, should be amended at the earliest possible time, preferably before the time for the coming tax returns on March 15, 1924.

This paragraph reads as follows:

"SEC. 231. That the following organizations shall be exempt from taxation under this title * * *: (10) Farmers' or other mutual hail, cyclone, or fire insurance companies, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations of a purely local character, the income of which consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting expenses; * * *"

The omitted subsections, exempt among others, "labor, agricultural, or horticultural organizations," "mutual savings banks," "fraternal * * * societies," "building and loan associations," "business leagues," "civic leagues," "clubs," and "farmers' sales organizations," without any restriction whatever as to the territory throughout which these operate.

These farmers' and other mutual insurance companies are now threatened with being deprived of exemption unless they are "of a purely local character." The Treasury Department held consistently that they were not required to be of a local character up to 1922. Such was the practical construction prior to regulations 45, and in three separate editions of regulations 45 (1919), (1920), and (1921) it was held that "The phrase 'of a purely local character' qualifies only 'like organizations.'" In January, 1922, an opinion of the District Court for the Southern District of Illinois (Coml. Health and Accident Co. *v.* Pickering, 281 Fed. 539) affecting a company which could be exempted if at all only as a like organization, in an obiter discussion suggested that the specifically named "Farmers' and other mutual * * * companies" were required to be of a purely local character. This decision was published as T. D. 3313, and regulations 62 issued immediately after reversed the previous regulation in the following language: "The phrase 'of a purely local character' qualifies all the organizations enumerated in subdivision (10) of section 231." Article 521, regulations 62 (1922). The Treasury Department now has under consideration a very large number of cases with an application for a restoration of the earlier regulation.

There are more than 2,200 of these farmers' and other mutual insurance companies, and a very large number of these companies are affected by this question of exemption. These companies have also been threatened with a refusal of the deduction allowed to the large mutual companies under section 234 (13), resulting in very unjust and unreasonable taxes on practically all balances carried over the end of the taxable year.

Another unfortunate situation arises from the fact that under the present exemption wording it is held that the receipt by one of these mutual companies of interest from a farm mortgage or note or rental from a home office building or other income than payments of members and interest on working balance in bank deprives the company of the exemption. This results in these companies being compelled to deposit all funds in banks at a low rate of interest instead of loaning these funds to their farmer members at the going rates of interest, at the same time helping these members to loans where they might not otherwise obtain them.

The deductions allowed to mutual farmers and other mutual companies under section 234 (13) have been construed to give all the large mutual companies, which in fact are mutual, deductions which leave no taxable net income. Under the complications existing in the regulations and rulings it is the small and medium-sized mutual companies which may have to pay an income tax. This was never the intention of Congress.

It is therefore most important that the paragraph should be amended to correct the situation. The following is the amendment which has been agreed upon by those interested:

"SEC. 231. * * * (10) Farmers' or other mutual hail, cyclone, casualty, or fire insurance companies. Mutual ditch or irrigation companies, mutual or cooperation telephone companies, or like organizations, which like organizations are of a purely local character, and the income of which like organizations consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting expenses."

HARRY F. GROSS,
President, Des Moines, Iowa.
HARRY P. COOPER,
Secretary, Crawfordsville, Ind.
EKERN, MEYERS & JANISCH,
Counsel, Chicago, Ill.

BRIEF OF WILLIAM W. ARMSTRONG, ROCHESTER, N. Y.

MARCH 5, 1924.

Hon. JAMES W. WADSWORTH, Jr.,
United States Senate, Washington, D. C.

DEAR SENATOR WADSWORTH: Section 281, subsection (d), of the copy of the pending income tax bill which I have, provides in substance that where the Supreme Court has held that any income, war profits, or excess profits taxes have been illegally collected a taxpayer may file a claim for refund thereof within four years after the decision notwithstanding other periods of limitation for filing such claim may have expired.

There are two features of this amendment which I would like to call to your attention.

1. The provision is now limited to income, war profits, and excess profits, but there is no reason why it should not extend to any tax illegally collected by the Government and, in my opinion, should be so amended.

2. Besides decisions of the Supreme Court, there are two other kinds of decisions which are final in such matters:

(*a*) Decisions of United States district courts not appealed from.

(*b*) Decisions of United States circuit courts which are made final in actions arising under revenue laws unless a writ of certiorari is granted by the Supreme Court.

I think these clauses embrace more actual determinations than do the decisions of the Supreme Court.

The provisions above referred to should, therefore, in my opinion, be amended to include the decisions of any court of competent jurisdiction which either by law or by failure to appeal therefrom become final, as well as the decisions of the Supreme Court.

Since the law requires a payment of the tax, no matter how illegal the demand therefor, the taxpayer is already put under disadvantage, although I do not find fault with this provision of first paying the tax and then suing to recover it in order to establish the legality of the collection; but these cases usually involve many collections of the same kind of tax and the action actually brought is in the nature of a test suit. The litigation is rarely terminated before the expiration of the ordinary statute of limitations, and so, unless all these taxpayers promptly file claims for refund and bring separate suits upon the rejection of such claims, they find themselves unable to recover the tax at the conclusion of the test suit, not because it was not illegally collected but because they have failed themselves to bring suit.

This is not just and, assuming that the Government ought not to retain a tax illegally collected, every taxpayer whose money has been illegally taken under these circumstances ought to have an actual opportunity to collect it after the question of its legality has been determined by the court.

I submit the above to you for your prayerful consideration. If I can find time to call on you when I am next in Washington about it I will do so, but meanwhile I will be glad to have you advise me what you think of the proposition, and, if you think well of it, whether you will not interest yourself in suggesting such an amendment to the Senate Finance Committee.

Yours truly,

WM. W. ARMSTRONG.

BRIEF OF ARNOLD L. GUESMER, OF FEDERAL TAX COMMITTEE, INLAND DAILY PRESS ASSOCIATION, MINNEAPOLIS, MINN.

PROPOSED AMENDMENTS TO SECTION 281, PROPOSED 1924 REVENUE ACT

The two points covered by the amendment are as follows:

1. The Government is, by exacting waivers, keeping 1917 and 1918 cases open after the taxpayer is or will be barred by statute. The amendment enables the taxpayer to file a waiver which will keep these years open on both sides for the period of his waiver.

2. The five excess-profits tax years are inextricably interrelated and should be dealt with together, underpayments for one year being offset against overpayment for others. Before the statute of limitations had run against the taxpayer as to any year that was possible. The amendment is necessary to make it possible hereafter.

It is necessary also because the Government has, as to 1920, under the proposed 1924 law, one year more than the taxpayer.

The practical situation is this: The Government demands a large additional amount for a given year (1921 for instance); the taxpayer must, if he can, prove he does not owe it; to do that he must make, at large expense, an audit of his company from the date it started business; the capital for the year in question depends on what first came into the corporation and on everything that has come in and gone out thereafter; to get at the capital for the year for which the demand is made all the preceding years must be covered; in establishing the capital for that year the correct capital and income for the preceding years are automatically established; in checking his showing as to that year the Government has to go through his showing as to all; it can cover all in the same time that it covers one.

Amend section 281 by adding at the end thereof the following:

"(f) (1) As to any tax (including profits taxes) on income of the taxable years 1917 and 1918 (including fiscal years) the taxpayer may, within one year after the approval of this act, file with the commissioner a waiver of any statutes of limitations which have run or which may run in the taxpayer's favor as to the right to impose such taxes on the income of said years.

"(2) As to any tax (including profits taxes) on income of the taxable years 1917–1921 (including fiscal years), if the taxpayer shall be notified that there is asserted against, or proposed to be exacted from the taxpayer, under the revenue acts of 1917, 1918, 1921, or any of them, any sum as to one or more of said years, additional to or in excess of the amount or amounts theretofore paid by or assessed against the taxpayer, the taxpayer may, within six months after the receipt of such notification, file with the commissioner a waiver of any and all statutes of limitations which have run or which may run in the taxpayer's favor as to the right to impose such taxes on the income of all of said years.

"(3) Within six months after receipt by the commissioner of any waiver above provided for (or within such further time as the commissioner may grant) the waiving taxpayer shall file amended returns for all said years and appropriate claims for abatement, credit, and/or refund."

In the disposition of the case all overpayments for any or all of said years shall, so far as necessary, be applied against any underpayments, and any net overpayment or overpayments shall be refunded to the taxpayer, and any net underpayment or underpayments shall be paid by the taxpayer, notwithstanding any statute of limitations.

Any such waiver shall automatically effect a waiver by the Government of any and all statutes of limitations which may have run or may run against the taxpayer as to overpayments for said years, or any of them, and such waivers shall expire, both as to the Government and the taxpayer, one year after the filing thereof, but notwithstanding such expiration, in all cases wherein the waiving taxpayer shall have filed said amended returns and claims within the time in this subdivision (f) provided, the case may proceed to final determination, and the underpayments may be collected and the overpayments refunded.

I. THE PURPORT OF THE AMENDMENT

(1) As to 1917 and 1918:

(*a*) The taxpayer is given one year after the passage of the act to file a waiver of the statute of limitations.

(*b*) Within six months after the filing of such a waiver (or such further time as the commissioner may grant), the taxpayer shall file amended returns for all excess profits tax year (1917–1921), and appropriate claims for abatement, credit, and refund.

(*c*) In the disposition of the case overpayments shall be applied against underpayments, and any net underpayment shall be paid, and any net overpayments shall be refunded, notwithstanding any statute of limitations.

(*d*) The waiver automatically effects a reciprocal waiver by the Government.

(*e*) The waiver expires both as to the Government and the taxpayer one year after the filing of it, but, notwithstanding such expiration, a case, wherein papers have been filed within the time above specified, may proceed to final determination.

(2) As to 1917–1921:

If any additional assessment is proposed against the taxpayer by the Government as to some year.

(*a*) The taxpayer is given six months after being notified of any such proposed additional assessment to file a waiver of all statutes of limitations, as to all the excess profits tax years, 1917–1921.

(*b*) Same as (*b*) above.

(*c*) Same as (*c*) above.

(*d*) Same as (*d*) above.

(*e*) Same as (*e*) above.

II. SOME BASES FOR THE AMENDMENT

(1) The expirations of times for the filing of claims for refund (under 1921 act) are as follows:

1917 expired in the spring of 1923.

1918 expires in the spring of 1924.

1919 expires in the spring of 1925.

1920 expires in the spring of 1926.
1921 expires in the spring of 1927.

These expirations are based upon the provision, that claims for refund can be filed within five years after the due date of the return. The Government's time to propose additional assessments also expires at the above times. The Government, however, does have the power, heretofore exercised, to call on the taxpayer to file waivers. The Government takes the position that it has not the power to waive on its side.

(2) Five years was originally considered as probably sufficient for ordinary Federal taxes. However, in the case of this tax, new and complicated, the Government itself, even with its large force engaged exclusively in dealing with this law, found the five years insufficient as to 1917. For 1917 and 1918 its work has not yet been finished. It has asked for waivers.

1917 and 1918, being the first excess-profits tax years, were particularly productive of difficulty. Naturally there were many errors in the returns for those years, because everything was in confusion. Since the time will shortly expire as to 1918, there should be made the special provision proposed in (1). Similar action was taken in the spring of 1923, as to 1917, in a situation similar to that now existing as to 1918. Then the time was extended by an act passed before it expired. In this instance the enactment of the new law may not come before the 1918 time expires. Hence the authority should be given for one year after the act becomes law.

(3) The taxpayers, not familiar with the law, and with no force of experts at their command, naturally find the five-year period still less sufficient than does the Government.

(4) The law being new and complicated, the Government had to work its way out, and deal with a multitude of questions. Naturally the Government officials were in a position to gain an understanding of the law somewhat earlier than the taxpayers. Time which might be sufficient for the Government would, therefore, not be sufficient for the taxpayers.

(5) It naturally took several years to bring order out of chaos. The situation is not the same as if everything had been on a definite basis at the very beginning. For some time the taxpayer, due to his lack of understanding of the law, and due to the many unsettled questions, was not in a position to act advisedly. The Government's first volume of rulings came out at the end of 1919.

(6) In some businesses important questions as to capital had not been determined, until within the last year or two. For instance, in the newspaper business, the question of capitalizing investments in the circulation structure was not finally determined until 1923. Some questions in various businesses have had to await determination by the Supreme Court. Hence, it is apparent, the situation is very different from what it would have been if the questions, worked out principally during the last five years, had been settled before that time.

(7) Due to the newness and complicated character of the law, and the necessity for making returns within a short time after enactment, taxpayers had to make them as best they could. Naturally there were many serious mistakes, requiring corrections as to a large percentage of the returns. The matter of getting the tax onto a correct basis is a difficult one, and requires much time. It frequently necessitates an expensive audit and investigation, from the commencement of the corporation, and the taxpayer hesitates to incur the large task and expense, unless it becomes absolutely necessary.

(8) Heretofore the experience has been that the taxpayer (after he thought his taxes out of the way) would receive a communication from the Government relating to some, not all, of the excess-profits tax years and proposing additional assessements. No statute of limitations having run, underpayments of one year could be applied against overpayments for another. With the statute of limitations running against one or more years that will hereafter be impossible, unless the proposed amendment is made.

(9) The excess-profits taxes for the various years are obviously interrelated. Transactions of one year affect the capital of a later year. A holding as to one year will affect other years. The object, of course, is to get the taxes onto a correct basis, and the only way this can be done is to make such provision that when one excess-profits year is being dealt with the other years can be dealt with at the same time.

(10) It will be noted that the Government can, until the spring of 1927, make additional assessments for the year 1921. That year has not thus far been dealt with by the Government, because it has been obliged to concentrate its efforts on previous years under previous laws. As to 1919 and 1920, the Government

also may make additional assessments, those years not having been disposed of. If the taxpayer should receive from the Government a communication proposing a large additional assessment for some one year (1921 for instance), that assessment being based on the question as to invested capital, that taxpayer would find it necessary to have an audit made from the beginning of the corporation down in order to get at the capital invested for January 1, 1921, the capital involved in the 1921 tax. The capital on January 1, 1921, is, of course, dependent on transactions taking place throughout the corporation's career, showing capital items coming in and capital items going out; the paid-in surplus on January 1, 1921, is similarly dependent on previous transactions, and the earned surplus on that date is the accumulation of items showing the net earnings from year to year from the beginning down. The audit will therefore have to extend through all of the years including 1917–1920.

One and the same audit, one and the same investigation, one and the same expense will establish not only the capital for January 1, 1921, but also that of each of the other excess profits tax years, 1917–1920. It would cost just as much to cover 1921 alone.

That audit will disclose the underpayments and overpayments for each of the years 1917–1921. If there has been a net underpayment, the Government is entitled to the money, and if there has been an overpayment the taxpayer is entitled to the refund. It would be an injustice to force the taxpayer to pay a large extra assessment for 1921 if the audit discloses that he has large overpayments for the previous years which will equal or exceed the proposed additional assessment for 1921.

Moreover, when the Government by its proposed additional assessment for 1921 (or some other year) puts him to the necessity of making an extensive audit, which may cost several thousands of dollars, he and the Government ought to have the full benefit of what that audit discloses.

(11) To put the Government in a position wherein it can as to 1921, or some other late excess profits tax year, proceed to put an additional assessment against the taxpayer without any opportunity on his part to make use of overpayments which he had made in an early year or years, would be unjust. That injustice was avoidable as long as no statute of limitations had run; it can in the future avoided by the amendment proposed.

(12) The amendment will not result in putting the Government to any extra expense. It would have to examine the taxpayers' audit to get at the capital for January 1, 1921 (or some other year). One and the same examination of that audit will disclose the capital for each of the years 1917–1920. The tax can be corrected for all years with the same work, and at the same expense, which would be entailed by the examination for 1921 alone. The statements are made in columnar form, one column for each year.

(13) If the number of taxpayers who file waivers should be large, the Government ought to supply the necessary force, and incur the necessary expense to avoid injustice to these taxpayers. If the number be small then the expense to the Government will be commensurately small. The smaller number of taxpayers are entitled to the service to avoid injustice to them. The Government will, until the year 1921 has been disposed of, have a force of people administering the excess profits tax laws. That force, while engaged in dealing with a taxpayer as to 1921 (or some other year), may, at one and the same time, make corrections in his case for the interrelated years, 1917–1920.

(14) In dealing with 1921, after the statute of limitations has run against all the other excess profits tax years, it may be ruled that certain items belong in capital, though theretofore the taxpayer has always put them into expense. Thus the income for 1921 will be enhanced. Treating them as capital invested for all years might have reduced the tax in other years. However, the statute of limitations having run, the taxpayer will be debarred of the benefit of that additional capital for the other years. The ruling will work against him for 1921, without being permitted to work in his favor for the other excess profits tax years.

(15) If it be said that only those who have a refund coming will file a waiver it is to be noted: (*a*) That the Government, before the statute of limitations ran against it, presumably collected in all underpayments; (*b*) Those who stated their capital conservatively and who erred in favor of overpayments should not be called on to shoulder any deficiency created by underpayments of the others. The penalty for their fault should not be visited upon those who overpaid.

(16) Underpayments obviously were made by those who had been conservative in respect to their capital, and did not have a full book showing of their real capital. The conservative concern should not be deprived of any of its capital.

In order to be put on a basis somewhere near par with those who were disposed to overload their capital records they should be given every opportunity to have the benefit of their actual capital.

(17) Those who erred on the side of paying the Government too much, when the Government needed the money most, and who can get back, at best, only the principal without interest, so that the Government will have had the use of their money for a number of years, free of charge, are entitled to special consideration. The Government having had the use of their money, free of interest, should not be quick to foreclose them against getting back the principal.

The Government has benefited by any delay in getting the refund. It should be liberal in granting time to get that refund.

(18) If this amendment is made, the Government will lose nothing; if it is not made the taxpayers will lose much. To refuse to make the amendment would be to add injustice to an already heavy tax burden; to make the amendment is promotive of simple justice to those who are especially entitled to consideration.

(19) The Government would not heretofore deal with 1921, so that the taxpayer was powerless to get all years closed. He should have the right to deal with all the years when the Government, for the first time, gets to the point where it will deal with all years.

(20) While it is important to get the excess profits tax years closed, it is still more important to get them close dright. Taxpayers, whoes money the Government has been using for several years, without interest, should get back the principal.

(21) Since the proposed amendment was originally drawn it has been learned that the Bureau is requiring waivers of the statute of limitations as to 1917, and extensions of waivers for that year heretofore given. That will put the taxpayer at a disadvantage. He will be foreclosed but the Government will not. As to 1917 the statute has already run against him or (if, before April 2, 1923, he filed a waiver) it will run against him April 1, 1924. Hence, the same arguments apply to 1917 as to 1918, and 1917 should be covered with 1918 in the proposed amendment.

In the new form of waiver which the bureau is asking taxpayers to sign, it is provided that the waiver "will remain in effect for a period of one year after the expiration of the statutory period of limitation, or the statutory period of limitation as extended by any waivers already on file with the bureau."

ARNOLD L. GUESMER,
Of Federal Tax Committee, Inland Daily Press Association,
Minneapolis, Minn.

ALCOHOL

BRIEF OF THE AMERICAN DRUG MANUFACTURERS ASSOCIATION

WASHINGTON, D. C., *January 31, 1924.*

The proposal to reduce the tax on alcohol is and has been sponsored principally by manufacturers of so-called patent medicines, certain manufacturers of toilet articles, and manufacturers of barbers' supplies.

The members of the American Drug Manufacturers Association, who manufacture 90 per cent of the prescription medicines for use by physicians and druggists, are unequivocally opposed to the reduction of the tax on alcohol.

This association is representative of manufacturers of medicines sold upon doctors' prescriptions as distinguished from so-called patent medicines.

Since the enactment of the national prohibition act, manufacturing pharmacy, of which members of this association are representative, has put forth every effort to keep from its ranks those who desire to carry on bootlegging operations under the guise of manufacturing pharmacists.

The constitution of this association provides that any member who obtains a wholesale liquor dealers permit forthwith ceases to be a member of the American Drug Manufacturers Association.

For many years manufacturing pharmacists have maintained, at the expense of millions of dollars annually, extensive staffs of highly trained chemists, pharmacists, biologists, and botanists to produce standard products of high quality and purity for the use of physicians and druggists.

To reduce the tax on alcohol and thus invite the manufacture of such preparations by promiscuous unskilled firms and persons incapable of maintaining scientific control of crude material and finished product will result in a flood of impure unstandardized medicines, thus menacing the public health.

The maintenance of the present high standards of purity and quality of prescription medicines means the difference between life and death in tens of thousands of cases every year.

The present tax on alcohol has proved an almost insurmountable barrier to obtaining and diverting of tax-paid alcohol to illegitimate purposes. It makes the cost too high. Reducing the tax will open the gates to bootlegging and greatly increase this evil.

We are convinced that it is not the tax-paid alcohol that is being diverted to bootlegging purposes. In support of this statement, we have only to invite your attention to the numerous newspaper reports of poisonous liquors which are being sold by bootleggers which upon analyses by various boards of public health and other Federal, State, and municipal authorities, show that such concoctions have been manufactured from specially denatured alcohol from which the bootlegger has not taken the trouble to remove the poisonous or unpotable denaturant.

It must be conceded that at the present time bootleggers use tax-free specially denatured alcohol, which requires considerable manipulation to make such tax-free alcohol suitable for their illegitimate purposes. Reduction of the tax will enable those engaged in bootlegging operations to obtain pure alcohol at about $2.50 per gallon as against the present price of about $4.80 per gallon. The lower cost will make it unprofitable for the bootlegger to buy specially denatured alcohol and pay the additional cost of manipulation in order to make it suitable for his purposes. Consequently, the bootlegger will use the less costly pure alcohol to make his synthetic whiskys and other intoxicating liquors, thus making it more difficult for those in charge of prohibition enforcement as shown by the following excerpt from a statement for press release made on January 18 last by Federal Prohibition Commissioner R. A. Haynes:

"It is true that a part of these so-called perfume formulas are recovered and converted to illicit uses in certain sections of the country where control is difficult, but it should be apparent to all that control is rendered easier when a moon-

shiner is forced to an illicit distillation process to make potable alcohol rather than the mere addition of water to pure alcohol."

The tax on alcohol is indirect, and, as we understand it, not included in the tax reduction plan of the Secretary of the Treasury. The claim is being made that this tax comes within the classification of nuisance taxes. However, it is our understanding that the Secretary of the Treasury defined a nuisance tax as one that "is not a nuisance to pay, but a nuisance to collect," and certainly there is no difficulty in the collection of the tax on alcohol, regardless of the amount of the tax.

In this connection we desire to point out that last year the Government received nearly $23,000,000 from this tax without placing any recognizable burden upon the ultimate consumer.

In 1917 the tax on alcohol was increased from $1.10 per proof gallon to $2.20 per proof gallon. The increased tax has been denominated as a war tax, and the argument has been advanced that, being a war tax, it should be repealed. In 1917 prior to the enactment of the national prohibition act, it was a war tax certainly. Since the enactment of the national prohibition act, it has become a necessary tax which has proved a safeguard against the obtaining and diverting of pure alcohol to illegitimate purposes.

The reduction of the tax on alcohol will bring no real saving to the general public. Patent medicines selling at $1 contain on the average of no more than 10 per cent alcohol, according to the testimony of the representatives of the patent medicine interests before the Ways and Means Committee. This means 1½ ounces of alcohol in the average $1 patent medicine. The proposed reduction of the tax amounts to less than 2 cents per ounce of alcohol, consequently, the reduction would not reduce the price to the public for the obvious reason that the reduction in cost is too small to warrant a reduction in price.

The same is true of prescription medicines. The average 4-ounce prescription contains less than 1 ounce of alcohol, a saving, if the tax is reduced of less than 2 cents. No one can conscientiously maintain the prescriptions would be reduced in cost from 75 cents to 73 cents.

The American Drug Manufacturers Association is therefore unequivocally opposed to reduction of tax on alcohol for the following reasons:

(1) It would undoubtedly let down the bars of prohibition enforcement to an extent that would be exceedingly demoralizing.

(2) Bootleggers who at present divert tax free specially denatured alcohol to illegitimate purposes would undoubtedly attempt to operate under the guise of pharmaceutical manufacturers in order to obtain pure alcohol.

(3) It would greatly encourage promiscuous manufacturing of prescription medicines by the unskilled and would flood the country with low quality, untested, dangerous medicines which would be a menace to the public health.

(4) The tax is indirect and not included in the tax reduction plan of the Secretary of the Treasury.

(5) It is highly improbable that there would be any reduction in the price of prescription medicines or of so-called patent medicines to the ultimate consumer.

(6) The Government would lose one-half of a revenue easily collected, which last year amounted to nearly $23,000,000.

(7) Due to enactment of prohibition act, the tax has now become a safeguard against the diversion of pure alcohol to bootleg purposes.

Respectfully submitted.

AMERICAN DRUG MANUFACTURERS ASSOCIATION,
By CARSON P. FRAILEY, *Secretary*.

Members of the American Drug Manufacturers Association: Abbott Laboratories, Chicago, Ill.; Alliare, Woodward & Co., Peoria, Ill.; Anderson-Hillier Co. (Inc.), New York City, N. Y.; Armour & Co., Chicago, Ill.; Bauer & Black, Chicago, Ill.; W. J. Bush & Co., New York City, N. Y.; Citro Chemical Co., Maywood, N. J.; Davies, Rose & Co., Boston, Mass.; Digestive Ferments Co., Detroit, Mich.; the Dow Chemical Co., Midland, Mich.; Fairchild Bros. & Foster, New York City, N. Y.; Fritzsche Bros., New York City, N. Y.; Hance Bros. & White (Inc.), Philadelphia, Pa.; Hynson, Westcott & Dunning, Baltimore, Md.; Johnson & Johnson, New Brunswick, N. J.; Eli Lilly & Co., Indianapolis, Ind.; Lloyd Bros., Cincinnati, Ohio; McElmaine Bros. (Inc.), Philadelphia, Pa.; Mallinckrodt Chemical Works, St. Louis, Mo.; Maltbie Chemical Co., Newark, N. J.; Maywood Chemical Works, Maywood, N. J.; Merck & Co., Rahway, N. J.; the Wm. S. Merrell Co., Cincinnati, Ohio; John T. Milliken Co., St. Louis, Mo.; Monsanto Chemical Works, St. Louis, Mo.; H. K. Mulford Co., Philadelphia, Pa.; National Drug Co., Philadelphia, Pa.; Nelson, Baker & Co., Detroit, Mich.; New York

Quinine & Chemical Works, New York City, N. Y.; Norwich Pharmacal Co., Norwich, N. Y.; Norvell Chemical Corporation, New York City, N. Y.; Parke, Davis & Co., Detroit, Mich.; the E. L. Patch Co., Boston, Mass.; S. B. Penick & Co., New York City, N. Y.; Chas. Pfizer & Co., New York City, N. Y.; Pitman-Moore Co., Indianapolis, Ind.; Powers-Weightman-Rosengarten Co., Philadelphia, Pa.; Roessler & Hasslacher Chemical Co., New York City, N. Y.; Seabury & Johnson, New York City, N. Y.; Sharp & Dohme, Baltimore, Md.; E. R. Squibb & Sons, New York City, N. Y.; Frederick Stearns & Co., Detroit, Mich.; Tailby-Nason Co., Boston, Mass.; the Tilden Co., New Lebanon, N. Y.; A. M. Todd & Co., Kalamazoo, Mich.; the Upjohn Co., Kalamazoo, Mich.; Wm. R. Warner & Co., New York City, N. Y.; Wilson Laboratories, Chicago, Ill.; the Zemmer Co., Pittsburgh, Pa.

BRIEF OF PARKE, DAVIS & CO., DETROIT, MICH.

MARCH 8, 1924.

HON. REED SMOOT,
Senate Office Building, Washington, D. C.

DEAR SIR: We are unequivocally opposed to the reduction in the tax on alcohol, because it would undoubtedly let down the bars of prohibition enforcement to an extent that would be exceedingly demoralizing. Bootleggers who at present divert tax free specially denatured alcohol to illegitimate purposes would undoubtedly attempt to operate under the guise of pharmaceutical manufacturers in order to obtain pure alcohol. This would greatly encourage promiscuous manufacturing of prescription medicines by the unskilled, and would undoubtedly flood the country with low quality, untested, dangerous medicines which would be a menace to the public health.

Furthermore, it is highly improbable that there would be any reduction in the price of either prescription medicines or so-called patent medicines to the ultimate consumer, because patent medicines selling at $1 contain on the average not more than 10 per cent alcohol according to the testimony of the representative of the patent-medicine interests before the Ways and Means Committee. Consequently they do not contain more than 1½ ounces of alcohol, the tax on 1 ounce being about three-tenths cent, and therefore no reduction in the price of patent medicines to the public can be expected. The same is true of prescription medicines.

The tax is indirect and affords the Government a revenue easily collected, which last year amounted to nearly $23,000,000.

Due to the enactment of the prohibition act, the tax can not in any sense be called a war tax, for the reason that it has now become a safeguard against the diversion of pure alcohol to bootleg purposes.

We trust that upon giving this matter consideration you will conclude to oppose any amendment to the revenue bill which has for its purpose a reduction of the tax on alcohol.

It will be appreciated if you will advise us of your attitude with respect to a reduction of this tax.

Very truly yours,

PARKE, DAVIS & CO.,
HARRY P. MASON,
Assistant to President.

BRIEF OF HANCE BROS. & WHITE (INC.), PHARMACEUTICAL CHEMISTS, PHILADELPHIA, PA.

MARCH 7, 1924.

HON. REED SMOOT,
Senate Finance Committee, United States Senate,
Washington, D. C.

DEAR SIR: We beg to refer to an organized effort that is being made to reduce the present rate of tax on nonbeverage alcohol, which effort was unsuccessful before the Ways and Means Committee of the House of Representatives in connection with the tax bill now before you, and respectfully register our protest against any such reduction at this time for the following reasons:

1. It would cause a shrinkage in the value of our inventory of such an amount as to practically mean financial ruin, in that all manufactured goods which we have on hand would at once shrink to the extent of the reduction of this tax.

2. It would encourage bootleggers and persons desirous of securing alcohol for illegitimate use to engage in the manufacture of pharmaceuticals in order to secure alcohol for ulterior purposes. At the same time, while they would manufacture a few goods as a cloak for their nefarious practices, they would establish a form of competition that would be ruinous for legitimate concerns.

3. Elimination or reduction of this tax on alcohol would result in no saving to the general public, for the reason that the alcohol content of the average remedy is so small that there would be no corresponding reduction in the retail sale price of any preparation into which it entered.

4. At a time when every endeavor is being made to enforce prohibition the introduction of cheap ethyl alcohol would make such enforcement almost impossible.

5. There is no demand of a legitimate nature for the reduction or elimination of such tax. At the present time there are about 50 formulæ of nontax alcohol covering every legitimate use for industrial purposes. At the same time, these formulæ are so denatured as to make it almost impossible for those who would convert those formulæ to illegal purposes, to do so.

6. The only ones who would be benefitted by a reduction of the tax on alcohol are proprietary manufacturers who offer their products in standard packages, the resale retail price of which they, to a certain extent, dictate, the articles being noncompetitive. There would be no reduction in the resale retail price of these preparations, thus, on the whole, there would be no benefit to anyone but this preferred class of manufacturers.

There is, at the present time, millions of dollars invested in the legitimate manufacturing pharmaceutical business, all of which investment would be greatly imperiled by any change at this time in the tax on ethyl alcohol.

We are informed that the amount of revenue now produced by this tax totals an amount of between twenty-five and thirty million dollars a year. We therefore, feel that the tax on other items, in which the public at large could participate could be better reduced than this alcohol tax.

Very truly yours,

HANCE BROS. & WHITE (INC.).
WM. W. SYKES, *Sales Manager*.

BRIEF OF FURST-MCNESS CO., CHEMISTS AND MANUFACTURING PHARMACISTS, FREEPORT, ILL.

MARCH 8, 1924.

Hon. REED SMOOT,
Senate Office Building, Washington, D. C.

DEAR SIR: You have no doubt, received copies of the briefs in favor of the repeal of the war tax on alcohol, filed by the National Association of Retail Druggists, the Interstate Manufacturers' Association, The American Proprietary Association, and other similar associations engaged in the manufacture and sale of proprietary remedies, first-aid medicine, and flavoring extract.

We trust you have taken time to read these briefs, for they present a logical argument in favor of a tax reduction which to our mind is very important. The loss of revenue to the Government by this reduction would be comparatively small and the benefit to the consumer from the reduction in prices on these commodities would be almost immediate and very considerable. At the present time the excise tax on alcohol is $4.18 per wine gallon (equivalent to $2.20 per proof gallon), which is about ten times the actual cost of producing the alcohol and adds an exorbitant item of cost to all preparations in which it is used.

The only benefit that we would expect to receive from the reduction of this tax would be the stimulus to sales that would result from the lowering of prices, and we believe this is representative of the attitude of all manufacturers in our line. Our selling prices would be promptly reduced in direct proportion to the saving in our costs of manufacturing. About 90 per cent of our products are sold direct to farmers who would thus be the direct and immediate beneficiaries of the elimination of this tax.

If you have read over the briefs referred to above, you are aware that we are not asking for the complete elimination of the excise tax on alcohol, but only the war tax of $1.10 per proof gallon (equivalent to $2.08 per wine gallon), which was added in 1917 strictly as a war measure and which has been, particularly since 1920, a heavy burden on this industry.

Any reduction in taxes is bound to be beneficial, not only to the business interests but to the actual consumers of this country, but no reduction in the general taxes would, in our opinion, be passed on to the consumer so promptly and fully as the elimination of this war tax on alcohol.

While we realize that you are very busy, and we do not wish to impose upon your time, we would greatly appreciate a word from you as to your views on this important matter.

Yours very truly,

FURST-McNESS CO.
F. E. FURST.

BRIEF OF JOSEPH TRINER CO., MANUFACTURING CHEMISTS, CHICAGO, ILL.

MARCH 7, 1924.

Hon. REED SMOOT,
United States Senate, Washington, D. C.

HONORABLE SIR: We wish to herewith appeal to you to favor the repeal of the war tax consisting of $1.10 per gallon on industrial alcohol, for the following reasons:

That alcohol is the one universal solvent for which there is no known substitute. Its users are numerous and, we take it for granted, well known to yourself, and especially in medicinal, pharmaceutical, and chemical industries.

The tax is a war tax, pure and simple, and in view of the fact that war taxes have been recommended for repeal by both our President and Secretary of the Treasury, we feel that it is only just that this tax be also repealed.

Those namely interested in the repeal of this tax are thousands of legitimate, medicinal, chemical, and pharmaceutical manufacturers, who represent millions in invested capital. Those that would benefit, namely, from a repeal of this tax would be the consuming public who purchase proprietaries which contain alcohol.

Counting upon your support and assuring you of our sincere appreciation, we beg to remain,

Respectfully yours,

JOSEPH TRINER CO.,
By JOS. TRINER, *President.*

BRIEF OF THE DRUG PRODUCTS CO. (INC.), PHARMACEUTICAL MANUFACTURERS, LONG ISLAND CITY, N. Y.

MARCH 12, 1924.

Hon. JAMES W. WADSWORTH, Jr.,
United States Senate, Washington, D. C.

MY DEAR SENATOR WADSWORTH: We understand that the bill pertaining to the reduction of taxes on medicinal and industrial alcohol is now before the Finance Committee of the United States Senate, in which event we would appreciate your courtesy in bringing the following to the attention of that committee, as well as your own endorsement of our position, should same meet with your approval:

We are in favor of reduction of tax on ethyl alcohol for medicinal and industrial purposes to $1.10 per proof gallon, the tax effective prior to the war. The following are a few of our reasons for our position:

1. The additional $1.10 tax per proof gallon was imposed solely as an emergency war measure, therefore its exaction and the higher cost resulting from it are no longer justified.

2. It is the announced purpose of Congress to repeal all the special and purely war taxes, and no sound reason exists for this single exception.

3. The drug industry can not consistently ask Congress to reduce taxes and yet maintain this tax for alcohol since there is no sufficient reason for its continuation.

4. The reduction suggested will mean a saving in the cost of the manufacture of alcoholic medicinal preparations which will benefit both the manufacture and the consuming public.

5. The inventory loss advanced as a reason for continuing the present tax would be offset by the inventory enhanced value which occurred when the tax was increased.

The situation is analogous to the reductions which occurred at the close of the war on drugs and chemicals generally.

6. This alleged loss could be minimized by deferring reduction in the wholesale and retail prices until an opportunity is afforded to materially reduce the present stocks of preparations manufactured from alcohol bought at present tax prices.

7. It is discriminatory and unfair to the sick to impose so high a tax on alcohol, a commodity so essential in medicine.

8. We manufacture medicinal preparations which are sold to physicians and druggists and dispensed on physicians' prescriptions, so that the arguments advanced that the manufacturers of so-called patent proprietory medicines will be the greatest benefactors of the tax, can not be applied to us.

9. We suggest that the repeal should take effect at some future date, say, three to six months hence, which would protect all finished products now on hand, and would enable the manufacturers and others to reduce their stocks of tax paid preparations to a low level, or that a refund on floor stocks of alcoholic preparations held at the effective date, be authorized, thus obviating the loss on inventory.

10. In the final analysis, the opposition to this reduction is essentially selfish and does not square with the controlling fundamental principle of the public interests.

Thanking you for your interest and courtesy, we are, with esteem,

Sincerely yours,

THE DRUG PRODUCTS CO. (INC.),
HARRY NOONAN, *President.*

CIGARS

BRIEF OF CIGAR MAKERS' INTERNATIONAL UNION OF AMERICA, CHICAGO, ILL.

MARCH 6, 1924.

To the SENATE FINANCE COMMITTEE.

GENTLEMEN: In behalf of the Cigar Makers' International Union and its members who are employed in and make a living in the cigar industry, we respectfully petition and urge a lower internal revenue rate on all cigars.

We are conscious of the fact that our Government must obtain sufficient revenue with which to liquidate its financial obligations. We, however, believe that the burden of taxation should be as nearly equally distributed as circumstances and conditions may warrant. We, as citizens, and our manufacturers are subject to all taxes that others must pay. In addition to that the industry is taxed to an extent that the elements of fairness are wanting. We expect to carry our share of the burden of taxation but we object to any excess beyond that which is fair.

The cigar and tobacco industry has been taxed beyond practically any other industry with the possible exception of the tax levied on malt and spiritous liquors prior to the Volstead Act. Generally speaking any business to function properly and to capacity should be as free as possible from burdensome, unfair taxation and regulation. In countries where excessive taxation has been heaped upon the cigar industry it has practically killed that industry and employment therein. England through piling up of excessive taxes on cigars practically killed the industry in so far as the making of cigars is concerned in that country. The same general statement applies to France, Belgium, Austria, and many other countries, with the possible exception of Germany, which prior to the war treated the cigar industry more liberally and fairly, and the cigar industry therefore prospered in that country to an extent far in excess of any other country.

In addition to paying a heavy internal revenue tax we must pay a heavy tariff on tobacco suitable for cigar purposes. Land upon which tobacco can be raised that will compete with that raised in several foreign countries is limited in our own country, To keep up the standard of quality the industry is forced to import to a great extent wrappers and fillers for the manufacture of the better grade of cigars.

In recent years there has been a decided falling off in the manufacture and consumption of cigars. I have taken the liberty to present to you a table showing cigars manufactured and taxes paid thereon for the years ending June 30, 1863, down to 1922. Also for convenient reference I am quoting the population of the United States from 1860 to 1920, inclusive, in 10-year periods, as follows:

1860	31,443,321
1870	38,558,371
1880	5,155,783
1890	62,947,714
1900	75,994,575
1910	91,972,266
1920	105,710,620

The foregoing figures coupled with the table referred to and attached hereto show that the manufacture and consumption of cigars are steadily falling off, and that the population is steadily increasing. In 1902 there were manufactured 6,103,567,265 cigars. At that time the population was approximately 76,000,000. For the year ending June 30, 1921, there were manufactured 6,758,756,368 cigars, at which time the population was approximately 106,000,000. Practically there was no increase in the number of cigars manufactured and yet the increase in population was approximately 30,000,000.

In 1913 there were manufactured 7,699,037,543 cigars while for the fiscal year ending 1922 there were manufactured 6,621,298,886 cigars. The population in 1913 was approximately 94,000,000. The population in 1922 was approxi-

mately 110,000,000. With an increase in the population of 16,000,000 in the period just cited, 1913 to 1922, there was a decrease in the manufacture of cigars of 1,077,738,657.

The steady decline in the manufacture and consumption of cigars is due to several causes, prominent among which is the steady increase in the internal revenue tax exacted by the Federal Government. In 1902 the aggregate tax collection on cigars was $18,311,142.25. In 1922 this tax on the cigar industry for internal revenue alone had jumped to $41,183,505.34, or an increase of $22,872,363.09, an increase of about 120 per cent. These figures where comparisons are made do not include small cigars or all tobacco cigarettes. If these were included it would simply accentuate a little more the differences.

In practically all foreign countries, as well as our own, tobacco has always been looked upon by the law-making forces as prey for the purpose of raising revenue for governmental and other purposes.

A careful survey of the number of cigar makers; that is, those who actually make the cigar, not including the strippers, casers, and others, shows that in 1920 there were 111,378 people so employed making cigars and in 1923 the same method of making the survey and census shows that there were 94,753 people. A comparison shows that there were in 1923, or three years later, 16,625 less people making cigars than in 1920. The loss in the number employed in the industry is fully accounted for in the decreased number of cigars manufactured in 1922 as compared with the number manufactured in 1920. In 1920 there were 8,304,618,762 cigars manufactured; in 1922 there were 6,621,298,886 cigars manufactured, showing a falling off of 1,683,319,876. I want you to know, however, that some of the loss in the man power is due to the increase in the use of machinery in the manufacture of cigars.

There has been a steady falling off in the number of cigar shops. From the most reliable statistics obtainable the number of cigar factories has decreased about 50 per cent, or a loss of about 12,000 factories since 1900. There has been a steady falling off of the so-called small factories and an increase in the larger factories located in certain industrial districts. All of which shows that many small and medium-sized business firms have been crowded out in the struggle for existence. In hundreds of places that formerly had thriving cigar factories they have been entirely closed out.

If the only reason that we are discriminated against in the payment of tax, both internal revenue and import duty, is for revenue purposes, then the facts would indicate that in so far as the cigar industry is concerned if the policy is pursued much longer, it will materially reduce revenues from that source. A smaller sum for internal-revenue tax on cigars would really increase the amount of revenue. The facts clearly demonstrate that when the internal revenue is boosted beyond a certain point the production of cigars steadily decreases and the Government not only loses a much-needed revenue but, what is of equal importance, thousands of cigar makers who have spent their lives in and have grown up in the industry are thrown out of employment and forced into other avenues of employment which are always overcrowded.

Our petition if granted will work no hardship on the Government in the amount of revenue collected but will be a positive boon to thousands of men and women employed in making a living in the cigar industry.

The cigar is no more of a luxury than hundreds of other things that go to brighten existence and add to the enjoyment of life. Cigar smoking is the greatest solace that can be obtained from the use of tobacco. It is a great comfort and not injurious in any way to the average smoker, and we know of no reason viewed from any standpoint why it should be subject to excessive taxation not imposed upon thousands of other things which come clearly within the so-called luxury class.

Respectfully submitted.

G. W. PERKINS,
President Cigar Makers' International Union of America.

Cigars manufactured and taxes paid for fiscal years 1863 to 1922

Year ending June 30—	Cigars		Small cigars (all tobacco cigarettes)	
	Aggregate collections	Number tax paid	Aggregate collections	Number tax paid
1863	$476,589.29	199,288,284		
1864	1,255,424.79	492,780,700		
1865	3,072,476.56	[1] 693,230,989	$1,993.01	616,984
1866	[2] 3,474,438.94	[2] 347,443,894	[3] 550.05	[3] 55,005
1867	[2] 3,661,984.39	[2] 483,806,456		
1868	[2] 2,951,675.26	[2] 590,335,052		
1869	4,957,679.67	[2] 991,535,934		
1870	5,697,383.87	1,139,470,774		
1871	6,569,568.02	1,313,913,604		
1872	7,535,074.81	1,507,014,922		
1873	8,899,732.98	1,779,946,596		
1874	9,289,696.49	1,857,979,298		
1875	10,140,384.11	1,926,661,780		
1876	10,969,787.28	1,828,807,896		
1877	10,799,459.20	1,800,009,256		
1878	11,430,144.60	1,905,063,743		
1879	12,115,468.29	2,019,246,764		
1880	14,206,819.49	2,367,803,248		
1881	16,095,724.78	2,682,620,797		
1882	18,245,852.37	3,040,975,395		
1883	16,895,215.15	3,227,888,992		
1884	10,368,805.27	3,455,619,017		
1885	10,077,287.50	3,358,972,633		
1886	10,532,804.05	3,510,898,488		
1887	11,364,916.33	3,788,305,443		
1888	11,534,179.95	3,844,726,650		
1889	11,602,156.92	3,867,385,640		
1890	12,263,669.95	4,087,889,983		
1891	13,424,678.30	4,474,892,767		
1892	13,646,398.25	4,548,799,417		
1893	14,442,591.35	4,814,197,117		
1894	12,200,752.30	4,066,917,433		
1895	12,491,917.32	4,163,972,440		
1896	12,713,267.83	4,237,755,943		
1897	12,189,507.29	4,063,169,097		
1898	13,626,049.71	4,505,260,517	[3] 405,676.88	[3] 405,676,880
1899	16,307,108.05	4,529,872,304	547,415.52	547,415,520
1900	19,138,534.82	5,316,273,561	646,896.82	646,896,820
1901	20,775,363.73	5,770,934,369	684,504.05	684,504,050
1902	18,311,142.25	6,103,567,265	410,903.48	760,832,370
1903	20,359,014.43	6,786,338,043	345,869.39	640,498,870
1904	20,122,415.59	6,707,471,863	370,296.25	696,844,907
1905	20,582,743.73	6,860,914,577	393,348.22	728,422,630
1906	21,524,415.67	7,174,805,223	483,768.41	895,867,426
1907	22,470,434.38	7,490,144,794	622,152.05	1,152,132,850
1908	20,714,315.84	6,904,771,947	545,049.16	1,009,350,296
1909	20,257,728.90	6,752,576,300	556,599.33	1,030,739,461
1910	21,197,795.95	7,065,931,984	580,748.13	1,075,459,499
1911	21,755,714.06	7,251,904,686	917,294.25	1,223,192,333
1912	21,769,170.91	7,256,390,303	820,296.60	1,093,728,800
1913	23,097,112.63	7,699,037,543	775,333.62	1,033,778,160
1914	23,012,496.69	7,670,832,230	777,594.75	1,036,793,000
1915	21,174,366.97	7,058,122,323	729,197.46	972,263,280
1916	22,170,549.51	7,390,183,170	710,653.02	947,537,360
1917	24,800,311.78	8,266,770,593	712,597.89	950,130,520
1918	30,155,783.07	7,300,352,192	875,727.20	937,632,944
1919	36,086,247.16	7,110,877,600	925,016.61	788,529,823
1920	55,427,617.88	8,304,018,762	992,118.89	661,409,260
1921	51,076,547.24	7,822,530,618	1,013,510.07	673,667,380
1922	41,183,505.34	6,621,298,886	968,526.71	645,685,246
Total	974,690,288.04	260,201,107,945	16,819,632.82	21,239,762,674

[1] Estimated.
[2] Cigarettes included with cigars from Aug. 1, 1866, to Aug. 20, 1868.
[3] Small cigars included with cigarettes from Aug. 1, 1866, to July 24, 1897.

EXCISE TAXES

AUTOMOBILES, PARTS, AND ACCESSORIES

BRIEF OF MARTIN-PARRY CORPORATION, MANUFACTURERS OF BODIES FOR AUTOMOBILE TRUCKS

To the Finance Committee of the Senate of the United States:

Martin-Parry Corporation, a manufacturer of commercial automobile bodies, proposes that the tax exemption provided for automobile trucks and wagons and the chassis thereof, sold for $1,000 or less, be extended to include commercial bodies selling for not more than $200, and in support of its proposal respectfully submits this brief:

Subdivision 1 of paragraph 600 of the new revenue bill, H. R. 6715, now reads as follows:

"(1) Automobile trucks and automobile wagons (including tires, inner tubes, parts, and accessories therefor, sold on or in connection therewith or with the sale thereof), 3 per centum: *Provided*, That this paragraph (1) shall not apply to automobile trucks or automobile wagons (nor to the chassis thereof if sold separately), if the selling price of the chassis of such trucks or wagons is not in excess of $1,000."

The desired change could be accomplished by amending this section so as to make it read as follows, the added words being indicated by italics:

"(1) Automobile trucks and automobile wagons (including tires, inner tubes, parts, and accessories therefor, sold on or in connection therewith or with the sale thereof), 3 per centum: *Provided*, That this paragraph (1) shall not apply to automobile trucks or automobile wagons (nor to the chassis *or truck body* thereof if sold separately) if the selling price of the chassis of such trucks or wagons is not in excess of $1,000, *or if the selling price of the truck body of such trucks or wagons is not in excess of $200.*"

Although automobile bodies have hitherto been classed as accessories in administering the excise tax law, they are not accessories in the ordinary meaning of that term, such as spotlights, windshields, bumpers, etc. An automobile body is an essential component part of the complete unit and for tax purposes should be treated on the same plane as the chassis itself. To provide a tax exemption for trucks or truck chassis selling under $1,000 without extending a like exemption to the bodies for such truck chassis would ignore the present condition of the industry. Ninety per cent of the bodies for trucks selling under $1,000 are made by independent body manufacturers. The chassis manufacturers do not supply over 10 per cent of the bodies required on their chassis and depend upon body manufacturers like ourselves, who are scattered all over the United States, to build a body with the necessary equipment needed by the farmer and other users. The dealer purchases the chassis from the chassis manufacturer, the body from the body manufacturer, and sells the combined unit to the user. If the chassis manufacturer can save the tax by building his own bodies or having them built for him and selling the completed unit, the result will be that he will adopt one of these courses and that the independent body builder will be driven ouf of business and a large invested capital destroyed. The law as now written makes an unnecessary, an unfair discrimination between the chassis manufacturer and the body manufacturer against which we most earnestly protest.

The price of $200 is suggested as the limit of tax exemption, because nearly all standard bodies for light truck chassis are sold for less than that amount.

It seems that the discriminatory results of the bill as now drawn have been due to an oversight or unfamiliarity with the conditions in the trade, as we do not imagine that there was any thought or wish to discriminate against the independent body builders. We therefore respectfully ask your consideration of this matter and hope for the adoption of the suggested amendment.

Respectfully submitted.

MARTIN-PARRY CORPORATION.

MARCH 19, 1924.

BRIEF OF AMERICAN AUTOMOBILE ASSOCIATION, WASHINGTON, D. C.

MARCH 20, 1924.

Hon. REED SMOOT,
Washington, D. C.

DEAR SIR: The war excise tax on the 15,000,000 motorists of the Nation amounted in the fiscal year of 1923 to $144,000,000. Of this, passenger cars paid $94,000,000, motor trucks $10,000,000, and tires, parts, and accessories $40,000,000. For the calendar year the total tax collected was $156,000,000. The total amount collected from motorsits since the adoption of this tax amounts to $589,000,000.

Relief recently granted by the House reduced the 5 per cent tax on tires, parts, and accessories to 2½ per cent, with a contemplated loss of revenue of $20,000,000, and exempting from the 3 per cent rate all trucks whose chassis sells for less than $1,000, with an estimated loss of revenue of approximately $3,600,000, or a grand total of approximately $24,000,000.

It should be recalled that there were four war excise taxes laid upon motorists: (1) A 5 per cent tax on passenger cars; (2) a 5 per cent tax on tires, accessories, and parts; (3) a 3 per cent tax on motor trucks; and (4) a tax varying from $10 to $20 on automobiles for hire. Up to this time not a single one of these taxes has been removed. The motorists are asking now that they be not further discriminated against by the continuation of all these war excise taxes six years after the war.

Since the House adopted the partial relief on accessories and trucks, our attention has been called to the fact that the relief granted on trucks results in certain administrative difficulties with the Bureau of Internal Revenue, as well as discrimination in favor of the manufacturers of light trucks. We agree with the truck manufacturers and inclose a proposal which will exempt from taxation the small truck and will grant some measure of relief to all trucks and would amount to an additional loss of revenue of only about $1,500,000.

The American Automobile Association feels that the Senate should meet the House in granting the above relief.

We are taking the liberty of sending you each day for two weeks one piece of printed matter dealing with one phase of the taxation matter.

Your consideration of the position of the American Automobile Association is respectfully requested.

Sincerely yours,

THOS. P. HENRY, *President.*

SUGGESTED AMENDMENT TO HOUSE BILL

Change section 900, subdivision 1, to read as follows: "Automobile truck chassis and automobile wagon chassis (including tires, inner tubes, parts and accessories therefor, sold on or in connection therewith or with the sale thereof), 3 per centum; *Provided, however,* That the first $1,000 of the selling price of such chassis shall be exempt from taxation."

Subdivision 2: Without change.

Subdivision 3: As modified by the House.

Subdivision 3½: "Bodies for any of the articles enumerated in subdivision (1) sold to any person other than the manufacturer or producer of any of the articles taxed under subdivision (1) 2½ per centum: *Provided, however,* That the first $300 of the selling price of such bodies shall be exempt from taxation."

CAMERAS AND PARTS

BRIEF OF ANSCO PHOTOPRODUCTS (INC.), BINGHAMTON, N. Y.

MARCH 21, 1924.

To the Finance Committee of the United States Senate:

GENTLEMEN: When House bill No. 6715, section 600, sections 4 and 5, was before the Ways and Means Committee of the House, substantial reasons were presented why the tax on camera lenses should be stricken out. It is our purpose to briefly bring to your attention several very substantial reasons why relief from sections 4 and 5, particularly the former, should be granted to this industry.

With but a single exception, that of Eastman Kodak Co., the manufacturers of photographic apparatus, including cameras and lenses, have in the immediate past years sustained large losses. There are at the present time only two companies in the United States which manufacture both cameras and film—Eastman Kodak Co. and Ansco Photoproducts (Inc.). The latter has just emerged from a drastic reorganization involving practically a complete loss to its former stockholders. Ansco Photoproducts (Inc.) is faced with many serious problems if it is to continue and develop as a competitor of Eastman Kodak Co. The burdens which Ansco can bear must not be judged by those that Eastman can.

Of our two principal products, hand cameras and roll film, film sales are wholly dependent upon the sale and use of cameras. The tax on film is bearable, as it affects only itself. The tax on cameras is not only a business retardant but diminishes film sales. The records of this company for 1923 disclose the sale of 20 rolls of film for every camera sold.

Ansco manufactures a good camera that retails for $1. For every dollar camera that was sold last year, $5 worth of film was purchased by the public, and the revenue accruing from the present tax on that film was two and one-half times the tax on such camera. By compelling us to pay a tax of 10 per cent of our selling price on an item retailing for $1, we are denied a margin which would permit us to give the standard retail discount on this camera and an amount ample to properly advertise and market it.

The foregoing are facts and to a modified extent are applicable to all other low-priced cameras.

As manufacturers of both cameras and film, we feel justified in asking relief from both these taxes, but if the attitude of the committee is adverse to this relief, we most respectfully submit that a due regard for increased revenue to the Government and the well-being of an important American industry clearly call for the withdrawal of any tax on cameras.

Respectfully submitted.

ANSCO PHOTOPRODUCTS (INC.).
By HORACE W. DAVIS, *President.*

FIREARMS AND AMMUNITION

CHICAGO, ILL., *February 19, 1924.*

Hon. REED SMOOT,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR SMOOT: I desire to bring to the attention of the Finance Committee a matter in reference to the Federal excise tax on cartridges, etc., which has been brought to my attention by Mr. J. L. Donnelly, secretary of the Western Cartridge Co., Alton, Ill. I am inclosing herewith memorandum prepared by Mr. Donnelly for the perusal of the committee.

Yours very truly,

MEDILL MCCORMICK.

BRIEF OF J. L. DONNELLY, SECRETARY OF THE WESTERN CARTRIDGE CO., ALTON, ILL.

SOME OF THE REASONS WHY THE FEDERAL EXCISE TAX OF 10 PER CENT UPON PAPER SHOT SHELLS, METALLIC CARTRIDGES, AND FIREARMS SHOULD BE ELIMINATED

1. *The tax is discriminatory.*—Paper shot shells, metallic cartridges, and firearms are the only items of so-called sporting goods upon which the tax remains. A similar tax, which was formerly levied upon all other items of sporting goods (including poker chips, playing cards, golf, tennis, and baseball supplies) was eliminated by Congress in 1922. This is obviously a flagrant case of discrimination, particularly since small-arms ammunition, rifles, and shotguns may be more justly regarded as the poor man's items of sporting goods than can any other article falling in the general classification of sporting goods.

2. *Penalizes the extermination of vermin.*—This tax not only places an undue burden on the sportsmen who shoot for pleasure, but it also penalizes the man who uses ammunition to secure food or exterminate animal and bird pests which are destroying his crops.

3. *The tax is unpatriotic.*—The tax is also unfair from a patriotic standpoint in that it adds so materially to the cost of ammunition that the American boy is discouraged in learning how to shoot, and the citizen who is developing his marksmanship at his own expense in order that he may be able to give adequate protection to his country is penalized. The result of this condition is obviously a general lack of knowledge of the use of firearms and ammunition in a national emergency.

4. *Income to the Government from tax is small.*—On account of the relatively small consumption of ammunition for domestic purposes as compared with the sale of other articles falling in the sporting goods class, and from which the tax was eliminated, the revenue to the Government from this source is small, and its elimination would consequently not work a hardship on the Government.

5. *Penalizes industries which are of vital importance to the Government in time of war.*—There are relatively few manufacturers of small-arms ammunition and firearms in the United States. During the late war the facilities of these manufacturers were devoted almost exclusively to the manufacture of munitions for the Government. At the termination of the war, these manufacturers found themselves with a large investment in the form of equipment and buildings unserviceable in time of peace, and confronted with a severe tax upon their normal product for peace time consumption, which has artifically and substantially aggravated an already rapidly diminishing demand for ammunition and firearms for hunting and sporting purposes. Because of the substantial decrease in the consumption of these products, caused by this tax, the source of livelihood of these manufacturers in time of peace is seriously impaired, and consequently the availability of their facilities and equipment to the Government in time of war affected.

BRIEF OF THE PETERS CARTRIDGE CO., CINCINNATI, OHIO

MARCH 7, 1924.

Hon. REED SMOOT,
United States Senate, Washington, D. C.

DEAR SIR: With reference to the new revenue bill which is now being considered by the Senate, and which we believe has been referred to a committee of which you are the chairman, beg to advise it would seem to us a bill along the lines of that proposed in the original Mellon plan, would be more satisfactory for the best interests of every one and the country at large, than the bill as passed by the House. We believe that a reduction in taxes is much to be desired by everyone, and it would seem there should be a considerable reduction with reference to surtax rates. We are hopeful that you may be in favor of a bill along the lines of the original one offered in the House, and that the Senate may be so constituted as to favorably consider same.

NUISANCE TAXES

Under the subject of nuisance tax, we desire to refer particularly to the excise tax as applying to small arms ammunition. We are very much interested in the latter because we believe this tax, as it exists to-day, is discriminatory, unfair, and I might say, unjust. The tax on all sporting goods, I believe, other than sporting arms and ammunition, has been removed, these other sporting goods including golf, tennis, baseball supplies, skates, dice, playing cards, billiard balls, cues, and I think even poker chips. The retention of an excise tax on sporting arms and ammunition therefore is obviously discriminatory, especially in as much as hunting, target shooting, etc., is a sport indulged in by the rank and file, probably to a greater extent than any other character of sport.

THE TAX IS UNPATRIOTIC

The effect of imposing a tax on ammunition and arms results in a materially increased cost to the American boy or citizen and thus in effect discourages the art of shooting. This is not to the best interest of the Government, for the citizen who is developing his markmanship at his own expense is better prepared to serve his country in case of an emergency than would otherwise be the case. A lack of the knowing of using fire arms and ammunition impairs the efficiency of the citizen in the case of an emergency.

PENALIZES INDUSTRIES NECESSARY TO THE GOVERNMENT IN TIME OF WAR

It probably is unnecessary to point out that manufacturers of fire arms and ammunition for same, devoted practically their entire facilities during the late war to the manufacture of munitions for the Government, and we believe that it has been said by the Ordnance Department, that at no time was there a lack of either military arms or military ammunition for same, due entirely to the fact that private manufacturers now making sporting ammunition, had developed their plants to a very high state of efficiency in the production of military arms and ammunition for same previous to our country entering the war. At the termination of the war, these private manufacturers find themselves with a largely increased investment and with a tax imposed upon their peace time product, with the result that probably owing to the increased cost due to the tax, a very largely diminished consumption exists because to a certain extent the cost of arms and ammunition is such as to make it impossible for some who would otherwise continue this sport to do so.

PENALIZES THE EXTERMINATION OF VERMIN

This tax, as previously explained, not only places an undue burden on sportsman for pleasure, but it also adds to the cost when used to secure food or extermination of animal and bird pests.

INCOME TO GOVERNMENT FROM TAX IS SMALL

The revenue received by the Government from this tax at best is small. It is estimated, I believe, that the total amount received from this source is under $3,000,000, consequently if the tax is removed no serious hardship would be worked on the Government.

We have always been in favor of your plan of a sales tax as a means of raising the necessary revenue rather than the imposition of taxes of various kinds and of course the excise tax as applying to ammunition is really a sales tax, but we do not feel it is quite fair to single out one industry on which to levy such a tax. The cost of administering under a sales tax plan would be, in our opinion, less than to administer the present method of taxation. We form this opinion as a result of observing in our own case how easy it is to collect a tax on sales. Aside from out interest in this particular item, we are also much interested in the public shooting grounds game refuge bill and also the subject of having the various postal rates be such as to pay cost of service, for as matters now stand, with reference to the latter, first-class postage, we understand provides a very substantial profit while the rate applied to second-class matter is said to result in a very great loss.

Hoping in the consideration of the revenue bill you will give very careful thought to what we have said relative to the discriminatory nature of the tax as now imposed upon sporting arms and sporting ammunition, and assuring you of our appreciation, we beg to remain,

Very respectfully,

THE PETERS CARTRIDGE CO.,
W. E. KEPLINGER, *President.*

WEIGHING MACHINES

LETTER OF JESSE MORGANTHAU, OF THE COLUMBIA WEIGHING MACHINE CO., NEW YORK, N. Y.

MARCH 26, 1924.

Mr. JOHN MACFADYEAN,
Care Occidental Hotel, Washington, D. C.

DEAR JOHN: Yours of 25th to hand, with copy of brief it is proposed to present to the Senate Finance Committee, with a view toward having the tax on weighing machines revised to conform with the rate imposed on devices of a similar nature.

I note that you have had a conference with Senator Smoot and while he does not definitely promise to give us the relief sought, he has not definitely objected.

I will give you my honest opinion. Congress can not be expected to be conversant with every line of industry, and if they were given the benefit of the knowledge of those in the particular industries, a great deal of the injustices complained of, including the many controversies with the Government, could be

avoided. I am going to give you my personal views on the particular part of the revenue laws appertaining to excise on coin machines, and you are at liberty to convey them to Senator Smoot, and he can use the information, if he wishes, and I feel certain he will be making no mistakes.

The intention of the paragraph was to tax all coin-operated devices; the devices themselves, without having in mind what profits are derived from their operation; it is the device it was intended to tax. It was meant to apply to pianos, scales, turnstiles, pay-toilet locks, and all. Unfortunately the reading is not correct and many contentions have arisen as to which of the devices is taxable. The piano people claim their device is not a vending machine and are arguing with the Government on that contention right now. While it is true many other devices are evading the tax under the same argument, no definite ruling has as yet been made by the department, I am told.

The slot device gaming devices, so called, are escaping the tax entirely, due to their having successfully "pulled the wool" over the eyes of some Government official, some years back, that their coin device was a game, therefore was taxable as a "game." The tax on games has since been removed and thus the coin-device games are escaping. These particular coin-device machines are the most important in the industry. They are high-priced machines, and their profits run exceedingly high—300 to 500 to 1,000 per cent per annum.

Now, then, this is what should be done. If the entire paragraph can not be wiped out, well and good. It should then be revised to read, instead of "automatic slot-device vending machines, 5 per centum," "coin-operated devices, coin-operated machines, and devices and machines operated by any substitute of a coin, 5 per centum."

Under such a reading all arguments with the Government are thrown out of the window. And under such a reading the revenues from the paragraph will be greatly increased; under such a reading no discrimination is made. Telephones, turnstiles, and gas meters, now absolved, are the property of rich corporations, used as labor-saving devices, and thus are of great benefit to them, and there is no reason why they should be absolved where other devices are not.

Under such a reading we certainly do get the reduction from 10 to 5 per cent, but that is only fair. The suggestion to change as outlined is made in good faith; it is the right and just way in which the tax should be imposed if it is to remain at all, and there can be no room for argument with the Government thereafter.

You are at liberty to convey these views to Senator Smoot, and I believe I have assisted him toward a change that is beneficial and a change on which he can stand, and under which, without doubt, there will show an increased revenue without harm to anyone.

Very truly yours,

JESSE MORGENTHAU.

BRIEF SUBMITTED BY JOHN MACFADYEAN, NEW YORK CITY, ON BEHALF OF THE WEIGHING MACHINE INDUSTRY

REPEAL OR REDUCTION OF SUBSECTION (11) OF SECTION 200 OF THE REVENUE ACT OF 1921

(1) This tax is a war measure, a nuisance tax, imposed by Congress during the great war.

(2) It embodies a serious, although entirely unintentional discrimination against weighing machines as against all other slot device machines, 10 per cent as against 5 per cent.

(3) In the application of this law, the larger priced slot device machines, such as: Automatic telephones, coin-operated turnstiles on the subways and elevated stations in the larger cities, coin-operated gas meters and coin-operated compartments in automat restaurants pay no excise tax whatever; and all other slot device machines on which the tax is assessed, pay but 5 per cent as against 10 per cent on weighing machines.

(4) The tax is easily evaded, Mr. Alfred L. Smith, secretary of Music Industries Chamber of Commerce when testifying before the Ways and Means Committee relative to slot device pianos stated: "Now, practically in all cases—I guess in all cases—we separate that slot device from the piano and ship and bill it separately, and pay a tax on a $2.50 or $5 slot device and avoid the tax on the piano;

if we ship this piano and the slot device together we pay a tax on the whole instrument, no matter what it is; it might be a $1,000 or $2,000 instrument." This same procedure is followed by the manufacturers of "silent salesmen," or so-called gambling machines, which up to 1921 were taxed only under the classification of "Games" which tax was repealed in 1921.

(5) The total tax from all kinds of slot devices last year yielded the Government but $136,000, half of which was paid by the weighing-machine people.

Without advancing any special arguments as to why this particular industry should receive relief in preference to any other, I do venture to submit that this little insignificant industry is entitled to full justice and fair treatment. Of the 14 items in section 900, 10 items have been changed in H. R. 6715; 100 per cent relief being granted in some cases, and 50 per cent in others. If you gentlemen will grant the latter percentage 50 per cent to this industry, you leave us without grounds for complaint.

I thank you for your consideration.

JOHN MACFADYEAN.

(Representing the Peerless Weighing Machine Co., Detroit, Mich.; the National Novelty Co., Minneapolis, Minn.; the Watling Manufacturing Co., Chicago, Ill.; the Columbia Weighing Machine Co., New York City.)

RADIO RECEIVING SETS

BRIEF OF THE RADIO CORPORATION OF AMERICA, NEW YORK, N. Y.

APRIL 7, 1924.

The FINANCE COMMITTEE OF THE UNITED STATES SENATE,
Washington, D. C.

GENTLEMEN: Attention of the Radio Corporation of America has been called to the fact that in considering the proposed new revenue act the Finance Committee has provided for a tax of 10 per cent to apply at the source of manufacture on radio receiving sets selling for $15 or more.

Upon inquiry of the secretary of the committee we are advised that there will be no opportunity for a representative of this company to be heard in protest against the provision for the above tax, but that if submitted, a brief or written statement in opposition will be considered.

The Radio Corporation respectfully submits that the proposed tax on radio receiving sets is unwarranted and should not be imposed, among other reasons for the following, namely:

1. A radio receiving set is not a luxury, but constitutes an apparatus which is primarily for instructive, educational, and other useful purposes, being particularly suitable for use on farms and in remote and isolated sections.

2. The Radio Corporation is actively engaged through heavy appropriations for advertising in farming magazines and otherwise, in trying to introduce radio sets into the homes of farmers, as providing an easy, economical, and effective means for the promptest possible receipt of weather, crop, and market reports, as an aid to the successful operation of farms. It is, furthermore, on record as interested and engaged in trying to popularize and carry use of radio sets into the homes of the poor, to the end that such homes may have the benefit by radio of educational and amusement features not otherwise now available to them.

3. Radio receiving sets as now manufactured comprise almost exclusively patented devices and parts. The acquisition of the patents necessary to permit the manufacuure of sets has necessarily been costly. In one set alone 19 different patents are involved, which cost the producers between seven and eight million dollars. The manufacturing cost of such sets must naturally, during the infancy of this industry, include outlays for patents and continued experimental and development work. It is therefore already relatively high. The imposition of a tax at this stage would necessarily still further increase the price to the consumer, would naturally militate against the marketing of sets, and thereby would deprive many persons of the beneficial uses of radio.

4. The proposed tax on radio receiving sets would be an unwarranted and unjust discrimination in that the proposed revenue act does not carry a tax upon many musical instruments and other articles which are largely competitive with and analogous to radio receiving sets, in so far as the latter are used for entertainment and amusement purposes.

5. In general, it is not justifiable to impose in the shape of a luxury tax a levy upon any product of an industry not yet firmly established, which is still in the

course of development, and the apparatus of which has not been reduced to the level of a standard manufacturing or cost basis. It is especially unwarranted to tax an instrumentality of such vital use for educational and instructive purposes to all, of help and entertainment to the poor, and of such possibilities to the farmer and those who are isolated as radio sets and appliances. The proposed tax would inevitably tend to hamper and retard a young and growing industry of great potentialities to the public. Such an industry should clearly be encouraged and nourished—not throttled.

For the reasons stated the Radio Corporation respectfully asks the committee to rescind its action with respect to the tax on radio receiving sets and that such sets be left free from tax under the revenue bill.

Respectfully submitted.

J. G. HARBORD.

WORKS OF ART

BRIEF SUBMITTED BY JOHN QUINN, NEW YORK, N. Y., ON BEHALF OF VARIOUS MUSEUMS, ARTISTS, ART ASSOCIATIONS, AND ART DEALERS

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: The American Federation of Arts, which is composed of 340 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 League of New York Artists is an 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 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 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

The present tax of 5 per cent on art sales was imposed by the revenue act of 1921. The following is from the official Government records of the yield of this art tax since the act of 1921 went into existence:

Fiscal year	Paid by New York City	All districts, including New York
1921	$819,862.72	$1,116,337.02
1922	384,020.39	582,800.03
1923	628,257.30	837,831.84
1924 (first 5 months ending Nov. 30, 1923)	.....	221,568.54

Aside from the fact that New York pays practically two-thirds to three-fourths of the total of the tax, and the tax is gradually killing the art business, a sales tax hurts the entire art business throughout the country.

The present House bill removes the tax upon candy, which yielded some $13,000,000 per annum. No one objects to that.

Under the act of 1921 liveries and livery boots and hats were taxed 10 per cent. That tax was removed from the present House bill, and no one objects to it.

Under the act of 1921 hunting and shooting garments and riding habits were taxed 10 per cent, which is out of the present House bill.

Under the act of 1921 yachts and motor boats not designed for trade, fishing, or national defense, and pleasure boats and pleasure canoes if sold for more than $100, were taxed 10 per cent. That is out of the present House bill.

Every argument for removing the tax upon candy and the tax upon liveries and livery boots and hats and the tax upon hunting and shooting garments and riding habits, and the tax upon yachts and motor boats applies in favor of removing the tax upon art.

Under the act of 1921, section 904, subdivision (1), there was imposed a tax of 5 per cent upon sales of carpets and rugs. That tax yielded during the last year $928,609.73. It is removed in the present House bill. Surely, if the sales tax of 5 per cent on carpets and rugs is removed, the 5 per cent tax on art sales should likewise be removed.

The present House bill retains the tax of 5 per cent upon jewelry. Jewelry is an undoubted luxury. No one can deny that.

Art is not a luxury. It is educational and philanthropic in the broadest sense. The unfairness and injustice of retaining the tax on art sales and putting art in the same category with jewelry, which is an undoubted luxury, is apparent to everyone. 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 art purchase is of inestimable benefit to many and an aid to their culture and refinement. The jewelry purchase is merely a question of personal vanity and pleasure and of no benefit to anyone, except the wearer, and sometimes not even to her.

No one knows what was in the minds of the House committee when they retained this 5 per cent tax on art sales, but perhaps they had the idea that art is a luxury. Jewelry is an undoubted luxury. Art is educational and cultural. All of the arguments are in favor of the removal of the tax and none against it. It is a tax not merely upon education and culture but it is like a tax upon science and even religion.

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 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."

Morris regretted the passing of the days when art was everywhere 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.

A tax on art as a luxury is based on the assumption that education in the highest sense is a luxury that should be penalized.

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. It would be a monstrous thing to tax education and science. 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.

POINT II.—FURTHER REASONS FOR THE REPEAL OF THE PRESENT TAX OF 5 PER CENT UPON ART SALES

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 cities and others are being established or founded. Museums are for the benefit and instruction of the masses of people who have not had 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, of Philadelphia, bequest, and other notable bequests, which are the nucleus of galleries and museums throughout the country.

The effects of the present 5 per cent tax on art sales.—This tax has tended to stifle the formation of new collections, and the country is the loser thereby. 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.

The act, as it stands, tends to kill the free circulation of works of art.—Collectors buy from 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.

The reasons of policy which led to the sales tax on art no longer apply.—As is well know, the sales tax was first imposed as a war measure when the Government was seeking revenue from every quarter from which it could be obtained. The reasons for the original imposition of the tax no longer obtain.

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 5 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

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 following letter from President Emeritus Charles W. Eliot, Harvard College, is typical of the hundreds which could be produced from educators, publicists, and heads of art museums:

"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 appreciation 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 1909 were "a unit in their opinion that works of art should be free of import duty."

Art adds to the wealth of the country.—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 study and widespread knowledge of eastern taste 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.

Benefit to museums of untaxed art.—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.

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.

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.

The effect on the artists.—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 statesmen, 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. If our Government is not willing to go as far as Denmark goes in that respect, surely it should remove the tax upon art sales.

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 temptation 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.

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.

No demand for this tax.—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 automobile 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 makes pictures of the people?

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 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 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 entirely removes the tax upon art sales.

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

The influence of art on the business, industrial, and commercial life of the country is not always appreciated. Congress has imposed 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 has 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.

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 Sundays 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 tax 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.

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, æsthetic, 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.

American art needs the stimulus that the study of foreign 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."

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 5 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 art 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 5 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.

JOHN QUINN, *Counsel.*

MARCH 31, 1924.

RELIGIOUS ARTICLES

BRIEF OF GUSTAVE A. FUCHS & CO., DETROIT, MICH.

FEBRUARY 7, 1924.

Hon. JAMES COUZENS,
Senate Office Building, Washington, D. C.

DEAR SENATOR: We are inclosing herewith copies of several amendments proposed respectively to sections 702 and 705 of the revenue act of 1921, and respectfully request your support of the same.

The amendments are designed to relieve from the operation of the tax articles which are chiefly used for religious or educational purposes.

This Government has from the very beginning encouraged the free exercise of religion and the worship of the Deity, it being considered that "religion, morality, and knowledge are necessary to good government and the happiness of mankind."

We feel that the tax now resting on these religious articles should therefore be removed, as an unwarranted burden on the practice of religion and we will greatly appreciate your careful and sympathetic consideration of the matter.

Yours respectfully,

GUSTAVE A. FUCHS & CO.

AMENDMENT TO SECTION 702, REVENUE ACT OF 1921

"There shall be levied, assessed, collected, and paid upon sculpture, paintings, statuary, art porcelains, and bronzes, sold by any person other than the artist, a tax equivalent to 5 per centum of the price for which so sold. This section shall not apply to the sale of any such article (1) to be an educational or religious institution or public art museum, or (2) by any dealer in such articles to another dealer in such articles for sale."

Argument.—This amendment provides for classifying religious institutions with educational and public art museums, as all of these institutions and museums carry part of the burden of the Government and are instruments for the enlightenment of the people, maintenance of order, and creation of good citizenship; it is

essential that they be encouraged and as little burden as possible placed upon them; if the burden of taxation is to be relieved, then they are entitled to prior consideration. The reason why the words "in lieu of the tax imposed by section 902 of the revenue act of 1921" are omitted is that the inclusion of those words would not release religious institutions from the tax as it is the purpose of this amendment.

AMENDMENT TO SECTION 705, REVENUE ACT OF 1921

"(a) There shall be levied, assessed, collected, and paid (in lieu of the tax imposed by section 905 of the revenue act of 1921) upon all articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semiprecious stones, and imitations thereof; articles made of, or ornamented, mounted, or fitted with, precious metals or imitations thereof or ivory; watches; clocks; opera glasses; lorgnettes; marine glasses; field glasses; and binoculars; upon any of the above when sold or leased by or for a dealer or his estate for consumption or use, a tax equivalent to 5 per centum of the price for which so sold or leased.

"(b) The tax imposed by subdivision (a) shall not apply to (1) surgical instruments, eyeglasses, spectacles, or silver-plated flat silverware; (2) pencils or fountain pens sold for an amount not in excess of $1; or (3) clocks or watches sold for an amount not in excess of $5; nor shall it apply to any articles which is chiefly used for religious or educational purposes."

No change in subsections (c) and (d).

Argument.—This amendment is following out the principle that has been adopted by all of our States and by the United States to encourage rather than burden religious and educational institutions by the imposition of taxes. This is a country where belief in the Supreme Being is part of the common law and it is a policy to encourage anything that will cause the growth of that belief. The amount of revenue to the Government is comparatively small, while it discourages contributions to religion and diverts from religious uses money contributed for that purpose; as the Government is now in a position to relieve the burden of taxation, they should continue the policy and relieve the burden here. We are satisfied that the original imposition of tax on religion was an oversight on the part of the former Congress.

CARPETS AND RUGS

BRIEF SUBMITTED BY JAMES L. GERRY ON BEHALF OF THE ASSOCIATED CARPET AND RUG IMPORTERS

Under the existing law a sales tax of 5 per cent is imposed on the value or sale price of carpets and rugs in excess of $4.50 or $6, respectively, per yard. The repeal of the law is requested.

POINT I.—Tax on carpets and rugs imposed for the first time in 1921 when the movement was to reduce taxes.

In the revenue act of 1917 no mention is made of rugs and carpets.

In the act of 1918, the provision of section 904 was:

"Tax on sales by dealers: On and after May 1, 1918, there shall be levied, assessed, collected, and paid, a tax equivalent to 10 per cent of 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, when such article is sold by or for a dealer or his estate on or after such date for consumption or use—

"(1) Carpets and rugs, including fiber, except imported and American rugs made principally of wool, on the amount in excess of $5 per square yard."

The act of 1921 provided, section 904:

"From and after January 1, 1922, there shall be levied, assessed, collected, and paid, in lieu of the taxes imposed by section 904 of the revenue act of 1918, upon the following articles sold or leased by the manufacturer, producer, or importer, a tax equivalent to 5 per cent of so much of the price for which so sold or leased as is in excess of the price hereinafter specified as to each such article.

"(1) Carpets and rugs, including fiber, on the amount in excess of $4.50 per square yard in the case of carpets, and $6 per square yard in the case of rugs."

Thus two acts did not carry the tax and the third act includes the tax by omitting the exception contained in section 904, act of 1918.

When the great demand for taxes growing out of war exigencies existed, no tax was imposed. Subsequently the demand for taxes decreased, and the revenue

act was consequently reduced in 1921, but a new tax is imposed on carpets not theretofore taxed.

POINT II.—Five per cent tax is included in the tariff act of 1922; therefore importers pay double tax.

When the tariff act of 1922 was written the American manufacturer of carpets and rugs made his demand for protection in which were represented his costs, overhead, sales expenses, including the 5 per cent internal-revenue tax of course, and secured a rate of 55 per cent duty to protect him.

The importer of carpets and rugs therefore pays 55 per cent duty, which was intended to cover the 5 per cent and the 5 per cent internal-revenue tax on sale in addition when the article is sold. Hence he pays actually 55 per cent duty and the sales tax in addition, or else what amounts to two 5 per cent assessments, to wit, double taxation, and a tax on a tax.

POINT III.—Tax fixed at 5 per cent results in a tax of three, four, or more times this amount against the ultimate consumer.

The tax is payable by the manufacturer, producer, or importer. If the importer sells to a jobber, he pays on the price to the jobber; if he sells to a retailer he pays on that price; if he sells to the consumer he pays on the retail price; and if he sells the rug to the ultimate consumer who imports it in his own name, no tax is payable at all.

Furthermore, if this tax is paid by the manufacturer, producer, or importer who sells at wholesale, then that tax is increased as the article is passed on to the jobber and from him to the retailer, and thence to the ultimate consumer, which latter individual actually pays instead of 5 per cent a sum more nearly equal 10, 12½, or 15 per cent, dependent upon the number of middlemen.

Every single manufacturer, producer, or importer employs one or more clerks to keep account of sales in order to escape fines, penalties, and forfeitures; and this overhead is passed on to the ultimate consumer in a constantly increasing amount. Not only this but the duty of 55 per cent, which was intended to include the 5 per cent sales tax, is also passed on in this increasing ratio to the consumer. So that the 5 per cent tax results in the collection from, or imposition on, the ultimate consumer of a tax four or five times the amount of the original 5 per cent tax.

The foregoing does not include all of the expense which is charged against the ultimate consumer, for the reason that he likewise has to pay his apportionment of the expense incurred in the administration of this law. Each and every man, woman, and child in this country pays approximately $68.50 to cover the expenses of the Federal Government. Attention is directed to the speech made by the Hon. Oscar W. Underwood, at Akron, Ohio, wherein he set forth that there were at present 64,959 employees in the District of Columbia and 483,547 additional employees in the United States at large, according to figures of the Civil Service Commission:

"A total of 548,506, all civilians employed by the Government," said the Senator, "and yet it is proposed at every session of Congress to add to the swollen functions of Government still further activities, to create more bureaus, and to increase the already stupendous array of civilians on the Federal pay rolls.

"It is indeed time to call a halt. Our Federal Government is becoming more and more centralized; our States are becoming less and less autonomous. Unless our steps are retraced or brought to a standstill, in a few years we will find ourselves menaced by a danger from within that will be more serious to the safety and preservation of our institutions than any from without.

"Bureaucracy is the outgrowth of a continued concentration of administrative power in the Government departments and bureaus, resulting inevitably in undue interference on the part of officials, not only in the details of government but in matters outside the scope of their functions and which should be beyond their meddling, if our country is to endure a democracy."

By reason of the inclusion of the so-called excise tax, more properly designated as a nuisance tax, it is undoubtedly true that throughout the entire country a vast number of internal revenue officers are required, whose expense or salaries are paid by the ultimate consumer. The abolition of these taxes would result in the saving of this expense to the taxpayer.

POINT IV.—The wealthy man can escape the tax, the poor man is obliged to pay it.

Recently a wealthy citizen of the United States purchased over $600,000 worth of rugs in London and shipped them to himself as consignee—escaping the 5 per cent tax, or approximately $30,000. In this case the Government lost not only $30,000 but income taxes which would have accrued if the transaction had been consummated through a dealer who sold the goods at $600,000, but secured

a commission or profit from the foreign seller. If he had sold the rugs duty paid or at $930,000, the 5 per cent tax would have been about $45,000.

Here we have a transaction wherein is included foreign cost of $600,000, duty $330,000, or $930,000 for one man. How many times is this occurrence duplicated, perhaps not in the same degree, but to an appreciable extent? The total imports of floor coverings amount to $10,000,000. Here one man escapes the tax on rugs having an American value of one-tenth the value of total imports.

POINT V.—The tax is a nuisance tax like the jewelry tax or the sodawater tax, and in all reasonable likelihood costs more to collect than it amounts to.

The American production amounts to approximately $110,000,000 with $120,000,000 capital invested. (See tariff hearings, Point IV, wool and manufactures, p. 2665.)

The capital invested is turned over once a year. But with the importer this is not true. The imports amount to about $10,000,000, so the duty is more than fairly protective, and the importer is met at the start with this handicap. His expenses are heavier, his taxes heavier, and he carries his merchandise longer; his sales difficulties greater, and his market much more limited.

There are a vast number of manufacturers, producers, and importers; hundreds and thousands of wholesalers, jobbers, and retailers, many of whose books have to be checked for even as small a return as the sale of one rug. The sale of 12 running yards of carpet, 27 inches wide, valued at $3.60 per yard, would result as follows: $4.60 per square yard would be $3.37½ per linear yard, 27 inches wide. The difference as between this and $3.60 would be 22½ cents, or $2.70 for the 12 yards. The tax at 5 per cent would be 13½ cents, requiring a report, a possible visit from the internal revenue office, printing of blanks, postage, clerk hire, and various expenses. Is this a nuisance or not?

POINT VI.—The tax is unequal—it is not uniform.

An importer may be the resident agent of a manufacturer in a foreign country whose merchandise may be sold duty paid or in bond, in either event based on approximately 6 per cent commission of the foreign value.

Thus, an English, French, or German Wilton, 9 by 12, value	$60.00
6 per cent commission	3.60
Brokerage, freight, and insurance	3.40
Total	67.00
55 per cent duty	33.00
Total	100.00

Assuming for the purpose of illustration that this rug sells for $115 wholesale and $140 retail. The 5 per cent tax on the sale here by the foreign agent would be $1.40, 5 per cent wholesale value would be $2.15, and the 5 per cent on retail price would be $3.40.

Here has been furnished an example of an ordinary Wilton rug. If the example were worked out with reference to an oriental rug the differences would be much greater. Take for example a rug having a foreign cost of $81.50.

	Importer	Jobber	Retailer
Foreign cost	$81.50		
Duty, freight, insurance, etc., 60 per cent	48.90		
Total cost	130.40	$149.96	$179.95
Overhead (15, 20, and 100 per cent, respectively)	19.56	29.99	179.95
Selling price	149.96	179.95	359.90
Exemption	72.00	72.00	72.00
Taxable value	78.00	108.00	288.00
Tax, 5 per cent	3.90	5.40	14.40

This example refers to the payment of the tax itself by the first seller. But if the importer or manufacturer pays the tax and the rug is turned over to the wholesaler, jobber, and retailer in turn, the ultimate tax to the consumer is increased by the overhead of the wholesaler, or 15 per cent, the overhead of the jobber 20 per cent, and the overhead of the retailer, which in many cases is as much as 100 per cent.

Many examples could be shown but these suffice. The tax is obviously unequal.

POINT VII—It is a tax on the household economy just as much as a tax on meat, coffee, or tea.

We might as well tax the breakfast table or the dinner pail as to tax floor coverings. They are a necessity in household economy. There may be a class of men so poor that they fail to have a bit of carpet or rug on the floor, but this is not true with respect to the great middle class. In the effort to tax wealth, to tax the rich man, a great injury has been meted out to a vast number. The wealthy can go abroad and buy direct and escape the tax, the poor man has to buy from the retailer here and pays the highest value and the greatest tax.

CONCLUSION

We respectfully submit:

The tax is an unfair discrimination.

It is a heavier burden on the great mass of people than it is on wealth.

It is double taxation.

It is not uniform and does not apply to all alike.

It is contrary to the general trend of legislation.

It is costly to collect, of doubtful value, and a great nuisance.

Therefore these taxes should be repealed. But if in the wisdom of Congress it is deemed desirable to retain them, then in behalf of the importers who pay this tax in the import duty provided by the tariff act, we request that the provision of the act of 1918 be restored, or the present act amended by striking out the words "or importer" appearing in the first paragraph of section 904 and insert word "or" after "manufacturer."

JAMES L. GERRY,
Representing the Associated Carpet and Rug Importers.

BRIEF SUBMITTED BY THE AMERICAN CARPET MANUFACTURERS COMMITTEE

During the year 1921 the Sixty-seventh Congress passed an act "to reduce and equalize taxation, to provide revenue, and for other purposes."

From Title IX—Excise taxes, section 904, we quote as follows:

"That from and after January 1, 1922, there shall be levied, assessed, collected and paid in lieu of the taxes imposed by section 904 of the revenue act of 1918, upon the following articles sold or leased by the manufacturer, producer or importer, a tax equivalent to 5 per cent of so much of the price for which so sold or leased as is in excess of the price hereinafter specified as to each such article—

"(1) Carpets and rugs, including fiber, on the amount in excess of $4.50 per square yard in the case of carpets and $6 per square yard in the case of rugs."

Believing that this new tax was in the nature of an experiment, we desire to point out the results as set forth below:

The reports of collections of internal revenue show that the total tax collected in the first year, 1922, amounted to $619,239.69, and that for the first ten months of the second year, 1923, the total of $798,713.65 has been collected, or an average of $79,871.36 per month.

Assuming the 12 months of this year at this rate, we would have a total tax of $958,456.38, and as this has been a good year in the floor-covering business of this country, it would seem probable that the Government could figure that a million dollars would be about the maximum income that they could expect from this tax annually.

In the first place, as a different exemption was applied to rugs and carpets, it became necessary to distinguish between the two. This is almost impossible in a great many instances and is a question which has never been settled by the trade and probably never will be.

In the second place, the rate of exemption on carpets was not evenly divisible by four, and as most carpets are sold by the running yard, 27 inches wide, the exemption on this became $3.37½ per running yard, which made very complicated figuring in computed the tax.

In the third place, the method of handling this tax caused a great deal of dispute and uncertainty. Some manufacturers and importers included the tax in their prices. In other cases they billed it as a separate item. It necessitated a complete change in the method of bookkeeping, so that these tax items could be kept absolutely separate and subject to audit by the Government. Where the

same company manufactures, imports and merchandises, the items of merchandising required no tax, all of which complicated the records terrifically and it has cost a great deal of money to keep them accurately. In many instances the price of carpets is so close to the exemption that the tax collected is absolutely insignificant.

Take, for instance, as an illustration, a carpet selling for $3.60 per yard, i. e., a running yard, three-fourths width, the tax would be on the difference between $3.37½ and $3.60, viz, 22½ cents, which would be per yard 0.01125 cents. To figure this tax on every yard sold, keep it separate, certainly causes an expense to the manufacturer which is unwarranted by the return to the Government.

A room which contains a carpet or rug costing a few hundred dollars may be furnished with elegant furniture, including a piano or victrola, costing several hundreds; there may hang on the wall a beautiful antique tapestry costing many thousands; at the windows exquisite lace curtains and curtains and portieres of other expensive material costing hundreds of dollars; furniture covered with similarly expensive material or even tapestries or needlework costing hundreds of dollars; the walls may be covered with costly wall paper or even with sumptuous brocade and of all these the only items directly or indirectly taxed, presumably as a luxury, are the floor coverings.

It seems unfair to place a tax of this nature on a necessity. The paragraph above shows the number of furnishings, many of which are not necessary but are luxuries, which are free from tax and yet the floor covering can not possibly be considered a luxury in this country where the climate requires that the floors be covered. In the warmer sections of the South fiber rugs are used, but in the major sections of the country the climatic conditions require the use of wool floor coverings. The only possible case in which floor coverings might be considered a luxury would be in the case of the most expensive articles such as antique oriental rugs.

Wherever the tax is included in the price the 5 per cent has to be paid on the amount of the tax as well as the amount of the article, and whether included in the price or billed separately, the retailer includes it in his cost and as virtually all retail business is done on a percentage the percentage is added to the tax as well as to the cost of the merchandise thus increasing the cost to the consumer without benefiting the Government. If this tax were eliminated the consumer would save not only the actual amount of the tax which in the aggregate, as pointed out above, runs approximately one million a year, but he would also save the retailers' profit on the tax which would make the total saving to the consumer of floor coverings between a million and one-quarter and a million and one-half a year.

SUMMARY

We claim that this is manifestly unfair and discriminatory and respectfully request that you eliminate the tax on floor coverings entirely because—

1. It brings to the Treasury only a small return.
2. It is a great nuisance to the manufacturer, importer, and retailer.
3. It is unfair to the floor covering trade to be singled out from all other furnishing trades to be taxed.
4. It taxes unfairly one of the major necessities in the furnishing of a respectable and comfortable home.
5. Its operation from manufacturer through jobber and retailer to consumer leads to taxation on taxation, all of which the consumer is obliged to pay, but the Government receives no benefit therefrom.
6. The elimination of this tax would materially assist in reducing the cost of living as it relates to the furnishing of homes,

Respectfully submitted.

AMERICAN CARPET MANUFACTURERS.

Officers: Chairman, George McNeir, Mohawk Carpet Mills (Inc.); vice chairman, John Sanford, Stephen Sanford & Sons; secretary, Henry I. Magee, Hardwick & Magee Co.; treasurer, Giles Whiting, Persian Rug Manufactory. Committee: George McNeir, chairman, Mohawk Carpet Mills (Inc.); Nelson S. Clark, W. & J. Sloane; A. R. Conover, Stephen Sanford & Sons; M. P. Whittall, M. J. Whittall Associates; M. M. Davidson, Firth Carpet Co.; Archibald Campbell, Hardwick & Magee; A. Karagheusian, A. & M. Karagheusian; H. G. Fetterolf, H. G. Fetterolf Co.

SPECIAL TAXES

CAPITAL STOCK

BRIEF OF CORNELIUS LYNDE, ATTORNEY FOR ILLINOIS CHAMBER OF COMMERCE

WASHINGTON, D. C., *March 12, 1924.*

Hon. REED SMOOT,
Chairman Senate Finance Committee,
Senate Office Building, Washington, D. C.

DEAR SIR: On behalf of the Illinois Chamber of Commerce, which is an organization representing all of the local commercial organizations in the State of Illinois, and as its attorney, I would like to call to your attention a suggested amendment to section 701 (a) (1) of the proposed revenue act of 1924. I am referring to the draft published as Committee Print No. 3 under date of February 7, 1924. This section has to do with the capital stock tax. Committee Print No. 3 makes a subsection, which reads as follows:

"(1) 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, for so much of the fair, average value of its capital stock for the preceding year ending June 30 as is in excess of $5,000. In estimating the value of capital stock the surplus and undivided profits shall be included; * * *"

We would suggest that instead of basing the tax upon the "fair, average value" the tax be based upon the average of the book values at the beginning and end of the year ending June 30. The amount of this tax is not very great and it would seem more practical and desirable, both from the standpoint of the Government and of the taxpayer, that an easy and ascertainable method of figuring the tax, if this can be worked out, should be adopted. The question of fair value of capital stock is, under many circumstances which do not need suggesting, capable of considerable difficulty of ascertainment. There would be little injustice in taking the average of the actual book values, provided, of course, surplus and undivided profits should be included therein. If the amendment were adopted the changed subsection would read as follows:

"(1) 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 average of the book value of its capital stock at the beginning and end of the preceding year ending June 30 as is in excess of $5,000. In estimating the average book value of capital stock the surplus and undivided profits shall be included * * *."

I should call your attention to the fact that Mr. Edward E. Gore, representing the American Institute of Accountants, and also the Illinois Chamber of Commerce and the Chicago Association of Commerce, for both of which latter organizations I am authorized to speak, in the testimony before the House committee reproduced at pages 455 to 471 of the House hearings, referred to this suggested amendment, although not exactly in the form specified above. I am authorized to state, however, that Mr. Gore approves the form suggested herein.

I trust that this letter and its suggestions may receive your attention.

Very respectfully yours,

CORNELIUS LYNDE,
Attorney for Illinois Chamber of Commerce,
Chicago Association of Commerce.

BROKERS

BRIEF OF THE NATIONAL FOOD BROKERS' ASSOCIATION

The members of the National Food Brokers' Association request and urge that section 701, paragraph 1, of H. R. 6715, the revenue bill, be amended to strike out the words "produce or merchandise" which appear in line 15 of the original resolution as reported to the House of Representatives by the Committee on Ways and Means.

The tax of $50 per year assessed against food brokers by this section and paragraph is discriminatory; is difficult, if not impossible, of equitable administration; is a war tax, written into the revenue bill of 1918, and unopposed at that time because food brokers were willing to, and did, pay their share of the expense of prosecuting the war; is an item of inconsequential return of revenue to the Government.

In order that the justice of this request may be understood, there should be a statement of the functions and activities of food brokers and of their necessary economic and economical position in the industry of distributing the food supply of the Nation.

For the purpose of this argument, the title "food broker" may well be considered to be a misnomer. In his activities the food broker is the resident sales agent of a number of principals (manufacturers, producers, canners, etc.) who offer different lines of merchandise or produce, although he frequently represents, or is sales agent for, several principals who have the same line. One food broker, for example, may represent several canners in a market where there is a sufficiently great demand to make it impossible for one manufacturer or canner to supply that demand.

The food broker serves his principals in exactly the same manner as if he were the salaried salesman of that principal. He offers the products of the manufacturer to his customers, the wholesale distributors, advises the buyers as to market conditions, the merits of his offerings, and gives reasons for buying. He reports the sales resulting and the condition of the market with which he is in touch to his principals, and upon the advice of the broker, to a very great extent, the principal plans his production to meet demand, maintains quality to comply with the exactions of the consumers, as reflected through the distributors and the food broker or sales agent. For his service, the food broker is paid a commission of from 1½ per cent to 3 per cent, the rate depending upon the commodity sold and the class of service rendered by the broker. It is important to understand that the food broker is paid only when a sale has been made. All of his effort, his expense for time, labor, telegraph, telephone, expressage, or postage on samples, correspondence, and the like, is not compensated unless a sale results. It is also important to understand that no fee or compensation of any character is demanded or collected from the buyer, and upon this one point the food broker differs from brokers of other commodities, who collect a commission from both buyer and seller.

The president of the American Wholesale Grocers' Association, in an address, commented upon the value to the wholesale grocer of the service rendered by the food broker, saying that if there were no such system of distribution as that represented by the food broker, the wholesale grocer would be compelled to add considerably to his expense of doing business by installing a department to seek for and obtain the information which is brought gratis to his desk by the food broker, who informs the wholesale grocery buyer of market conditions, the world over, both from the standpoint of production and of distribution.

There is no substitute for the food broker in the sale of the great majority of the commodities distributed by the wholesale grocers. The manufacturers of proprietary or advertised lines who maintain their own organizations of traveling salesmen to obtain the same service which the food broker offers, find that the cost of maintaining such organizations is from 15 per cent to 25 per cent. In the production of canned foods, the food broker is an unquestioned necessity. Canneries are necessarily small, scattered, and so located as to be at the greatest source of supply of the fresh fruits, vegetables, fish, etc., which are conserved and preserved in the season of their abundance and perfection, for consumption in seasons of scarcity. The canning institution, being small, has neither the income, the desire, nor the ability to maintain a paid selling organization, on a year around basis, when two or three months of the year cover the cannery's entire activity in production.

The food broker competes with none, save those in his own line of business. His customers are the wholesale distributors. He is a salesman. He neither buys nor sells for his own account and profit, nor does he have physical possession of the merchandise he sells. He is a resident salesman for one or many principals; he is paid a small commission compensation, only when and if a sale is completed. This point is emphasized for the reason that there were one or two members of the House Committee on Ways and Means who had the wholly erroneous impression that the food broker was a competitor of the wholesale distributor.

The occupational tax of $50 which is so assessed as to include the food broker is discriminatory, in that it singles out this class of business men for licensing and taxation as a special class. The methods of the food broker, the character of his business are such that he does not need special regulation, and there is therefore no basis for licensing by the Government in order that there may be supervision of the food broker. The food broker's stock in trade is his character his integrity, his knowledge of his wares, and his ability to find the source of supply for the buyers to whom he sells. His business is conducted upon a high, ethical plane, as it must be to be successful. He believes that it is unjust that he be required to pay this tax when no similar or parallel tax is assessed against any other class of professional or business men.

The occupational tax of $50, as assessed against food brokers, i. e., produce or merchandise brokers, has not been equitably administered. There are those who have successfully set up the claim with the Department of Internal Revenue that they are not food brokers but are manufacturers' agents, and as such not subject to occupational taxation. Others whose methods of doing business are identical with those of the manufacturers' agents, who function in exactly the same manner, and the only difference between the two being the names of the principals represented, have been classified as brokers and have been required to pay the tax.

There was no licensing or taxation of food brokers as such prior to 1917, when the words "produce or merchandise" were written into the revenue bill then pending as a war measure. It was explained to food brokers at that time as a war-revenue measure, and was not opposed on that basis, although it was felt then, and has always since felt to be, discriminatory and unjust. But since it was written in as a war measure it has no place in the revenue bill of 1924, when the country is at peace.

The occupational tax of $50 assessed against food brokers is productive of an inconsequential amount of revenue. Thomas's Grocery Register, published in New York, accepted by the trade as accurate, lists the names and addresses of 3,655 food, produce, and merchandise brokers in the United States. It is believed that this list is complete and correct. If each broker so listed paid this tax the total income to the Government from food brokers would be $182,750. The total income from the tax on food brokers does not and can not reach this figure, because, as has been shown in the foregoing, not all food brokers included in this list have been classified as such by the Internal Revenue Department, and those who were set up to be manufacturers' agents (and whose names appear in the Thomas list) paid no such tax.

The National Food Brokers' Association, whose membership represents, approximately, the sale of 80 per cent of the produce and merchandise sold through food brokers in this country, in whose membership is represented practically every State in the Union, and who files this brief, respectfully requests and urges that relief be given from this discriminatory, unjust, unnecessary, and nuisance taxation. The members of the National Food Brokers' Association are more bitterly opposed to this item of $50 for occupational taxation than they are to all other questions of taxation, because it is discriminatory and unjust.

Respectfully submitted.

NATIONAL FOOD BROKERS' ASSOCIATION.

BRIEF OF JOHN O. KNUTSON CO., MERCHANDISE BROKERS, ETC., SIOUX CITY, IOWA

MARCH 13, 1924.

Hon. REED SMOOT,
Senate Finance Committee,
Washington, D. C.

DEAR SIR: For the past six years merchandise brokers have been subject to a very unjust tax in the form of a license fee of $50 per year, concerning which repeated protests have been filed.

We realize the tremendous problem confronting the committee and understand full well that we are not alone in demanding relief from taxation, but this tax appears particularly unjust as a discrimination against our business, and we believe that the time has come for relief.

There are only 3,655 food, produce, and merchandise brokers, the aggregate amount of this obnoxious license fee being $182,750, and consequently is an

insignificant amount compared with the total tax problem. We know that if you understood the relations of the merchandise broker to the trade he serves you would recognize the unfairness of this tax. The food broker is the manufacturer's or producer's representative, and if this tax is fair and necessary, it would be equally fair to compel every traveling salesman and every salesman of whatsoever description to pay the same license fee. It is placing a burden upon a small proportion of the taxpayers for in excess of their share, and if you were in our position we know that you would protest as vigorously as we are protesting against this unjust discrimination.

Your kind consideration to this matter will be heartily appreciated.

Yours truly,

JOHN O. KNUTSON CO.,
By J. O. KNUTSON.

BRIEF OF D. E. STODDARD CO., MERCHANDISE BROKERS AND MANUFACTURERS' AGENTS, SIOUX CITY, IOWA

MARCH 13, 1924.

Hon. REED SMOOT,
Chairman Senate Finance Committee,
Washington, D. C.

DEAR SIR: We desire to call your attention to the bill, H. R. 6715, as passed by the House, and especially to section 701, paragraph 1, reading as follows:

"Brokers shall pay $50. Every person whose business it is to negotiate purchases or sales of stocks, bonds, exchange, bullion, coined money, bank notes, promissory notes, other securities, produce, or merchandise for others shall be regarded as a broker."

The three words in this paragraph "produce or merchandise" should be eliminated from the bill.

Possibly you folks in Washington are not familiar with the business of a merchandise broker. This business is conducted along the same lines as a salesman for any one manufacturer, except, that we represent in our localities where we operate more than one manufacturer, and, are strictly speaking, manufacturers' sales agents.

We sell food products, or similar lines, to the jobbing trade for account of manufacturers, canners, etc., who we represent, and we are paid strictly on a brokerage or commission basis. In some instances a percentage, in others on a per package basis.

We do not merchandise or sell products for our own account, and our business is very similar to an insurance agent, who represents many fire and accident insurance agencies, selling for them in the same manner that we sell for our principals on a commission or brokerage basis. We also are very much like livestock brokers, many of whom we have in our city, who sell livestock purely on a commission basis.

Our objection to this paragraph in this bill, as passed, is that it is discriminatory. If we should be subject to a $50 tax per year, other businesses of a similar character should be also subject to the same tax.

This bill was originally passed as a war measure, and we, as brokers, did not make any particular fight at that time, feeling that whatever we could do for the benefit of our country in the way of taxation would be satisfactory. However, this tax as a whole at this time, does not amount to a great deal. There are in this United States only about 3,500 food, produce, and merchandise brokers, and the maximum revenue which our Government could secure, at $50, would not exceed $200.

We think you will agree with us, after giving the matter some consideration, that this tax is not fair and just, and we will appreciate very much indeed anything you can do toward having these three words in the paragraph above eliminated before this bill is eventually passed and becomes a law.

Yours very truly,

D. E. STODDARD CO.,
By D. E. STODDARD.

BOATS, USE OF

BRIEF OF BOSTON YACHT CLUB

MARCH 14, 1924.

FINANCE COMMITTEE OF THE SENATE,
United States Senate, Washington, D. C.

SIRS: The Boston Yacht Club, in behalf of itself and other yachting organizations and yacht owners, respectfully petitions for abolition or substantial reduction of the so-called "user's tax" on the use of boats, motor boats, yachts, etc. While yachting is classed as a sport and presumably on that theory this tax was initiated, yet it is the most heavily taxed sport of any, the actual use of a boat, even for a week or month, invoking a tax of $1 a foot upwardly on length. And yet yachting is the one so-called sport which is directly developing and maintaining interest, education, knowledge, skill, and experience for men suitable for our "first line of defense," viz, the Navy. Instead of burdening this sport with an onerous tax, Congress should favor it. Golf clubs, which are composed of wealthy members have no annual tax on the use of their golf clubs. Automobilists, who are composed of a wealthier class than the average yachtsman, have no annual tax on the use of autos. And yet these and other sports are capable of constant use during practically the entire year, while the average yachtsman has only 90 days in which to make use of a boat. The injustice and undue burden of this user's tax is believed to warrant its entire abolition, because the industry and the sport is depressed, practically no substantial number of new yachts having been built for 10 years. The Boston Yacht Club formerly had 800 members and 500 yachts, while to-day it has less than 400 members and 300 yachts, and this is typical of all other yacht clubs. The smaller clubs, particularly in New England, are even more depleted, both in members and boats.

It is realized that those not familiar with yachting, usually think of the very expensive yachts, such as J. P. Morgan's *Corsair*, and others, as being owned by representative yachtsmen, whereas the vast majority, if not 95 per cent, are yachtsmen from the class of the average and relatively poor citizen. For example, there is not one steam yacht like the *Corsair* enrolled in all the New England yacht clubs, not one from Boston, whereas there are thousands of small boats, motor boats, sailing yachts, etc., which are owned by people in moderate circumstances, and on which the burden of the user's tax falls so heavily that many owners are compelled to leave their boats out of commission. As at present administered this tax is frequently an alarming amount on the value of the boat, while the injustice of its working are most glaring. Thus, for example, a boat 49 feet long and worth $2,000 has a tax of $49 per year for a week's or a month's use, rarely more than three months. A boat 51 feet long and worth $500 has a tax of $102, more than 20 per cent of its value. The further fact that this tax yields but a trivial amount of national income, is continuing as a serious depression of interest and in the Navy, and stands as a crushing burden on the one sport which is of national interest, counteracting all the benefit of the Government's efforts to stimulate interest in the Navy, naval reserve organizations, and the like, assuredly merits its correction or the total abolition of the tax.

Respectfully,

BOSTON YACHT CLUB,
By JAMES R. HODDER,
Rear Commodore.
WALTER BURGESS,
Secretary-Treasurer, Committee.

BOARD OF TAX APPEALS

LETTER FROM LINCOLN G. KELLY & CO., CERTIFIED PUBLIC ACCOUNTANTS, SALT LAKE CITY

FEBRUARY 23, 1924.

Hon. REED SMOOT,
United States Senator, Washington, D. C.

MY DEAR SENATOR: The committee on form and administration of the income tax laws of the American Institute of Accountants, of which I am a member, has already made certain recommendations to the Ways and Means Committee in connection with that provision of the new revenue bill dealing with the board of tax appeals. The committee is thoroughly in favor of the recommendations for tax reduction advocated by Secretary Mellon, but feels that better results would be obtained if the board of tax appeals were appointed by the President rather than by the Secretary of the Treasury. We believe that a thoroughly competent board of tax appeals, independent of the Treasury Department, would do a great deal toward clearing up the present tax situation. If such a board is created, the taxpayers would have an opportunity of appearing on equal terms with representatives of the Treasury Department in the settlement of all questions at issue, where proper consideration would be given to each particular case, based upon the facts involved.

Mr. E. E. Gore, president of the American Institute of Accountants, is chairman of this committee, and both he and Mr. Frank Lowson, the vice president of the institute would like to have an opportunity of appearing before the Senate Finance Committee in connection with this section of the revenue bill as introduced in the House of Representatives.

Both of these gentlemen stand very high in the accounting profession and have had a very wide experience in tax matters. Their interest in the matter is solely toward improving, if possible, the administration of the income tax law, and believe that the creation of an independent appeal board, appointed by the President, will assure the taxpayer of a fair and impartial consideration of all questions at issue under the revenue act.

I shall not be able to be in Washington personally for some time to come, and have taken the liberty of giving to Mr. Gore and Mr. Lowson letters of introduction which will be presented to you by them.

Any recommendations made by Mr. Gore and Mr. Lowson on behalf of the American Institute of Accountants I can assure you will be made with a view of helping toward more efficient administration of the law, for I know they have the best interests of the Government at heart, and I want to urge that their recommendations receive your most careful consideration.

With warm personal regards, very sincerely,

L. G. KELLY.

BRIEF OF AMERICAN INSTITUTE OF ACCOUNTANTS

MARCH 10, 1924.

Hon. REED SMOOT,
Chairman Senate Finance Committee,
Washington, D. C.

DEAR SIR: The American Institute of Accountants desires to place before your committee some suggestions relating to the tax board of appeals as proposed in the House bill and on other matters relating to the revenue bill. As the institute and its members and the taxpayers are vitally interested in the administration features of the bill, we shall deal in this communication only with the tax board of appeals matter, and may supplement this communication by a later one on other matters.

The president of the institute, Mr. Edward E. Gore, appeared before the Ways and Means Committee, and his testimony is printed on pages 455 to 471 of the hearings before that committee. The writer also appeared before the Ways and Means Committee, and his testimony appears on pages 440 to 447 of the printed hearings.

We attach hereto Exhibit 1 showing a copy of section 900 (board of tax appeals) of the House bill amended as suggested by the American Institute of Accountants.

1. In subsection (a), page 213, increase the salary from $7,500 per annum to $10,000 per annum.

2. Strike out entirely the following words in the House bill: "No member of the board shall be permitted to practice before said board or any official of the Treasury Department, or to be connected directly or indirectly with any person or any firm of lawyers, solicitors, accountants, or agents practicing before said board or any official of the Treasury Department on behalf of taxpayers for a period of two years after his term of office terminates, or from the time such member resigns or otherwise leaves the service of the Government."

The main object to be accomplished by the creation of a tax board of appeals is to increase the confidence of the taxpayers in the Treasury Department's administration of the law relating to income and profits taxes, estate taxes, and capital stock taxes. The confidence of the taxpayers on these matters has been somewhat shaken by erroneous and inharmonious decisions by the department. It is therefore to restore the confidence of the taxpayers and provide machinery which will be competent in the opinion of the taxpayers to give them an unbiased judicial decision on their tax matters that the board of tax appeals is now proposed. To accomplish that end, it is necessary to have men well qualified by ability and experience in law, accounting, economics and business to act on the board. It is necessary to appoint thereto men of the highest caliber, and to at least pay these men as reasonable a salary as it is possible for Congress to vote. It is desirable to appoint on this board some men who have not been in the service of the Treasury Department. Unless sufficient salary is offered, it will be impossible to get men properly qualified to accept appointments on this board.

If Congress offers a salary of $7,500 per annum, and adds to that offer a stipulation that all members of the board who sever their connection with it shall be denied the right for two years thereafter either to practice before the board or to practice their profession as tax counsellors, or to be a member of a firm of lawyers, solicitors, accountants, or others which in essence will practically bar them from continuing to practice their previous profession, it is useless to expect that any available candidate who is now outside of the Treasury Department will consent to accept appointment under these conditions. It might be possible that some of the present Treasury Department employees would accept promotion to the board, but that is not the main object desired by the taxpayers. The stipulation inserted in the House bill practically deprives the retiring members of the right to earn a living during the two years after they leave the board in a work to which they may have given the best years of their lives. When they leave the board what are they going to do for a living? Are they to take up farming or enter some other pursuit for which they may be totally unfitted? We believe that the members of the board should be placed in the same position in this respect as the judges of any court. If they are to be prevented from doing anything it should be limited to their appearing or giving advice in any case which was pending before the board during the term of their service on the board.

3. We have inserted that the President shall designate the first chairman and two vice chairmen, and that thereafter the board shall designate biennially the chairman and the vice chairmen.

We believe that when the first board assembles the members will probably know very little about each other. In order, therefore, to eliminate the possibility of scrambling for the chairmanship and in order to get the most efficient action immediately after the board's appointment, we believe that, if the first chairman and vice chairmen are designated by the President immediately the work of the board will be expedited thereby. After two years' experience the members of the board will know each other, and the board can then make the necessary appointments.

4. Subsection (b).—we have stricken out this subsection as it appears in the House bill and substituted an entirely new subsection.

As it appears in the House bill the appeals are limited to cases of additional assessments on income and profits taxes and estate taxes. We suggest that there be added appeals on capital stock tax questions, and further that there be added

appeals on claims for refund or credit on all of these taxes. One of the principal objections to the system at present existing is that the taxpayer can not afford to take rejected refund claims to the courts because of the expense and delay connected therewith. Especially is this true in the case of small-tax payers. In the case of large-tax payers, while they may be able to afford the expense, the delay incident to the court actions is irksome, to say the least.

To provide the board of tax appeals and to limit the cases upon which it is to sit in judgment to proposed additional assessments only is tantamount to offering the taxpayer a supposed remedy for his troubles and then diluting the remedy to render it ineffective in a great many cases. It might be easy to explain this to lawyers or tax accountants, but it will be very difficult for the ordinary taxpayer to comprehend such a situation.

The House bill reads "The board and its divisions shall hear"; the proposed amended section reads "The board or any of its divisions shall hear." If the subsection (b) in this respect is to remain as in the House bill, it would mean that both a division and the board as a whole must hear and determine appeals. That is not the intention, as indicated in subsection (c) and subsection (e). Substituting the word "or" for the word "and," subsection (b) will be made to harmonize with the purpose expressed in the other subsections.

5. Subsection (c).—(1) On page 214, line 4, "A division shall hear and determine appeals," we have substituted the word "may" for the word "shall," for the reason that the word "shall" means that only a division could in the first instance hear a case.

Any case may be of sufficient importance to demand that the first hearing should be before more than one division, or even before the whole board. That should be left to the discretion of the chairman, who should be empowered to designate two or more divisions up to the limit of the full membership of the board to sit on any particular case.

(2) We have changed the 30-day period after which a decision by the division becomes the decision of the board to make it a 60-day period after the chairman has received written notice of the decision by the division.

We believe that 30 days after a decision by a division does not give the chairman sufficient time to consider the cases which may have to be reviewed. The period should be increased to 60 days, and it should start only after the chairman or acting chairman has received notice that the decision has been made by the division. The chairman's duties will be very heavy, and he will undoubtedly have a number of appeals from taxpayers to have the division's decision reviewed by the whole board. He must have ample time in which to give consideration thereto.

Furthermore, if any division of the board is sitting in San Francisco and forwards its decision to the chairman, it will take seven days at least before it goes into the chairman's hands. If the chairman desires to communicate with the division, it will take at least another seven days to get a letter back to San Francisco. The chairman could not have time to properly examine the decisions passed through his hands under such conditions, because he will have other duties to perform and many people to see. We believe that 60 days would be more reasonable.

We have also added that if the chairman decides to have a review of the division's decision, that such review may be before any other division or divisions designated by the chairman.

(3) We have also provided that if the taxpayer or commissioner is dissatisfied with the first decision, either party may make application to the chairman for a review thereof, the chairman's decision on such application for review to be final.

6. Subsection (d).—In addition to the provisions of the House bill, we have inserted provision that the findings of fact shall be prima facie evidence where the matter is brought to the attention of the board on a claim for refund or credit.

This harmonizes subsection (d) with subsection (b) as written by us.

7. Subsection (e).—The House bill provides that opinions shall not be in writing unless the chairman so orders.

We have substituted a provision that the opinions shall be in writing unless the chairman orders otherwise. We believe that a written opinion is necessary in every case. It always has been, and always will be, a protection to the litigants. It gives them a chance to point out the error in the decision. If written opinions are not required, it may be true that a greater number of cases could be decided than will be decided if written opinions are required. If the present committee on appeals and review is permitted to continue to function in the

Treasury Department, it will be necessary to submit to the tax board of appeals only the cases now decided against the taxpayer by the present committee on review. It is partly because of the rules forcing a quantity production that the taxpayers are being harassed by erroneous findings issued from the department. What the taxpayer now wants from the tax board of appeals is quality of decision—not quantity.

Finally, inasmuch as the findings of the tax board of appeals are bound to be in many cases final decisions, the taxpayer is entitled to read such decision.

8. Subsection (g).—We have rewritten subsection (g) and added a subsection (i), providing a special appropriation by Congress to defray the expenses of the board.

Inasmuch as the board is to be outside of the Treasury Department, the Secretary of the Treasury should not have any control whatever either over the board directly or indirectly, or over the amount of money which the board may desire to expend.

Some of the objections raised by the Members of the House that the bill opens wide the door for the appointment of a great many employees will be admirably met by making a special appropriation. The expenses of the board can not exceed this special appropriation by Congress.

9. Subsection (h).—The bill as passed by the House allows $7 per day for expenses to members of the board and employees alike.

We have restored the original provision of the Mellon bill that the expenses of the members should be allowed not to exceed $10 per day, and we have clarified the section by putting it beyond question that railroad and traveling fares are not included in either the $10 or $7 per day. We have also inserted that the expenses will be paid when any member or employee is outside of Washington on official business. The House bill would only pay such expenses when the members or employees are away from their designated stations.

Suppose that a member is appointed to the board; brings his family to Washington; buys a home, or rents one; sends his children to school—and three months later the chairman designates San Francisco as that member's stations for six months. He certainly can not sell his Washington home; he if rents, he may not be able to sublet or get the lease canceled. It would not be advisable for him to move his children from one school in the country to another every six months, and for these reasons alone inasmuch as the board's headquarters are in Washington, the expenses should be paid when the member or employee is away from Washington.

We also attach hereto Exhibit 2—copy of an article on the "Federal tax board of appeals" which appeared in the Journal of Accountancy for March, 1924.

CONCLUSION

If any of the changes suggested herein are made on the bill, it may be necessary to change some of the other sections. The changes on the other sections can easily be made after the wording of section 900 has been determined.

We shall be glad to give you any further information you may desire.

Yours very truly,

FRANK LOWSON,
Chairman of the Committee on Federal Legislation,
American Institute of Accountants.

EXHIBIT 1

SEC. 900. (a) There is hereby established a board to be known as the board of tax appeals (hereinafter referred to as the "board"), to be composed of such number of members, not less than 7 nor more than 28, as the President from time to time determines necessary. Each member shall be appointed by the President with the advice and consent of the Senate, without regard to the civil service laws but solely on the grounds of fitness to perform the duties of the office, for a term of 10 years, except that in the case of original appointments the President, in order to secure rotation in office, may make appointments for two, four, six, or eight years and except that a member appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Any member of the board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office, but for no other reason. Each member shall receive a salary at the rate of $10,000 per annum. A majority of the board

shall constitute a quorum for the transaction of business. A vacancy shall not impair the powers nor affect the duties of the board nor of the remaining members. The President shall designate the first chairman and two vice chairmen, and thereafter the board shall designate biennially a member to act as chairman and two other members to act as first and second vice chairmen. The board may have a judicial seal, which shall be judicially noticed.

(b) The board or any of its divisions may hear and determine appeals filed with the board by either the taxpayer or the commissioner on any proposed additional assessment or any claim for abatement or refund or credit of income or profits taxes, or estate tax, or capital-stock tax, arising under this act or under prior revenue acts, with respect to which the statute of limitations has not run either as to filing claim with the Treasury Department or as to filing suit against the Government or collector.

(c) The chairman may from time to time divide the board into divisions and assign the members thereto, and designate a chief thereof. If a division, as a result of a vacancy or the absence or inability of a member assigned thereto to serve thereon, is composed of less than three members, the chairman may assign other members thereto, or he may direct the division to proceed with the transaction of business. A division may hear and determine appeals filed with the board and assigned to such division by the chairman. Upon the expiration of 60 days after the chairman has received written notice of a decision by a division, such decision, and the findings of fact made in connection therewith, shall become the final decision and findings of the board, unless within such period of 60 days the chairman has directed that such decision shall be reviewed by the board or any other division or divisions of the board. Application for review or reconsideration of any decision may be made to the chairman by either the taxpayer or the commissioner within 30 days after the applicant has received written notice of the decision. The allowance or rejection of such application shall rest solely in the discretion of the chairman.

(d) In any proceeding in court and in any suit or proceeding by a taxpayer to recover any amounts paid in pursuance of a decision of the board, or of which the board has refused to permit refund or credit the findings of the board shall be prima facie evidence of the facts therein stated.

(e) Notice and an opportunity to be heard shall be given the taxpayer and the commissioner and a decision shall be made as quickly as practicable. The proceedings of the board and of its divisions shall be informal and in accordance with such rules as the board may prescribe. Opinions shall be in writing unless the chairman orders otherwise. The findings of fact in each case shall be reported in writing. The principal office of the board shall be in the District of Columbia, but the board or any of its divisions may sit at any place within the United States. The times and places of meeting of the board and of its divisions shall be prescribed by the chairman, with a view to securing reasonable opportunity to taxpayers to appear before the board or any of its divisions, with as little inconvenience and expense to taxpayers as is practicable.

(f) Any member of the board may administer oaths, examine witnesses, and require, by subpœna, the attendance and testimony of witnesses, and the production of all necessary books, papers, and documents. The attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing.

(g) The board shall appoint such assistants, and provide such quarters, stationery, furniture, office equipment, and other supplies as may be necessary for the efficient execution of the functions vested in it by this section.

(h) The members and employees assigned to the board, in addition to their compensation, shall receive their necessary traveling expenses at the actual cost thereof, plus actual expenses incurred for subsistence while traveling and on duty away from Washington, in an amount not to exceed $10 per day in the case of members, and $7 per day in the case of employees. The expenditures of the board, including the expenditures for salaries, expenses of transportation and for maintenance, witness fees, rent (where suitable quarters are not available), printing and binding, and contingent and miscellaneous expenses shall be allowed and paid, upon the presentation of itemized vouchers therefor approved by the board and signed by the chairman.

(i) There is hereby appropriated the sum of one and a half million dollars to defray the salaries and expenses of the board for the fiscal year ending ———, 1925.

EXHIBIT 2

[Brief by Frank Lowson]

The confidence of the taxpayers in the Treasury Department's administration of the Bureau of Internal Revenue has been shaken by the recent discussions in the public prints and by erroneous adverse decisions by the Commissioner of Internal Revenue, but notwithstanding these, the taxpayer's hope of getting a square deal has revived with the appearance of the Mellon bill, which offers a new tax board of appeals. One construction that could be placed on that offer is that it is evident that the Treasury Department and the commissioner recognize the need for improvement in the administration of the income-tax law. The country is fortunate in having as Secretary of the Treasury a man who has the courage to propose such a new board.

The Mellon bill proposes to have the board appointed by and responsible to the Secretary of the Treasury, but in no way under the Commissioner of Internal Revenue, to sit as a semijudicial board hearing both the taxpayer and the Commissioner of Internal Revenue and to give an impartial judicial decision on the merits of the cases presented to it. On the other hand several public organizations have proposed to the Ways and Means Committee of the House that in order to give more impartial results, the proposed board of tax appeals should be divorced from the Treasury Department and should be appointed by the President with the consent of the Senate. Congress must decide which of these proposals is to be enacted into law.

It is desirable to restore the taxpayers' confidence. To do so it is necessary to provide such legal machinery as will in the opinion of the taxpayer give him a fair and impartial decision based solely on the merits of his tax case—as one witness before the Ways and Means Committee expressed it, will give him "a fair run for his money."

Many taxpayers are dissatisfied with the decisions made against them by the commissioner. There can be no question that in many cases these decisions are wrong and that the taxpayer is justified in his dissatisfaction. Even in the cases where the taxpayers' dissatisfaction is not well founded, an impartial hearing is necessary to determine that fact. Furthermore, even in the cases where a taxpayer's dissatisfaction is unreasonable, it is highly important, still, that a hearing be afforded him, because the Bureau of Internal Revenue is vitally interested in maintaining the confidence of taxpayers that will get an impartial hearing. The Bureau of Internal Revenue is helpless, in spite of its great power, unless the rank and file of taxpayers have confidence in its fairness. The taxpayer will forgive the bureau more easily for being wrong, than for refusing to give a sufficient number of impartial hearings. That is, the public values fairness above accuracy. Both are important. If taxpayers are able to get an expeditious, impartial hearing from a judicial board, before which the Government must be represented just as they are represented—a board which does not combine the functions of judging and advocacy—they will feel better satisfied that they are getting a "fair run for their money." It is not necessary to create a new judicial board to pass on cases other than those adversely decided by the commissioner.

The new bill is unwise in so far as it provides that opinions shall not be written unless a special rule is made to that effect. On the contrary, it should provide that unless the chairman certifies "in the particular case that it is against the interest of the Government for an opinion to be written, an opinion shall be written in every case." This is necessary: (1) Because otherwise the board might be making a serious mistake, which the interested party could discover in a few minutes and call to the attention of the board for immediate correction, and (2) because it is impossible to convince a litigant that a case is being fairly decided if the judge refuses to give the reasons for his decision.

As to (1) above, it is clear that a taxpayer can not point out a mistake in fact or theory, no matter how flagrant it is, unless he knows the ground on which the decision is reached, and he can not do that without an opinion. As to (2) above, there is virtually a presumption in the mind of a taxpayer that a decision that will not stand publication is probably not correct. To decide a case right a judge must analyze it thoroughly in his mind. If he does that, it is no trouble to write an opinion. If a judge finds that the statement of his reasons for a decision is difficult, it means that he has not had sufficient training to qualify him for his work, or that he does not know the reasons himself.

The proposed Secretary's board, being a part of the Treasury Department, can not be as unbiased as the proposed President's board, which will more nearly have the status and independence of a court. Regardless of the length of tenure of office, any member of the Secretary's board could probably be removed on an

investigation and order of the Secretary. The members of the President's board, confirmed by the Senate, could not be removed by any such procedure.

Other points of difference might be raised, all should be raised now to assist Congress in deciding what would best meet the country's needs. The discussion should eliminate personalities. The present Secretary of the Treasury would undoubtedly appoint the best men he could find. The President would do likewise.

A study of the tax simplification board report and the Mellon bill supplemented by conversation with at least four prominent officials of the Treasury Department, leads me to the conclusion that the Mellon bill contemplates the discontinuance of the present committee on appeals and review and that the proposed board of tax appeals should take over the work of that committee.

It is hoped that that will not be done for several reasons:

(1) The period of 30 days allowed by the Mellon bill in which to appeal to the board from the commissioner's decision may be a sufficient time allowance to the taxpayer in which to complete such an appeal from a decision previously rendered by the committee on appeals and review, but it certainly would not be sufficient time to prepare and complete an appeal from a decision of the income-tax unit to the board of tax appeals.

(2) Conferences or discussions with the income-tax unit do not in practice develop all the points of objection by the department, and in many cases do not develop the essential points on which the case may ultimately be decided. The recent order by which the taxpayer receives a copy of the unit's contentions, unsupported by argument or references though they may be, gives the taxpayer an opportunity to prepare further to disprove the unit's supposed facts or arguments or contentions. And later, at the committee on appeals and review hearings, further information and briefs have frequently to be filed, either at the hearings or following thereon to answer the committeeman's questions. Nothing should be done by the Mellon bill or the department under that bill to interfere with the foregoing process of developing the case and arguments. If that procedure is cut short or abolished it will be a serious detriment to the taxpayer first, and to the Government second. This is the opinion of a number of practical men.

(3) The new board is to be as nearly equivalent to a court as possible. It should not be burdened with investigation work, such as the present committee on appeals and review must of necessity do. The new board should only have to decide the appeals on the cases rejected by the committee on appeals and review. That would cut the board's work 50 per cent and enable it to much more expeditiously give leading and authoritative decision on much that is wrong now. These leading and authoritative decisions must then be accepted by the commissioner's committee on appeals and review or taken to court. If accepted, the result will be a clearing of the tracks for the committee on appeals and review and an increased production therefrom with similar beneficial reflex action on the income-tax unit.

(4) If the committee on appeals and review is abolished and all its work transferred to the new board, that board will in a short time find itself relatively in as bad a position as the committee on appeals and review is now with respect to volume of cases decided.

(5) The main object to be accomplished by the new board is to restore the confidence of the taxpayer that he will get an impartial judicial hearing. That can best and quickest be done by submitting to the board only the cases decided adversely to the taxpayer by the committee.

The membership of the new board should be made up of lawyers, accountants or economists, and practical business men, each class equally in proportion as nearly as may be.

RESOLUTIONS OF CHAMBERS OF COMMERCE IN FAVOR OF BOARD OF TAX APPEALS.

SALT LAKE CITY CHAMBER OF COMMERCE

FEBRUARY 28, 1924.

Be it resolved by the board of governors of the chamber of commerce, That it favors the enactment of legislation providing for a board of tax appeals to be appointed by the President and to be entirely separated from the Treasury Department, such board to entertain appeals taken by tax payers from the decisions of the Treasury Department, with respect to all questions arising under the revenue laws passed and effective since 1915.

ROSS BEASON, *President.*
J. H. RAYBURN, *Secretary.*

EL PASO (TEX.) CHAMBER OF COMMERCE

MARCH 5, 1924.

Resolved by the El Paso Chamber of Commerce, That it favors the appointment of a board of tax appeals by the President of the United States, such board of tax appeals to function entirely outside of the Treasury Department and to be in all respects independent thereof and that such board of tax appeals hold hearings at such points within the United States as may contribute to the convenience of taxpayers.

A. SCHWARTZ, *President.*
D. R. BANDEEN, *Secretary.*

ALBANY (N. Y.) CHAMBER OF COMMERCE

FEBRUARY 25, 1924.

Whereas it is essential to the conduct of business that the determination of issues arising between the Federal Treasury Department and the taxpayer shall be expedited with the greatest efficiency; and

Whereas it has been brought to the attention of the Albany Chamber of Commerce by prominent members that the disposition of disputes between the taxpayer and the Treasury Department of the United States Government, arising in the collection of taxes, has been greatly delayed and hindered; and

Whereas it is felt necessary and desirable that some authority be constituted to pass upon issues between the Federal Treasury Department and the taxpayer, which should be outisde the Treasury Department: Now, therefore, be it

Resolved by the board of directors of the Albany Chamber of Commerce, That it favors the adoption of such provisions in pending tax legislation as will create an independent board of tax appeals, entirely separate and apart from the Treasury Department, to serve as an impartial arbiter in settling disputes between the taxpayer and the Government, such appointment to be made by the President of the United States; and be it further understood that such appeal board is to have its sittings in various sections of the country for the accommodation of taxpayers and to assist in the interpretation of such legislation as may be enacted and of regulations issued by the Treasury Department pursuant thereto.

I hereby certify that the above is a true copy and that this resolution was unanimously adopted at a meeting of the board of directors of the Albany Chamber of Commerce held on February 25, 1924.

ROY S. SMITH, *Executive Manager.*

KNOXVILLE (TENN.) BOARD OF COMMERCE

Resolved, by the Knoxville (Tenn.) Chamber of Commerce, That it favors the appointment of a board of tax appeals by the President of the United States, such board of tax appeals to function entirely outside of the Treasury Department and to be in all respects independent thereof and that such board of tax appeals hold hearings at such points within the United States as may contribute to the convenience of taxpayers.

E. N. FARRIN, *Manager.*

JACKSON (TENN.) CHAMBER OF COMMERCE

Whereas the disposition of issues between the taxpayer and the Treasury Department has been greatly delayed and hindered; and

Whereas it is necessary that some authority be constituted to pass upon issues between the Treasury Department and the taxpayer; now, therefore, be it

Resolved by the Jackson (Tenn.) Chamber of Commerce, That it favors the enactment of legislation providing for the appointment of a board of tax appeals, such appointment to be made by the President of the United States, and such board of tax appeals to function entirely outside and apart from the Treasury Department and to have its sitting in various sections of the country for the accommodation of the taxpayer.

E. D. WILDER, *Secretary.*

CHARLESTON (S. C.) CHAMBER OF COMMERCE

FEBRUARY 22, 1924.

Resolved, That the Charleston Chamber of Commerce favors the enactment of legislation providing for a board of tax appeals, to be appointed by the President and to be entirely separated from the Treasury Department, such board to entertain appeals taken by taxpayers from the decisions of the Treasury Department with respect to all questions arising under the revenue laws passed and effective since 1915.

S. P. PIEFFER, *Managing Director.*

MADISON (WIS.) ASSOCIATION OF COMMERCE

FEBRUARY 13, 1924.

Be it resolved by the Madison Association of Commerce, through its board of directors, That Congress be respectfully urged in pending tax legislation to adopt such provisions as will create an independent board of tax appeals entirely separate and apart from the Treasury Department, which may serve as an impartial and unbiased arbiter in settling disputes between the taxpayer and the Government, arising in the collection of taxes; and also to assist in the just and lawful interpretation of such legislation as may be enacted and of any regulations issued by the Treasury Department pursuant thereto; and be it further

Resolved, That in the opinion of the Madison Association of Commerce the draft of bill submitted by the Secretary of the Treasury fails to provide the essential feature of such plan, in that the board of tax appeals therein defined is to be appointed by the Secretary of the Treasury, and necessarily therefore a part of the Treasury Department; and be it further

Resolved, That a copy of this resolution be sent to all Senators and Congressmen from the State of Wisconsin.

DON E. MOWRY, *General Secretary.*

PHOENIX (ARIZ.) CHAMBER OF COMMERCE

FEBRUARY 25, 1924.

Resolved by the Phoenix (Ariz.) Chamber of Commerce, That it favors the appointment of a board of tax appeals by the President of the United States, such board of tax appeals to function entirely outside of the Treasury Department and to be in all respects independent thereof and that such board of tax appeals hold hearings at such points within the United States as may contribute to the convenience of taxpayers.

H. R. WATKINS, *Secretary.*

OREGON RETAIL MERCHANTS' ASSOCIATION

Whereas the disposition of issues between taxpayers and the Treasury Department has been greatly delayed, hindered, and in many instances defeated; and

Whereas it is necessary that some authority be constituted to pass upon issues between the Treasury Department and the taxpayers; Now, therefore, be it

Resolved by the Oregon Retail Merchants' Association in State convention assembled, That it favors the enactment of legislation providing for the appointment of a board of tax appeals, such appointment to be made by the President of the United States and such board of tax appeals to function entirely independent from the Treasury Department and with power to have its sittings in various sections of the country for the accommodation of taxpayers; be it further

Resolved, That a copy of this resolution be spread upon the minutes of this meeting and that a certified copy thereof be sent to each Oregon Senator and each Representative.

W. C. GUNTHER,
Chairman Resolutions Committee.

BIRMINGHAM (ALA.) CHAMBER OF COMMERCE

Be it resolved by the Birmingham Chamber of Commerce, That Congress be respectfully urged in pending tax legislation to adopt such provisions as will create an independent board of tax appeals entirely separate and apart from the Treasury Department, which may serve as an impartial and unbiased arbiter in settling disputes between the taxpayer and the Government arising in the collection of taxes; and also to assist in the just and lawful interpretation of such legislation as may be enacted and of any regulations issued by the Treasury Department pursuant thereto; and be it further

Resolved, That in the opinion of the Birmingham Chamber of Commerce the draft of bill submitted by the Secretary of the Treasury fails to provide the essential feature of such plan, in that the board of tax appeals therein defined is to be appointed by the Secretary of the Treasury and necessarily therefore a part of the Treasury Department; and be it further

Resolved, That a copy of this resolution be sent to all Senators and Congressmen from the State of Alabama.

NORFOLK-PORTSMOUTH CHAMBER OF COMMERCE

FEBRUARY 19, 1924.

Whereas the dispositoin of issues between taxpayers and the Treasury Department has been greatly delayed and hindered; and

Whereas it is necessary that some authority be constituted to pass upon issues between the Treasury Department and the taxpayer; now, therefore, be it

Resolved by the Norfolk-Portsmouth Chamber of Commerce, That it favors the enactment of legislation providing for the appointment of a board of tax appeals, such appointment to be made by the President of the United States, and such board of tax appeals to function entirely outside and apart from the Treasury Department and to have its sittings in various sections of the country for the accommodation of taxpayers.

W. A. COX,
Executive Secretary.

LYNCHBURG (VA.) CHAMBER OF COMMERCE

FEBRUARY 21, 1924.

Our business men, firms, and corporations are being put to great inconvenience and annoyance and subjected at the same time to increasing expense through the present indefinite method of assessing Federal taxes, and we believe immediate and definite steps should be taken by Congress to relieve this condition; Therefore be it

Resolved, That the Lynchburg Chamber of Commerce, having considered the plan proposed by the American Institute of Accountants and the Chamber of Commerce of the United States, heartily agree with and indorse their plan for a board of appeals and review, to be appointed by the President and not by the Treasury or Revenue Department. Such a board as now proposed would put the taxpayer on an equal footing with the Treasury Department in hearings which vitally affect his well-being and sometimes his very existence.

J. G. NOWLIN, *Secretary.*

ELMIRA (N. Y.) CHAMBER OF COMMERCE

FEBRUARY 21, 1924.

Be it resolved by the Elmira Chamber of Commerce, That it favors the enactment of legislation providing for a board of tax appeals to be appointed by the President and to be entirely separated from the Treasury Department, such board to entertain appeals taken by taxpayers from the decisions of the Treasury Department with respect to all questions arising under the revenue laws passed and effective since 1915.

MALCOLM J. WILSON,
Secretary.

CHATTANOOGA (TENN.) CHAMBER OF COMMERCE

FEBRUARY 20, 1924.

Be it resolved by the Chattanooga Chamber of Commerce, That it favors the enactment of legislation providing for a board of tax appeals to be appointed by the President and to be entirely separated from the Treasury Department, such board to entertain appeals taken by taxpayers from the decisions of the Treasury Department with respect to all questions arising under the revenue laws passed and effective since 1915.

H. W. LONGLEY,
Secretary-Manager.

ATLANTA (GA.) CHAMBER OF COMMERCE

FEBRUARY 13, 1924.

Be it resolved by the Atlanta Chamber of Commerce, through its board of directors, That Congress be respectfully urged in pending tax legislation to adopt such provisions as will create an independent board of tax appeals entirely separate and apart from the Treasury Department, which may serve as an impartial and unbiased arbiter in settling disputes between the taxpayer and the Government arising in the collection of taxes, and also to assist in the just and lawful interpretation of such legislation as may be enacted thereto; and be it further

Resolved, That in the opinion of the Atlanta Chamber of Commerce the draft of bill submitted by the Secretary of the Treasury fails to provide the essential feature of such plan, in that the board of tax appeals therein defined is to be appointed by the Secretary of the Treasury and necessarily therefore a part of the Treasury Department; and be it further

Resolved, That a copy of this resolution be sent to both Senators and Congressmen from the State of Georgia.

I hereby certify that the above is a true and correct copy of a resolution passed by the directors of the Chamber of Commerce at their regular monthly meeting, held on February 13, 1924.

B. S. BARKER, *Secretary.*

NEW ORLEANS (LA.) ASSOCIATION OF COMMERCE

MARCH 10, 1924.

Board of tax appeals: Moved by Mr. Dunbar, seconded by Mr. Keiffer, and carried, that we approve the recommendation of the committee on legislation and taxation to urge upon our representatives in Congress the necessity for the creation of a board of tax appeals entirely outside of the Treasury Department.

WALTER PARKER,
General Manager.

CONSTITUTIONAL TAX EXEMPTION.

THE POWER OF CONGRESS TO TAX INCOME FROM STATE AND MUNICIPAL BONDS.

By EDWARD S. CORWIN,

McCormick Professor of Jurisprudence, Princeton University.

"Aristocracy," wrote Chateaubriand, "has three stages: first, the age of force, from which it degenerates into the age of chivalry, and is finally extinguished in the age of vanity." The fact that there are between thirty and forty billions of privately held public securities in this country which are either partially or totally tax exempt [1] suggests that American aristocracy is rapidly achieving the second stage of its predestined cycle without, perhaps, having altogether left the first stage behind. Some ingenuity has been expended in certain quarters in an effort to show that the immunity of a considerable fraction of the wealth of the country from taxation makes no particular difference to anybody, an argument which, if valid, ought to hold, even though the fraction were increased indefinitely. Certainly, when we learn that the late Mr. William Rockefeller's estate of sixty-seven millions comprised some forty millions of tax-exempt bonds, we conclude that there was a reason; and we also recall the maxim *ex nihilo nihil.* If investors in tax-exempt securities derive a benefit from this type of investment somebody else pays—the question is who?

The actual operation of tax exemption in this country would seem to be somewhat as follows: The national government adopts a system of income taxation by which incomes are taxed at progressively higher rates. In order to escape the upper reaches of the tax, men of large income invest in tax-exempt securities, especially municipal and state bonds, the exemption of which is most nearly absolute. This in turn enables the states and municipalities to float securities on advantageous terms in comparison with private concerns. A saving is thus effected momentarily to the local taxpayer, but at his expense both as taxpayer to the national government and as consumer. For it is apparent that if the national government can not raise adequate revenue by progressive income taxation it must have recourse to other methods which bear more heavily on

[1] This amount includes nearly twenty-three billions of liberty bonds of the five issues, of which the first, of two billions, so far as it has not been converted, remains totally exempt from national taxation. Capital holdings of the succeeding issues, except the Victory Notes, have been exempt from the normal income tax in varying amounts, but not from the surtax; and since the expiration of the two-year period from the ratification of the treaty with Germany even this imperfect immunity has largely lapsed. Such holdings, however, still remain beyond the reach of the taxing power of the states for the most part, but whether this fact merits consideration in this connection would depend on factors which differ with each state.

the average citizen; and it is equally evident that if private producers have to pay higher rates of interest in order to obtain adequate capital, it is the consumer who ultimately foots the bill. Nor does the advantage of the local taxpayer continue indefinitely, since the easy terms upon which they find capital procurable offers an obvious temptation to borrowing on a large scale on the part of states and municipalities. Thus, whereas state and local bonds afloat in 1913 totalled less than four billions, they now total fourteen billions, some of which, it is permissible to hold, represent expenditures, which, if they should have been made at all, should have been made from current funds. So by one and the same system of tax evasion governmental extravagance is promoted, profitable business expansions is put at a disadvantage, the theory of progressive income taxation is undermined, and a tax-exempt aristocracy is created out of the wealthiest part of the community.[2]

Not all tax exemption rests primarily on constitutional grounds. When national securities are exempt from national taxation it is only because congress has so decreed, although once given its promise may possibly constitute a binding contract which may not be repudiated consistently with "due process of law." And the same is the case in a general way with the exemption of state and municipal securities from local taxation. Such exemption rests in the first instance on the will of the local legislature, but once it is accorded it becomes a contract whose obligation may not be impaired.[3] Exemptions which thus originate solely in legislative policy need not be further treated of in this article, our purpose being to investigate those doctrines of constitutional law which have been interpreted to require that exemption from taxation accompany the *issuance* of public securities. Thus it is held that national securities are from the moment of their issuance exempt for the most part from state taxation and that state and municipal securities are likewise exempt from national taxation. The two cases, however, are not, it would appear, in all respects parallel. On the one hand, the exemption rests in both cases on judicial reasoning rather than on any specific clause of the constitution; but, on the other hand, an important difference appears between the considerations which judges have treated as controlling in the two instances. For logical as well as chronological reasons the exemption of national securities from local taxation will be dealt with first.

I.

The judicial doctrine of tax exemption entered our constitutional jurisprudence through the famous decision in *McCulloch* v. *Maryland*,[4] in which in 1819 the supreme court set aside a tax by the state

[2] The market price of tax-exempt securities is such to-day as to tempt people of comparatively low incomes—from twenty to fifty thousand dollars per annum. This signifies, of course, that the very rich get their bonds cheaply, so much so, indeed, that while the income tax law pretends to levy surtaxes ranging as high as 58 per cent, the surtax above 31 per cent is virtually inoperative. See Professor R. M. Haig's article in the *North American Review* for last April. Professor Haig also makes the point that the incomes thus benefited are what Gladstone called "lazy" incomes, which thus seek safe investments, while the risk of developing new enterprises is thrust upon earned incomes. The best thought has always urged that earned incomes should be less heavily taxed than unearned.

[3] Article I, sec 10, par. 1.

[4] 4 Wheat. 316.

of Maryland on certain operations of a local branch of the Bank of the United States. The opinion of the court by Chief Justice Marshall brings forward at least four distinct, even though not clearly distinguished, grounds for the decision. In a phrase often quoted since, the Chief Justice defines the power to tax as involving "the power to destroy."

The inference is that the mere attempt to tax the bank represented a claim on Maryland's part to control or even to wipe out an instrumentality of a government which is supreme within its assigned sphere. But more than that, the opinion continues, while "the sovereignty of a state extends to everything which exists by its own authority or is introduced by its permission," the bank did not fall within this description. So, regardless of the supremacy of the national government, there was "on just theory" a "total failure" of power in the state to reach the bank through taxation. Nevertheless, at the very end of his opinion, Marshall concedes Maryland the right to tax the bank on its "real property . . . in common with other real property within the state," and also "the interest which the citizens of Maryland" held in the institution "in common with other property of the same description throughout the state"; and meantime he has answered an argument drawn by the state's attorneys from the *Federalist* with this observation: "The objections to the constitution which are noticed in these numbers were to the undefined power of the government to tax, not to *the incidental privilege of exempting its own measures from state taxation.*"[6] In other words, the exemption of the bank is thought of at this point as resting on the implied will of congress and therefore to be justified constitutionally as a measure "necessary and proper" for maintaining the full efficiency of the bank as an instrumentality of admitted national powers. In short, while the exemption of the bank from state taxation on its operations was clear, the precise reason for exemption was far from clear. This may have been due to the inherent scope of the taxing power, considered in relation to the supremacy of the national government within its proper field; or it may have been due to the inherent limits of the state's own sovereignty; or it may have been due to the discriminatory nature of the tax attempted in this instance, or finally, to the implied will of congress.

The question arises whether there is a necessary contradiction as between any two of these grounds of decision, or whether they may be considered as together constituting a harmonious whole. The strongest appearance of contradiction emerges from a comparison of the first and third grounds; for if the equal application of a tax to a species of property is guarantee against its abuse, why the proposition that "the power to tax involves the power to destroy"? And why should not any generally imposed tax be valid as to all property within the limits of a state? The answer seems to be that Marshall was trying to draw the line between the *bona fide* taxation by a state of *property* within its limits and an attempt by it to tax an *exercise* of national power within those limits—the former being allowable, the latter not. Yet why not? And here our attention is drawn to the juxtaposition of the first and fourth grounds of decision. Taken together the two grounds spell out the proposition

[6] The italics do not occur in the original.

that congress may always exempt instrumentalities of the national government from local taxation when it is "necessary and proper" for it to do so in order to assure the efficient operation of such instrumentalities. What then of the converse proposition, that where an exemption of national agency from state taxation exists, such exemption is to be deemed as resting in the first instance merely on the will of congress, express or implied, and not on constitutional considerations beyond the reach of congress? The fact is that no clear answer to this question can be gleaned from Marshall's decisions. In *Osborn* v. *the Bank*, he treats the exemption as resting on the will of congress;[6] in *Weston* v. *Charleston*, as implied in the constitution;[7] and subsequent decisions of the court disclose the same uncertainty.[8] Indeed, even when the will of congress is made the basis of exemption, there is still uncertainty as to whether taxation may be permitted in the silence of congress, or the implication of silence should be construed unfavorably to the state's claims.[9] It is submitted, however, that there is no sound reason why these uncertainties should be permitted to continue. With the remedy for any abuse by a state of its power over instrumentalities of the national government securely lodged in congress, there is not the least benefit to be anticipated from the supreme court's troubling itself with the extent of congress's concessions to the states in respect of the taxation of national instrumentalities. Such instrumentalities ought always to be subject to local taxation when they take the form of private property, while any effort of the local taxing power to single them out for special burdens would be void on the face of it. Both of which propositions are fairly implied in *McCulloch* v. *Maryland*.[9a]

II.

We now turn to that branch of the constitutional doctrine of tax exemption which restrains the national taxing power in relation to "means and instruments" of the states. At the outset we note an important difference in the operation of the doctrine in the two fields The principal local taxing power which is caught in the coils

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[6] 9 Wheat, 738. Marshall's language here is as follows: "The court adheres to its decision in the case of *McCulloch* v. *the State of Maryland*, and is of opinion that the act of the state of Ohio, which is certainly much more objectionable than that of the state of Maryland, is repugnant to *a law of the United States made in pursuance of the constitution, and, therefore void.*" (The italics do not appear in the original.)

[7] 2 Pet. 449.

[8] See *Van Allen* v. *Assessors*, 3 Wall. 573, in which was sustained the Act of June 3, 1864 (now ¶5219 of the Revised Statutes), whereby certain powers of taxation with reference to national banks were accorded the states; *Thomson* v. *Union Pacific R. Co.*, 9 Wall. 579; *Union Pacific R. Co.* v. *Peniston*, 18 Wall. 5; *Owensboro National Bank* v. *City of Owensboro*, 173 U. S. 664; *Home Savings Bank* v. *Des Moines*, 205 U. S. 503. In the last case J. Moody, speaking for the court, remarks: "It may well be doubted whether congress has the power to confer upon the state the right to tax obligations of the United States. However this may be, congress has never yet attempted to confer such a right." So the point has never been decided. In *Chaplin* v. *Comm'r*, 12 Com. L. R. 375 (Australia, 1911), the commonwealth was held to have the power to authorize state taxation of federal salaries, although such taxation had been previously held invalid without such authorization. Hall, *Cases on Constitutional Law*, p. 1288 ff. See also note 13 *infra*. If a citizen of one state owns bonds of another state, his own state may levy a tax thereon, as on other personal property the situs of which follows the owner. *Bonaparte* v. *Appeal Tax Court*, 104 U. S. 592. In other words, as between states, privately held public securities of state origin are treated as private property solely.

[9] Notes 6 and 8, *supra*.

[9a] See also the recently decided case of *First National Bank of San Jose* v. *Calif.*, decided June 4, last, and cases there cited, to show that the "dealings of national banks are subject to the operation of general and undiscriminating state laws which do not conflict with the letter or general object or purpose of congressional legislation affecting such banks."

of this doctrine is the power of taxing property directly—in other words, the general property tax, which is thereby disabled in the presence of private property which is viewable from another angle as still discharging a governmental function.

The national government on the other hand is, practically speaking, denied the power of directly taxing property by the unworkable rule of apportionment which the constitution lays down for such taxes.[10] The only kind of national taxation which is affected by the constitutional doctrine under review is consequently income taxation, which, whether it be "direct" or "indirect" in the constitutional sense is to-day relieved by the sixteenth amendment from the rule of apportionment; and the principal operation of the doctrine of tax exemption within the national field has been accordingly to relieve certain categories of *incomes* from national taxation, namely, those derived from state and municipal bonds and state official salaries. By the same token the extension of the doctrine of tax exemption into the field of national taxation incurs difficulties which it does not encounter in the other field. Both on the basis of what has just been said and for other reasons which will be manifest, these may be set down as follows: In the first place, in the case of the average property holder or income taker the burden represented by the general property tax is far greater than the burden of any probable income tax. To illustrate: A tax on income derived from a bond bearing interest at four per cent would have to be twenty-five per cent in order to equal in burden a one per cent property tax on the bond itself; but while the latter is a burden which any citizen may be called upon by the state to meet, the former is one exacted by the national government only of the wealthiest classes and is therefore one evasion of which is rendered possible and profitable only to the wealthy through the operation of the doctrine. In the second place, while it is not so unreasonable to regard a government bond even in the hands of the private purchaser as still an instrumentality of government, since it represents a continuing relationship between the government and the purchaser, to extend the same line of reasoning to income from the bond, the payment and receipt of which is a transaction over and done with once for all, involves a step by no means easy to follow.[11] In the third place, the difference between the national government as the government of all and any particular state as the government of only a section of the people should be taken into account in this connection. As Chief Justice Marshall pointed out in *McCulloch* v. *Maryland*: "The people of all the states and the states themselves are represented in congress," which, therefore, when it taxes a state institution is still taxing only its own constituents, whereas," when a state taxes the operations of the government of the United States, it acts upon institutions created" by people not represented in the state legislative chambers. Finally, whereas, the principle of national supremacy, to which, as we have seen, the

[10] Article I, sec. 2, par. 3; sec. 9, par. 4.

[11] A similar distinction is developed by Marshall in *Weston* v. *Charleston*, *supra*, between state taxation of United States bonds and lands sold by the United States: "When lands are sold, no connection remains between the purchaser and the government. The lands purchased become a part of the mass of property in the country with no implied exemption from common burdens. . . . Lands sold are in the condition of money borrowed and repaid. Its liability to taxation in any form it may then assume is not questioned. The connection between the borrower and the lender is dissolved."

exemption of national means and instruments from state taxation was principally referred by Marshall, is a principle definitely embodied in the written constitution,[12] the theory upon which the doctrine of tax exemption was projected into the national field, rests entirely upon principles external to the written constitution, and, indeed, is logically contradictory of the principle of national supremacy.

The doctrine of tax exemption was first applied in restriction of the national power in 1871, in the case of *Collector* v. *Day*,[13] in which the sole question was whether a general income tax levied uniformly throughout the country could be exacted of a state judge on his official salary. Justice Nelson, speaking for the majority of the court, answered this question in the negative on the following line of reasoning: (1) That a judiciary was a requisite of that "republican form of government" which the United States was pledged by the constitution to maintain in every state; that "the power to tax involved the power to destroy"; (3) that the tax invaded the field reserved to the states by the tenth amendment. Rendered as it was near the close of the Reconstruction Period, during which congress had ridden rough shod over the most sacred pretensions of "State Sovereignty," the decision is easily explicable, especially when we bear in mind the constant solicitation to which the supreme court is always exposed to adopt the rôle of "savior of society"; but these are circumstances which can hardly justify the decision as a rule of law. Would it ever occur to "most people not lawyers"[14] that the republican form of government connotes the elevation of an official class above the common burdens of citizenship? Nor does the maxim that "the power to tax involves the power to destroy" seem particularly applicable to a situation in which its realization would carry with it the destruction of everybody's income. But not only was the court's invocation of the guaranty of a republican form of government extravagantly irrelevant to the actual facts before it, it was also technically unallowable; for the court has said repeatedly that it is not for itself but for congress to say what are the requisites of such a government, that this is "a political question."[15]

Justice Nelson's chief reliance, however, is upon "the reserved rights" of the states, recognized in the tenth amendment; but it does not seem on the whole to be better placed than on the other arguments just reviewed. He contends, in brief, that the right to establish and maintain a judicial department is an "original," "inherent," "reserved" power of a state, "never parted with, and as to which the supremacy" of the national government "does not exist," that "in respect to the reserved powers, the state is as sovereign and independent as the general government." Virginia had made the same argument half a century earlier, and with much better reason, in *Cohens* v. *Virginia*,[16] and had been answered, that as to the purposes of the Union the states are not sovereign but subordinate. Moreover, if the

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[12] Article VI, par. 2.

[13] 11 Wall. 113. The decision was preceded by that in *Dobbins* v. *Comm'rs*, 16 Pet. 435, in which the court held the salaries of United States officials to be non-taxable by the states, on the ground that the immunity was *implied by the act of congress fixing such salaries.*

[14] The expression is J. Holmes's. See 252 U. S. 220.

[15] *Luther* v. *Borden*, 7 How. 1; *Pacific States T. and T. Co.* v. *Oregon*, 223 U. S. 118.

[16] 6 Wheat, 264. See also Justice Storey's opinion in *Martin* v. *Hunter's Lessee*, 1 Wheat, 304.

supremacy of the national government does not exist as to the reserved powers of the states, as to what powers does it exist? Modern constitutional law certainly lends Justice Nelson's logic small support. For if the reserved power of a state to establish courts can prevent the incidental operation of an otherwise constitutional tax of the national government, what is to be said of a tax levied upon a privilege granted by the state in the exercise also of powers indubitably reserved to it;[17] or of a direct invasion of the reserved power of a state in the regulation of local transportation?[18] Yet both these assertions of national power have been sustained within recent years. Furthermore, even though it be conceded that the power to maintain a judiciary is a reserved power of so peculiarly sacrosanct a character as to set limits to the operation of otherwise constitutional acts of the national government, yet it would remain to be shown that this reserved power comprised the further power of rendering immune from national taxation the salaries paid the state's judges and already in their pockets. Recent decisions do not tend to support such far-fetched theories of the incidence of taxation[19]—far-fetched and, as Dr. Johnson would have added, "not worth the fetching." For all which reasons the doctrine of *Collector* v. *Day* must to-day be regarded as obsolete; and the same, of course, must also be said of the extension of that doctrine in *Pollock* v. *The Farmers' Loan and Trust Company*[20] to incomes from state and municipal bonds. A special tax on such incomes would fail for vicious classification[21]—perhaps as not a tax at all;[22] but an otherwise constitutional tax cannot in logic or common sense be denied operation upon such incomes; and this would be so even if the sixteenth amendment had never become a part of the constitution.

III.

The sixteenth amendment reads as follows:

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

It is understood that the purpose of this amendment was to overcome in whole or in part the effect of the supreme court's decision in *Pollock* v. *The Farmers' Loan and Trust Co.*,[23] but whether in whole or in part only is disputed. In this case the supreme court ruled, first, that incomes derived from property were "direct taxes" and leviable only by the method of apportion-

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[17] *Flint* v. *Stone Tracy Co.*, 220 U. S. 107, sustaining a tax measured by net profits on the privilege of doing business as a corporation.

[18] The Shreveport Case, 234 U. S. 342; *Railroad Comm'n* v. *Chicago, B. & Q. R. Co.*, 257 U. S. 563.

[19] A tax on income, two-thirds of which was derived from export trade, is valid, notwithstanding the constitutional prohibition of a tax on 'articles exported from any state' (Article I, sec. 9, par. 5), *Peck and Co.* v. *Lowe*, 247 U. S. 165; also, a tax by a state on the profits of a company, though these were derived in large part from interstate commerce, *United States Glue Co.* v. *Oak Creek, ibid* 321; also, state and municipal bonds held by a decedent may be validly included in the net value of an estate upon the transfer of which the estate tax imposed by the Act of Sept. 8, 1916, is assessed, *Greiner* v. *Lewellyn*, 258 U. S. 384. Finally, by *New York* v. *Law*, decided Apr. 30, last, a tax on the income from a mortgage is not a tax on the mortgage itself within the sense of *a law exempting the mortgage from taxation.*

[20] 157 U. S. 429; 158 U. S. 601.

[21] See the dicta in *Brushaber* v. *Union Pacific R. Co.*, 240 U. S. 1; *Bell's Gap R. Co.* v. *Penna.*, 134 U. S. 232; *Connolly* v. *Union Sewer Pipe Co.*, 184 U. S. 540; and other cases.

[22] *Bailey* v. *Drexel Furniture Co.*, 259 U. S. 20; *Hill* v. *Wallace, ibid*, 44.

[23] See note 20, *supra*.

ment; and, secondly, as we have just noted, that incomes derived from state and municipal bonds were not subject to national taxation at all. The question with which we are concerned, therefore, is this: Does the sixteenth amendment overthrow both branches of this decision or only the first? Or, to put the issue a little more definitely: What is the force and effect of the phrase "from whatever source derived" in this context? Does it permit congress to tax all kinds of income without resort to apportionment, or does it merely permit congress to tax without resort to apportionment such incomes as were previously subject to national taxation?

Anterior to *Evans* v. *Gore*,[24] which was decided four years ago, and which receives special consideration farther along in this paper, the court, or justices speaking for it, had uttered a number of dicta which have been assumed to sustain the narrower view of the amendment. Thus in *Brushaber* v. *Union Pacific R. R. Co.*,[25] which was decided shortly after the amendment was added to the constitution, we find Chief Justice White declaring that "the whole purpose of the amendment was to relieve all income taxes when imposed from apportionment from a consideration of the source whence the income was derived"—a view of the matter which he asserts shortly afterward to have been "settled" by the previous utterance.[26] And to the same effect is the language of Justice Pitney in the Stock Dividend Case.[27] "As repeatedly held, this [the sixteenth amendment] did not extend the taxing power to new subjects but merely removed the necessity which otherwise might exist for an apportionment among the states of taxes laid on income." This was the five-to-four decision, but meantime, in *Peck & Co.* v. *Lowe*,[28] Justice Van Devanter, speaking for a unanimous court, had reiterated the same proposition.

But now just what is this proposition? The present writer submits that it is neither more or less than the statement, evident on the face of it, that the sixteenth amendment does not authorize congress to tax without apportionment anything except incomes. Let it be considered what were the precise questions before the court in the two more important of these cases. In the Brushaber Case it was whether an income which had accrued since March 1, 1913, could be reached retroactively by a tax enacted the subsequent August, it being contended that the income had now become capital; while in the Stock Dividend Case the question was whether such a dividend was to be regarded as income in the hands of stockholders or merely as evidence of capital-holding. The former question was answered adversely to the taxpayer concerned, the latter favorably; but in both instances it was obviously proper for the court to clarify its position by stating the self-evident proposition offered above.[29]

On the other hand, interpret the statements above quoted as signifying that the amendment still leaves outstanding certain limitations on congress's power of income taxation, and what results?

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[24] 253 U. S. 245.
[25] See note 21, *supra*.
[26] *The Baltic Mining Co.* v. *Stanton*, 240 U. S. 103.
[27] *Eisner* v. *Macomber*, 252 U. S. 189.
[28] Cited in note 19, *supra*.
[29] *The Peck & Co.* v. *Lowe* and *Baltic Mining Co.* v. *Stanton*, as in the Brushaber Case, the exertion of the national taxing power questioned was sustained independently of the sixteenth amendment.

This, at least: That the supreme court is chargeable with having "settled" by the mere process of heaping *obiter dictum* upon *obiter dictum* a most important question of constitutional power, which was not remotely involved in the cases before it, on which, so far as the published briefs of attorneys show, there was no argument worthy of mention, and in justification of its determination of which it condescended to utter not one word of proof, whether of law or of fact. That the supreme court has no authority "to pass abstract opinions upon the constitutionality of acts of congress" has been repeatedly stated by the court itself;[30] that it has no right to anticipate action by congress by affixing to the constitution a reading thereof not required in the determination of any question before it would seem to be even clearer. Respect for the court, if nothing else, forbids our attributing to it the intention of prejudging the interpretation of the sixteenth amendment unnecessarily. Instead, we should recall the maxim stated by Chief Justice Marshall and reiterated many times since: "It is a maxim not to be disregarded that general expressions in every opinion are to be taken in connection with the case in which those expressions are used. If they go beyond the case they may be respected, but ought not to control the judgment in a subsequent suit when the very point is presented for decision."[31]

But it is insisted that in *Evans* v. *Gore*,[32] which followed the cases just reviewed, "the very point" here under consideration was presented and decided; is this so? The principal holding of that case was that a United States judge could not, consistently with the provision in article III of the constitution, that judges of the United States shall at stated times receive for their services a compensation "which shall not be diminished during their continuance in office," be subjected to a national income tax in respect of his official salary. Confronted with the argument that the sixteenth amendment must be deemed to have authorized such taxation notwithstanding the language of article III, the majority speaking through Justice Van Devanter said:

> The purpose of the amendment was to eliminate all occasion for such an apportionment because of the source from which the income came,—a change in no wise affecting the power to tax, but only the mode of exercising it. The message of the president recommending the adoption by congress of a joint resolution proposing the amendment, the debates on the resolution by which it was proposed, and the public appeals,—corresponding to those in the Federalist,—made to secure its ratification, leave no doubt on this point. . . .
>
> True, Governor Hughes of New York, in a message laying the amendment before the legislature of that state for ratification or rejection, expressed some apprehension lest it might be construed as extending the taxing power to income not taxable before; but his message promptly brought forth from statesmen who participated in proposing the amendment such convincing expositions of its purpose, as here stated, that the apprehension was effectively dispelled and ratification followed.
>
> Thus the genesis and words of the amendment unite in showing that it does not extend the taxing power to new or excepted subjects, but merely removes all occasion otherwise existing for an apportionment among the states of taxes laid on income, whether derived from one source or another.

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[30] See J. Sutherland's opinion in *Massachusetts* v. *Mellon*, decided June 4 last, and cases there cited.
[31] *Cohens* v. *Va.*, cited note 16, *supra*.
[32] Cited in note 24, *supra*.

That these words would have been regarded by the court when it uttered them as concluding the question under discussion in this paper may well be believed. Also, it must be said in fairness to the court that the conclusions stated by Justice Van Devanter rest to some extent on a consideration of the question of the scope of the amendment in the light both of fact and of argument. Nevertheless, I venture to challenge the conclusiveness of the facts brought forward by the court and also of the assumption, which I am willing to attribute to it, that the question before it involved the broader question of the status, in relation to the amendment, of incomes from state and municipal bonds and of the salaries of state officials; and let us first take up the question of fact.

IV.

As its citations go to prove, the court's chief reliance is upon arguments which were made by Senators Root and Borah after the amendment had been proposed by congress but before its ratification. On the other side, the court admits the contrary opinion of Mr. Hughes, then governor of New York, whose utterance, however, was but one of several of like tenor, as the following quotations show:

It is to be borne in mind that this is not a mere statute to be construed in the light of constitutional restrictions, express or implied, but a proposed amendment to the constitution itself which, if ratified, will be in effect a grant to the Federal Government of the power which it defines. The comprehensive words "from whatever source derived," if taken in their natural sense, would include not only incomes from real and personal property, but also incomes derived from state and municipal securities.—Gov. Hughes of New York.

Congress could, therefore, tax incomes from state and municipal bonds, and could exempt incomes so derived. Senators and congressmen being necessarily residents of the states and generally of the municipalities would not pass a law which would destroy through taxation the credit of their own state and their own municipality.—Gov. Gilchrist of Florida.

The objection urged by Governor Hughes does not impress me as being a very substantial or effective one. If it is advisable upon broad grounds of public policy for the national government to subject incomes to taxation, it impresses me as a narrow or technical objection to oppose this amendment for the reason that it does not provide for an exemption of that portion of one' income derived from interest upon state and municipal bonds.—Gov. Hadley of Missouri.

The income tax amendment to the constitution is broad enough to include a tax on incomes derived from the ownership of state and municipal bonds. —Gov., Burke of North Dakota.

The language of the amendment is very broad, and injustice might easily occur unless congress should be careful in the exercise of the authority conferred upon congress by this amendment.—Go. Haskell of Oklahoma.

Indeed it seems to me that if the words "from whatever source derived" would leave the amendment ambiguous as to its power to tax incomes from official salaries and from bonds of states and municipalities, the amendment ought to be opposed by whoever adheres to the democratic maxim of equality of laws, equality of privileges, and equality of burdens. . . . It is impossible to conceive of any proposition more unfair and more antagonistic to the American idea of equality and the democratic principle of opposition to privilege, than an income tax so levied that it would divide the people of the United States into two classes.—Gov. Dix of New York, in his message to the Speaker urging him to press the amendment.

Here, in short, are six gubernatorial utterances made, some in protest against the amendment, some in its favor, but all to the

same effect, that the amendment would vest congress with the power to tax incomes from state and municipal bonds; while I have encountered but a single utterance from a like source which is clearly to the contrary effect. Yet despite these warnings, following these commendations, the amendment was ratified. And in this connection it should be noted that ratification by the pivotal state of New York followed upon the Dix message, not upon the attempted refutation of Governor Hughes.[33]

But let us consider the evidence which Justice Van Devanter adduces as to the intention of congress itself in proposing the amendment.[34] He first refers to President Taft's message of June 16, 1909, urging an amendment to the constitution which should confer "the power to levy an income tax without apportionment among the states in proportion to population." This clearly shows that the object which was foremost in the president's mind was to get rid of the rule of apportionment in income taxation; but clearly, too, it throws no light on the question of the proper construction of the very differently worded proposal which was finally adopted. In congress the ball was started rolling by Senator Brown of Nebraska, the day following the message. In its original form his proposal gave congress "power to lay and collect direct taxes on incomes without apportionment"; but when it emerged from the senate finance commitee eleven days later, it had assumed the shape of the present amendment. Why the change? It would, perhaps, be difficult to say: but the burden of explaining the change is certainly not on those who contend that it must have had some significance. Nor does the trend of the discussion leading up to the passage of the amendment, in either the senate or the house, strengthen the case for tax exemption. For the most part this dealt with political and historical matter which has no bearing on the present question; but it was interlarded with repeated references to the desirability of clothing the national government with the power to tax incomes effectively, both from the point of view of providing for possible emergencies and also from that of equitable taxation.

The resolution of proposal having been passed by the senate by a vote of 77 to 0, then went to the house, where it was voted by an overwhelming majority on July 28, and thereupon went to the states, with the result that congress now lost all control over it. Notwithstanding this, when nearly six months later Governor Hughes sent his message to the New York assembly criticizing the proposal, Senator Borah introduced a resolution asking the senate committee on the judiciary to report on the soundness of the Governor's views;

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[33] Of the foregoing quotations, the first five are taken from the *N. Y. Times* and *N. Y. World* of Jan. 7, 1910. The last is from the *Dix Papers* (1911), p. 533–541. The single hostile utterance referred to was that of Governor Noel of Mississippi, *Times*, Jan. 6. Governor Harmon of Ohio was content to leave the question to congress, whose members would never "pass a law that would cripple or destroy their states," *ibid.* Governor Weeks of Connecticut, who was opposed to the amendment, congratulated Governor Hughes "upon the tone of his message," *Times*, Jan. 8. Governor Vessey of South Dakota is put down as agreeing with Governor Hughes in the *Literary Digest* of Jan. 15, p. 88. Senator Brown, author of the amendment, declared on the floor of the senate that "Alabama, Ohio, Virginia, New Jersey, and other states have governors who not only favor conferring the power, but favor the proposed amendment, which, if adopted, confers the power." *Congressional Record*, vol. 45, p. 2245. For many of these data I am indebted to Mr. Robert A. Mackay, Proctor Fellow in Politics, Princeton University.

[34] The evidence will be found in the following pages of the *Congressional Record*: vol. 44, pp. 1568–1570, 3334–3345 (President Taft's message), 3377, 3000, 4067, 4105–4121, 4389–4441; vol. 45, pp. 1604–1609 (Mr. Borah's speech) 2245–2247 (Senator Brown's views), 2589–2640 (Senator Root's letter to Mr. Davenport of the New York Senate).

and meantime proceeded to develop his own theory. In brief, his argument was this: It could not be the purpose of the clause "from whatever source derived" to vest congress with additional powers of taxation, since that power was already plenary. The argument is self-contradictory; for if its power of taxation was really plenary, what additional power of the kind was there with which to vest congress? But as an assertion of fact, the statement is merely preposterous, being "so far from the truth"—to borrow an expression of Mr. Chesterton's—"as to be exactly the opposite to it." How, then, is such an absurd statement in the mouth of a reputable public man to be explained? One explanation is to be found in Mr. Borah's quotation of a number of judicial dicta also asserting the plenitude of congress's power in respect of taxation. It does not seem to have occurred to him to notice that these dicta take their rise from a period long antecedent to *Collector* v. *Day* and *Pollock* v. *The Farmers' Loan and Trust Company*, the decisions in which they thus directly impugn.[35] Nor is his invocation of certain principles of "constitutional construction" pertinent unless he means to imply that these are beyond the reach of constitutional amendment, since unlike the original grant of power to congress "to lay and collect taxes," the sixteenth amendment does not employ general terms, but words which are most nicely adjusted to the legal problem to be met—a point which will become clear in a moment.

First and last, of the more than four hundred Members of Congress who voted to propose the sixteenth amendment, I have had brought to my notice utterances of just eight dealing with Governor Hughes's message. Senators Borah, Bailey, and Root dissented from the message, principally on the argument just examined. Senator Brown of Nebraska, the reputed author of the amendment, "agreed" with Mr. Borah, but was "willing to assume the contrary." Pointing out that no proposals had come to congress from any state calling for a modified proposal in consequence of Governor Hughes's message, he said: "It does not follow that the amendment should be rejected; on the contrary, it follows that it should be ratified. Because under that interpretation all the incomes would be treated alike." That "the man whose income arises from investments in state and municipal bonds should be exempt from the income tax," he continued, was "on the face of it" a proposition which did not commend itself. "It does not square with the doctrine of equal rights. It is hateful to every sense of justice. It cannot be defended in principle, nor can it be used successfully, in my judgment, to defeat the amendment." In short, Governor Hughes's view ought to be the correct one, whether it was or not, and was calculated furthermore to promote the ratification of the amendment. The house members referred to are on record only in press interviews. They are Mr. Payne of New York, who, as chairman of the ways and means committee, introduced the amendment into the house; Mr. Underwood of Alabama, leading Democratic member of the same committee, Mr. Walter Smith

[35] The original source of the doctrine of the plenitude of congress's power of taxation is *Hylton* v. *U. S.*, 3 Dall. 171 (1700). See also *Pac. Ins. Co.* v. *Soule*, 7 Wall. 433. The reiteration of the same doctrine in the Pollock Case, which is obviously to be taken in the Pickwickian sense, is to be accounted for by the anxiety of the court to demonstrate that it was not depriving congress of the power of income taxation by its holding that a tax on incomes from property was "direct." See Mr. Hubbard's telling criticism in his article on "The Sixteenth Amendment," in the *Harvard Law Review*, vol. 33, pp. 794-812.

of Iowa, and Mr. Sherley of Kentucky. All of them were inclined to think Mr. Hughes's interpretation the correct one, and that it was probably a good thing that such was the case. Does Justice Van Devanter really think that this evidence supports his conclusions as to the interpretation of the sixteenth amendment?[36]

V.

However, the question is not one of fact alone, but of mixed law and fact, so to say. Thus, it is a maxim which has been frequently applied by the court, that the constitution does not contain useless language.[37] But unless the phrase "from whatever source derived" has the operation which Mr. Hughes claimed for it, what operation does it have? Mr. Root sought to meet this difficulty by urging that the phrase in question was "introduced" in order to make it clear that incomes from property as well as those from personal service were meant to be covered by the amendment. The answer is obvious: the decision in the Pollock Case admits congress's right to tax the latter kind of incomes without apportionment; so Mr. Root's contention boils down to the proposition that notwithstanding its historical relation to the Pollock Case the amendment might have had no effect at all—might have been a work of supererogation—had not the phrase "from whatever source derived" been written into it!

A second suggested purpose of the clause may be disposed of just as summarily. This is to be found in Chief Justice White's opinion in the Brushaber Case and consists in the theory that it was the purpose of the amendment to classify all taxes on incomes as "indirect" by forbidding consideration of the source from which the incomes are derived. Unquestionably the amendment does forbid the consideration of the source of incomes in connection with their taxation; indeed, as we shall note in a moment, this is a fact of first importance in determining the amendment's true operation. But the notion that the amendment classifies all income taxes as "indirect" in the constitutional sense must to-day, in the light of what was said in *Eisner* v. *Macomber*, be abandoned; for it is there clearly implied that taxes on incomes derived from property are still to be considered as "direct," although the necessity for their apportionment is now at an end.[38]

The single application of the phrase that remains is, then, its literal application—the sixteenth amendment says that congress may tax incomes "from whatever source derived," and it means it! The phrase, moreover, was admirably chosen to strike at the very roots of the entire theory of tax exemption, which is that *because of their source* certain incomes ought to be considered not as private property but as instrumentalities of government. Henceforward such

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[36] The *N. Y. World*, Jan. 7, 1910.

[37] See *the Constitution of the U. S Annotated*, George Gordon Payne, Editor; Gov't Printing Office, 1923; at pages 45-46, and in cases there cited. The rule is directly applied in *Calder* v. *Bull*, 3 Dall. 386; and in a number of cases in which the term "due process of law" of the fifth amendment is compared with the same clause of the fourteenth amendment. See *Davidson* v. *N. O.*, 96 U. S. 97; *Hurtado* v. *Calif.*, 110 U. S. 516; etc.

[38] Chief Justice White offers no proof of his singular theory of the purpose of the clause, and his argument for his position involves the admission that the decision in the Pollock Case was usurpation of power by the court.

theories are to be discarded, and congress's power of income taxation is to be defined without regard to the source from which incomes are drawn. In this sense, indeed, the amendment does not *extend* congress's power of income taxation; it restores it to its original dimensions, and not by direct regrant but by levelling to its foundations the whole judicially fabricated structure of tax exemption.

But the case for this reading of the sixteenth amendment is still stronger when it is brought into touch with another acknowledged canon of constitutional interpretation. This is the one wherewith Chief Justice Marshall answered the argument in the Dartmouth College Case[39] that the word "contracts" as used in Article I, section 10 of the constitution was not intended to embrace the charters of private eleemosynary institutions: "It is not enough to say that this particular case was not in the minds of the convention when the article was framed, nor of the American people when it was adopted. It is necessary to go farther and to say that, had this particular case been suggested, the language would have been so varied as to exclude it, or it would have been made a special exception. The case, being within the words of the rule, must be within its literal operation likewise, unless there be something so obviously absurd, or mischievous, or repugnant to the general spirit of the instrument as to justify those who expound the constitution in making it an exception." This maxim has been repeatedly sanctioned by the court, twice in recent cases.[40] Can it be said that there is any such absurdity or repugnancy to the literal rendering of the sixteenth amendment as to exclude it from the rule just stated? It has already been shown on how frail a foundation the doctrine of tax exemption rest especially as applied to income taxation, and also how this doctrine operates to defeat what is universally acknowledged to have been a controlling purpose of the sixteenth amendment, to wit, a more equitable distribution of the burden of taxation.

Yet all this is on the assumption that the intention of those who framed and ratified the sixteenth amendment is a consideration which is material to its interpretation. There is, however, a third maxim of constitutional interpretation which renders this assumption extremely doubtful. The point is that the words "from whatever source derived" are so clear in themselves when not approached with preconceptions drawn from the outside that, in the words of Chief Justice Marshall in a similar case, they "neither require nor admit of elucidation."[41] The court has repeatedly said that "the construction and application of a provision are not restricted by and to the purpose of its adoption";[42] that "it can not be inferred from extrinsic circumstances that a case for which the words provide shall be exempted from its operation";[43] that—with specific reference to the "commerce" clause—"the reasons which may have caused the framers of the constitution to repose this power * * * in congress do not * * * affect or limit the extent of the power itself."[44] In short, the rule would seem to be that when the literal

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[39] 4 Wheat. 518.
[40] *Oxaca* v. *United States*, 260 U. S. 178; *United States* v. *Bhagat Singh Thind*, decided Feb. 19, last.
[41] *Wayman* v. *Southard*, 10 Wheat. 1.
[42] *Constitution of the United States Annotated.* (See note 37, *supra*), p. 42, and cases there cited.
[43] *Op. cit*, p. 45, and cases there cited.
[44] *Addystone Pipe and Steel Co.* v. *United States*, 175 U. S. 211. *See* also *Gibbons* v. *Ogden*, 9 Wheat. 1, and *Chisholm* v. *Georgia*, 2 Dall. 419.

meaning of a constitutional provision is clear, it is not the speculative intention of the authors of the provision but the text itself which governs; and it is submitted that this rule is applicable in the present instance. No more precise wording could have been chosen to convey the power contended for in this paper, while contrariwise it is in the interest of a *restrictive* application of the words of the amendment *only* that the problem of their interpretation has been created, as it were, out of whole cloth. It is truly a case where the interpretative process is resorted to "not to remove an obscurity, but, to import one."[44a]

VI.

We now return to the second point raised above with respect to the decision in *Evans* v. *Gore*,[45] namely, whether it involves the broader question of the status, in relation to the sixteenth amendment, of incomes from state and municipal bonds and the salaries of state officials. The point of view, however, from which this query is put should be made clear. There is no anxiety to preserve the decision in *Evans* v. *Gore*, which fully as much as *Collector* v. *Day*[46] illustrates what curious results the judicial mind can sometimes achieve when it chooses to let itself go. The proposition for which *Evans* v. *Gore* stands is that a certain category of national judges should not be required to pay on their salaries the same taxes to the National Government as other people would on a like income, although they receive the same protection from the Government; that while as to ordinary incomes a payment of taxes is a use thereof, as to certain judicial salaries it is a forced surrender, a confiscation. But if to collect a general income tax on the salary of a judge in office when the tax was enacted is to diminish such salary in the sense forbidden by article III, then to repeal, or even to reduce, an income tax reaching the salary of a president in office would be to increase such salary contrary to article II, and furthermore, to repeal or to reduce the tax as to any part of the income of the president in such a case would be another "emolument from the United States," also forbidden by article II. In other words, as to everybody else in the country an income tax can be repealed or reduced at any time, but as to a president taking office under the act it must be collected to the end of his term, and not only on his salary but on all his income, and at the same rate! Furthermore, in failing to note any distinction between a dis-

[44a] Justice Sutherland, in *Russell Motor Car Co.* v. *U. S.*, decided April 9 last. The opinion cites several cases forbidding resort by a court to legislative debates for extrinsic aid in interpreting a statute: *Lapina* v. *Williams*, 232 U. S. 78, 90; *Omaha & C. B. Street R. Co.* v. *I. C. Com'n*, 230 U. S., 324, 333; *Standard Oil Co.* v. *U. S.*, 221 U. S. 1, 50; *United States* v *Trans-Mo. Frt. Asso.*, 166 U. S. 290, 318. The objections to invoking a supposed "intention" of the legislators as interpretative of the law are admirably stated by Malberg, *Contributions à la Theorie Générale de l'Etat* (1920), I, sec. 237. "In order that the will of the legislator become law, it must take form in an official text adopted in solemn form. * * * That procedure which consists in imputing intentions to the legislator by taking account of the state of mind, the customs, the circumstances which prevailed at the period of the making of the law can furnish interpretation only very vague data. * * * The text alone has the authoritative validity of the law." *Ibid.* The objections against resort to extrinsic aids are, of course, vastly multiplied in the case of an amendment to the constitution of the United States, which becomes law only after proposal by two-thirds of each house of congress and the favorable vote of three-fourths of the state legislatures. To rely upon the views of not more than four men, as Justice Van Devanter does, as expressive of the "intentions" of this far-flung legislative organ would of itself be ridiculous, even if their utterances were not more than offset by contrary evidence, which, however, is clearly the case.

[45] See note 24, *supra*.

[46] Cited in note 13, *supra*.

criminatory and nondiscriminatory taxation of judicial salaries, the decision actually exposes the salaries of future judicial incumbents to special exactions. For while the "judicial independence" of judges in office at any particular time is bulwarked behind this decision, that of judges to be is still left to the mercy of congress and their own fortitude.

But while this decision, for the reasons stated, can hardly claim our applause, it is, nevertheless, until it is set aside by the court, a fact to be reckoned with, and so the question of its scope becomes one of importance. The precise inquiry is, therefore, whether the question decided in *Evans* v. *Gore* can be distinguished logically from the question which would be raised by the application of a national income tax to incomes from state and municipal bonds and to state official salaries? I submit that it can be, for two reasons: In the first place, while the decision in *Evans* v. *Gore* is based on a clause of the written constitution, no such clause can be invoked in behalf of the incomes just mentioned. Be it noted that the court does not claim that national judicial salaries are inherently exempt from national taxation; and indeed, as we have seen, such salaries are subject to an income tax if the tax is in existence when the incumbent takes office. Thus, notwithstanding the importance of the principle of the separation of powers in our system, as well as of the principle of judicial independence, yet neither of these principles, nor both together, were regarded by the framers of the constitution as sufficient to secure the exemption enforced in *Evans* v. *Gore*, but that exemption had on the contrary to be stipulated for in the written instrument itself. The exemption of incomes from state and municipal bonds and of state official salaries from national income taxation is, on the other hand, merely a deduction, and a far-fetched one at that, from theories external to the constitution. The question is surely prompted, why, if implication was insufficient in the one case, should it be supposed to suffice in the other?

The second difference between the case decided and the one suggested is even more cogent, though less obvious. It can be put in this way: That whereas the exemption which judicial salaries receive from the constitution has no reference to the *source* of the salary but, on the contrary, is extended to the *recipient* thereof, the exemption which is claimed for incomes from state and municipal bonds—and I should say the same thing of state official salaries—is claimed solely on a consideration of the *source* of such incomes and totally without regard to the deserts or necessities of the *recipients*. Or to put it slightly differently, whereas certain judicial salaries are protected *as such* by article III of the constitution, income derived from state and municipal bonds is sought to be protected *despite its being income* by considering its source. But if the contention of the present writer be accepted, as it must be at this point at least for the purpose of argument, consideration of source is precisely what the sixteenth amendment forbids in the determination of the scope of congress's power in taxing incomes. So, conceding the point decided in *Evans* v. *Gore* to have been correctly decided, namely, that the tax there involved was a diminution of judicial salaries in the sense of article III, the sixteenth amendment had absolutely no bearing on the case; not, however,

because the amendment does not purport to enlarge congress's power of taxing income, but *because the criterion which had previously restricted this power and which is now repealed by the amendment, does not appear in article III.* It follows of necessity that what was said in *Evans* v. *Gore* about the sixteenth amendment was pure *obiter dictum* and without any legal weight whatsoever.

To summarize: (1) Congress has the power to permit state taxation of national securities by nondiscriminatory taxes. (2) On correct theory, it has always had the power to tax incomes from state and municipal securities by a general income tax. (3) The sixteenth amendment restores that power by striking down the judicial theory whereby such incomes came to be exempted. Congress may tax incomes from whatever source derived. The words of the amendment are perfectly explicit and the sense of them could not be made clearer by a dozen constitutional amendments. What is needed, therefore, is not further tinkering with the constitution but an act of congress assertive of its present powers. Nor is there any judicial decision interpretative of the sixteenth amendment which stands in the way of such an assertion of power. Yet even if it were otherwise, that should not deter congress from taking the proper steps to secure a reconsideration of so important a question. In the words of the historian of the constitution: "It is the constitution which is the law, and not even the past decisions of the court upon it. . . . To the decision of an underlying question of constitutional law no . . . finality attaches. To endure it must be right."[47]

It only remains to indicate briefly the form that congress's action should take. This action would be based on the fundamental premise that public securities in the hands of private persons are private property and that the income from such securities is private income. On the one hand, therefore, congress should subject all future issues of national securities, as well as the incomes therefrom, to the unimpeded operation of the general nondiscriminatory tax laws of the states, and, on the other hand, claim a like operation for the national income tax upon the incomes from all future state and municipal issues. That is to say, the act should be reciprocal as between the national government and the states, and it should respect existing vested rights and moral obligations. To be sure, it may be argued that expectations growing out of an attempt to evade taxation are not entitled to much respect, yet the answer is plain: the evasion was one which the law itself allowed, and indeed promoted; wherefore it would be most imprudent to ask the court to disappoint such expectations. And, anyway, there is no need to cry over spilt milk if only we can make sure that no more milk will be spilt.[48]

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[47] Bancroft, *Works*, IV, 549, as quoted by F. J. Stimson, the *American Constitution*, etc., p. 29. See also to the same effect Bancroft's *History* (Author's last revision), VI, 350. See further to the same effect George Ticknor Curtis, *Constitutional History of the United States* (N. Y., 1897), II, 69–70; also Chief Justice Taney's words in *The Genesee Chief*, 12 How. 443, overruling *The Thomas Jefferson*, 10 Wheat. 448: "We are convinced that if we follow it we follow an erroneous decision, and the great importance of the question could not have been foreseen."

[48] An additional difficulty in the way of maintaining *Collector* v. *Day* to-day should have been noticed under section II *supra*. *Green* v. *Frazier*, 253 U. S. 233, makes it clear that States may to-day borrow money to an almost unlimited extent for purposes which were nongovernmental in 1789. Yet by *South Carolina* v. *U. S.*, 199 U. S. 437, *a state is not entitled to claim exemption from national taxation in the discharge of such functions.* On this ground alone the right of holders of state and municipal bonds to be exempt as to such holdings from the national income tax becomes most questionable in many cases. And generally speaking, it seems clear that the court can not profess to uphold both *Collector* v. *Day* and *South Carolina* v. *U. S.* indefinitely.

THE PROBLEM OF TAX-EXEMPT SECURITIES.

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THE DOCTRINE OF TAX EXEMPTION.

Prior to the adoption of the income tax amendment in 1913, Congress was forbidden to tax municipal securities either directly or indirectly under the guise of an income tax.[1] The decisions which led up to this conclusion of the courts are among the most important to be found in the reports. Whether they are right or wrong, these decisions follow such an undeviating course that the conclusion which they reach must be accepted as settled law unless it has been overruled by the sixteenth amendment.

They begin with the case of *McCulloch* v. *Maryland*,[2] decided over a century ago, and continue down through the income tax decisions of 1895 even into our own day. In the *McCulloch Case* it was decided, among other things, that a state may not tax a bank chartered as an instrumentality of the Federal Government. This decision, which has been reaffirmed in other similar cases, was followed by others in which it was held that the state governments and their municipal subdivisions may not tax the securities of the United States, or the property or revenue of the United States, or the emoluments of federal officers.[3] These decisions and numerous dicta simply carry out the general theory that the state governments are totally lacking in the power to control federal instrumentalities, and that the only way in which such control can be prevented is by the complete denial of the state's power to tax or otherwise interfere with such instrumentalities.

"The sovereignty of a state extends," says Marshall, "to everything which exists by its own authority, or is introduced by its permission; but does it extend to those means which are employed by Congress to carry into execution powers conferred on that body by the people of the United States? We think it demonstrable that it does not."[4]

At a later date, when the danger was no longer that the states would destroy the union, but rather that the states themselves would be totally submerged and wiped out of existence by the torrential flow of federal power, the court was compelled to develop

[1] "Municipal securities" will be understood to include all securities whether in the form of bonds, certificates of indebtedness, or some other form, issued by the State governments or their municipal subdivisions.

[2] (1819) 4 Wheat. (U. S.) 316, 4 L. Ed. 579.

[3] *Osborn* v. *Bank of the United States* (1824, 9 Wheat. (U. S.) 738, 6 L. Ed. 204; *Weston* v. *Charleston* (1829), 2 Pet. (U. S.) 449, 7 L. Ed. 481; *People ex rel. Bank of Commerce* v. *City and County of New York* (1862), 2 Black (U. S.) 620, 17 L. Ed. 451; *Van Brocklin* v. *State of Tennessee* (1886), 117 U. S. 151; 29 L. Ed. 845, 6 S. C. R. 670; *Lobbins* v. *Commissioners of Erie County* (1824), 16, Pet. (U. S.) 435, 10 L. Ed. 1022.

[4] *McCulloch* v. *Maryland* (1819), 4 Wheat. (U. S.) 316, 429, 4 L. Ed. 579.

the converse of this proposition, namely, that the federal government is without the power to tax the governmental instrumentalities of the states. It was necessary, indeed, for the court to call attention once more to the separate and independent powers of the states.

"Not only," said the court in a dictum, "can there be no loss of separate and independent autonomy to the states, through their union under the constitution, but it may be not unreasonably said that the preservation of the states, and the maintenance of their governments, are as much within the design and care of the constitution as the preservation of the union and the maintenance of the national government. The constitution, in all its provisions, looks to an indestructible union, composed of indestructible states." [5]

In the case of *The Collector* v. *Day* [6] it was held that Congress has no power to tax the salary paid by a state to one of its officers. Following this case it was held that the federal government has no power to levy a tax even indirectly upon the property and revenues of a municipal corporation which is acting as an agent of the state and is carrying out public purposes.[7] Finally in the *Pollock Case*,[8] the famous income tax case of 1895, although the judges disagreed most sharply upon the other points involved, they were unanimous in holding that Congress is without power to levy a tax upon the income derived from municipal bonds. The basis of the latter decision was simply this, that such a levy "is a tax on the power of the states and their instrumentalities to borrow money, and consequently repugnant to the constitution."

Because of the obvious fact that the states and municipalities sometimes go into business of a private nature, there has developed one exception to the rule of non-taxability of state instrumentalities. The exception, which is justified on the ground that it prevents the states from seriously impairing the sources of federal revenue, but which at the same time really adds strength and precision to the exemption from federal taxation enjoyed by the states, is illustrated by the South Carolina case involving public liquor dispensaries.[9] The state government, having monopolized in order to control the traffic in intoxicating liquors, objected to paying the federal internal revenue taxes. This objection was overruled by the Supreme Court on the ground that it is only truly governmental instrumentalities which are entitled to the exemption. Otherwise a state might, by monopolizing all lines of private business within the state, exclude the federal taxing power entirely.

The unanimous decision of the judges in the income tax case that the federal government may not tax the income of municipal bonds brought to completion the development of a principle which had been in the making since the days of Marshall. The principle is, in brief, that the states may not tax federal instrumentalities as such, and that the federal government may not tax the proper govern-

[5] *Texas* v. *White* (1869), 7 Wall. (U. S.) 700, 19 L. Ed. 227. See also the remarks in *People ex rel. Bank of Commerce* v. *City and County of New York* (1862), 2 Black (U. S.) 620, 635, 17 L. Ed. 451, 17 L. Ed. 459; and in *Lane County* v. *Oregon* (1869), 7 Wall. (U. S.) 71, 19 L. Ed. 101.

[6] (1870) 11 Wall. (U. S.) 113, 20 L. Ed. 122.

[7] *United States* v. *Railroad Company* (1875), 17 Wall. (U. S.) 322, 21 L. Ed. 597.

[8] *Pollock* v. *Farmers' Loan and Trust Co.* (1895), 157 U. S. 429, 39 L. Ed. 759, 15 S. C. R. 673.

[9] *South Carolina* v. *United States* (1905), 199 U. S. 437, 50 L. Ed. 261, 26 S. C. R. in continuing to uphold both the rule in this case and that in *The Collector* v. *Day*. Corwin, Constitutional tax exemption, suppl. 13 Nat. Mun. Rev. 67, note.

mental instrumentalities of the states and their municipalities. The principle is nowhere stated in the constitution in so many words, but in the words of Marshall the first part of it "so entirely pervades the constitution, is so intermixed with the materials which compose it, so interwoven with its web, so blended with its texture, as to be incapable of being separated from it, without rending it into shreds,"[10] whereas the second part of it has been developed by the judges since the Civil War as a necessary corollary of the first. The whole rule has, in fact, become an established maxim of American constitutional law.

THE INCOME-TAX DECISIONS OF 1895.

The principle which we have just been discussing has never given rise to any important controversy until very recent years. The public at large have thought little of it, and no political party has demanded its modification. It has been accepted almost universally and without serious question that the state and federal governments should not tax each other. Entirely different was the reception accorded to the income-tax decision of 1895 as to the taxation of incomes generally.

During the Civil War and for some years thereafter the government levied an income tax and derived a considerable revenue therefrom. No one questioned the power of the government to levy such a tax, but a number of years after the war question was raised whether an income tax is not a direct tax which, under the constitution, must be apportioned among the states according to population.[11] The constitution provides that "representatives and direct taxes shall be apportioned among the several states . . . according to their respective numbers" as determined by the census; that "no capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken;" and that "all duties, imposts, and excises shall be uniform throughout the United States."[12] Since the income tax at that time was being levied uniformly, the litigant hoped to prove the act invalid by demonstrating that it was a direct tax which should have been apportioned. The Supreme Court refused to take this view. It held that there were only two types of direct taxes, namely capitation taxes and taxes on real estate. An income tax was held to be an excise or duty which it was proper to levy uniformly throughout the United States.

After the country had gone some years without an income tax, Congress in 1894 again passed an act for the imposition of such a tax, and again by the rule of uniformity. This act was immediately attacked by most able counsel on behalf of a loan and trust company.[13] The chief contention of the plaintiff was that the tax upon the income from real and personal property was a direct tax just as much as if the tax had been laid upon the real estate or personal property directly. While it was agreed among the judges that a tax upon salaries and business profits would be an indirect tax,

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[10] *McCulloch* v. *Maryland* (1819), 4 Wheat. (U. S.) 316, 424, 4 L. Ed. 579.
[11] *Springer* v. *United States* (1881), 102 U. S. 586, 26 L. Ed. 253.
[12] Constitution, art. 1, sec. 2, par. 3; sec. 9, par. 4; and sec. 8, par. 1.
[13] *Polock* v. *Farmers' Loan and Trust Co.* (1895), 157 U. S. 429, 39 L. Ed. 759, 15 S. C. R. 673, 158 U. S. 601, 39 L. Ed. 1108, 15 S. C. R. 912.

subject to the rule of uniformity, it was finally held upon the second hearing of the case, five judges concurring against four dissenting, that a tax upon income from property is a direct tax which must be apportioned according to population. This decision, which was a reversal of the earlier ruling of the court, invalidated certain essential portions of the income-tax law and made the whole act inoperative. One consequence of this reversal of position was the arousing of a great deal of adverse criticism of the court throughout the country.

It should be noted here that the court did not declare that Congress had no power whatever to levy an income tax. On the contrary the possession of this power by Congress was asserted. What the court did say was that a tax upon the income from property, if levied at all, must be apportioned among the States according to population. The court, in other words, traced the income to its source, and held that if a tax upon the source would constitute a direct tax, so also would a tax upon the income from that source.

Practically speaking, however, the decision of 1895 made a federal income tax unworkable. In the first place a tax upon the income, "gains or profits from business, privileges, or employments," would have to be levied uniformly, while a tax upon the income derived from property would have to be apportioned according to population. In the second place, to have apportioned the latter tax among the States would have been to reduce it to an absurdity and to have made its administration almost impossible. To apportion a tax Congress must first decide how much revenue it desires from the tax. Suppose that it decides to raise $500,000,000 in a population of approximately 100,000,000 people. This would amount to five dollars per capita. New York state, with ten million inhabitants, would pay $50,000,000. Minnesota, with two and a third million, would pay about $11,500,000, and so on through the states. Because of differences in total income and in the distribution of incomes according to size, there would have to be a different income tax rate schedule for each one of the forty-eight states. The rate would be relatively high in Minnesota and very low in New York. Under a uniform income tax the people of New York state paid income and profits taxes in 1921–22 of over $525,000,000. The people of Minnesota paid a little over $30,000,000, or about one seventeenth as much. Under an apportioned tax New Yorkers would have paid only four times as much total as the citizens of Minnesota instead of seventeen times as much. The result of such a law, aside from its gross inequalities, would probably be to make residence in New York more than ever attractive to the wealthy people of the country.

THE SIXTEENTH AMENDMENT.

In the popular discussion which followed upon the decision in the income tax case, almost the entire emphasis was placed upon the rule of apportionment for direct taxes. The other phase of the decision, relative to the taxation of the income of municipal bonds, was then relatively unimportant and seems to have been generally ignored. The Democratic party became the chief exponent of an income tax. Its platforms and its speakers dwelt upon the need of such a tax as a means of making the wealthy pay their proportionate share of the national taxation, but at first little progress was made.

In 1907 a business panic was followed by depression. With the diminution of business, the tariff revenues declined. When President Taft took office in 1909 the treasury faced a deficit of approximately one hundred million dollars. The president therefore called Congress in special session in March to revise the tariff and to provide revenue to cover the deficit. In his first address he recommended the imposition of an inheritance tax as a source of additional revenue.[14] Democratic and insurgent Republican members of Congress were not content with these measures. They proceeded to add to the tariff bill an amendment to provide for a uniform income tax. It was their expectation that the measure would be attacked as unconstitutional, but with the changed membership of the supreme court they hoped for a reversal of the decision of 1895.

Under these circumstances the president delivered a special message to Congress.[15] For immediate revenue purposes he now urged the imposition of an excise tax on corporations. As to the income tax he said:

> Although I have not considered a constitutional amendment as necessary to the exercise of certain phases of this power, a mature consideration has satisfied me that an amendment is the only proper course for its establishment to its full extent. I therefore recommend to the Congress that both houses, by a two-thirds vote, shall propose an amendment to the constitution conferring the power to levy an income tax upon the national government without apportionment among the states in proportion to population.

He urged Congress not to reënact the income tax law previously declared unconstitutional.

> For the Congress to assume that the court will reverse itself, and to enact legislation on such an assumption, will not strengthen popular confidence in the stability of judicial construction of the constitution.

Previous to President Taft's special message, Senator Brown of Nebraska had offered a resolution for a constitutional amendment to the effect that "The Congress shall have power to lay and collect taxes on incomes and inheritances." Upon being informed in debate that Congress already had both of the powers in question, and that is was only the rule of apportionment which stood in the way of federal income taxation, he offered, a few days later, a second resolution which read that "The Congress shall have power to lay and collect direct taxes on incomes without apportionment among the several states according to population."[16] Not long afterwards there emerged from the Senate committee on finance, of which Senator Aldrich of Rhode Island was chairman, a resolution for a constitutional amendment, reading:[17]

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

In this form the amendment passed both houses and was submitted to the states. The action of Congress upon it was indeed a

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[14] 44 Cong. Rec., March 4, 1909, p. 3.
[15] 44 Cong. Rec., June 16, 1909, p. 3344.
[16] 44 Cong. Rec., pp. 1548, 1568, 3377.
[17] 44 Cong. Rec., p. 3900.

curious proceeding.[18] Here was a proposed constitutional amendment, destined as it proved to be the first one adopted in over forty years. The chief proponents of the measure were men who had never espoused the cause of income taxation. The resolution was discussed on only one day in the Senate and one in the House. There was no critical analysis of the wording of the amendment, no attempt made to explain its meaning in detail. One member said:

> The resolution is simple in construction and covers but one subject and one purpose. It is formulated in clear and unambiguous terms, leaving no possibility for doubtful construction.

Another averred that it was "very defectively drawn," but neglected to point out the defects. One thing only is clear, and that is that the members who discussed it expected it to overrule the decision of 1895 as to the apportionment of income taxes among the states. There was no word of discussion of the problem of tax-exempt securities, or of the taxation of incomes derived from state and municipal salaries. The printed debates discover no intention whatever upon the part of the members of Congress to enlarge the power of taxation already possessed by the federal government, or of bringing the income from municipal securities under federal income taxation. Since the evidence of the debates upon this point is entirely negative, however, it is, of course, not correct to say upon the basis of this evidence alone that Congress had no intention of the sort.

No sooner had the proposed amendment been submitted to the states than questions began to be raised as to its meaning. Governor Hughes' message to the New York legislature early in 1910 raised serious doubts as to what effect the amendment would have if adopted.[19] He said:

> The comprehensive words "from whatever source derived," if taken in their natural sense, would include not only incomes from real and personal property, but also incomes derived from state and municipal securities.

Several other governors expressed similar misgivings.[20] It would be far more to the purpose to have the opinions of the members of the state legislatures which adopted the amendment, but such evidence is now impossible to obtain.

Senator Borah found early opportunity to address the Senate in reply to Governor Hughes.[21] He came to the conclusion that the proposed amendment added nothing to the taxing power of Congress, which was "complete, unfettered, plenary before;" that it dealt, and purported to deal, only with the manner of exercising the power; and that

> to construe the proposed amendment so as to enable us to tax the instrumentalities of the state would do violence to the rules laid down by the supreme court for a hundred years, wrench the whole constitution from its harmonious proportions and destroy the object and purpose for which the whole instrument was framed.

But the most cogent reply to Governor Hughes was contained in a letter written by Mr. Root to Mr. F. M. Davenport of the New York

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[18] 44 Con. Rec., pp. 1568-70, 4067-68, 4105-21, 4364, 4390, 4441, 4493, 4495, 4629, Appendix pp. 70-71, 75-79, 103-114, 117-128, 131-132.
[19] Message of Jan. 5, 1910; *Evans* v. *Gore* (1920), 253 U.S. 245, 261, 64 L.Ed. 887, 40, S.C.R. 550; quoted in Corwin, Constitutional Tax Exception, suppl. 13 Nat. Mun. Rev. 60.
[20] Corwin Constitutional Tax Exemption, suppl. 13 Nat. Mun. Rev. 60.
[21] 45 Cong. Rec., Feb. 10, 1910, pp. 1694-99. See also remarks of Senator Brown, pp. 2245-47.

state legislature.[22] It was his conclusion that the amendment would not "in any degree whatever * * * enlarge the taxing power of the national government" or "have any effect except to relieve the exercise of that taxing power from the requirement that the tax shall be apportioned among the several states. The effect of the amendment will be, in my view, the same as if it said, 'The United States may levy a tax on incomes without apportioning the tax, and this shall be applicable whatever the source of the income subjected to the tax,' leaving the question 'What incomes are subject to national taxation?' to be determined by the same principles and rules which are now applicable to the determination of that question." No one arose in either house to dispute this view, although Mr. Borah spoke at length in the Senate, and the letter written by Mr. Root was spread at large upon the Record. When we couple this fact with the negative testimony of the debates at the time of the proposal of the amendment, we have not complete proof of the intention of Congress in proposing the amendment, but at least very good grounds for a controlling presumption.

VIEWS OF THE BROAD CONSTRUCTIONISTS.

In the interpretation of the sixteenth amendment there are two outstanding difficulties. One is that the amendment takes the form of a substantive grant of power to Congress. The second is embodied in the words "from whatever source derived." The amendment seems, in other words, to grant to Congress a power not previously possessed, to tax incomes, and to tax them from whatever source they may be derived. This plausible view is rendered the more natural when we recall that the income tax case of 1895 raised both the question of apportionment of the tax and the question of the power of Congress to tax the income from municipal bonds. It may be reasoned, therefore, that the amendment was designed to surmount at one stride both the supposed obstacles to income taxation discussed in that case.

The latter view is ably presented in an article by Professor Henry Rottschaefer in the Minnesota Law Review.[23] The bases upon which his argument rests are as follows: *First.* Prior to 1913 there was a double defect in the federal power to levy income taxes. On the one hand Congress had no power to tax the income of municipal bonds, and on the other hand it was required to follow the rule of apportionment instead of the rule of uniformity in taxing the income derived from property. *Second.* Unlike other federal amendments, the income tax provision takes the form of a grant of power to Congress. *Third.* Literally construed the amendment grants Congress the power to levy taxes upon incomes from whatever source derived, and to levy them without apportionment among the states according to population. It serves thus to overcome both of the previous defects in the power of Congress to tax incomes. *Fourth.* Where the literal meaning is so obvious, and where the language serves so well to remedy a preëxisting evil, it is unnecessary and improper to study other evidences as to the motives and intent of the

[22] 45 Cong. Rec., March 1, 1910, pp. 2539–40.
[23] 8 Minnesota Law Review 112–126.

framers of the amendment. *Fifth.* In any case the intent of the members of Congress is of little moment, since it was the state legislatures which actually adopted the amendment. The conclusion reached is that the amendment may properly be construed to authorize federal taxation of the income of municipal bonds.

In his two articles on the subject, Professor E. S. Corwin pursues a somewhat different course of reasoning, but comes to substantially the same conclusion.[24]

"Approached without preconceptions," he says, "the sixteenth amendment clearly gives the power to tax incomes from municipal and state bonds, as well as the salaries of state officials, by a general income tax."

The amendment must be taken as meaning what it literally says, or seems to say. "On correct theory" Congress "has always had the power to tax incomes from state and municipal securities by a general income tax." This power was effectually taken away by the decision in the *Pollock Case*, but "the sixteenth amendment restores that power by striking down the judicial theory whereby such incomes came to be exempted. Congress may tax incomes from whatever source derived. The words of the amendment are perfectly explicit and the sense of them could not be made clearer by a dozen constitutional amendments." But it is impossible here to show with what a wealth of information and dialectic power this author proceeds to demonstrate his views.

In a dissenting opinion in the case of *Evans* v. *Gore*,[25] Justice Holmes has suggested but has not fully expounded an interpretation which comes to the same conclusion. He also looks upon the amendment as a grant of power to Congress to tax incomes "from whatever source derived." It is true, he says, that the amendment goes on to provide for the levy of such taxes "without apportionment among the several states, and without regard to any census or enumeration," and this, he says, "shows the particular difficulty that led to it. But the only cause of that difficulty was an attempt to trace income to its source, and it seems to me that the amendment was intended to put an end to the cause and not merely to obviate a single result. I do not see how judges can claim an abatement of their income tax on the ground that an item in their gross income is salary, when the power is given expressly to tax incomes from whatever source derived." While the case here under discussion involved the taxation of the salary of a federal judge, the reasoning is broad enough to cover the case of municipal bond interest. What Justice Holmes asserts is that the amendment rules out and makes inadmissible all discussion of the source from which income is derived. No one, he thinks, may now be heard to claim exemption from income taxes on the ground that his income is derived from this or that supposedly exempt source.

The writer has found only one other line of argument put forward to justify federal taxation of the income of municipal bonds. During the debates upon the War Revenue Act in the Senate in 1917–18 Senator Knox argued that the war power was broad enough to

[24] Tax-exempt Securities, 33 New Republic, 243–45; Constitutional Tax Exemption, suppl. 13 Nat. Mun. Rev. 49–67.

[25] (1920) 253 U. S. 245, 264–67. 64 L. Ed. 887, 40 S. C. R. 550.

authorize the tax.[26] He argued from some language found in the case of *The Collector* v. *Day* that the exemption of state instrumentalities from federal taxation was founded upon the principle of self-preservation. When the life of the nation was in danger, when lives and wealth were being conscripted to protect the entire people, he thought the doctrine of self-preservation required that the federal government should have the power to tax the incomes of all the people. Since this line of argument has nothing to do with the sixteenth amendment it will be unnecessary to refer to it again.

THE OFFICIAL VIEW.

Giving all due consideration to the eminent authorities who assert the present power of Congress to tax the income of municipal bonds, it must be said that the weight of opinion is against them. Congress itself has from the first seemed to assume that its power does not extend so far.[27] Even during the war when, if ever, the national government stood in dire need of a copious revenue, and when one revenue act was actually drawn to subject such incomes to taxation, so great was the doubt upon this point that this provision was finally omitted.[28] The misgivings as to the possession of this power have been expressed both in debate and in committee reports, and more recently by the proposal, which passed one house of Congress in 1923 and is now again before that body, of a resolution for a constitutional amendment to authorize the taxation in question.[29] President Harding also held the view that a new amendment is needed, and President Coolidge holds the same position.[30] It is unnecessary, perhaps, to call attention to the attitude of the treasury department.[31] This practical construction of the constitution may not be ignored.[32] It began with the first Congress and the first administration which took office after the adoption of the amendment and has continued without change down to the present time.

Because Congress, doubting its own power, has failed to enact a law to make municipal-bond interest taxable as income, it has been impossible for the Supreme Court to pass directly upon the question. We are not, however, without clues as to the probable attitude of the judges. In a number of decisions, where it has been called upon to interpret and to apply the income tax amendment, the Supreme Court has asserted in dicta that it was not the intention of the amendment to enlarge the scope of the federal taxing power or to extend that power to subjects formerly exempt from taxation, but that its purpose was merely to change

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[26] 56 Cong. Rec., Sept. 30, 1918, pp. 10933–41.

[27] 38 Stat. at L., p. 168 (1913); 39 Stat. at L., pp. 758–59 (1916); 40 Stat. at L., pp. 329–30 (1917); ibid. pp. 1065–66 (1918); 42 Stat. at L., p. 238 (1921). In the acts of 1918 and 1921, no express provision is made for exempting the salaries of state and municipal officers and employees, but it has been ruled that the exemption still exists on constitutional grounds.

[28] House Report No. 767, 65th Cong., 2nd Sess., p. 9; Senate Report No. 617, 65th Cong. 3rd Sess., p. 6; 56 Cong. Rec., pp. 10933–41, 10628–33; 11181–87; 40 Stat. at L., p. 1065–66.

[29] House Report No. 969, 67th Cong., 2nd Sess.; H. J. Res. 314, 67th Cong., 2nd Sess. The proposed amendment is given in *note* 48, *infra*.

[30] Message, President Harding, Dec. 6, 1921; 62 Cong. Rec., p. 39; ibid., Dec. 8, 1922, 64 Cong. Rec., p. 215; message of President Coolidge, Dec. 6, 1923, 65th Cong. Rec., p. 98.

[31] See the N. Y. Times, especially under dates of Jan. 9 and 12, 1924.

[32] "Contemporaneous or practical construction of an ambiguous provision of a constitution by the legislative or executive departments of the government is always important, and is frequently of controlling influence in determining its meaning." 12 C. J. 712, (Const. Law §65) and cases there cited.

the law as to the apportionment of income taxes. In the leading case upon the amendment Chief Justice White said:

It is clear on the face of its text that it does not purport to confer power to levy income taxes in a generic sense—an authority already possessed and never questioned—or to limit and distinguish between one kind of income taxes and another, but that the whole purpose of the amendment was to relieve all income taxes when imposed from apportionment from a consideration of the source whence the income was derived.[83]

In another decision handed down at the same term of court the Chief Justice said that:

by the previous ruling [quoted above] it was settled that the provisions of the sixteenth amendment conferred no new power of taxation, but simply prohibited the previous complete and plenary power of income taxation possessed by Congress from the beginning from being taken out of the category of indirect taxation to which it inherently belonged, and being placed in the category of direct taxation subject to apportionment by a consideration of the sources from which the income was derived.[84]

There are similar dicta in other cases, particularly in that of *Evans* v. *Gore*,[85] which involved the power of Congress to tax the income derived by a federal judge from his official salary. This case involved a question not unlike that which is discussed in this paper. The decision, which the writer does not attempt to justify, simply was that the income-tax amendment does not change or overrule that provision in article 3, section 1, of the constitution, which provides that the compensation of federal judges "shall not be diminished during their continuance in office." The court refused to tolerate a miminution even in the form of an income tax. In this decision the history of the sixteenth amendment was carefully reviewed in the light of the information then available in order to ascertain its purpose. The conclusion was stated as follows:

Thus the genesis and words of the amendment unite in showing that it does not extend the taxing power to new or excepted subjects, but merely removes all occasion otherwise existing for an apportionment among the states of taxes laid on income, whether derived from one source or another.

THE CASE FOR STRICT CONSTRUCTION.

Inconstruing the words of the amendment the most important question is whether they are to be construed as a grant of power. To the author it would seem that they do not constitute a grant of power in a substantive sense, but only in an adjective sense. Congress has always had the substance, namely, the power to tax incomes. This power was conferred by the original constitution, article 1, section 8.

The Congress shall have power: 1. To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States.

This provision is still in effect. It has been supported by numerous judicial decisions and by the most far-reaching judicial dicta as to the extent of the taxing power.[86] The power to tax incomes

[83] *Brushaber* v. *Union Pacific Railroad Co.* (1916), 240 U. S. 1, 36 S. C. R. 236, 60 L. Ed. 493.

[84] *Stanton* v. *Baltic Mining Co.* (1916), 240 U. S. 103, 36 S. C. R. 278, 60 L. Ed. 546.

[85] (1920 253 U. S. 245, 64 L. Ed. 887, 40 S. C. R. 550. See also *Peck and Co.* v. *Lowe* (1918), 247 U. S. 165, 62 L. Ed. 1049, 38 S. C. R. 432 *Eisner* v. *Macomber* (1920), 252 U. S. 189, 64 L. Ed. 521, 40 S. C. R. 189.

[86] *License Tax Cases* (1867, 5 Wall. (U. S.) 462, 18 L. Ed. 497; *Veazie Bank* v. *Fenno* (1870) 8 Wall. (U. S.) 533, 540, 19 L. Ed. 482; *Knowlton* v. *Moore* (1900), 178 U. S. 41, 44 L. Ed. 969, 20 S. C. R. 747.

is traceable to this source and not to the sixteenth amendment. The two must be read together, the one as conferring the power and the other as determining the manner in which the power may be exercised. But the substantive power to tax incomes as well as the power to tax other subjects has for many years by an unbroken line of decisions been held to be subject to the limitation that the federal Government may not tax the instrumentalities of the states. A tax upon the income derived from government bonds has been held with unimpeachable logic to be equivalent to a tax upon the government directly."

What the income tax amendment does, and does very effectively, as all agree who have studied the question, is to abolish the requirement created by the decision in the *Pollock Case* of apportioning the tax upon income derived from property among the states according to population. The gist of the amendment is this:

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

The form of the amendment clearly indicates that this is the essence of the whole proposition.

But the question still remains, Does not the amendment do more than this? This brings us to the second difficulty, namely the meaning of the elliptical clause, "from whatever source derived," which is inserted parenthetically in the middle of the sentence. It should be noted that the sentence is entirely complete without it. Indeed, as originally drafted the amendment contained no such phraseology. The words in question were inserted, as explained by one who had reason to know, to make assurance doubly sure that all legal income taxes might be levied by the rule of uniformity.[88] After the *Pollock Case* decision the law seemed to require that taxes upon the income from salaries, business profits, and other income not arising from property, should be levied uniformly, whereas taxes upon the income from property would have to be levied according to the rule of apportionment. To the writer it would seem that the words in question might well have been omitted, that they are a mere work of superogation. Or, if it was deemed necessary to put them in, it might have been better to have said, "from whatever *legally taxable* source derived," for this, according to Mr. Root, was the intention. In other words, the term "whatever" has reference only to those sources of income which were formerly taxable by the federal government.

It is our purpose, however, not to show how the amendment might have been more clearly drafted, but to try find its meaning as it is. Do the four words, "from whatever source derived," empower Congress to tax the income of municipal bonds? The exemption of federal instrumentalities from state taxation, and of state instrumentali-

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[87] *Weston* v. *Charleston* (1829), 2 Pet. (U. S.) 449, 7 L. Ed. 481. "The right to tax the contract to any extent, when made, must operate upon the power to borrow, before it is exercised, and have a sensible influence on the contract. The extent of this influence depends on the will of a distinct government; to any extent, however inconsiderable, it is a burden on the operations of government. It may be carried to an extent which shall arrest them entirely." p. 468. See also *People ex rel. Bank of Commerce* v. *City and County of New York* (1862), 2 Black (U. S.) 620, 17 L. Ed. 451; *Farmers and Mechanics Savings Bank* v. *State of Minnesota* (1914), 232 U. S. 516, 58 L. Ed. 706, 34 S. C. R. 354. In the arguments for abolishing tax exemption it is admitted that state and local governments will have to pay a higher rate of interest if the exemption is abolished.

[88] See Senator Root's letter in 45 Cong. Rec., March 1, 1910, pp. 2539–40.

ties from federal taxation, is a rule which lies at the very foundation of our federal system. Perhaps we should have had an equally good system of government if the judges had never insisted upon this complete separation between the two authorities, but the fact is that our law has developed in this way. The importance of this separation has been stressed by the Supreme Court time and again, from Marshall's day to the present. Are we to suppose that the Congress, without discussion of the question, by the clumsy use of four words in the middle of an amendment designed apparently for a different purpose, intended to introduce a change of so tremendous significance?

By the ordinary principles of legal draftsmanship a change so important would seem to require at least a separate sentence, and some separate consideration. It could hardly be effected by mere inadvertence. New and fundamental powers are not usually conferred by a single phrase found in provision having a different purpose. A single simple sentence usually accomplishes only one object. It is interesting in this connection to note that those who assert that this one-sentence amendment accomplishes two objects, usually construe it as if it were two sentences, or two practically coördinate clauses, reading substantially as follows: "The Congress shall have power to lay and collect taxes on incomes from whatever source derived. Such taxes may be laid without apportionment among the several states, and without regard to any census or enumeration." They omit even to note the parenthetical position of the words "from whatever source derived," which in the amendment are entirely set off by commas.

Another objection to the broad interpretation is that, once accepted, it may be extended almost indefinitely. It can be made to apply not only to income from municipal securities, but to all income from salaries and wages paid by state and local governments to their officers and employees. It can be made to apply to pensions, to bonuses, and to all other forms of payment by state and local governments to individuals. It need hardly stop there. The principle of taxation at the source may be applied, the federal government ordering the states and municipalities to withhold a portion of the salaries and wages, and possibly even of contractual interest payments, and to pay these sums directly to the federal government. Indeed it might be suggested that if the intention of Congress in proposing the amendment and of the states in adopting it is to be ignored, and if we are not to seek in history the meaning of the provision, the very "incomes" or revenues of the state and municipal governments as such might, under a broad interpretation, become directly taxable by the federal government. The sixteenth amendment does not specify "personal incomes" as being alone taxable, and there have been cases where a federal tax has impinged with substantial directness upon municipal revenues.[89]

The power to tax is still the power to destroy. If Congress has the power to tax the income from municipal bonds and the salaries of state and municipal employees, it might, by classifying incomes into "earned" and "unearned," by raising some rates and lowering others, by the addition of surtaxes, and by other devices, put direct burdens upon the operations of State and local governments. The

[89] *United States* v. *Railroad Co.* (1873), 17 Wall. (U.S.) 322, 21 L.Ed. 597.

argument that this will not be done in fact is one which the court refused to consider in the case of *McCulloch* v. *Maryland* as well as in subsequent cases.[40] It is the existence of the power which is obnoxious to the constitution, and not a particular method of exercising the power.

There are still other objections to a broad construction of the amendment. If taken broadly and literally, it would seem to authorize the impairment of the obligation of contracts. All municipal bonds sold after the income-tax decisions of 1895 certainly could have been taken by the purchasers on the faith that the income therefrom was exempt from federal taxation. The state and municipal governments had the legal right to certify that tax exemption was one of the privileges attaching to their securities. The taxation of bonds under such circumstances, it has been held, operates directly upon the contract.[41] The buyer of a tax-exempt bond pays something for the exemption privilege in the form of lessened interest, or interest foregone. Surely Congress and the state legislatures did not connive at the passing of an amendment to the constitution to impair existing contractual obligations! This, it has been held in a similar situation, would be "so inconsistent with the honor and dignity of the United States that such an intent should not be presumed without the clearest legislative language requiring it."[42] But there are no words in the amendment which in any way recognize such contractual rights or guarantee against the taxation of the interest income of such previous buyers in good faith. The presumption must be that the taxation of such income was not intended. It is interesting to note in this connection how careful the framers of the proposed new amendment have been to protect the contractual rights of those who buy municipal bonds before the amendment takes effect.[43]

Another consideration is perhaps not unworthy of mention. What the amendment authorizes Congress to do is to lay and collect "taxes" on incomes in a certain manner. What are taxes? Is it too far-fetched to suggest that if the federal government should attempt to levy a charge directly upon the state and municipal governments as such, it would not be a tax at all, but a forced contribution of wholly arbitrary character? Is it not proper to construe the decisions upon this point from *McCulloch* v. *Maryland* down to date as holding in effect that such levies do not come under the designation of taxes?[44] This does not seem to have been said in so many words, yet this is the result, for in all the cases the courts assert the complete and "plenary" power of "taxation" of both the state and federal governments, but at the same time deny the power to levy

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[40] *People ex rel. Bank of Commerce* v. *City and County of New York*, (1862) 2 Black (U.S.) 620, 629–35, 17 L.Ed. 451, 17 L.Ed. 459.

[41] *Weston* v. *Charleston*, (1829) 2 Pet. (S.U.) 449, 7 L.Ed. 481; and other cases cited in note 86, supra.

[42] *Farmers and Mechanics Savings Bank* v. *State of Minnesota*, (1914) 232 U.S. 516, 58 L.Ed. 706, 34 S.C.R. 354.

[43] See note 48 for the proposed amendment. Of course the federal government itself is not forbidden by express language of the constitution to impair the obligation of contracts, but at the same time it is not to be presumed that an act of Congress or even a constitutional amendment is intended to bring about an impairment. If possible a construction should be given to the language used which will avoid such a result.

[44] The definitions of taxation do not include the idea of one government "taxing" another. Taxes impinge upon natural persons and private corporations, upon property and business, upon privileges or franchises and income, but not upon governments as such.

the contributions in question. If this be so as to a direct levy, it is almost as true of a charge upon incomes derived from either the state or federal government, for such a charge would react directly upon the paying authority.

There is, finally, a very real objection to the position of the broad constructionists in their refusal to consider the intent of the framers of the amendment, and of those who adopted it, as having any bearing upon the question. They take the view that the meaning of the amendment is so entirely clear upon the face of it that it is improper to resort to the evidences as to intent. When all three branches of the federal government seem to be united in holding a narrow view of the powers conferred by the amendment, it is a little difficult to understand how it can be said that the opposite construction is so clearly the right one that it could not be made clearer. In fact, there is actual doubt as to the meaning of the words, although the official view is that of narrow construction.

But it is suggested that we should approach the question without preconceptions. It may be true that a man from Mars, or an average uninformed citizen, knowing nothing about the constitutional history of the country, or about the other provisions of the constitution, upon being handed a slip of paper containing only the sixteenth amendment, would probably say that it constituted a grant of power to Congress to tax incomes, and that the words "from whatever source derived" would seem to authorize the taxation of all sorts of incomes, including an income from municipal bonds. Likewise, it has been the experience of the writer with beginning classes in American government that they always assert, and with almost perfect assurance, that the fifth amendment prohibits the states from dispensing with the grand jury in criminal cases; that the term "ex post facto law" in article I, section 9, means any law passed with reference to an act previously committed; and that the two-thirds vote required by article V for the submission of constitutional amendments means two-thirds of all the members of each house.

It is, of course, entirely improper to pick out a single provision of a constitution and to construe it by itself without reference to other parts of the document. It is equally unjustifiable to take the bare words and to construe them with an uncompromising literality. To do so is to make language not the servant but the master of the will. It ceases to be the tool and becomes the workman. When the letter is the law the people become the victims of the unskilled draftsman and the careless copyist. We do not put mere grammarians and lexicographers upon the bench any more than we submit questions of constitutional construction to the uninformed. Constitutional questions are submitted to courts consisting of judges who are supposed to know something of law and history, not excluding the history of the constitution. The more learned they are, the more previous knowledge they have, the greater is our confidence in them. Indeed, in the long run under our system of government, it is the judges who are the ministers of the constitution, "not of the letter but of the spirit; for the letter killeth, but the spirit giveth life." They are supposed to know the intent of the framers and the spirit of the document as a whole and to apply this knowledge in interpreting the meaning of the words.

There is, then, a doubt as to the meaning, not perhaps of this amendment taken by itself without regard to other provisions, but of this provision when read, as it should be, in connection with the rest of the constitution, and as to the interpretation to be placed upon the instrument, as a whole, including this amendment. The instrument must be construed as a whole, and it must be given a practical construction which will give due weight to all its parts.

Little is gained by the citation of rules of constitutional construction. It would be impossible to harmonize all the different dicta of the court upon this point. We know that in practice the judges do study the history of the constituion, the reasons for its adoption, the debates at the time of its adoption, and even the opinions of contemporaries as to its meaning and purpose. Not only is this done in practice but the judges assert that it is proper to follow this course.[45] Perhaps a leading digest of the law is not far wrong when it summarizes the rules upon this point as follows:

> The fundamental purpose in construing a constitutional provision is to ascertain and give effect to the intent of the framers and of the people who adopted it. The court, therefore, should constantly keep in mind the object sought to be accomplished by its adoption and the evils, if any, sought to be prevented or remedied.[46]

This rule, if it be sound, probably applies as much to amendments as to the original document and is particularly applicable where there is doubt as to the meaning of one provision when construed in conjunction with another. The opportunity has not yet arisen for the court to pass directly upon the question discussed in this paper, but other questions touching upon the sixteenth amendment have arisen. In deciding these questions the judges have resorted, and that very properly, to the history of the amendment, to the necessities which gave it birth, and to the records which exist as to the purpose of the framers and of those who adopted it. Let it not be thought that they have read merely the printed page in this connection, nor that they are required to restrict themselves to that sort of evidence. The judges who have rendered the decisions thus far upon this amendment are men who lived through the period of agitation for it and of its adoption. Not improperly perhaps, they have called upon their own knowledge of what took place and of the reasons why it took place. No doubt they have agreed with Mr. Root that the question of tax-exempt securities was not a serious evil at the time the amendment was proposed, and that it was not intended to change the law upon that point. Perhaps they have been mistaken as to the facts. That may very well be, but the evidence adduced up to the present time to prove that Congress and the state legislatures intended to make the income from municipal bonds taxable by the federal government is very meager.[47]

From what has been said it must follow that we can not speak with absolute assurance and finality upon the question at issue. At

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[45] "If, from the imperfection of human language, there should be serious doubts respecting the extent of any given power, it is a well-settled rule that the objects for which it was given, especially when those objects are expressed in the instrument itself, should have great influence in the construction." Marshall, C. J., in *Gibbons* v. *Ogden* (1824), 9 Wheat. (U. S.) 1, 6 L. Ed. 23. See also *Evans* v. *Gore* (1920), 253 U. S. 245, 65 L. Ed. 887, 40 S. C. R. 550.

[46] 12 C. J. 700 (Const. Law § 43). See also the cases there cited.

[47] The best collections of evidences on this point will be found in Evans v. Gore, (1920), 253 U. S. 245, 64 L. Ed. 887, 40 S. C. R. 550; and in Corwin, Constitutional Tax exemption, suppl. 13 Nat. Mun. Rev. 59–62.

the same time the official or strict construction of the sixteenth amendment appears to be the sound one. It is preferable to the other view because it considers the constitution as a whole, it is not misled by the mere form of the amendment into a disregard of its substance, it conforms to the generally held opinion as to the intention of those who framed the provision, it does not open the door to such obnoxious results as the impairment of the obligation of contracts, and it preserves the fundamental rule of our constitutional jurisprudence that the federal government may not tax the governmental instrumentalities of the states. This view is, therefore, adequately supported by reason. It is also buttressed by the weight of opinion and by a long-continued practical construction. To change the accepted interpretation [48] at this late date would seem to require a new constitutional amendment dealing expressly with the subject.

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[48] Such an amendment was submitted to the last Congress. It passed the lower house with the requisite two-thirds majority and was recommended for passage in the Senate, but the latter body was unable to reach a vote upon it. The same amendment is now again before Congress, but has failed by a small margin to pass the House of Representatives. It reads as follows:

"Section 1. The United States shall have power to lay and collect taxes on income derived from securities issued, after the ratification of this article, by or under the authority of any state, but without discrimination against income derived from such securities and in favor of income derived from securities after the ratification of this article, by or under the authority of the United States or any other states.

"Section 2. Each state shall have power to lay and collect taxes on income derived by its residents from securities issued, after the ratification of this article, by or under the authority of the United States; but without discrimination against income derived from such securities and in favor of income derived from securities issued, after the ratification of this article, by or under the authority of such state." H. J. Res. 314, 67th Cong., 4th Sess., 1923; H. J. Res. 1 and 136, 68th Cong., 1st Sess., 1923.

THE SIXTEENTH AMENDMENT AND INCOME FROM STATE SECURITIES.

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Many laymen and not a few lawyers are finding it hard to believe that the sixteenth amendment does not vest in the Federal Government power to tax income from State and municipal bonds. Certainly there is no exclusion of such income in the comprehensive words: "The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration." What could be broader than the description "Income from whatever source derived?" Yet the Supreme Court has held that income from certain sources is not taxable by the Federal Government. It has given the plainest intimation that such exempt income includes interest from State and municipal bonds. Apparently, therefore, in the mind of the Supreme Court the sixteenth amendment does not mean what it says. It says that Congress may tax income from whatever source derived, but it does not mean this. The phrase "from whatever source" relates not to the power to tax, but to the requirement that certain Federal taxes must be apportioned among the States according to their respective populations. The amendment, therefore, means merely that a tax on income from whatever source derived is immune from the requirement of apportionment. This still leaves the question whether income from any given source is taxable at all—a question which depends for its answer on considerations wholly dehors the sixteenth amendment.

The case in which this interpretation of the sixteenth amendment stands as a square decision of the court is Evans *v.* Gore (1920), 253 U. S. 245. This holds that the salary of a Federal judge is "diminished" by forced inclusion in his income-tax return and that therefore such inclusion is inhibited by the constitutional provision that the judges shall "receive for their services, a compensation, which shall not be diminished during their continuance in office." This decision that taxation is diminution of compensation is open to serious question. It might reasonably be so regarded if judicial compensation were taxed more heavily than other income, but it seems sensible to say that a tax burden imposed on all earnings without discrimination is not a reduction of them but a burden based merely on ability to pay. Be this as it may, it does not concern us here. Our present interest is confined to the further holding in Evans *v.* Gore that this inhibition against diminution by taxation, extracted by inference from the clause in the original

Constitution, is in no way relaxed or modified by the apparent grant in the sixteenth amendment of power to levy a tax on incomes from whatever source derived. This further holding was essential to the decision reached by the court, once it had made up its mind that taxation is diminution. The holding, therefore, can not be dismissed as obiter dictum as may the declarations to the same effect in earlier Supreme Court opinions.

THE FIRST INTERPRETATION.

These earlier declarations are quoted at length in Mr. Justice Van Devanter's opinion in Evans *v.* Gore. They begin with the one of Chief Justice White in Brushaber *v.* Union Pacific R. Co. (1916), 240 U. S. 1. This was the first case involving the scope and meaning of the sixteenth amendment. To understand its lucubrations on this topic, we must first note its interpretation of Pollock *v.* Farmers Loan & Trust Co. (1895), 157 U. S. 429, 158 U. S. 601. This was the great case that subjected an income tax to the requirement that direct taxes be apportioned among the States. It declared that a tax on income is in substance a tax on the source from which the income is derived. From this followed the corollary that a tax on income is a direct or an indirect tax according as a tax on the source thereof would be direct or indirect. Then came the conclusion that since a tax on real or personal property is a direct tax, a tax on income from real or personal property is a direct tax and therefore one that can be levied by the Federal Government only upon compliance with the constitutional prescription of apportionment. Since the income tax in question was not an apportioned tax, it was held invalid to the extent that it laid hold of income derived from property. The tax on income from business or labor was found to be inseparable from that on income from property. Without deciding whether the former tax was direct or not, the court held that it failed with the failure of the rest from which it was inseparable.

Such was the theory and such the result of the Pollock case. In stating them in the Brushaber case Chief Justice White paraphrases and elaborates and embroiders as follows:

> Coming to consider the validity of the tax from this point of view, while not questioning at all that in common understanding it was direct merely on income and only indirect on property, it was held that, considering the substance of things, it was direct on property in the constitutional sense, since to burden an income by a tax was, from the point of substance, to burden the property from which the income was derived, and thus accomplish the very thing which the provision as to apportionment of direct taxes was to prevent. As this conclusion but enforced a regulation as to the mode of exercising power under particular circumstances, it did not in any way dispute the all-embracing taxing authority possessed by Congress, including necessarily therein the power to impose income taxes if only they conformed to the constitutional regulations which were applicable to them.
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> Moreover, in addition, the conclusion reached in the Pollock case did not in any degree involve holding that income taxes generically and necessarily came within the class of direct taxes on property, but, on the contrary, recognized the fact that taxation on income was in its nature an excise entitled to be enforced as such unless and until it was concluded that to enforce it would amount to accomplishing the result which the requirement as to apportionment of direct taxation was adopted to prevent, in which case the duty would arise to disregard form and consider substance alone, and hence subject the tax to the regulation as to apportionment which otherwise as an excise would not apply to it.

This interpretation, being interpreted, means that the theory of the Pollock case was that, although formally and generically all income taxes are excises and therefore indirect taxes, nevertheless substantially they are direct taxes whenever they amount to the same thing as taxes on property because of its ownership. Thus the substantial character of an income tax is made to depend upon the character of the source from which the income is derived. Hence whether an income tax must be apportioned is likewise made to depend upon the source from which the income is derived.

Lagging along after the Pollock case came the sixteenth amendment saying that Congress may tax incomes, from whatever source derived, without apportionment among the States. The meaning of these words, as discovered by Chief Justice White in the Brushaber case and as accepted through approving quotation by Mr. Justice Van Devanter in Evans *v.* Gore, is as follows:

> It is clear on the face of this text that it does not purport to confer power to levy income taxes in a general sense—an authority already possessed and never questioned—or to limit and distinguish between one kind of income taxes and another, but that the whole purpose of the amendment was to relieve all income taxes when imposed from apportionment from a consideration of the source whence the income was derived. Indeed, in the light of the history which we have given and of the decision in the Pollock case, and the ground upon which the ruling in that case was based, there is no escape from the conclusion that the amendment was drawn for the purpose of doing away for the future with the principle upon which the Pollock case was decided; that is, of determining whether a tax on income was direct not by a consideration of the burden placed on the taxed income on which it directly operated, but by taking into view the burden which resulted on the property from which the income was derived, since in express terms the amendment provides that income taxes, from whatever source the income may be derived, shall not be subject to the regulation of apportionment.

Put somewhat more briefly, this is to say that the sixteenth amendment did not grant to Congress a power to tax income from whatever source derived, but merely removed any requirement of apportioning among the States a tax on income, whatever the source from which the income might be derived. Thus in effect the amendment forbade the Supreme Court to look at the source of income in order to determine the substantial character of an income tax. This permitted all income taxes to retain their formal and generic character of indirect taxes by rendering their substantial character no longer important, since no longer was a tax on income from any source whatever to be subject to the requirement of apportionment.

The intricate ingenuity of these intellectual involutions is highly characteristic of the late Chief Justice. In its own peculiar field it takes high rank. We may admire its gymnastic supremacy without precluding ourselves from pointing out the simple non sequitur of which it is guilty. The sixteenth amendment may do exactly what the Chief Justice says that it does, and still do also what he implies that it does not. It may remove the requirement of apportionment from an already possessed power to levy an apportioned tax on income, and it may in addition grant a substantive power to tax income from whatever source derived, as it verbally professes to do. It may nullify the whole of the Pollock case and not merely a part of it. It may nullify the Pollock ruling that a tax on income from certain sources must be apportioned and nullify also the further Pollock ruling that a Federal tax on income from State and municipal bonds

is an unconstitutional interference with the independence of the States. The Chief Justice points to nothing in the congressional debates to indicate that the sixteenth amendment was aimed exclusively at one-half of the Pollock case. On the other hand, in 25 Harvard Law Review, 794, and in 6 American Bar Association Journal, 202, Mr. Harry Hubbard goes to the debates and finds not a little evidence here and there that the amendment was aimed to kill the whole of the Pollock case. Its language contains not the slightest intimation to the contrary. Clearly the narrow interpretation of the Chief Justice and his colleagues in the Brushaber case was dictated not by necessity but by preference.

NO NEED FOR DECISION.

This lack of necessity was twofold. There was no need to give the narrow interpretation put forth. There was no need to pass on the issue at all. Chief Justice White had to work hard to find reason for saying that the amendment conferred no new power to tax. The fact that he chose to do so makes his dictum psychologically as significant as if it were explicit decision. It shows that the court went out of its way to settle a question that had been much mooted. While the sixteenth amendment was before the New York Legislature for ratification, Governor Hughes and others opposed ratification on the ground that the result of ratifying would be to subject the income of State bonds to Federal taxation. Senator Root and Professor Seligman put forward a contrary interpretation. After the amendment had become part of the Constitution, the question of its meaning was still an open one. There can be no doubt that the roundabout opinion of the Chief Justice in the Brushaber case was designed to close the debate and to announce positively, if not clearly, that the amendment in no way affects exemptions previously obtaining by reason of the judicial doctrine that neither the States nor the United States may tax the governmental instrumentalities of the other. Confirmation of this guess from the Brushaber opinion appeared a month later in Stanton *v.* Baltic Mining Co. (1916, 240 U. S. 103), in which the Chief Justice put forth the caveat:

> Mark, of course, in saying this we are not here considering a tax not within the provisions of the sixteenth amendment, that is, one in which the regulation of apportionment or the rule of uniformity is wholly negligible because the tax is one entirely beyond the scope of the taxing power of Congress, and where consequently no authority to impose a burden, either direct or indirect, exists.

This must refer to income taxes, since only income taxes could be thought to be within the sixteenth amendment. The warning that some income taxes gained no sanction from the sixteenth amendment must, in view of the debate on the question of State securities, be taken to have been uttered with reference to that question.

EARLY DECISIONS UNANIMOUS.

The interpretations thus early put upon the sixteenth amendment were reached without dissent. The issue was raised collaterally two years later in Peck & Co. *v.* Lowe (1918), 247 U. S. 165, which held that a Federal tax on the net income from an exporting business is not a tax on exports. In the course of the opinion for an again unanimous court Mr. Justice Van Devanter observed:

> The sixteenth amendment, although referred to in argument, has no real bearing and may be put out of view. As pointed out in recent decisions, it does not extend the taxing power to new or excepted subjects, but merely removes all occasion, which otherwise might exist, for an apportionment among the States of taxes laid on income, whether it be derived from one source or another.

This again was dictum. The statement was, however, later quoted or paraphrased in Eisner *v.* Macomber (1920), 252 U. S. 189, and in Evans *v.* Gore, prefaced by such introductions as "we have so held," "we again held," and "as repeatedly held." In the latter case Mr. Justice Van Devanter announced that "after further consideration, we adhere to that view, and accordingly hold that the sixteenth amendment does not authorize or support the tax in question." This, as already pointed out, was square decision, since it was necessary to the result reached in declaring the statute unconstitutional, and since the opposite attitude toward the effect of the amendment would have led to the opposite result of sustaining the tax.

Now for the first time we find judicial dissent from this uniform and previously unanimous attitude toward the amendment. While Justices Holmes and Brandeis thought it perfectly proper to tax the salaries of the judges, even without any aid from the sixteenth amendment, they added that they thought also that the amendment set the matter at rest. As Mr. Justice Holmes puts it:

> A second and independent reason why this tax appears to me valid is that, even if I am wrong as to the scope of the original document, the sixteenth amendment justifies the tax, whatever would have been the law before it was applied. By that amendment Congress is given power to "collect taxes on incomes from whatever source derived." It is true that it goes on "without apportionment among the several States, and without regard to any census or enumeration," and this shows the particular difficulty that led to it. But the only cause of that difficulty was an attempt to trace income to its source, and it seems to me that the amendment was intended to put an end to the cause, and not merely to obviate a single result. I do not see how judges can claim an abatement of their income tax on the ground that an item in their gross income is salary, when the power is given expressly to tax incomes from whatever source derived.

This inability to see that words do not mean what they say seems somewhat belated. The two dissentients had sat in the Peck case without any announced disapproval of the shackles therein placed on the sixteenth amendment. From first to last we have an unbroken series of warnings that the Supreme Court would not let Congress, after the amendment, tax any income that was wholly exempt before.

In the face of this overwhelming evidence, it seems strange that anyone should have the temerity to advise Congress to go ahead and tax the income from State securities without waiting for any new constitutional authorization. In the New Republic for January 31, 1923, Professor Corwin, of Princeton, argues ably that the court ought not to have restricted the scope of the sixteenth amendment and he gives good reasons why income from State bonds should never have been held exempt from Federal taxation. His constitutional law is excellent, except in the single respect that it is not the constitutional law of the Supreme Court of the United States. Law, as Mr. Justice Holmes has told us, is a "prophecy of what courts will do in fact." That this prophecy was in its earlier stages uttered

obiter is no longer material now that dictum has become decision. Nor can the decision on the salary of a Federal judge be denied application to the income from State securities, as Mr. Corwin seeks to do. The fact that the two exemptions came originally from different constitutional premises gives no warrant for faith that the Supreme Court will either reverse previously well-settled law or make the sixteenth amendment mean a grant of power in one case and not in another.

The doctrine that neither the States nor the United States can tax the instrumentalities of the other is one of the earliest in our constitutional law and one that never has been disputed. Where there has been disagreement it has been confined to the issue whether the tax in question is or is not a tax on an instrumentality of government. It was in the Pollock case that the Supreme Court squarely held that the Federal Government can not tax the interest paid on State and municipal bonds. Here Chief Justice Fuller observed:

"It is contended that although the property or revenues of the States or their instrumentalities can not be taxed, nevertheless the income derived from State, county, and municipal securities can be taxed. But we think the same want of power to tax the property or revenues of the States or their instrumentalities exists in relation to the tax on the income from their securities, and for the same reason, and that reason is given by Chief Justice Marshall in Weston *v.* Charleston, 2 Pet. 449, 468, where he said: "The right to tax the contract to any extent, when made, must operate upon the power to borrow before it is exercised, and have a sensible influence on the contract. The extent of this influence depends on the will of a distinct government. To any extent, however inconsiderable, it is a burden on the operations of government. It may be carried to such an extent as to arrest them entirely. * * * The tax on Government stock is thought by this court to be a tax on the contract, a tax on the power to borrow money on the credit of the United States, and consequently to be repugnant to the Constitution." Applying this language to these municipal securities, it is obvious that taxation on the interest therefrom would operate on the power to borrow before it is exercised, and would have a sensible influence on the contract, and that the taxation in question is a tax on the power of the States and their instrumentalities, and consequently repugnant to the Constitution.

This may be criticized as bad economics or bad politics, but it still stands as law. Income from State securities was exempt from Federal taxation prior to the sixteenth amendment, and the sixteenth amendment "does not extend the taxing power to new or excepted subjects." Those who desire a change in the situation will do well to waste no time on any minor operation. The first step is to get a new constitutional amendment saying that the sixteenth amendment means what it says.

This is not to say that there are no devious ways in which here and there by indirection the interest from State and municipal bonds may be made to contribute somewhat to the Federal fisc. An excise tax on doing business in corporate form or on doing business generally might be measured by income from all sources. Exemptions and deductions might possibly be restricted in the case of taxpayers who have untaxed income from State securities. It is doubtful, however, whether such indirect methods are worth trying. They would usually fail to reach the particular sore spot in the exemptions enjoyed by individual recipients of large incomes. They would throw the Federal taxing system into even worse confusion than that which it now enjoys. What is needed to defeat the defeat of the progressive feature of income taxation is a constitutional amendment explicitly sanctioning the inclusion of income from

State securities in the returns for the Federal income tax. The wisdom of such an amendment can be supported by exposing the large elements of unwisdom in the existing constitutional law which makes an amendment necessary. This unwisdom is due in part to the fact that our law has had to be made piecemeal, in part to the fact that income taxes were late in arriving, in part to overemphasis on political values to the neglect or the distortion of economic values, in part perhaps to judicial frailty. The time has now arrived for a comprehensive treatment of the problem and for the establishment of the fiscal interrelations of State and Nation on a new basis.

AMENDMENT NECESSARY.

Any comprehensive survey will discover at once that the unwisdom in the immunity of State securities from Federal taxation is part and parcel of the wisdom or unwisdom of the immunity of Federal securities from State taxation. It will doubtless be well, therefore, to make the cure as comprehensive as the malady and not to confine it to the Federal income tax. It may be unfair to ask the States to give up the bounty which they now enjoy unless they in turn receive some secure guaranty that the Federal Government will also yield its reciprocal bounty. Such a guaranty, even if not demanded by fairness, may very likely be demanded by selfishness. The States may well ask what they are to get in return for what they are to lose. They may prefer to have the question answered by the very constitutional amendment which they will be asked to accept, so that they will not be dependent on future congressional declarations subjecting new issues of Federal securities to State taxation. Indeed, there is some doubt as to whether Congress has power to provide that Federal securities may be subjected to State taxation. Their exemption has been predicated on the Constitution, and Congress can not change the Constitution. Such is the argument. A common-sense answer is that Congress is the best judge of whether its borrowing power needs the bounty which it now enjoys and that it can therefore tinker with the immunity of Federal securities as it has tinkered with the immunity of national banks. Yet, even if it were certain that Congress can give to the States the counterpart of what the Federal Government can get from the States only by constitutional amendment, no single Congress can give to the States the firm assurance that they would find in a constitutional amendment.

The exemption of Federal securities from State property and income taxes compels the States to give a bounty to the Federal borrowing power. The only justification for this bounty is the reciprocal bounty which the State borrowing power enjoys in the exemption of State securities from Federal taxation. Had the sixteenth amendment been interpreted as it seems to read, the States would have lost their bounty and would still be required to confer a bounty on the Nation. A court might well pause before sanctioning such a result. The official interpretation of the sixteenth amendment may be subject to literary and logical criticism and still have in its favor a preponderance of substantial statesmanship. It retains a balance which a contrary interpretation would have overthrown. If the situation is unhappy we can remedy it by constitutional amendment. Such an amendment, however, should emulate the Supreme Court in still preserving a proper balance between the Nation and the States.

LETTER FROM THE SECRETARY OF COMMERCE TO THE HON. REED SMOOT, TRANSMITTING A MEMORANDUM OPINION BY JUDGE STEPHEN B. DAVIS.

DEPARTMENT OF COMMERCE,
OFFICE OF THE SECRETARY,
Washington, November 2, 1923.

Hon. REED SMOOT,
United States Senate:

MY DEAR MR. SENATOR: In accordance with your request I inclose herewith a memorandum opinion by Judge Stephen B. Davis on the power of Congress to impose a special or additional estate tax upon the successior to the portion of an estate which consists of Federal, State, or municipal bonds, the income from which is exempt from Federal income tax. You will see that Judge Davis believes Congress has constitutional power to levy such a tax, subject, perhaps, to the condition that the differentiation in rates of levy be not arbitrary but have some reasonable basis. By such a tax rates can be so adjusted as to effect, through the difference in the amounts which would be exacted from the corpus of the estate, an ultimate approximate equalization between the burdens currently borne by incomes subject to surtaxes and incomes which are not so subject because of investment in securities of a legally privileged nature. Such an ultimate equalization would tend to do away with a great amount of the present successful avoidance of the burdens of Federal taxation.

This plan, might, on consideration, develop weaknesses that are not now apparent, but I would like to make some comment on this whole question of tax-exempt securities from the point of view of industry and commerce in support of Secretary Mellon's recommendations.

Secretary Mellon has stated that eleven billions of State and municipal securities are in circulation free of income tax. It is generally believed that these securities are sought after by persons subject to the higher percentages of income tax. Therefore the very persons best able to bear the burden of taxation are escaping it.

Nor is direct tax exemption of these securities the whole story, for they furnish a wide basis for further avoidance of taxation. For instance, a man may borrow 70 per cent on his house (if his other credit is good); he may invest this borrowed sum in tax-exempt securities; under our present income-tax laws he may deduct the interest which he pays on his mortgage from his income and does not have to account for the sum he receives on tax-exempt securities. There appears to have definitely grown up not only this form of avoidance but other forms based on various kinds of interlocking transactions which carry avoidance a great deal further than the actual sum otherwise collectible on tax-exempt securities.

This question has many bearings on productive industry and commerce and many economic as well as social implications.

1. It must be obvious that we are thus thrusting the burden of income taxes upon productive industry and personal effort.

2. Most other countries in the world give special relief in income taxes to business and professional incomes as distinguished from rent and interest as being necessary to maintain the initiative and enterprise of the people. We not only do not give this relief but the effect of the tax-exempt security as shown above is to thrust even a much larger burden upon earned income from business and professions and to offer larger opportunity for avoidance of taxes on so-called property incomes.

3. Aside from the uneconomic thrust of taxes onto productive activities, there is an inherent injustice in this distribution of the burden from the fact that holders of professional and business incomes must set aside a portion of these incomes to provide for their dependents, whereas persons possessed of rent or interest incomes have by the nature of things already made such provision. Other countries allow a large deduction of amounts paid for insurance premiums. We allow none.

4. Under the tax-exempt provisions, States and municipalities are able to borrow money with even lower margins of interest over manufacture and business. The net effect is to increase interest rates in industry and commerce and this misdirection in the flow of capital tends to increase the prices of every commodity.

5. The collection of estate taxes upon exempt securities does not present the difficulties in payment presented by such taxes upon going business, for these securities are readily marketable. Such a tax increase will also result in a better distribution of estates representing unduly large accumulation.

6. Even though the States be disposed to accept a constitutional amendment on tax exempt securities it will take time, and in the meantime further securities will be piling up.

7. What additional tax should be placed upon the portion of the estate composed of exempt securities in order to compensate for the loss of income tax upon them needs careful study. It will probably have to be an empirical figure in any event.

It is an extraordinary thing for a commercial nation like ours to have developed a form of taxation which puts a premium on non-productivity and a blight on productivity itself.

Yours faithfully,

HERBERT HOOVER.

MEMORANDUM OPINION BY JUDGE STEPHEN B. DAVIS.

OCTOBER 19, 1923.

Neither the principal nor interest of bonds and other evidences of indebtedness issued by States or their municipalities is subject to taxation by the Federal Government, nor are such bonds of the Federal Government taxable by the States.

State bonds: Mercantile Bank *v.* New York, 121 U. S. 138; Pollock *v.* Farmer's Loan & Trust Co., 157 U. S. 429; South Carolina *v.* United States, 199 U. S. 437, 467.

United States bonds: Bank Tax cases, 2 Wall. 200; McCullough *v.* Maryland, 4 Wheat. 316, 421; Hibernia Savings Society *v.* San Francisco, 200 U. S. 310, 313; Home Savings Bank *v.* Des Moines, 205 U. S. 503, 513.

But an inheritance or estate tax levied upon the right of succession to property after death is not a tax upon the property bequeathed or inherited, and such a tax is valid, although the estate upon which it is levied consists in whole or in part of "tax-free" securities. Plummer *v.* Coler, 178 U. S. 115; U. S. *v.* Perkins, 163 U. S. 625; Home Savings Bank *v.* Des Moines, 205 U. S. 503.

The present Federal estates tax is measured by the entire estate, including municipal bonds, and has been held valid in this respect by the Supreme Court of the United States in Greiner *v.* Lewellyn, 258 U. S. 384, an opinion by Justice Brandeis, in which he said:

> That the Federal Government has power to tax the transmission of legacies was settled by Knowlton *v.* Moore, 178 U. S. 41; and that it has the power to tax the transfer of the net assets of a decedent's estate was settled by New York Trust Co. *v.* Eisner, 256 U. S. 345. The latter case has established also that the estate tax imposed by the act of 1916, like the earlier legacy or succession tax, is a duty or excise, and not a direct tax like that on income from municipal bonds. Pollock *v.* Farmers' Loan & Trust Co., supra. A State may impose a legacy tax on a bequest to the United States, United States *v.* Perkins, 163 U. S. 625, or on a bequest which consists wholly of United States bonds, Plummer *v.* Coler, 178 U. S. 115; Orr *v.* Gilman, 183 U. S. 278. Likewise the Federal Government may impose a succession tax upon a bequest to a municipal corporation of a State, Snyder *v.* Bettman, 190 U. S. 249, or may, in determining the amount for which the estate tax is assessable, under the act of 1916, include sums required to be paid to a State as inheritance tax, for the estate tax is the antithesis of a direct tax, New York Trust Co. *v.* Eisner, supra. Municipal bonds of a State stand in this respect in no different position from money payable to it. The transfer upon death is taxable, whatsoever the character of the property transferred and to whomsoever the transfer is made. It follows that in determining the amount of decedent's net estate municipal bonds were properly included.

Property may be classified for purposes of taxation and the rate varied among the different classes, so long as there is some reasonable basis for the classification and it is not merely arbitrary. Magoun *v.* Illinois Trust & Savings Bank, 170 U. S. 283; Watson *v.* State Comptroller, 254 U. S. 122.

The provision of the Constitution of the United States, Article I, section 8, that "duties, imposts, and excises shall be uniform throughout the United States" requires only geographical uniformity, not uniformity between classes. Patton *v.* Brady, 184 U. S. 608.

A classification of securities according to whether or not they have through taxation paid their proportion of the expense of government during the life of the owner would seem a reasonable classification, and there would be no constitutional objection to the imposition of an additional rate by way of estate tax upon the succession to that portion of the estate which has escaped such taxation, to the end that the tax burden might so far as possible be equalized.

In Plummer *v.* Coler, 178 U. S. 115, the Supreme Court said:

> After all, what is an inheritance tax but a debt exacted by the State for protection afforded during the lifetime of the decedent? It is often impracticable to secure from living persons their fair share of contribution to maintain the administration of the State, and such laws seem intended to enable the State to secure payment from the estate of the citizen when his final account is settled with the State. Nor can it be readily supposed that such obligations can be evaded or defeated by the particular form in which the property of the decedent was invested.

Several of the States have enacted statutes imposing inheritance taxes upon securities on which for one reason or another no taxes were paid during the life of the owner. In New York an additional tax of 5 per cent is levied "on all investments which have not paid the stamp tax or the personal property tax during the lifetime of the decedent." An interesting discussion of such a tax is found in the opinion of the Court of Appeals of New York in In re Watson's Estate, 226 N. Y. 384, 398–400, as follows:

Assuming without deciding that the discretion to classify personal property which must pay an inheritance tax before passing by will or inheritance is limited to a classification which is based upon some reason and not the mere caprice of the legislature, this present law under discussion comes within such a rule.

Holding up the section under discussion for comparison with these authorities as a pattern, does it fall within or without the line of constitutional limitation? In the first place, we may consider this tax as though it were the first and only tax placed upon transfers. The fact that it is an additional tax does not change the principle involved. The tax is then, one placed upon the transfer of property at the time of death which has not theretofore paid any tax, local or State.

The objection can not be pressed, that the beneficiary under the will is punished for the misdeeds of the ancestor in not paying a local or State tax. The beneficiary has no claim to the property of an ancestor except as given by law, and, if the State has a right to impose a tax at all upon the passing of property, the transferee takes only what is left after the tax is paid. The State, therefore, having the power to place an inheritance tax upon property which has escaped taxation during the lifetime of the testator, it is no valid objection that the legatee may deem himself punished by the circumstance. Neither is there foundation in the authorities for the assertion or implication that the inheritance tax laws must look with indifferent eye upon the kind of property transferred and can not single out personalty as distinguished from realty and the like. * * * Slight inequalities or injustices which may follow from the application of this law as it is applied by the taxing authorities are not in and of themselves constitutional objections (Matter of White, 208 N. Y. 64), unless they become so great as to violate the principles stated. It has been said that this is not classification but a mere arbitrary tax upon the right to transfer investments. Is there not, at least, a semblance of reason in seeking to tax upon inheritance property which has not been taxed locally or for State purposes, when such fact can only be discovered upon the death of the owner? The matter at least permits of argument and is not so capricious and whimsical as to be purely arbitrary. It has in it at least an effort for the equalization of taxation and the adjustment of the burdens of government.

This decision was affirmed by the Supreme Court of the United States (Watson *v.* State Comptroller, 254 U. S. 122), the court saying:

The occasion and the purpose of the statute are shown by the Court of Appeals. An owner of investments is not required either to list them for assessment locally under the general property-tax law or to present them for stamping under the investment-tax law. Whether the investments of a resident are taxed during his life depends either upon his own will or upon the vigilance and discretion of the local assessors. This condition led to loss of revenue by the State and to inequality in taxation among its citizens. To remedy both evils this additional transfer tax was imposed upon investments of a decedent which had wholly escaped taxation. It is insisted that the tax is discriminatory because under it other property of the same kind bequeathed to persons standing in the same relationship to the decedent will not be taxed. But the power to classify for purposes of taxation is fully established. The executors admit, as they must, that a classification is reasonable if made with respect to the kind of property transferred; or, to the amount or value of property transferred, or to the relationship of the transferees; or to the character of the transferee, for instance as engaged in charity. Magoun *v.* Illinois Trust & Savings Bank, 170 U. S. 283, 300; Billings *v.* Illinois, 188 U. S. 97; Campbell *v.* California, 200 U. S. 87. But their list does not exhaust the possibilities of legal classification. See Beers *v.* Glynn, 211 U. S. 477, 484; Keeney *v.* New York, 222 U. S. 525; Maxwell *v.*

Bugbee, 250 U. S. 525; compare Hatch v. Reardon, 204 U. S. 152. Any classification is permissible which has a reasonable relation to some permitted end of governmental action. It is not necessary, as the plaintiff in error seems to contend, that the basis of the classification must be deducible from the nature of the things classified—here the right to receive property by devolution. It is enough, for instance, if the classification is reasonably founded in 'the purpose and policy of taxation.' Pacific Express Co. v. Siebert, 142 U. S. 339, 354; Kidd v. Alabama, 188 U. S. 730, 732; Clement National Bank v. Vermont, 231 U. S. 120, 136–137; Farmers Bank v. Minnesota, 232 U. S. 516, 529–530. And what classification could be more reasonable than to distinguish, in imposing an inheritance or transfer tax, between property which had during the decedent's life borne its fair share of the tax burden and that which had not?

It does not follow, as is also argued, that the act in question imposes a property tax, merely because its existence may induce owners of investments to present them for taxation under the investment tax law. Nor is it to be deemed a law imposing a penalty merely because the decedent's estate may under it be required to pay more in taxes than the deceased would have paid if he had presented his property for taxation under the investment tax law. Whether this additional transfer tax would be obnoxious to the fourteenth amendment if it could be deemed a property tax or a penalty, we have no occasion to consider.

The judgment of the surrogate court entered on the remittitur from the Court of Appeals of New York is affirmed.

A statute of the State of Connecticut provides:

All taxable property of any estate upon which no town or city tax has been assessed * * * or upon which no tax has been paid to the State during the year preceding the date of the death of the decedent, shall be liable to a tax of 2 per cent per annum on the appraised inventory value of such property for the five years next preceding the date of the death of such decedent.

While this statute can not perhaps be considered strictly as imposing a succession or inheritance tax, since it operates directly upon the body of the estate rather than upon the right of succession to it, the attitude of the courts toward it is of interest. It is based upon the evasion of taxes by the owner rather than upon the mere fact that the property did not contribute its fair share of taxes, and is therefore in the nature of a penalty. The Supreme Court of Errors of Connecticut (Bankers Trust Co. v. State of Connecticut, 114 Atl. 104), referred to it as a law "to compel estates to pay to the State a sum which shall approximately equal the taxes which the property of the estate has escaped paying while in the hands of the decedent," language broad enough to include all property which has so escaped, irrespective of the reason for it.

Discussing the question of classification, the court said:

The statute is not attacked as unconstitutional because of its classification. Nor could it be. "A legislature is not bound to impose the same rate of tax upon one class of property that it does upon another." Michigan Central Railroad Co. v. Powers, 201 U. S. 245, 293; 32 Sup. Ct. 459, 466 (50 L. Ed. 744). A classification for purposes of the penalty tax of property of an estate which has not borne its share of the general taxes as distinguished from other property which has borne its share of such taxes is not such an arbitrary selection as to be unconstitutional.

The Supreme Court of the United States (Bankers Trust Co. v. Blodgett, 260 U. S. 647, decided January 22, 1923), considers the tax as a penalty and upholds it, even though the amount required to be paid might not correspond to what would have been paid if it had been taxed during the lifetime of the owner. The court said:

As pointed out by the supreme court of errors, executors and administrators do not own the property committed to them for administration. It goes to them subject to the liabilities and burdens upon it in the hands of its owner, and whatever interest distributees or creditors may have is subject to the same liabilities

and burdens. Subject, we may say, as the court decided, to the tax which the State has imposed on its disposition or devolution, and the tax does not take on a different quality or incident because it is, or has the effect of, a penalty. And the court, construing the statute, declared it was a provision for penalizing a delinquency—the delinquency of the decedent—and made to survive "by statutory sanction." "In effect," the court said, "this statute is a penalty imposed upon the estate because of the delinquency of the decedent and no less permissible than the penalty tax against the decedent kept alive by statutory sanction."

By whatever name the tax involved in these cases may be called, the fact remains that property was classified according to whether or not taxes had been paid upon it, and taxes were levied accordingly.

Louisiana levies a general inheritance tax with the following proviso:

And provided further, That this tax shall not be enforced when the property donated or inherited shall have borne its just proportion of taxes prior to the time of such donation or inheritance.

This general tax against all property excepting such as has "borne its just proportion of taxes" prior to the inheritance is, of course, identical with a tax upon the succession to property which has not borne its proportion of such taxes. The Louisiana tax is precisely like a Federal tax upon all securities which have not been subject to or have not paid a general income tax.

This law was construed by the Supreme Court of Louisiana in Succession of Kohn, 38 So. 898, which involved the question as to whether or not nontaxable bonds come within the exception above quoted; in other words, whether or not "tax-free" securities were subject to the tax. The court said:

In Plummer *v.* Coler, 178 U. S. 115, 20 Sup. Ct. 829, 44 L. Ed. 998, the Supreme Court, after reviewing the jurisprudence, State and Federal, on the subject of inheritance taxes, and the taxation of shares, privileges, and franchises, held that an inheritance tax was one not on property, but upon its transmission by will or descent, and that such tax was not invalidated or affected by the incidental fact that the property passing was composed wholly of United States bonds, exempt by express statute from all taxation, Federal, State, and municipal.

Hence, under article 235 of the constitution of 1898, it matters not whether the property of an estate is taxable or not—has or has not been taxed.

The next article withdraws from the operation of article 235 property which has borne its just proportion of taxes prior to the time of the opening of the succession, or, in other words, property which has been assessed, and the taxes thereon paid. If the lawmaker had intended to include property exempt from taxation, he would have said so. Nontaxable bonds can not be said to have borne their just proportion of taxes, as they are exempt from such burden. The lawmaker evidently referred to property subject to assessment and taxation on which taxes had been paid prior to the time of the devolution of the inheritance. Exemption from taxation is strictly construed, and can not be read into a statute by inference or implication.

Hence we are of opinion that the premium bonds and State bonds are subject to the inheritance tax.

This case is direct authority for the placing of such securities in a class by themselves and the levying of a special tax upon the right of succession to them.

Some of the decisions dealing with State inheritance tax law are based upon the principle that succession to property after the death of the owner is not a natural right but a privilege given by the State and one which the State might withhold in its entirety or to which it may annex such conditions as it pleases. This right or privilege is not, of course, dependent upon Federal law. The foundation of

such a levy by the Federal Government is its general power of taxation, and the right or privilege of inheritance or succession is a proper subject for such taxation and one which has been availed of by many governments by way of death duties from the earliest times. Knowlton *v.* Moore, 178 U. S. 41.

The conclusions upon this subject may be summarized as follows:

1. Inheritance or succession taxes may be levied upon estates which consist in whole or in part of tax-free securities.

2. These taxes need not be uniform except geographically.

3. Such securities may be classified according to whether or not taxes have been paid upon them during the life of the owner.

4. A special tax may be levied upon the succession to securities upon the income from which no taxes were paid during the life of the owner, or during a certain period preceding his death, including both those as to which payment of income tax was evaded and those the income from which was exempt.

5. This tax may be exclusively upon this class of securities or may be by the levy of an amount upon them additional to the levy against the other class.

6. Since the theory of the classification is the equalization of the tax burden, the additional tax should approximate as near as may be the amount which would have been paid had the securities been subject to the income tax during the life of the owner, or during a stated period preceding his death.

LETTER FROM MR. A. W. GREGG, ASSISTANT TO THE SECRETARY OF THE TREASURY, TO THE HON. W. R. GREEN.

The letter from Mr. A. W. Gregg, Assistant to the Secretary of the Treasury, is, in part, as follows:

JANUARY 4, 1924.

Hon. W. R. GREEN,
Chairman Ways and Means Committee,
House of Representatives.

MY DEAR MR. CHAIRMAN: Prior to its adjournment before the holidays the committee requested that I prepare for the assistance of the committee a digest of the decisions and arguments affecting the question of whether Congress has the power to levy a tax upon the income from securities issued by States or political subdivisions thereof. In accordance with that request the following is submitted.

Two questions will be considered, (1) whether the Federal Government has the general power to lay a tax upon income derived from securities issued by States or political subdivisions thereof; (2) in the event that Congress may not lay a tax upon income from all such securities, whether the income from any obligation issued by States or political subdivisions thereof may be taxed by the Federal Government.

The earliest decision of the Supreme Court upon the question of the power of the United States to tax State instrumentalities is The Collector *v.* Day (1870), 11 Wall. 113. Under the Civil War income tax acts a tax was assessed on the salary of Hay, a probate judge in Massachusetts. He paid the tax under protest and brought action to recover it. It was held by the Supreme Court that Congress had no power to impose a tax upon the salary of a State judicial officer. The court cited Dobbins *v.* Commissioners (1842), 16 Pet. 435; McCulloch *v.* Maryland (1819), 4 Wheat. 316; and Weston *v.* Charleston (1829), 2 Pet. 449, as establishing the proposition "that the State governments can not lay a tax upon the constitutional means employed by the Government of the Union to execute its constitutional powers," and concluded that, on the same principle, the United States can not tax the means and instrumentalities employed by the States for carrying on their governmental operations. The court's reasoning is indicated in the following passage (pp. 125, 187):

> It is admitted that there is no express provision in the Constitution that prohibits the General Government from taxing the means and instrumentalities of the States, nor is there any prohibiting the States from taxing the means and instrumentalities of that Government. In both cases the exemption rests upon necessary implication and is upheld by the great law of self-preservation; as any government, whose means are employed in conducting its operations, if subject to the control of another and distinct government, can exist only at the mercy of that government.
>
> * * * the means and instrumentalities employed for carrying on the operations of their governments, for preserving their existence, and fulfilling the high and responsible duties assigned to them in the Constitution, should be left free and unimpaired, should not be liable to be crippled, much less defeated, by the taxing power of another government * * *.

This decision was followed in the cases of a judge of the superior court of New York City (Freedman *v.* Sigel (1875), Fed Cas. No. 5989) and of a State's attorney in Maryland (U. S. *v.* Ritchie (1872), Fed. Cas. No. 16168).

In the case of Pollock *v.* Farmer's Loan & Trust Co. (1895), 157 U. S. 429, a bill by a stockholder to enjoin the defendant corporation from paying an income tax under the act of August 15, 1894 (28 Stat. 309), it was urged that the act was unconstitutional on the grounds, (1) that in imposing a tax on the income or rents of real and personal property, it imposed a direct tax upon the property itself, which was void because not apportioned among the States; (2) that in imposing indirect taxes, it violated the constitutional requirement of uniformity; (3) that in imposing a tax upon income received from State and municipal bonds, it exceeded the constitutional powers of the Federal Government. With reference to this third point, Chief Justice Fuller said (p. 585):

> It is contended that although the property or revenues of the States or their instrumentalities can not be taxed, nevertheless the income derived from State, county, and municipal securities can be taxed. But we think the same want of power to tax the property or revenues of the States or their instrumentalities exists in relation to a tax on the income from their securities, and for the same reason, and that reason is given by Chief Justice Marshall in Weston *v.* Charleston, 2 Pet. 449, 468, where he said: 'The right to tax the contract to any extent, when made, must operate upon the power to borrow before it is exercised, and have a sensible influence on the contract. The extent of this influence depends on the will of a distinct government. To any extent, however inconsiderable, it is a burden on the operations of government. It may be carried to an extent which shall arrest them entirely. * * * The tax on Government stock is thought by this court to be a tax on the contract, a tax on the power to borrow money on the credit of the United States, and consequently to be repugnant to the Constitution.' Applying this language to these municipal securities, it is obvious that taxation on the interest therefrom would operate on the power to borrow before it is exercised, and would have a sensible influence on the contract, and that the tax in question is a tax on the power of the States and their instrumentalities to borrow money, and consequently repugnant to the Constitution.

It is clear, therefore, that prior to the adoption of the sixteenth amendment Congress had no power to levy a tax, directly or indirectly, upon securities issued by States or a political subdivision thereof. There remains to be considered the effect of the sixteenth amendment.

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

At the time the sixteenth amendment was being considered by the legislatures of the several States it was urged by various writers and public men that the proposed amendment gave Congress the power to tax the salaries of officers and employees of the States and the income from State and municipal securities. (See Foster, Income Tax, p. 78 et seq.; Miner, The Proposed Income Tax Amendment, 15 Va. L. Reg. 737, 753; Hubbard, The Sixteenth Amendment, 33 Harvard Law Review, 794.) The contrary view was urged with equal strength. (See Cong. Rec., vol. 45, pp. 1694–1699, 2245–2247, 2539–2540, and Ritchie, Power of Congress to Tax State Securities, 5 Am. Bar Assoc. Journal, 602.)

In the first case which arose under the sixteenth amendment, the case of Brushaber *v.* Union Pacific R. R. Co., 240 U. S. 1, the Supreme

Court committed itself on the question of whether or not the sixteenth amendment gave to Congress any new power of taxation. This case was a suit by a stockholder to restrain the defendant corporation from paying an income tax imposed by the tariff act of 1913, on the ground that it was unconstitutional. Chief Justice White, in the course of upholding the validity of the act, said (pp. 17, 18, 19):

It is clear on the face of this text that it (the amendment) does not purport to confer power to levy income taxes in a generic sense—an authority already possessed and never questioned—or to limit and distinguish between one kind of income taxes and another, but that the whole purpose of the amendment was to relieve all income taxes when imposed from apportionment from a consideration of the source whence the income was derived. Indeed, in the light of the history which we have given and of the decision in the Pollock case and the ground upon which the ruling in that case was based, there is no escape from the conclusion that the amendment was drawn for the purpose of doing away for the future with the principle upon which the Pollock case was decided; that is, of determining whether a tax on income was direct, not by a consideration of the burden placed on the taxed income upon which it directly operated, but by taking into view the burden which resulted on the property from which the income was derived, since in express terms the amendment provides that income taxes, from whatever source the income may be derived, shall not be subjected to the regulation of apportionment. * * *

Indeed, from another point of view, the amendment demonstrates that no such purpose was intended and on the contrary shows that it was drawn with the object of maintaining the limitations of the Constitution and harmonizing their operation. * * *

* * * The purpose was not to change the existing interpretation except to the extent necessary to accomplish the result intended; that is, the prevention of the resort to the sources from which a taxed income was derived in order to cause a direct tax on the income to be a direct tax on the source itself and thereby to take an income tax out of the class of excises, duties, and imposts and place it in the class of direct taxes.

Again, in Stanton *v.* Baltic Mining Co. (1916), 240 U. S. 103, an action in form similar to the Brushaber case, Chief Justice White said, in upholding the constitutionality of the same act (p. 112):

* * * But aside from the obvious error of the proposition intrinsically considered, it manifestly disregards the fact that by the previous ruling it was settled that the provisions of the sixteenth amendment conferred no new power of taxation, but simply prohibited the previous complete and plenary power of income taxation possessed by Congress from the beginning from being taken out of the category of indirect taxation to which it inherently belonged and being placed in the category of direct taxation, subject to apportionment by a consideration of the sources from which the income was derived; that is, by testing the tax not by what it was—a tax on income, but by a mistaken theory deduced from the origin or source of the income taxed. Hark, of course, in saying this we are not here considering a tax not within the provisions of the sixteenth amendment; that is, one in which the regulation of apportionment or the rule of uniformity is wholly negligible, because the tax is one entirely beyond the scope of the taxing power of Congress and where consequently no authority to impose a burden either direct or indirect exists.

Similar dicta occur in Eisner *v.* Macomber (1920), 252 U. S. 189, 204, and in Peck & Co. *v.* Lowe (1915), 247 U. S. 165.

Although it appears that in none of these cases was it necessary to pass upon the issue, it is significant that the court saw fit to announce in each of them that the amendment did not extend the taxing power of Congress to cover any new subjects.

The opinion of Evans *v.* Gore (1920), 253 U S. 245, throws a more direct light upon the views of the Supreme Court regarding the scope of the sixteenth amendment. The action therein was brought by

a United States district judge, appointed in 1899, to recover a tax paid upon his salary under the revenue act of 1918 (40 Stat. 1062). His chief contention was that the effect of the act, in imposing a tax on his salary, was to diminish his compensation, and that to this extent was repugnant to the third article of the Constitution, providing that his salary should not be diminished during his continuance in office. The court came to the conclusion that the prohibition prevented diminution by taxation, and the court, after reciting the history of the adoption of the sixteenth amendment, concluded:

> True, Governor Hughes, of New York, in a message laying the amendment before the legislature of that State for ratification or rejection, expressed some apprehension lest it might be construed as extending the taxing power to income not taxable before; but his message promptly brought forth from statesmen who participated in proposing the amendment such convincing expositions of its purpose, as here stated, that the apprehension was effectively dispelled and ratification followed.
>
> Thus the genesis and words of the amendment unite in showing that it does not extend the taxing power to new and excepted subjects, but merely removes all occasion otherwise existing for an apportionment among the States of taxes laid on income, whether derived from one source or another. And we have so held in other cases.

In conclusion, then, it is evident that, since the ratification of the sixteenth amendment, the Supreme Court of the United States, in dicta and decision, has consistently adhered to the view that the amendment does not extend the taxing power of Congress to new or excepted subjects. Prior to the adoption of the sixteenth amendment, it was established that, in general, income from State and municipal bonds was exempt from taxation by the Federal Government. In view of these two lines of decisions it appears evident to me that, in the absence of a constitutional amendment, a tax upon the income derived from State and municipal securities would be held by the Supreme Court to be beyond the constitutional powers of Congress.

* * * * * * *

Respectfully,

A. W. GREGG.

LETTER FROM MR. WILLIAM L. FRIERSON, FORMER SOLICITOR GENERAL OF THE UNITED STATES, TO THE HON. JAMES M. FREAR.

[Reprinted from the CONGRESSIONAL RECORD, February 9, 1924, page 2338.]

CHATTANOOGA, TENN., *December 20, 1923.*

Hon. JAMES M. FREAR,
House of Representatives, Washington, D. C.

DEAR MR. FREAR: I am in receipt of your letter of December 17, evidently referring to a conversation which I had recently with Senator Shields. I did not, however, state that the case of Evans *v.* Gore is authority for the statement that so-called tax-free securities can not be reached for income-tax purposes. I did say that while I have not given the subject serious consideration, if my argument in Evans *v.* Gore had been successful and the dissenting opinion of Mr. Justice Holmes in that case had been the opinion of the court, I would have little doubt that the income from such securities could be included in taxable income. The majority opinion in that case, however, makes the question more doubtful.

So far as obligations of the Federal Government which may be issued in the future are concerned, there can be no doubt of the power of Congress to make income from them taxable. The question, I presume, in which you are interested is the power of Congress to treat State, county, and municipal bonds, or rather the income from them, as taxable income.

Of course, it is settled that bonds of this kind as such can not be taxed by the Federal Government, and I think it is equally true that the income from them as such can not be taxed.

There are, however, two recent decisions of the Supreme Court which I used in Evans *v.* Gore and which I think have established a principle which may make it possible for Congress in levying a general income tax to require income from such bonds to be included in gross income as the basis for arriving at the taxable net income. I refer to U. S. Glue Co. *v.* Oak Creek, 247 U. S. 321, and Peck & Co. *v.* Lowe, 247 U. S. 165. The first of these cases involved a State income tax, and the question was whether in computing net income profits derived from transactions in interstate commerce could be included. The second involved the question whether in computing taxable income under the Federal statutes profits derived from the business of exporting goods could be included.

Of course, it was clear that no State could levy a tax which would be a burden on or amount to a regulation of interstate commerce. And it was equally clear that Congress was expressly prohibited by the Constitution from taxing exports. The court, however, held in these cases that when the State taxed merely the net income of a person or corporation the net profit derived from interstate commerce constituted a part of the taxable income, and that including net profits derived from the business of exporting as a part of the taxable income for Federal purposes was not a violation of the pro-

vision against taxing exports. In the latter case the court said, speaking of the tax: "It is not laid on income from exportation because of its source, or in a discriminative way, but just as it is laid on other income. The words of the act are 'net income arising or accruing from all sources.' There is no discrimination. At most, exportation is affected only indirectly and remotely."

The principle thus established seems to be that a general tax upon net income is not a tax upon the sources from which particular parts of the income are derived. I thought that this principle controlled Evans *v.* Gore. If the court had agreed with me, I would have little doubt that it applied to income derived from so-called tax-free securities. I am, however, in some doubt as to whether this conclusion follows in view of the decision in that case. I am not convinced, however, that that decision settles the question against the Government. I think it can be distinguished from the question you are now considering. In Gore *v.* Evans the specific provision of the Constitution invoked was that which forbids the diminution of a judge's compensation during his term. The court reached the conclusion that to tax a judge's salary, even treating it as a part of his net income when the tax levied by the Government which paid his salary, was a substantial diminution of the salary. Having reached this conclusion, Mr. Justice Van Devanter distinguished Gore *v.* Evans from the cases I have referred to, upon the ground that the Constitution expressly forbids such a diminution.

The Constitution contains no express mention of State or municipal securities. As a matter of construction, it has long been settled that securities of this kind, as such, are not taxable by the Federal Government, because the Constitution does not permit the Federal Government to tax the governmental instrumentalities of the States, and neither does the Constitution contain any reference to the power of the States to tax interstate commerce. The conclusion that this can not be done was reached through a construction of the clause giving Congress the power to regulate interstate commerce. There is an express prohibition against the taxing of exports, but, as I have stated, the court has held that the taxing of all of a man's net income which includes some income derived from export business is not such a tax as violates this provision. I can not see any reason why the same principle does not apply to income derived from State and municipal bonds. The difficulty seems to be in reconciling this conclusion with the decision in Evans *v.* Gore. The doubt in my mind is whether the court would hold income from such securities falls in the class of cases controlled by the two cases I have referred to or by Gore *v.* Evans.

As stated above, I have given this question no serious consideration, but have merely given you the impressions made on my mind when I was preparing the argument in Evans *v.* Gore. I think, however, that the question is one well worthy of careful consideration.

Yours truly,

WM. L. FRIERSON.

TAX-FREE v. TAXABLE BONDS.

[Reprinted from a chart of THE BOND BUYER, of New York.]

Income from certain United States Government, State, and municipal bonds is exempt from the Federal income tax, rate of which, for 1923 income, ranges from 4 per cent to 58 per cent, according to amount of income. This table has been compiled to indicate the approximate yield which taxable bonds must return to equal the return from tax-free bonds yielding from 3 per cent to 6 per cent.

Example: Individual with income (subject to surtaxes) of about $50,000 purchases taxable bonds yielding 6.52 per cent, the income from which is subject, in his hands, to a normal tax of 8 per cent and a surtax (on income between $50,000 and $52,000) of 23 per cent, or a total of 31 per cent. Deducting the tax, his income from this bond is reduced to 4.50 per cent. In other words, for this person a tax-free bond yielding 4.50 per cent would be equivalent to a taxable bond yielding 6.52 per cent. In the table below the top line or row of figures represents yield (or basis) from tax-free bonds. In columns below is shown equivalent yield from taxable bonds when income (total amount subject to surtaxes) corresponds to amounts shown in extreme left-hand column.

This table is offered as a guide to assist the purchaser of bonds to choose intelligently between taxable and tax-free investments. It is computed on the theory that any change in an individual's taxable income resulting from a switching of investments from a taxable to a tax-free status, or vice versa, is effective at the highest brackets or the "top" of his income and, hence, the highest surtax rate has been applied in computing these equivalent yields. Because of the change of tax rates from year to year, it is useless to attempt an exact computation of the value of tax exemption over a series of years and for this reason we believe the chart is sufficiently comprehensive to serve the purpose for which it is intended.

Chart showing the effect of Federal income tax on yield from tax-free and taxable bonds in 1923.

Income subject to surtaxes between—	3	3½	3¾	4	4¼	4½	4¾	4¾	4¾	5	5½	6
	Per cent.	*Per cent.*	*Per cent.*	*Per cent.*	*Per cent.*	*Per cent.*	*Per cent.*	*Per cent.*	*Per cent.*	*Per cent.*	*Per cent.*	*Per cent.*
$10,000 and $12,000	3.33	3.89	4.17	4.44	4.72	4.86	5.00	5.14	5.28	5.42	5.56	6.11	6.67
$20,000 and $22,000	3.57	4.17	4.46	4.76	5.06	5.21	5.36	5.50	5.65	5.80	5.95	6.55	7.14
$24,000 and $26,000	3.66	4.26	4.57	4.88	5.18	5.34	5.49	5.64	5.79	5.95	6.10	6.70	7.31
$28,000 and $30,000	3.75	4.37	4.69	5.00	5.31	5.46	5.62	5.77	5.93	6.09	6.25	6.87	7.50
$32,000 and $36,000	3.80	4.54	4.87	5.19	5.51	5.67	5.84	6.00	6.16	6.32	6.49	7.14	7.79
$40,000 and $42,000	4.05	4.73	5.07	5.40	5.73	5.90	6.07	6.24	6.41	6.58	6.75	7.43	8.11
$44,000 and $46,000	4.17	4.86	5.21	5.55	5.90	6.07	6.25	6.42	6.59	6.77	6.94	7.63	8.33
$50,000 and $52,000	4.35	5.07	5.43	5.80	6.16	6.34	6.52	6.70	6.88	7.06	7.25	7.97	8.69
$54,000 and $56,000	4.47	5.22	5.60	5.97	6.34	6.52	6.71	6.89	7.08	7.27	7.46	8.21	8.96
$60,000 and $62,000	4.68	5.46	5.86	6.25	6.64	6.83	7.03	7.22	7.42	7.61	7.81	8.58	9.37
$64,000 and $66,000	4.84	5.65	6.05	6.45	6.85	7.05	7.26	7.46	7.66	7.86	8.06	8.86	9.68
$70,000 and $72,000	5.08	5.93	6.37	6.78	7.20	7.41	7.62	7.81	8.04	8.25	8.47	9.33	10.17
$74,000 and $76,000	5.26	6.14	6.58	7.01	7.45	7.67	7.89	8.11	8.33	8.55	8.77	9.65	10.53
$80,000 and $82,000	5.55	6.48	6.94	7.40	7.86	8.09	8.33	8.56	8.79	9.02	9.25	10.18	11.10
$84,000 and $86,000	5.77	6.73	7.22	7.68	8.16	8.40	8.65	8.89	9.13	9.37	9.62	10.57	11.52
$90,000 and $92,000	6.12	7.14	7.65	8.16	8.68	8.94	9.20	9.45	9.70	9.95	10.20	11.21	12.25
$94,000 and $96,000	6.38	7.45	7.98	8.51	9.04	9.31	9.58	9.84	10.10	10.36	10.62	11.70	12.77
$100,000 and $150,000	6.82	7.96	8.52	9.10	9.66	9.94	10.22	10.50	10.79	11.07	11.36	12.50	13.65
$150,000 and $200,000	6.98	8.15	8.72	9.31	9.89	10.18	10.47	10.76	11.05	11.34	11.63	12.80	13.95
Over $200,000	7.14	8.33	8.93	9.53	10.12	10.42	10.72	11.02	11.32	11.62	11.92	13.10	14.29

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